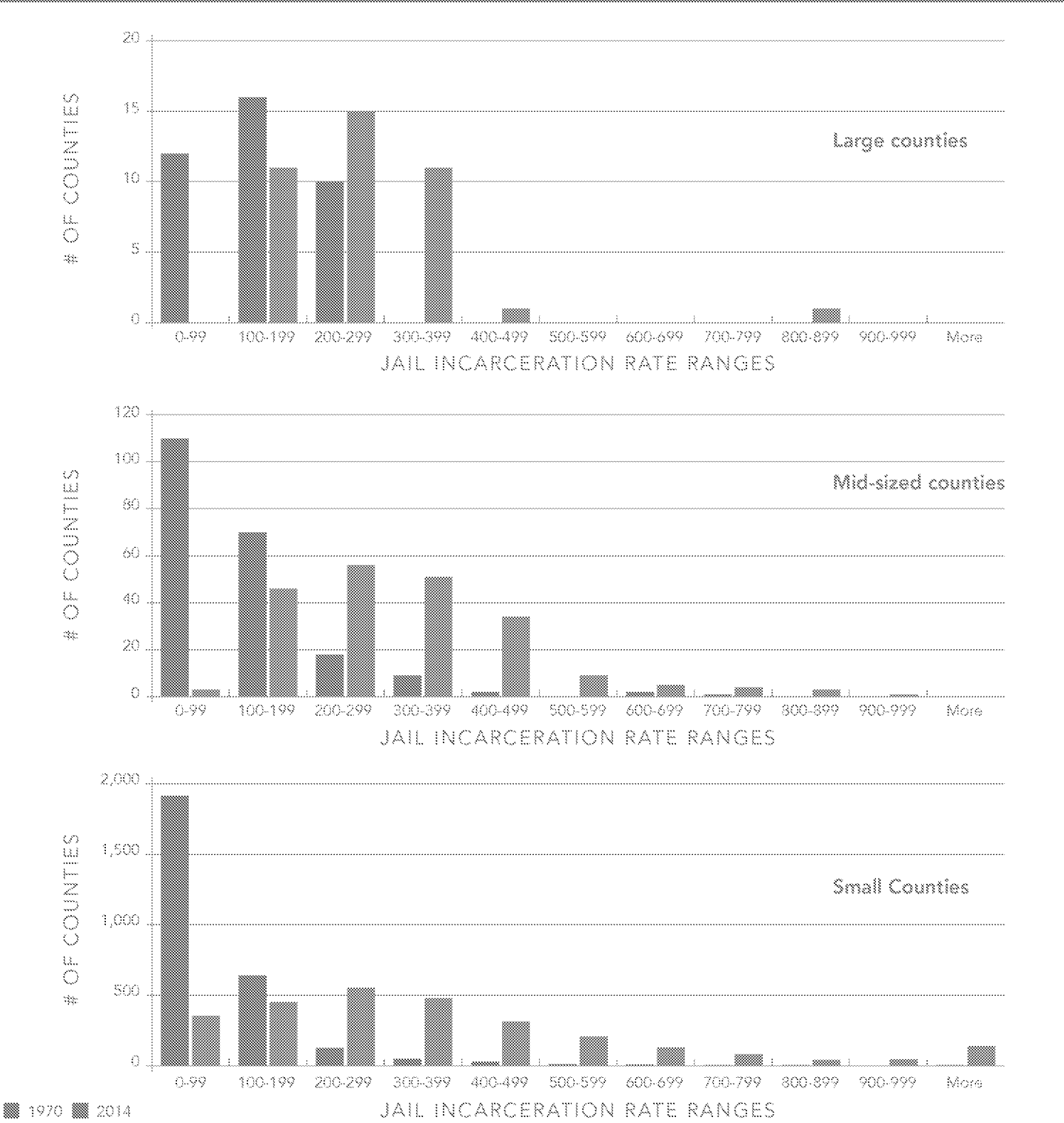


Figure 2: Jail incarceration rates, per 100,000, in 1970 and 2014, by county size



Source: Vera Institute of Justice analysis of the Bureau of Justice Statistics Census of Jails and Annual Survey of Jails. See "The Incarceration Trends Tool" on page 6 for additional detail.

Notes: Jail population excludes inmates held for federal authorities. Jail incarceration rate per 100,000 county residents ages 15 to 64. The 2014 charts use the most recently available data (2005) when 2014 data is not available in four of 39 large counties, 31 of 212 mid-sized counties, and all small counties. County sizes by residents in 2014: large counties = >1 million residents; mid-sized counties = 250,000 to 1 million residents; and small counties = < 250,000 residents.

As a result of the overall growth in jail populations, the nationwide jail incarceration rate in 2014 (326 per 100,000) exceeds the *highest* county rates registered in the 1970s, which rarely exceeded 300 per 100,000 county residents. (See Figure 2.) (Note that the incarceration and admission rates throughout this report are per 100,000 county residents ages 15 to 64; see “The Incarceration Trends Tool” on page 6 for more detail.) However, beneath this broad trend are wide variations in incarceration rates among counties of roughly the same size. For example, while the average incarceration rate among the 40 largest counties in 2014 was 271 per 100,000 residents, the full range of rates spans Philadelphia (810 per 100,000); San Bernardino County, CA (477 per 100,000); and Dallas County, TX (367 per 100,000) at the high end, and Hennepin County, MN (134 per 100,000); Montgomery County, MD (121 per 100,000); and Middlesex County, MA (82 per 100,000) at the low end.<sup>11</sup>

Meanwhile, while the average rate in 2014 for the 212 mid-sized counties was 20 percent higher than that of the larger counties—at 325 per 100,000 residents—many of them far exceeded this average, including Clayton County, GA (962 per 100,000); Shelby County, TN (876 per 100,000); and New Orleans, LA (861 per 100,000). And, as noted above, the growth in jail incarceration rates has been greatest in the smallest counties, with an average rate of 446 per 100,000—130 of which had rates exceeding 1,000 per 100,000.

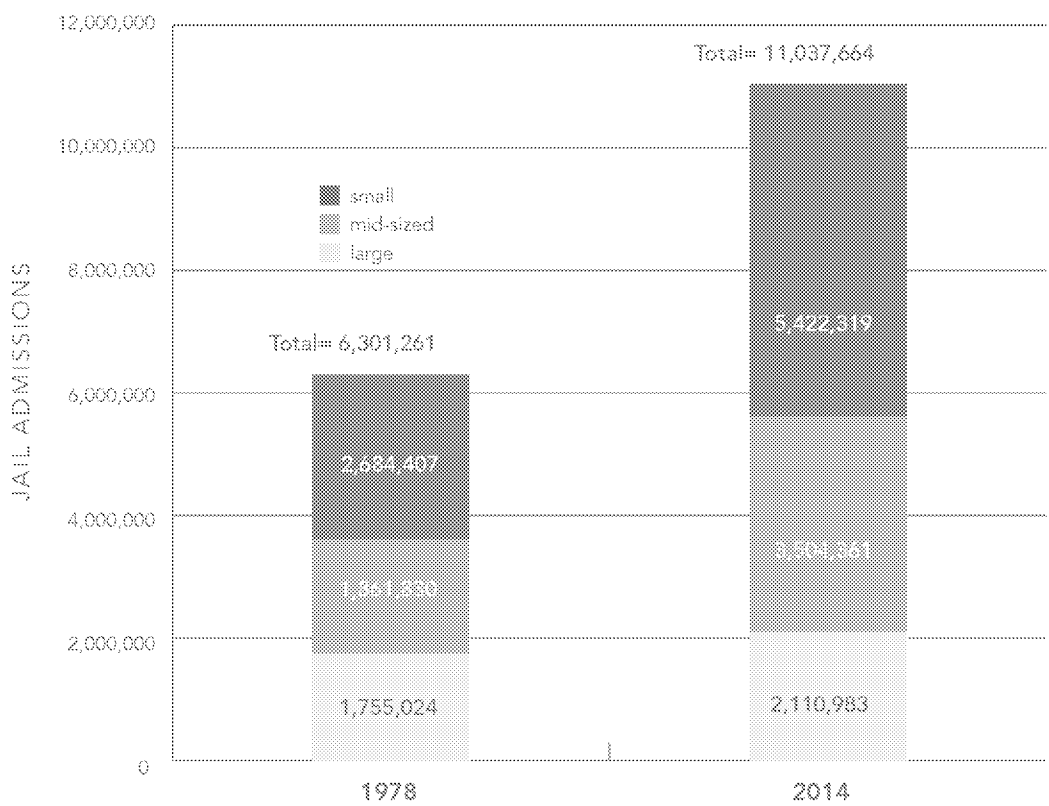
As with the growth in jail populations and incarceration rates, jail admissions have also grown—1.75 times between 1978 and 2014—from 6.3 million to 11 million. Again, this growth has been steepest in the mid-sized and small counties, where jail admissions have doubled, compared to the 1.2 times increase in large counties. (See Figure 3.)

Because overall growth in the rate of jail admissions has been slower than the increase in average daily populations (a 1.75 versus four-fold increase), the daily increase in jail populations can only be explained by the fact that people are spending more time behind bars. Between 1978 and 2014, the average length of stay (LOS) in jail increased 2.5 times, from nine days to 23 days. This more than doubling of the average LOS effectively doubled overall the U.S. jail population—which is no small matter.

Moreover, the average LOS masks the fact that the LOS in many jurisdictions far exceeds the national average. Looking only at large counties, for example, the average LOS is far above the national average in some places: Philadelphia (89 days); Nassau County, NY (47 days); and New York City (54 days). To be sure, these lengths of stays are skewed by a small proportion of people with very long stays, as most who enter the jail are discharged within weeks. But nevertheless, those who do stay beyond a few weeks make up a large share of jail beds, in turn driving up the size of the jail. In contrast, due to their higher admission rates and relatively small jail populations, small counties have, on the other hand, experienced high “turnover” rates, meaning that a large share of their jail populations only stay for brief periods of time—hours rather than days, weeks, or months.



Figure 3: Growth in jail admissions, by county size



Source: Vera Institute of Justice analysis of the Bureau of Justice Statistics Census of Jails and Annual Survey of Jails. See “The Incarceration Trends Tool” on page 6 for additional detail.

Notes: Jail population excludes inmates held for federal authorities. County sizes by residents in 2014: large counties = >1 million residents; mid-sized counties = 250,000 to 1 million residents; and small counties = < 250,000 residents.

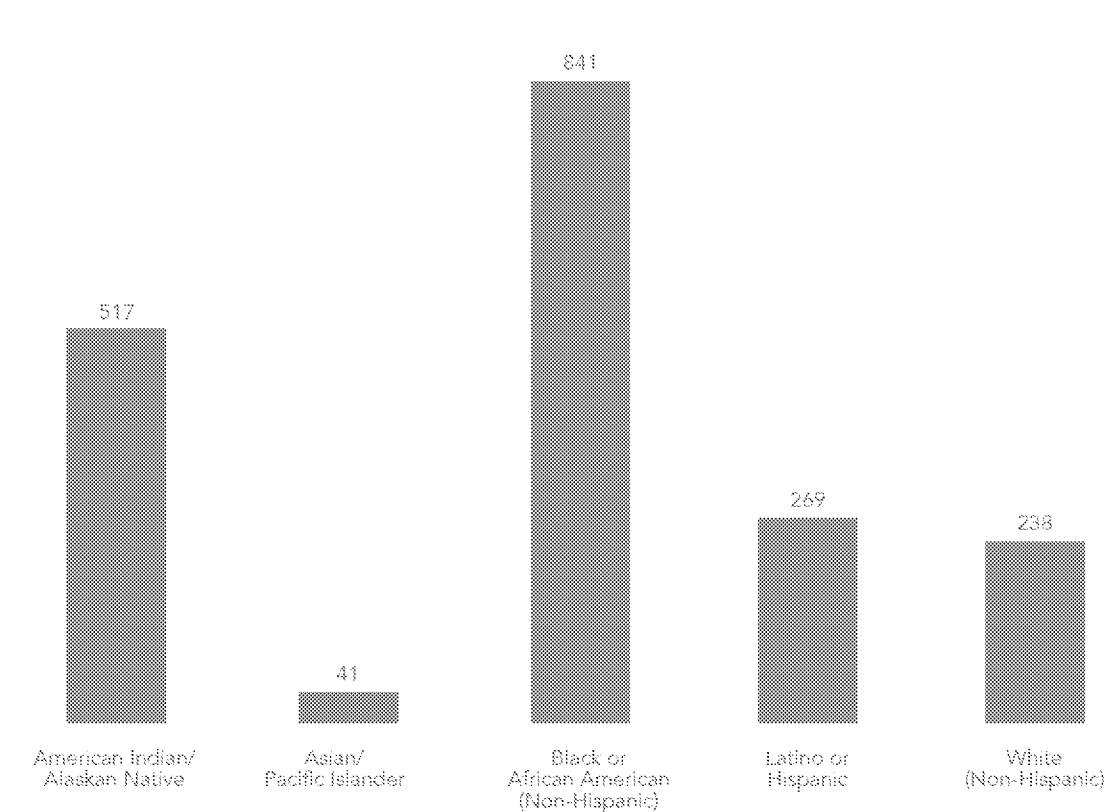
GROWTH’S DISPARATE IMPACTS

As with prison incarceration, the growth of jails has not affected everyone equally. While the typical metrics of jail incarceration—average daily population, admission, or incarceration rates, or average LOS—are necessary to understand the overall story, they mask insidious outcomes of this growth. This is borne out in the data: steeply higher incarceration rates among African Americans and certain other minority groups, when compared to whites; and female jail incarceration rates that have grown far faster than jail incarceration rates for men.

Despite the fact that African Americans comprised 13 percent of the general population in 2014, they made up 35 percent of the jail population. Similarly, Native Americans comprise only 0.8 percent of the general population, but 1.4 percent of the jail population. (See Figure 4.)

Meanwhile, although women only accounted for 5 percent of the jail population in 1970, their proportion nearly tripled in four decades (14 percent)—representing a 14-fold increase in population, from fewer than 8,000 in 1970 to

Figure 4: Jail incarceration rates, per 100,000, by race and ethnicity (2014)



Source: Vera Institute of Justice analysis of the Bureau of Justice Statistics Annual Survey of Jails. See “The Incarceration Trends Tool” on page 6 for additional detail.

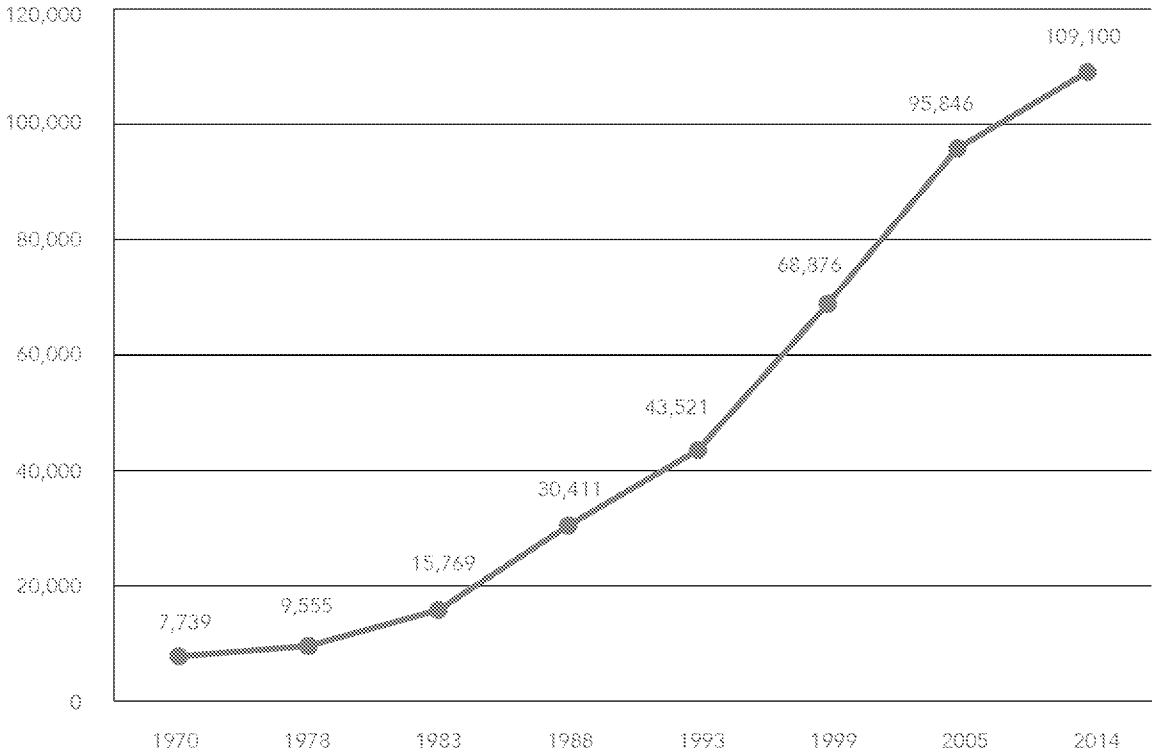
Note: Jail incarceration rate per 100,000 county residents age 15 to 64.

nearly 110,000 women in 2014. (See Figure 5.) While their rate of confinement by county in 1970 averaged 12 per 100,000, and rarely exceeded 50 per 100,000, it averaged 106 per 100,000—with rates in many of the mid-sized and small counties exceeding 200 per 100,000—in 2014.

Vera’s analysis of racial and gender disparities in jail incarceration revealed surprising trends. Although the white jail incarceration rate is 238 per 100,000 nationwide, the African American rate is 841 per 100,000, and 50 percent higher in small counties. The Latino incarceration rate of 269 per 100,000 nationwide is three times lower than the African American rate. But when it comes to jails, the aggregate total never tells the whole story, as the Latino incarceration rate ranges as high as 1,032 per 100,000 in Pennsylvania, 934 per 100,000 in New Mexico, and 917 per 100,000 in Massachusetts.

For women, among mid-sized and large counties, four of the five highest female incarceration rates are found in the South: Chatham County, GA (391 per 100,000); Clayton County, GA (301 per 100,000); Marion County, FL (272 per 100,000); York County, PA (263 per 100,000); and Fayette County, KY (244 per 100,000).

Figure 5: Female jail population, 1970 to 2014



Source: Vera Institute of Justice analysis of the Bureau of Justice Statistics Census of Jails and Annual Survey of Jails. See “The Incarceration Trends Tool” on page 6 for additional detail.

## Understanding growth and disparities

What explains this growth? The continuing rise in the use of jail does not track with crime rates, as these have steadily decreased nationwide since their peak in 1991—a period that has nonetheless witnessed escalating local incarceration.<sup>12</sup> Nor can the decrease in crime be solely attributed to the aggressive use of incarceration, since mounting evidence indicates that such use has made only a marginal contribution to continuing decreases in crime.<sup>13</sup>

Rather, policy choices—enacted in state and federal criminal laws and interpreted and deployed in practice by the police, prosecutors, judges, and others at the local level—have likely propelled the decades-long expansion of jails in the United States.<sup>14</sup> That the footprint of local incarceration has expanded despite the country growing safer rests with a constellation of on-the-ground local decisions and practices that have affected jail admissions and length of stay—the two levers which determine the size of the jail population—resulting in more people entering jail and staying there for longer periods of time.

A growing number of counties have demonstrated that a different course is possible. In recent years, some counties have registered a decline in their jail incarceration rate, a trend most prevalent in the largest counties and municipalities. Seventy-six percent of the largest counties and 64 percent of mid-sized counties had a lower incarceration rate in 2014 than in 2005.<sup>15</sup> While some of these counties, such as Orange County in Florida, registered declines because of a concomitant upward tick in their general population and slight decline in jail population, other localities did so as a result of deliberate efforts to reduce the number of people held in local custody.

While jail populations have actually declined in more than half of large and mid-sized counties between 2005 and 2014, research is needed to understand the drivers of these declines. For example, some of these counties reduced their jail populations in response to federal consent decrees or class-action suits due to unconstitutional conditions caused by persistent jail overcrowding—as was the case, for example, in Camden County in New Jersey (16 percent decline between 2005 and 2014) and New Orleans (59 percent decline between 2005 and 2014).<sup>16</sup> But others, like Multnomah County in Oregon (42 percent decline between 2001 and 2014) and New York City (33 percent decline between 1999 and 2014), did so by developing and implementing new policies and practices to reduce jail admissions or unnecessarily long jail stays.<sup>17</sup> Whatever the impetus, reforms included the increased use of citation and release (New York and New Orleans), the implementation of pretrial services or alternatives to detention programs (Camden), and changes in arrest practices and wider use of treatment courts, diversion programs, or dispositional alternatives to redirect defendants away from custodial arrest and conventional criminal case processing (New York and Multnomah), and the use of administrative sanctions, in lieu of jail, for those that violate the terms of their probation (Multnomah).<sup>18</sup>

A number of places—such as Camden County—demonstrate, however, how difficult it can be to sustain the desired impacts of reform, especially given the competing claims of local system actors who need to work in concert in keeping jail numbers down. Despite sharply reducing its jail population in response to a class-action suit in 2009, Camden’s jail population numbers again climbed with the creation of a county-run police department in May 2013 that put more officers on the streets, pushed arrests to record highs, and flooded the jail with new arrivals.<sup>19</sup> As a result, Camden has had to make adjustments along the full continuum of the front-end criminal justice system to stem this growth, including expanded court hours to conduct more arraignments and expedite release or detention decisions, the addition of more prosecutors to increase the speed of case processing, and the increased use of alternatives to detention, such as electronic monitoring, for higher-risk defendants.<sup>20</sup>

# Using the *Incarceration Trends* tool

The impact on jail population due to changes within one (or more) key criminal justice agencies—as the Camden example demonstrates—suggests that sustainable reform hinges on the ability of jurisdictions not only to understand their own jail’s history of growth but also to track whether the intended outcomes are being achieved. For counties that want to question the size and use of their own jails, the *Incarceration Trends* tool allows them to explore how their use of incarceration has changed over time, how it compares with similarly situated counties, and, most important, to plan for the future and evaluate reform efforts.

Take a hypothetical county—“America County”—as a case in point. America County’s local jail is outdated and overcrowded. The county could invest money in building a new jail as a way to both accommodate jail population growth and update its physical plant. On the other hand, it could implement reforms to stem the flow of people into jail or shorten their time there. Officials are unsure: some feel that local incarceration has increased over time as an appropriate response to actual or perceived levels of crime; others believe that jail alternatives might be too expensive to implement. As a starting point, county officials can use the *Incarceration Trends* tool to identify similarly situated counties in the region or elsewhere that have managed to reduce their jail populations and local incarceration rates and might serve as resources while weighing options on how to deal with jail growth. County officials may decide after some investigation to adapt and implement a suite of reforms taken from a handful of similar counties and, after implementation, use the *Incarceration Trends* tool to track their progress in downsizing their jail relative to similarly situated counties.

But local incarceration problems go beyond just the size of the jail. The *Incarceration Trends* tool can also help jurisdictions see how their use of jail incarceration has had disparate racial and gender impacts. This is important because even places that have reduced their use of jail—such as San Francisco—may still have comparably higher than average incarceration rates among African Americans, for example. This suggests that more work needs to be done beyond shrinking the size of a jail. Multnomah County in Oregon, for example, has recognized this need. Though Multnomah County has managed to downsize its overall jail population, the county is currently working to reduce the disproportionate incarceration of people of color.<sup>21</sup>

# Conclusion

Despite increasing interest in reducing jail incarceration, any reform effort will beg the question: What size should any given county or municipality's jail be? Following four decades of growth, it is easy to forget that jails were not always the size they are today. There is no mathematical formula that can offer a precise answer to this question for every one of the country's approximately 3,000 jail jurisdictions. However, the wide variations among similar counties demonstrated in this analysis show that the number of people behind bars—and their demographic disparities—is largely the result of policy and practice choices. The *Incarceration Trends* tool provides any jurisdiction with the appetite for change the opportunity to better understand its history of jail use and measure its progress toward much needed decarceration.

ENDNOTES

1 For international comparisons, see Roy Walmsley, *World Prison Population List*, 10th edition (London, England: International Center for Prison Studies, 2013); and for the federal bipartisan consensus see, for example, Jennifer Steinhauer, “Bipartisan Push Builds to Relax Sentencing Laws,” *New York Times*, July 28, 2015, 105, p. A1.

2 For state-level efforts, for example, see Lauren-Brooke Eisen and Juliene James, *Reallocating Justice Resources: A Review of State 2011 Sentencing Trends* (New York, NY: Vera Institute of Justice, 2012); Ram Subramanian and Ruth Delaney, *Playbook for Change? States Reconsider Mandatory Sentences* (New York, NY: Vera Institute of Justice, 2014); and Ram Subramanian and Rebecka Moreno, *Recalibrating Justice: A Review of 2013 State Sentencing and Corrections Trends* (New York, NY: Vera Institute of Justice, 2014). Also see Alison Lawrence, *Trends in Sentencing and Corrections: State Legislation* (Washington, DC: National Conference of State Legislatures, 2013); and Nicole D. Porter, *The State of Sentencing 2013: Developments in Policy and Practice* (Washington, DC: The Sentencing Project, 2014).

3 For jail admissions data, see Todd D. Minton and Zhen Zeng, *Jail Inmates at Midyear 2014 Statistical Tables* (Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, 2015), 8; for the average daily jail population, see Minton and Zeng, 2014, 1.

4 For the number of jail jurisdictions, see Minton and Zeng, 2014, 10.

5 Throughout this report, county refers to both counties and county equivalents like parishes and independent cities. Six states (Alaska, Connecticut, Delaware, Hawaii, Rhode Island, and Vermont) do not participate in the jail survey or census because they run unified state systems that combine prison and jail.

6 The most notable example of this is in California, where the state prison system has been under order to reduce overcrowding in the state’s prisons. See *Brown v. Plata*, 131 S.Ct. 1910 (2011). Also see Realignment Act (AB 109) of 2011, which transferred a large number of convicted felony offenders in state prison or on parole to the authority of California’s 58 counties. For recent research on the impact of AB 109 on jail populations, see Magnus Lofstrom and Steven Raphael, *Impact of Realignment on County Jail Populations* (San Francisco, CA: Public Policy Institute of California, 2013).

7 For California, see Proposition 47 of 2014 at <http://perma.cc/NX2J-HX5F>. Also, for information on the impact of Proposition 47 after its enactment and implementation, see Don Thompson, “County jail populations across California dip after Prop 47,” February 2, 2015 at <http://perma.cc/K3YE-D8NS>; for Louisiana, Tennessee and Mississippi, determination based on authors’ calculations using data on state inmates held in local jails from the Bureau of Justice Statistics, National Prisoner Statistics data series at <http://perma.cc/4P9D-3CYW>.

8 These jail populations exclude inmates held by local jails for federal authorities, such as the U.S. Marshals Service and Immigrations and Customs Enforcement.

9 The 1,000 beds could be in one or across multiple facilities within one jail jurisdiction.

10 In 2014, 30 percent of U.S. residents lived in the 40 largest counties, 34 percent lived in the 212 mid-sized counties, and 36 percent lived in the more than 2,600 small counties. These proportions have barely changed since 1970 when they were 29 percent, 33 percent, and 38 percent respectively.

11 The average incarceration rates are based on 2014 data, except in Montgomery and Middlesex counties, which are based on 2013 data.

12 Ram Subramanian et al., *Incarceration’s Front Door: The Misuse of Jail in America* (New York, NY: Vera Institute of Justice, 2015) 8-9.

13 Don Stemen, *Reconsidering Incarceration: New Directions for Reducing Crime* (New York, NY: Vera Institute of Justice, 2007). Also see J. Travis, B. Western, and S. Redburn, eds., *The Growth of Incarceration in the United States: Exploring Causes and Consequence* (Washington, DC: National Research Council, 2014), 155.

14 For further discussion, see Ram Subramanian et al., *Incarceration’s Front Door: The Misuse of Jails in America*, 18-45; also see Travis, Western, and Redburn, 2014.

15 This is based on an analysis of the 39 large counties and 184 mid-sized counties sampled in the 2014 Annual Survey of Jails.

16 For information about Camden County, NJ, see Jim Walsh, “Camden County Jail overcrowded again,” *Courier Post*, August 11, 2014 at <http://perma.cc/2MUF-SWMR>. For the study that analyzed the drivers of Camden’s jail population and the recommendations proposed to reduce it, see Marie VanNostrand, David Bogard, and Michele Deitch, *Camden County, NJ Jail Population Analysis: Strategies to Reduce Jail Crowding While Maintaining Public Safety and the Integrity of the Judicial Process* (St. Petersburg, FL: Luminosity Solutions, 2009) at <http://perma.cc/3HJE-AQGF>; also see Luminosity Solutions, *Responsible Jail Population Reduction: Camden County, New Jersey* (St. Petersburg, FL: Luminosity Solutions, 2014) at <http://perma.cc/UU4A-WUBV>. For information about New Orleans, see Judge Calvin Johnson (Rtd.), Mathilde Laisne, and Jon Wool, *Criminal Justice: Changing Course on Incarceration*, (New Orleans, LA: The Data Center, 2015).

17 For information about New York City, see James Austin and Michael Jacobson, *How New York City Reduced Mass Incarceration: A Model for Change?* (New York, NY: Vera Institute of Justice, 2013), 18-25.

18 For information about the use of citations in New Orleans, see Criminal Justice Leadership Alliance, “Use of Summonses versus Custodial Arrest for Municipal Offenses,” December 8, 2010, and Criminal Justice Leadership Alliance, “Use of Summonses versus Custodial Arrest for Municipal Offenses,” July 14, 2011, unpublished reports provided to Vera in its role as a member of the alliance; for information about the use of desk appearance tickets in New York City, see for example Mary T. Phillips, *The Past, Present, and Possible Future of Desk Appearance Tickets in New York City* (New York, NY: New York City Criminal Justice Agency, 2014); for information about pretrial services and alternatives-to-detention in Camden County, see Luminosity Solutions, 2014; for information on New York, see Austin and Jacobson, 2013, 7 and 25. Information about Multnomah County supplied by Scott Taylor, director, Multnomah County Department of Community Justice, e-mail exchange with Vera, November 17, 2015.

19 Jim Walsh, “Camden County Jail overcrowded again,” *Courier Post*, August 11, 2014 at <http://perma.cc/K8CC-DUYS>. For a history of the case, see *Corri Dittimus Bey, et al. v. County of Camden, et al.* Civil No. 05-063 (D.N.J Nov. 12, 2013).

20 Jim Walsh, August 8, 2014; “Policing in Camden has Improved, but Concerns Remain,” *ACLU-NJ*, <http://perma.cc/UTJ4-NZZV>.

21 “Beyond Jail: A Just and Equitable System for a Safe, Healthy Community” at <http://perma.cc/TQ5L-CBAS>.

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# Prison Time Surges for Federal Inmates

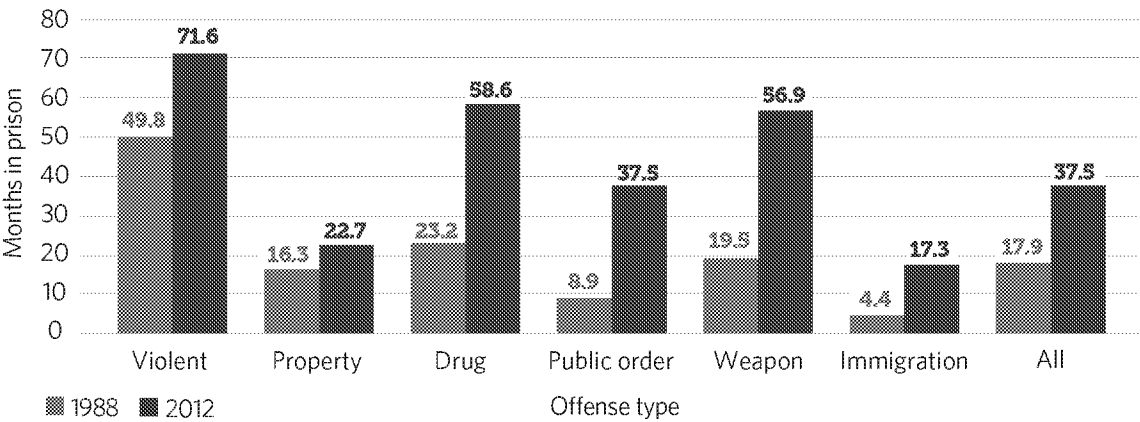
Average period of confinement doubles, costing taxpayers \$2.7 billion a year

## Overview

The average length of time served by federal inmates more than doubled from 1988 to 2012, rising from 17.9 to 37.5 months.<sup>1</sup> Across all six major categories of federal crime—violent, property, drug, public order, weapon, and immigration offenses—imprisonment periods increased significantly.<sup>2</sup> (See Figure 1.) For drug offenders, who make up roughly half of the federal prison population, time served leapt from less than two years to nearly five.

Mandatory minimum sentencing laws, the elimination of parole, and other policy choices helped drive this growth, which cost taxpayers an estimated \$2.7 billion in 2012 alone.<sup>3</sup> Despite these expenditures, research shows that longer prison terms have had little or no effect as a crime prevention strategy—a finding supported by data showing that policymakers have safely reduced sentences for thousands of federal offenders in recent years.<sup>4</sup>

Figure 1  
Average Time Served Rose Sharply for All Federal Offense Types From 1988 to 2012  
Increases ranged from 321% for public order crimes to 39% for property offenses



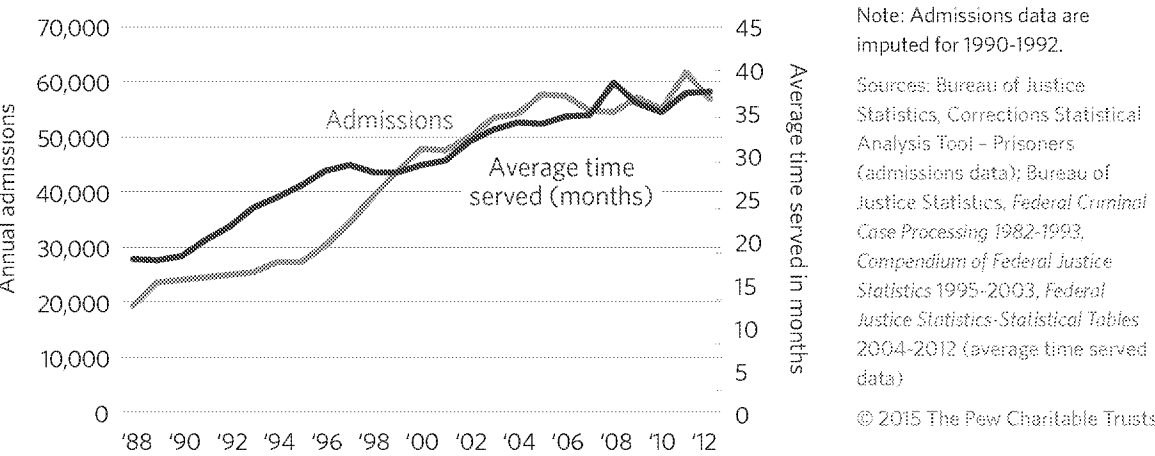
Notes: Data show average time served by inmates released from prison in 1988 and 2012. Public order offenses include tax law violations, bribery, perjury, racketeering, extortion, and other crimes.  
Sources: Bureau of Justice Statistics, *Federal Criminal Case Processing 1982-1993*, Table 18 (1988 data), *Federal Justice Statistics 2012 - Statistical Tables*, Table 7.11 (2012 data)  
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Federal prison system, costs grew significantly

Two factors determine the size of any prison population: how many offenders are admitted to prison and how long they remain. From 1988 to 2012, the number of annual federal prison admissions almost tripled, increasing from 19,232 to 56,952 (after reaching a high of 61,712 in 2011).<sup>5</sup> During the same period, the average time served by released federal offenders more than doubled, rising from 17.9 to 37.5 months.<sup>6</sup> These two upward trends—shown in Figure 2—caused a spike in the overall federal prison population, which jumped 336 percent, from 49,928 inmates in 1988 to an all-time high of 217,815 in 2012.<sup>7</sup> One study found that the increase in time served by a single category of federal offenders—those convicted of drug-related charges—was the “single greatest contributor to growth in the federal prison population between 1998 and 2010.”<sup>8</sup>

The long-term growth of this population has driven a parallel surge in taxpayer spending. As Pew reported in February 2015, federal prison spending rose 595 percent from 1980 to 2013, from \$970 million to more than \$6.7 billion in inflation-adjusted dollars.<sup>9</sup> Taxpayers spent almost as much on federal prisons in 2013 as they spent in 1980 on the entire U.S. Justice Department—including the Federal Bureau of Investigation, the Drug Enforcement Administration, and all U.S. attorneys.<sup>10</sup>

Figure 2  
Admissions and Average Time Served Increased Simultaneously  
Tandem trends spurred explosive growth of federal prison population



Length of stay rose for all types of federal offenders

To assess long-term changes in the amount of time that federal offenders spend in prison, Pew reviewed Bureau of Justice Statistics data on inmates released from prison each year from 1988 (the earliest year for which comparable, annual data are available) to 2012 (the most recent year available).<sup>11</sup> The data show significant increases in time served for all crime types, as well as for most individual crimes. Specifically:

- **Time served went up across all offense categories.** The average length of imprisonment increased for inmates in all six categories of federal crime: violent, property, drug, public order, weapon, and immigration offenses.
- **It grew the most for public order, immigration, and weapon offenses.** The average length of imprisonment rose 321 percent for public order offenses, such as racketeering, extortion, and tax law violations (from 8.9 to 37.5 months). It went up 293 percent for immigration offenses (from 4.4 to 17.3 months) and 192 percent for weapon crimes (from 19.5 to 56.9 months).
- **It rose more for drug offenses than for violent and property crimes.** Time served for drug offenses went up 153 percent (from 23.2 to 58.6 months), compared with 44 percent for violent crimes (from 49.8 to 71.6 months) and 39 percent for property crimes (from 16.3 to 22.7 months). Expressed another way, drug offenders released in 1988 served less than half as much time in prison as violent offenders; those released in 2012 served more than 80 percent of the time that violent offenders did. Longer periods of imprisonment for drug offenders also had an outsize effect on the size of the overall federal prison population, given the large number of these inmates. From 1988 to 2012, the number of sentenced drug offenders in federal prison grew from roughly 15,000 to nearly 100,000.<sup>12</sup>
- **It increased for 25 of 28 specific offenses.** The average length of imprisonment went up for 25 of the 28 specific federal crimes that the Bureau of Justice Statistics tracked in both 1988 and 2012.<sup>13</sup> Time served went down only for simple drug possession, assault, and larceny.

#### Federal Time Served: The 85 Percent Rule

With the exception of the comparatively small number of offenders who are sentenced to death or life behind bars or who die while incarcerated, all inmates in federal prisons will eventually be released. Their release dates are determined by two factors: the court-imposed sentences they received after their convictions and the amount of time—if any—deducted from their sentences for good behavior. Unlike many states, the federal government does not have parole. Instead, under the Sentencing Reform Act of 1984, all federal prisoners must spend a minimum of 85 percent of their sentences behind bars before becoming eligible for release, with a maximum of 15 percent set aside as a reward for good behavior. The nearly 62,000 inmates who were released from federal prison in 2012 served an average of 88 percent of their court-imposed sentences.<sup>14</sup>

<sup>12</sup> Bureau of Justice Statistics, *Federal Justice Statistics 2012—Statistical Tables*, Table 7.11, <http://www.bjs.gov/content/pub/pdf/fjs12st.pdf>.

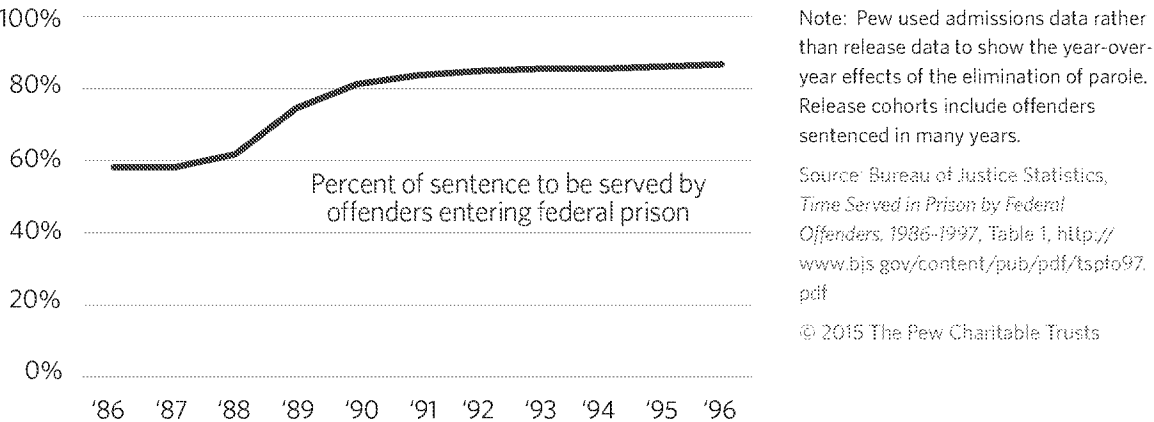
### Policy changes drove increases in time served

The sharp increase in time served by federal offenders can be traced to a series of policy choices made by lawmakers during the 1980s and 1990s, when rising violent and property crime rates—combined with an epidemic of crack cocaine use—heightened Americans’ concerns about safety.<sup>14</sup> The U.S. violent crime rate rose 41 percent from 1983 to 1991, when it peaked at 758 violent offenses per 100,000 residents, about twice the rate reported today.<sup>15</sup>

In response, lawmakers enacted a range of laws that, collectively, increased the number of offenders sent to prison and the amount of time they spent behind bars:

- **Congress formed the U.S. Sentencing Commission, which created strict federal sentencing guidelines.** The federal Sentencing Reform Act of 1984 established the U.S. Sentencing Commission, an appointed panel within the judicial branch that sets national guidelines for federal judges to follow when sentencing defendants. The National Research Council found in a 2014 report that the guidelines—initially mandatory but later deemed advisory by the U.S. Supreme Court—“greatly increased both the percentage of individuals receiving prison sentences and the length of sentences for many offenses.”<sup>16</sup> The commission’s own researchers have described the Sentencing Reform Act as “perhaps the most dramatic change in sentencing law and practice in our nation’s history.”<sup>17</sup>
- **Lawmakers abolished federal parole.** The Sentencing Reform Act also eliminated parole and required all federal prisoners, regardless of offense type, to serve a minimum of 85 percent of their sentences behind bars before becoming eligible for release—a policy shift known as “truth in sentencing.” This change, which was phased in over several years beginning in November 1987, had a dramatic impact: Those entering prison in 1996 could expect to serve 87 percent of their sentences behind bars, compared with 58 percent a decade earlier.<sup>18</sup> (See Figure 3.) The percentage of sentence served by federal offenders has not significantly changed since 1996.<sup>19</sup>
- **Mandatory minimum penalties led to increased sentence lengths.** Congress also enacted dozens of laws during the 1980s and 1990s that required federal courts to sentence certain defendants to mandatory minimum prison terms. As of 2012, the federal criminal code included nearly 200 such sentences, for crimes ranging from obstruction of justice to airplane hijacking.<sup>20</sup> Drug crimes are among the most common offenses for which mandatory minimum sentences are imposed.<sup>21</sup> From 1980 to 2011 (the most recent year for which comparable statistics are available), the average prison sentence for federal drug offenders increased 36 percent, from 54.6 to 74.2 months.<sup>22</sup>

Figure 3  
Elimination of Federal Parole Contributed to Increase  
in Time Served  
Prison time went up sharply following November 1987 policy change



Increased time served carries high cost

The average monthly cost to house a federal prisoner was \$2,197 in 2012.<sup>23</sup> When applied to the 19.6-month increase in average time served by federal offenders since 1988—and multiplied by the nearly 62,000 inmates released from federal prison in 2012—the total estimated cost to taxpayers of increased prison stays reached \$2.7 billion a year.<sup>24</sup> (See Figure 4.)

Longer periods of imprisonment for drug and immigration offenders were responsible for most of that cost. The same formula calculates that the additional 35.4 months served by drug offenders cost \$1.5 billion a year.<sup>25</sup> The extra 12.9 months for immigration offenders cost \$700 million annually.<sup>26</sup>

Research finds few public safety benefits of more time served

Congress increased prisoners’ length of stay not only to impose greater punishment on offenders, but also to improve public safety by incapacitating convicted defendants and deterring would-be offenders. Research suggests, however, that dramatic increases in prison time have little effect on public safety. The National Research Council concluded in a comprehensive 2014 report that “statutes mandating lengthy prison sentences cannot be justified on the basis of their effectiveness in preventing crime.”<sup>27</sup>

Many other studies have painted a similar picture. One meta-analysis of 19 studies found that increased imprisonment “appears to have a null or mildly criminogenic effect on future criminal behavior”—in other words, that incarceration actually may increase inmates’ likelihood of offending again in the future.<sup>28</sup> Another analysis found that the amount of time served had no effect on recidivism rates for those serving sentences of five years or less, though it did have some effect for those serving 10 years or longer—mainly because of inmates “aging out” of crime, rather than being deterred.<sup>29</sup> A third study found “modest incapacitation effects” of incarceration but concluded that these effects were “offset by long-term increases in post-release criminal behavior” and diminished economic self-sustainability among released offenders.<sup>30</sup>

Although the federal government generally has increased criminal penalties over the long term, in recent years it has made targeted sentencing reductions with no apparent harm to public safety. In 2007, the Sentencing Commission retroactively reduced sentencing guidelines for thousands of crack cocaine offenders.<sup>31</sup> A follow-up study on the effects of this change found no increase in recidivism among offenders who received sentence reductions compared with those who did not.<sup>32</sup>

Figure 4  
Time Is Money  
Longer prison terms for federal offenders released in 2012 cost nearly \$2.7 billion



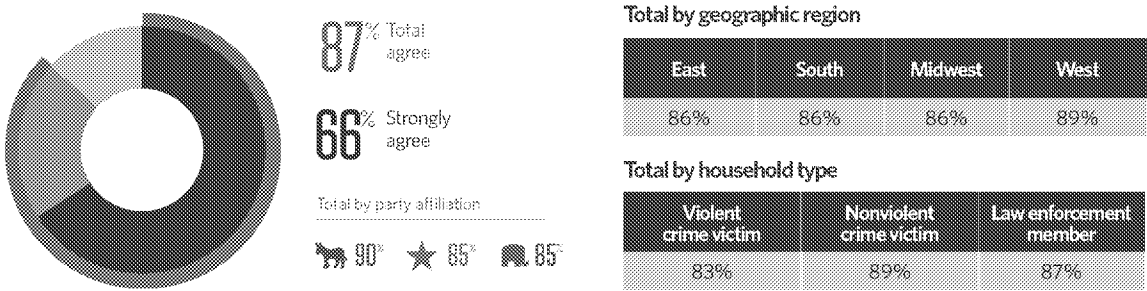
Sources: Bureau of Prisons;  
Bureau of Justice Statistics  
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In 2010, Congress followed the Sentencing Commission’s change in guidelines with a broader, statutory reduction in crack cocaine sentences, known as the Fair Sentencing Act. A comprehensive 2015 report authored by the Sentencing Commission found that the law led to a significant decline in the federal prison population and did not change offenders’ rates of cooperation with law enforcement investigations or slow the ongoing decline in crack cocaine use nationwide.<sup>33</sup>

The public appears willing to support such targeted reductions in sentences and time served. Polls show that voters are flexible about the amount of time that offenders serve in prison, preferring that policymakers focus on reducing recidivism.<sup>34</sup> (See Figure 5.)

Figure 5  
**Voters Are Flexible on Amount of Time Served by Inmates**  
Preventing recidivism is a bigger public priority

“It does not matter whether a non-violent offender is in prison for 18 or 24 or 30 months. What really matters is that the system does a better job of making sure that when an offender does get out, he is less likely to commit another crime.”



Source: The Pew Charitable Trusts, “Public Opinion on Sentencing and Corrections in America” (March 2012), [http://www.pewtrusts.org/~media/Assets/2012/03/30/PEW\\_NationalSurveyResearchPaper\\_FINAL.pdf](http://www.pewtrusts.org/~media/Assets/2012/03/30/PEW_NationalSurveyResearchPaper_FINAL.pdf)  
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**Conclusion**

The dramatic increase in the average amount of time served by federal inmates cost taxpayers an estimated \$2.7 billion in 2012 and is largely the result of policy choices made by federal lawmakers during the 1980s and 1990s. During that period, Congress created the U.S. Sentencing Commission, which established guidelines that increased sentence lengths; abolished federal parole, requiring inmates to serve a much larger proportion of their sentences behind bars; and enacted mandatory minimum sentences for a broad variety of offenses, requiring judges to impose penalties set out in statute.

These policies were crafted in response to rising violent and property crime rates and growing concerns about public safety. The best available research, however, indicates that longer prison terms have little or no effect on recidivism and crime rates, and that recent sentence reductions for certain federal offenders have had no measurable impact on public safety.

Endnotes

1 For the 1988 data, see Bureau of Justice Statistics, *Federal Criminal Case Processing 1982-1993*, Table 18, <http://www.bjs.gov/content/pub/pdf/Fccp93.pdf>, for the 2012 data, see Bureau of Justice Statistics, *Federal Justice Statistics 2012—Statistical Tables*, Table 7.11, <http://www.bjs.gov/content/pub/pdf/fjs12st.pdf>. Pew used the 1988-2012 period to capture all available yearly data.

2 Ibid.

3 Pew analysis. See Figure 4 for calculation.

4 For the crime prevention effects of increased prison terms, see National Research Council, *The Growth of Incarceration in the United States: Exploring Causes and Consequences* (2014), 155–6, <http://www.nap.edu/catalog/18613/the-growth-of-incarceration-in-the-united-states-exploring-causes>. For the recidivism effects of reduced federal penalties for crack cocaine offenders, see Kim Steven Hunt and Andrew Peterson, “Recidivism Among Offenders Receiving Retroactive Sentence Reductions: The 2007 Crack Cocaine Amendment” (May 2014), U.S. Sentencing Commission, [http://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-projects-and-surveys/miscellaneous/20140527\\_Recidivism\\_2007\\_Crack\\_Cocaine\\_Amendment.pdf](http://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-projects-and-surveys/miscellaneous/20140527_Recidivism_2007_Crack_Cocaine_Amendment.pdf).

5 Bureau of Justice Statistics, Corrections Statistical Analysis Tool—Prisoners, <http://www.bjs.gov/index.cfm?ty=nps>. Pew collected annual admissions data by building a custom table using total federal prison admissions from 1988 to 2012. Admissions data were not available for 1990-1992.

6 Pew collected annual time served data by consulting multiple reports published by the Bureau of Justice Statistics. For the 1988-1994 data, see *Federal Criminal Case Processing 1982-1993*, Table 18; for the 1995-2003 data, see *Compendium of Federal Justice Statistics 1995-2003*; for the 2004-2012 data, see *Federal Justice Statistics-Statistical Tables 2004-2012*.

7 Bureau of Justice Statistics, Corrections Statistical Analysis Tool—Prisoners. Pew collected annual federal prison population data by building a custom table using end-of-year, total jurisdictional offender figures from 1988 to 2012.

8 Kamala Mallik-Kane, Barbara Parthasarathy, and William Adams, “Examining Growth in the Federal Prison Population, 1998 to 2010” (September 2012), Urban Institute, <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/412720-Examining-Growth-in-the-Federal-Prison-Population--to--.PDF>.

9 The Pew Charitable Trusts, “Federal Prison System Shows Dramatic Long-Term Growth” (February 2015), [http://www.pewtrusts.org/~media/Assets/2015/02/Pew\\_Federal\\_Prison\\_Growth.pdf](http://www.pewtrusts.org/~media/Assets/2015/02/Pew_Federal_Prison_Growth.pdf).

10 Ibid.

11 Unless otherwise noted, all data in this section are drawn from two sources: For the 1988 figures, see Bureau of Justice Statistics, *Federal Criminal Case Processing 1982-1993*, Table 18; for the 2012 figures, see Bureau of Justice Statistics, *Federal Justice Statistics 2012—Statistical Tables*, Table 7.11.

12 For the 1988 figure, see University at Albany, *Sourcebook of Criminal Justice Statistics 2003*, Table 6.57, <http://www.albany.edu/sourcebook/pdf/t657.pdf>. For the 2012 figure, see Bureau of Justice Statistics, *Prisoners in 2012* (December 2013), Appendix Table 10, <http://www.bjs.gov/content/pub/pdf/p12tar9112.pdf>.

13 Pew omitted offenses that were not tracked consistently by the Bureau of Justice Statistics during the evaluation period.

14 See, for example, U.S. Sentencing Commission, *Mandatory Minimum Penalties in the Federal Criminal Justice System*, Chapter 2, <http://www.ussc.gov/news/congressional-testimony-and-reports/mandatory-minimum-penalties/special-report-congress>, and *Report on Cocaine and Federal Sentencing Policy*, Chapter 6, <http://www.ussc.gov/report-cocaine-and-federal-sentencing-policy-2>.

15 Federal Bureau of Investigation, Uniform Crime Reporting data tool, <http://www.ucrdatatool.gov>.

16 National Research Council, *The Growth of Incarceration in the United States: Exploring Causes and Consequences* (2014), 78, <http://www.nap.edu/catalog/18613/the-growth-of-incarceration-in-the-united-states-exploring-causes>.

17 U.S. Sentencing Commission, *The Sentencing Reform Act of 1984: Principal Features*, <http://www.ussc.gov/research-and-publications/working-group-reports/simplification/simplification-draft-paper-2>.

18 Bureau of Justice Statistics, *Time Served in Prison by Federal Offenders, 1986-1997*, Table 1, <http://www.bjs.gov/content/pub/pdf/tspfo97.pdf>.

19 Offenders released from federal prison in 2012 served an average of 88 percent of their sentences. See Bureau of Justice Statistics, *Federal Justice Statistics 2012—Statistical Tables*, Table 7.11.

20 Families Against Mandatory Minimums, *Federal Mandatory Minimums*, <http://famm.org/wp-content/uploads/2013/08/Chart-All-Fed-MMs-NW.pdf>.

21 Charles Doyle, *Federal Mandatory Minimum Sentencing Statutes* (Washington: Congressional Research Service, 2013), <https://www.fas.org/sgp/crs/misc/RL32040.pdf>.



22 The Pew Charitable Trusts, "Federal Drug Sentencing Laws Bring High Cost, Low Return" (August 2015), Figure 1, [http://www.pewtrusts.org/~media/Assets/2015/08/PSPP\\_FedDrug\\_brief.pdf](http://www.pewtrusts.org/~media/Assets/2015/08/PSPP_FedDrug_brief.pdf).

23 Federal Bureau of Prisons, "Federal Prison System Per Capita Costs FY 2012," [http://www.bop.gov/foia/fy12\\_per\\_capita\\_costs.pdf](http://www.bop.gov/foia/fy12_per_capita_costs.pdf). Pew divided the annual cost of \$26,359 by 12 months.

24 The average time served by offenders released from federal prison increased from 17.9 months in 1988 to 37.5 in 2012. In 2012, 61,699 inmates left federal prison; see Bureau of Justice Statistics, *Federal Justice Statistics 2012—Statistical Tables*, Table 7.11.

25 The average time served by drug offenders released from federal prison increased from 23.2 months in 1988 to 58.6 in 2012. In 2012, 19,416 drug offenders left federal prison; see Bureau of Justice Statistics, *Federal Justice Statistics 2012—Statistical Tables*, Table 7.11.

26 The average time served by immigration offenders released from federal prison increased from 4.4 months in 1988 to 17.3 in 2012. In 2012, 24,483 immigration offenders left federal prison; see Bureau of Justice Statistics, *Federal Justice Statistics 2012—Statistical Tables*, Table 7.11.

27 National Research Council, *The Growth of Incarceration in the United States: Exploring Causes and Consequences* (2014), 156.

28 Daniel S. Nagin, Francis T. Cullen, and Cheryl Lero Jonson, "Imprisonment and Reoffending," *Crime and Justice* 38 (2009): 115-200, <https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=264336>.

29 Benjamin Meade et al., "Estimating a Dose-Response Relationship Between Time Served in Prison and Recidivism," *Journal of Research in Crime and Delinquency* 50 (2013): 525-550, <http://jrc.sagepub.com/content/50/4/525.abstract>.

30 Michael Mueller-Smith, *The Criminal and Labor Market Impacts of Incarceration* (November 2014), Columbia University, <http://www.columbia.edu/~mgm2146/incar.pdf>.

31 U.S. Sentencing Commission, "U.S. Sentencing Commission Votes Unanimously to Apply Amendment Retroactively for Crack Cocaine Offenses" (Dec. 11, 2007), <http://www.ussc.gov/news/press-releases-and-news-advisories/december-11-2007>.

32 Hunt and Peterson, "Recidivism Among Offenders Receiving Retroactive Sentence Reductions: The 2007 Crack Cocaine Amendment."

33 U.S. Sentencing Commission, *Report to the Congress: Impact of the Fair Sentencing Act of 2010* (August 2015), [http://www.ussc.gov/sites/default/files/pdf/news/congressional-testimony-and-reports/drug-topics/201507\\_RtC\\_Fair-Sentencing-Act.pdf](http://www.ussc.gov/sites/default/files/pdf/news/congressional-testimony-and-reports/drug-topics/201507_RtC_Fair-Sentencing-Act.pdf).

34 The Pew Charitable Trusts, "Public Opinion on Sentencing and Corrections Policy in America" (March 2012), [http://www.pewtrusts.org/~media/Assets/2012/03/30/PEW\\_NationalSurveyResearchPaper\\_FINAL.pdf](http://www.pewtrusts.org/~media/Assets/2012/03/30/PEW_NationalSurveyResearchPaper_FINAL.pdf).

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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA  
TALLAHASSEE DIVISION**

**KATE CALVIN, JOHN NELSON,  
CHARLES J. PARRISH,  
LONNIE GRIFFIN, AND  
CONCERNED UNITED PEOPLE,**

*Plaintiffs,*

**v.**

**CASE No. 4:15CV131-MW/CAS**

**JEFFERSON COUNTY BOARD OF  
COMMISSIONERS, JEFFERSON  
COUNTY SCHOOL BOARD, AND  
MARTY BISHOP, SUPERVISOR OF  
ELECTIONS OF JEFFERSON COUNTY,  
IN HIS OFFICIAL CAPACITY,**

*Defendants.*

\_\_\_\_\_ /

**ORDER ON MOTIONS FOR SUMMARY JUDGMENT**

**I. INTRODUCTION**

Imagine a fictional Florida county—I'll call it Marshall County—with a total census population of 12,000. Marshall County is run by a board of commissioners comprised of five people, each of whom is elected from a single-member district with a total census population of exactly 2,400. The Marshall County School Board, which also has five members, uses the same district lines.

Marshall County is home to one of the state's largest state prisons—I'll call it Marshall Correctional Institution, or MCI—with an inmate population as of the last census of 2,200. The vast majority of inmates at MCI are not from Marshall County. MCI is run according to rules promulgated by the Florida Department of Corrections ("DOC") and laws passed by the Florida Legislature; the Board of County Commissioners and the School Board have no legal authority to directly regulate the conduct of inmates while they're inside the walls of MCI. Everything—from who is allowed to visit MCI, to where the inmates may smoke—is determined by legislators and administrators operating at the state level and officials at the prison who are employed by the state.

MCI is located entirely within District 3 of the County Commission/School Board districts. Thus, only 200 of the 2,400 people who are "residents" of District 3 are not incarcerated—just 8.5%. When elections are held every four years for the County Commission and School Board, only these 200 people (more precisely, the subset of these 200 people who are eligible to vote and who choose to vote) elect the County Commissioner for District 3 and the School Board member for District 3. In each of the other districts, none of which contains a prison, 2,400 people (more precisely, the

subset of these 2,400 people who are eligible to vote and who choose to vote) elect a County Commissioner and a School Board member.

Does Marshall County's districting scheme comport with the "one person, one vote" principle articulated by the Supreme Court? The short answer is "no." The scheme obviously weighs the votes of District 3 voters more heavily than those of voters in other districts. Less obviously, but just as importantly, the scheme gives the non-incarcerated population of District 3 (whether they vote or not) an increased ability to access and influence their representatives and increased opportunities to reap the benefits of that influence. "One person, one vote" is a theory of representative democracy that is subject to multiple reasonable interpretations, but Marshall County's scheme doesn't pass muster under any of them.

The real county at issue in this case, Jefferson County, differs from Marshall County only in degree. Its districting scheme is perhaps "less unconstitutional" than Marshall County's, but it still violates the Equal Protection Clause.

### **A. Jefferson County**

Jefferson County is a county in North Florida situated just east of Tallahassee. The total population of the county, according to 2010 census data, is 14,761. ECF No. 24, at 4 ¶ 8. The county is

governed by the Jefferson County Board of County Commissioners (“Board of Commissioners”), whose five members are each elected from a single-member district. *Id.* at 3 ¶¶ 2, 5. The county’s school system is run by the Jefferson County School Board (“School Board”), which is also comprised of five members elected from five single-member “residence areas.” *Id.* at 3 ¶ 4–5. Unlike the members of the Board of Commissioners, each of the members of the School Board “serve[s] as the representative of the entire [county], rather than as the representative of” the residence area or district from which he was elected.<sup>1</sup> § 1001.363, Fla. Stat. (2015).

Jefferson County is home to the Jefferson Correctional Institution (“JCI”), a state prison. The 2010 Census counted JCI as containing 1,157 inmates. ECF No. 30-8, at 10. As of May 18, 2015, only nine inmates at JCI were convicted in Jefferson County. ECF No. 30-1, at 52. The rest were convicted elsewhere in Florida and sent to JCI; a prisoner in the custody of the Florida Department of Corrections (“DOC”) has no say in where he will serve his sentence. § 944.17(2), Fla. Stat. (2015); ECF No. 30-8, at 3.

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<sup>1</sup> The Jefferson County School Board is the governing body of the Jefferson County School District. This means, unfortunately, that the term “district” has two different legal meanings vis-à-vis the School Board and the Board of Commissioners. To avoid confusion, I will use “district” throughout to refer to one of the five geographic areas that together cover all of the county.

## B. Redistricting

Under Florida law, the Board of Commissioners is required to redistrict following each United States Census. Fla. Const. art. VIII, § 1(e). The Board of Commissioners is supposed to divide the county “into districts of contiguous territory as nearly equal in population as practicable.” *Id.* The School Board does not have to redistrict following the census, but has the statutory authority to redistrict if it deems it necessary to do so. § 1001.36, Fla. Stat. (2015).

Following the 2010 census, the Board of Commissioners consulted with a redistricting expert and concluded that it needed to redistrict in order to meet its obligations under the Florida Constitution. ECF No 25, at 4 ¶¶ 5–7. In 2013, the Board retained a number of attorneys and mapping/districting experts to help draw up proposals for a new districting scheme. *Id.* at 4 ¶¶ 7–8.

The School Board quite sensibly decided to re-draw its district lines to conform to those of the Board of Commissioners. ECF No. 48-9, at 35–36. The two bodies—“the Boards,” collectively—met together on a number of occasions in mid-to-late 2013 to discuss the proposed redistricting plans. *See* ECF No. 30-1, at 32; ECF No. 30-4, at 3. At one point, the School Board retained a mapping/districting expert to design maps “to take to the table in talks

with the . . . Board of Commissioners.” ECF No. 30-4, at 2. That expert prepared two maps for the School Board, ECF No. 30-1, at 29, one of which it presented to the Board of Commissioners at a November 4, 2013 joint workshop, ECF No. 30-4, at 3–4.

Throughout this process, the Boards received advice about how to deal with the large prison population in the county. The Board of Commissioners “was counseled that the [JCI] prison population must be included within the reapportionment base, and the population must be included within the district in which the prison was located.” ECF No. 25, at 4 ¶ 8. The School Board was also advised that the prison population at JCI had to be included when determining whether districts contained roughly equal numbers of people. ECF No. 30-1, at 29.

This advice appears to have been based on opinions issued by the Attorney General of Florida to the Gulf County Board of County Commissioners and Gulf County School Board in 2001. ECF No. 24, at 4. Those opinions advised that, as a matter of state law, the Gulf County Boards were “required to include the prison population of the county” when determining whether districts contained substantially equal population numbers. 2001-55 Op. Att’y Gen. Fla. (2001) (Gulf County Board of County Commissioners);

2001-56 Op. Att’y Gen. Fla. (2001) (Gulf County School Board).<sup>2</sup>

The Attorney General arrived at his conclusions largely on the basis of the statutory definition of the term “population” (the definition is the same now as it was in 2001):

Reference to the population or number of inhabitants of any county, city, town, village, or other political subdivision of the state shall be taken to be that as shown by the last preceding official decennial federal census, . . . which shall also be the state census and shall control in all population acts and constitutional apportionments, unless otherwise ordered by the Legislature.

§ 1.01(7), Fla. Stat. (2015).

The United States Census Bureau, which is the federal entity tasked with conducting the decennial census, counts prisoners as living in the census block(s) containing the correctional facilities in which they are incarcerated. *How We Count America*, U.S. Census Bureau, [www.census.gov/2010census/about/how-we-count.php](http://www.census.gov/2010census/about/how-we-count.php) (last visited Mar. 16, 2016). The Census Bureau seems to recognize that this choice could potentially present problems, and that some state and local governments might want to adjust census data to

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<sup>2</sup> Gulf County did not follow the Attorney General’s advice—it excluded its large prison population when redistricting following the 2000 Census. ECF No. 30-5, at 7. In fact, at least seven Florida counties adjust census data to exclude prison populations when determining whether there is substantial equality of population across districts. *Id.*



remove or relocate (to their pre-prison residences) prison populations. Robert Groves, *So, How Do You Handle Prisons?*, Director’s Blog, U.S. Census Bureau (Mar. 1, 2010), <http://directorsblog.blogs.census.gov/2010/03/01/so-how-do-you-handle-prisons/>. To facilitate this, the Census Bureau “releas[ed] early counts of prisoners” following the 2010 Census. *Id.*

The Boards did not use this data. Consistent with the advice received from lawyers and mapping experts, the Boards approved a districting plan that roughly equalized census population—including the JCI population—among the five districts. ECF No. 25, at 5 ¶ 10; ECF No. 24, at 5. The table below summarizes the population distribution among districts both including and excluding the prison population. The “ideal” district size in each case is simply one-fifth of the total population, meaning one-fifth of the census population or one-fifth of the nonprisoner population.

District	Census Population	Deviation from Ideal	Population w/o Prison	Deviation from Ideal
1	2979	0.91%	2979	9.48%
2	2822	-4.40%	2822	3.71%
3	3070	4.00%	1913	-29.69%
4	3073	4.10%	3073	12.94%
5	2817	-4.57%	2817	3.53%

See ECF No. 30-1, at 13–14. JCI’s inmates were all counted as part of District 3.

This data can be used to compute a measure of population equality for the districting scheme called the “total deviation” or “overall deviation.” *Id.* at 13 n.7; *see also Daly v. Hunt*, 93 F.3d 1212, 1215 n.2 (4th Cir. 1996). This measure is computed by summing together the absolute values of the percent deviations for the smallest and largest districts.<sup>3</sup> ECF No. 30-1, at 13 n.7. The larger the total deviation, the less equality of population exists across districts. If it is proper to include prisoners in the total population count, then the districts as drawn by the Boards have a total deviation of 8.67%. If, on the other hand, the prisoners should not be counted when assessing substantial equality of population across districts, then the total deviation is 42.63%.

### **C. The Present Litigation, Including Threshold Matters**

#### *1. Nature of this Suit*

Plaintiffs brought suit in March 2015, a little over a year after the Boards approved the new districting scheme. ECF No. 1.

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<sup>3</sup> In math terms:  $total\ deviation\ \% = 100 \frac{|\max(n_i - n_{ideal})| + |\min(n_i - n_{ideal})|}{n_{ideal}}$ , where  $n_{ideal}$  is the size of an ideal district and  $i$  is taken over the set of  $N$  districts  $i=1, 2, \dots N$ .

The gist of Plaintiffs' claim is that the districting scheme dilutes their voting power and "political influence," thereby denying them equal protection of the laws in violation of the Fourteenth Amendment. ECF No. 1, at 9 ¶ 43. Although the districts contain roughly equal numbers of "census persons," Plaintiffs claim that the inclusion of all of the JCI inmates in the population base in one district effectively weighs the votes of the (nonprisoner) voters of that district more heavily than Plaintiffs' votes, and also gives the nonprisoners living in that district greater political influence. *Id.* This, according to Plaintiffs, violates the "one person, one vote" principle and thus the Equal Protection Clause of the Fourteenth Amendment. *Id.* at 9 ¶¶ 42–43. Plaintiffs do *not* argue that, as a legal matter, the Equal Protection Clause forbids state and local governments from counting prisoners when redistricting; rather, Plaintiffs argue that the effect of the Boards' decision to count prisoners under the circumstances of this case has resulted in an Equal Protection violation. ECF No. 30, at 12.

Plaintiffs seek declaratory and injunctive relief. ECF No. 1, at 9–10. Specifically, Plaintiffs seek (1) a declaration that the current districting scheme violates the Equal Protection Clause; (2) an injunction preventing Defendants from conducting elections for

the Boards under the current scheme; (3) if Defendants cannot develop a scheme that passes constitutional muster, an injunction compelling Defendants to use a districting scheme fashioned by this Court. *Id.*

Each party has moved for summary judgment. ECF Nos. 24 & 30. After a hearing, I determined that the record needed more information about whether the inmates possess a “representational nexus” with the Boards. ECF No. 43. The parties supplemented the record, and it is now possible for me to rule on the motions for summary judgment.

## *2. Parties and Standing*

Plaintiff Kate Calvin is a registered voter living in District 2 in Jefferson County. ECF No. 21, at 3 ¶ 7. She participated as a citizen in the redistricting efforts, attending at least one meeting of the Board of Commissioners and engaging an expert to help determine the feasibility of removing JCI inmates from the population base. *Id.* at 5 ¶ 32; ECF No. 30-1, at 28. Plaintiff John Nelson is the former County Commissioner for District 2, and still resides there. ECF No. 21, at 3 ¶ 8. When he was on the Board of Commissioners, he voted against the redistricting plan that was eventually adopted. *Id.* at 5 ¶ 33. Plaintiff Charles J. Parrish is a resident of

District 4 and is registered to vote in Jefferson County. *Id.* at 3 ¶ 9. Plaintiff Lonnie Griffin is a resident of District 1 and is registered to vote in Jefferson County. *Id.* at 3 ¶ 10. Plaintiff Concerned United People is, by its description, “a not-for-profit organization based in Jefferson County . . . [whose] mission is to serve the needs of Jefferson County residents, particularly the African-American community.” ECF No. 1, at 4 ¶ 11.

The Boards have already been introduced, and more will be said later about their responsibilities and powers under Florida law. The remaining defendant is Marty Bishop, the Supervisor of Elections for Jefferson County. ECF No. 21, at 5 ¶ 14. He is sued in his official capacity. *Id.*

Defendants have not challenged any of the plaintiffs’ Article III standing to bring this lawsuit, but of course standing “implies . . . subject matter jurisdiction, and accordingly must be addressed as a threshold matter regardless of whether it is raised by the parties.” *Duty Free Americas, Inc. v. Estee Lauder Cos., Inc.*,

797 F.3d 1248, 1271 (11th Cir. 2015) (quoting *Nat’l Parks Conservation Ass’n v’ Norton*, 324 F.3d 1229, 1242 (11th Cir. 2003)).<sup>4</sup> Calvin, Parrish, and Griffin are all voters in districts that are allegedly overpopulated, and therefore they have standing. *See Fairley v. Patterson*, 493 F.2d 598, 603 (5th Cir. 1974).<sup>5</sup> And there the standing inquiry ends—as long as “one named plaintiff . . . ha[s] standing for each . . . claim[],” there is a case or controversy within the meaning of Article III. *Jackson v. Okaloosa Cty.*, 21 F.3d 1531, 1536–37 (11th Cir. 1994).

## II. LEGAL BACKGROUND

### A. The Evolution of the Right to Vote

The Constitution as ratified in 1788 did not bestow a right to vote on all citizens of the United States. *See Minor v. Happersett*, 88 U.S. 162, 170–73 (1874). The individual states were responsible for determining which citizens would be granted the power to vote,

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<sup>4</sup> Maybe “must” is a little strong—after all, courts routinely neglect to “address” standing. *See, e.g., Mech v. Sch. Bd. of Palm Beach Cty.*, 806 F.3d 1070 (11th Cir. 2015). It’s probably more accurate to say that a court must be sure that there is standing, and if it’s arguable that there is not standing, the court should explicitly “address” the issue.

<sup>5</sup> Decisions of the Fifth Circuit handed down prior to September 30, 1981 are binding as precedent within the Eleventh Circuit. *Bonner v. City of Prichard*, 661 F.2d 1206, 1207 (11th Cir. 1981).

and from the outset different states made different choices. Connecticut required voters to be “quiet and peaceable.” *Id.* at 172. Massachusetts required voters to have “a freehold estate within the [state] of the annual income of three pounds, or any estate of the value of sixty pounds.” *Id.* Nearly all states required voters to be male. *Id.* at 172–73.

The Fourteenth and Fifteenth Amendments, ratified in 1868 and 1870, respectively, didn’t change things right away. In *Hap-ersett*, the Supreme Court held that the Fourteenth Amendment did not automatically grant women the right to vote. 88 U.S. at 178. And in *United States v. Cruikshank*, the Court held that the Fifteenth Amendment granted a right of “exemption from discrimination in the exercise of the elective franchise on account of race,” but that it did *not* grant a right to vote. 92 U.S. 542, 555–56 (1875).

Technically, these holdings are still good law—there is no free-floating “right” to vote protected by the U.S. Constitution in the same sense that there’s a right to free speech or a right to be free from unreasonable searches and seizures. *See, e.g., Bush v. Gore*, 531 U.S. 98, 104 (2000) (per curiam) (“The individual citizen has no federal constitutional right to vote for electors for the President of the United States unless and until the state legislature

chooses a statewide election as the means to implement its power to appoint members of the electoral college.”); *Hoch v. Phelan*, 796 F. Supp. 130, 132 (D.N.J. 1992) (noting that “the U.S. Constitution does not guarantee the right to vote in state elections”). But what has changed dramatically since the time of *Hapersett* are the limitations the Equal Protection Clause places on states’ ability to choose *who* may vote. Once a state chooses to let any particular group or class of people vote, it may not deny the vote to others in a way that denies them equal protection of the laws. *See Harper v. Va. State Bd. of Elections*, 383 U.S. 663, 665 (1966). So even though there’s not a right to vote in the strictest sense of the term “right,” both courts and citizens can regularly speak of the “right to vote,” and even characterize it as fundamental, *see, e.g., Green v. City of Tucson*, 340 F.3d 891, 896 (9th Cir. 2003), without being incorrect in any way that matters for practical purposes.

### **B. The Development of “One Person, One Vote”**

The Supreme Court recognized relatively early that outright denial of the ability to vote—even in a primary election—could violate the Equal Protection Clause. *See Nixon v. Herndon*, 273 U.S. 536, 540–41 (1927). But for many years the Court was unwilling to



apply an equal protection analysis to claims of vote *dilution* resulting from malapportioned legislative districts. In 1946, the Court expressly held in an opinion by Justice Frankfurter that such claims were “of a peculiarly political nature and therefore not [fit] for judicial determination.” *Colegrove v. Green*, 328 U.S. 549, 552 (1946). The *Colegrove* Court distinguished *Herndon* and similar cases from the districting/dilution claim before it (which involved Illinois’ Congressional districts) as follows:

This is not an action to recover for damage because of the discriminatory exclusion of a plaintiff from rights enjoyed by other citizens. *The basis for the suit is not a private wrong, but a wrong suffered by Illinois as a polity. . . .* In effect this is an appeal to the federal courts to reconstruct the electoral process of Illinois in order that it may be adequately represented in the councils of the Nation. Because the Illinois legislature has failed to revise its Congressional Representative districts in order to reflect great changes, during more than a generation, in the distribution of its population, we are asked to do this, as it were, for Illinois.

*Id.* (emphasis added).

I quote from this opinion at length because it represents a view that has been emphatically rejected, and so it offers valuable clues as to what errors should be avoided when thinking about dilution claims. The chief error in the majority opinion in *Colegrove*

was the failure to recognize the personal nature of the rights at stake. As Justice Black recognized in his dissent in *Colegrove* (which was joined by Justice Douglas):

No one would deny that the equal protection clause would . . . prohibit a law that would expressly give certain citizens a half-vote and others a full vote. The probable effect of the [districting scheme at issue] in the coming election will be that certain citizens, and among them the petitioners, will in some instances have votes only one-ninth as effective in choosing representatives to Congress as the votes of other citizens. Such discriminatory legislation seems to me exactly the kind that the equal protection clause was intended to prohibit.

*Id.* at 569 (Black, J., dissenting).

The view of Justices Black and Douglas won out, though it took over 15 years. Black and Douglas reiterated their opposition to the so-called “political question” holding of *Colegrove* in their dissent in *South v. Peters*, arguing that “[t]he right to vote includes the right . . . to have the vote counted at full value without dilution or discount.” 339 U.S. 276, 279 (1950) (Douglas, J., dissenting). Finally, in *Baker v. Carr*, the Court adopted this view, holding that vote dilution claims could be brought under the Equal Protection Clause. 369 U.S. 186, 237 (1962).

In *Carr*, the Court only answered the question of *whether* vote dilution claims based on malapportionment were justiciable, not how to analyze such claims. The Court tackled the latter question in *Wesberry v. Sanders*, 376 U.S. 1 (1964), and *Reynolds v. Sims*, 377 U.S. 533 (1964).<sup>6</sup> *Wesberry* dealt with malapportionment of congressional districts, 376 U.S. at 2, while *Reynolds* dealt with malapportionment of state legislative districts, 377 U.S. at 536–38. In each case, the Court held that large disparities among the number of people living in different legislative districts violated the Constitution. But the Court concluded that malapportionment of congressional districts offends Article I, § 2 of the Constitution,<sup>7</sup> *Wesberry*, 376 U.S. at 17–18, while malapportionment of state legislative districts offends the Equal Protection Clause, *Reynolds*, 377 U.S. at 568. This difference has turned out to have an im-

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<sup>6</sup> The Court first used the precise phrase “one person, one vote” in *Gray v. Sanders*, a case involving Georgia’s odd system for electing United States Senators and certain state officials. 372 U.S. 368, 370–72 (1963). The Court took pains to point out that *Gray* was not a case about apportionment, but the logic of the opinion, and particularly the Court’s conclusion that “[t]he conception of political equality . . . can mean only one thing—one person, one vote” clearly led to *Reynolds* and *Wesberry*.

<sup>7</sup> Technically, Article I, Section 2 as amended by Section 2 of the Fourteenth Amendment, which effectively repealed the Three-Fifths Clause. See *Chen v. City of Houston*, 206 F.3d 502, 527 n.20 (5th Cir. 2000).

portant consequence: the Court has tolerated much larger deviations in total census population among state legislative districts than among congressional districts. *See, e.g., Mahan v. Howell*, 410 U.S. 315, 322–23 (1973). The Court extended *Reynolds* to units of local government (county commissions, etc.) in *Avery v. Midland County*, holding that “units with general governmental powers over an entire geographic area [must] not be apportioned among single-member districts of substantially unequal population.” 390 U.S. 474, 485–86 (1968).

One thing this discussion of the history of one person, one vote makes clear is that the injury in a case involving malapportioned districts is *personal*, not structural.<sup>8</sup> The constitutional infirmity in a set of malapportioned legislative districts lies not in the failure to equalize some population measure, but in the infringement of some peoples’ rights to participate in our form of representative democracy. Put another way, when a suit challenging a districting scheme reaches federal court, the court does not sit as

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<sup>8</sup> *But see* Joseph Fishkin, *Weightless Votes*, 121 Yale L.J. 1888 (2012) (arguing that in one person, one vote cases, “the real action is not in the domain of individual rights, but rather in structural questions about the allocation of group political power”).

a super-legislature to question the districting choices of the legislative body from a policy standpoint. Rather, the court functions in its traditional role as a vindicator of individual rights.

In the 50-plus years since *Reynolds v. Sims*, this principle has sometimes been obscured. On occasion courts seem to focus on equalizing census population across districts as an end in and of itself. *See, e.g., Cummings v. Meskill*, 341 F. Supp. 139 (D. Conn. 1972) (three-judge panel), *rev'd sub nom. Gaffney v. Cummings*, 412 U.S. 735 (1973). And courts, including the Supreme Court, have also spent much energy fleshing out the doctrine regarding the other side of the constitutional balance—the legitimacy and importance of the reasons offered up by governments to justify disparities in the size of districts. *See, e.g., Davis v. Mann*, 377 U.S. 678, 691–92 (1964). It's easy to lose sight of the fact that the rights at stake in one person, one vote cases “are personal and individual,” *South*, 339 U.S. at 280 (Douglas, J., dissenting), but it's also vital that this fact not be forgotten.

### **C. One Person, One Vote Mechanics**

For cases involving state and local governmental bodies, a one person, one vote claim requires an inquiry into whether the apportionment scheme being challenged “may reasonably be said

to advance [a] rational state policy and, if so, whether the population disparities among the districts that have resulted from the pursuit of this plan exceed constitutional limits.” *Larios v. Cox*, 300 F. Supp. 2d 1320, 1341 (N.D. Ga. 2004) (three-judge panel), *aff’d mem.* 542 U.S. 947 (2004) (citations and quotations omitted). In practice, the first question usually asked is “how large are the population disparities?”

One measure of population disparities is the “total deviation” or “overall deviation” described above in Part. I.B. If the total deviation is under 10%, the population disparities are considered “minor,” and a plaintiff will generally have to provide further proof (besides the disparities themselves) showing that the districting scheme is arbitrary or discriminatory in order to prevail. *See Daly*, 93 F.3d at 1220. If the total deviation is above 10%, the state or local government must justify the disparities or else the scheme will be invalidated. *See Larios*, 300 F. Supp. 2d at 1340. Courts sometimes refer to this burden-shifting approach to one person, one vote claims as the “safe harbor rule,” though that moniker can be misleading since deviations below 10% may still violate one person, one vote. *See Frank v. Forest Cty.*, 336 F.3d 570, 572–73 (7th Cir. 2003) (Posner, J.). A state or local government may be able to

justify a districting scheme with a relatively large total population deviation by invoking one or more of a number of well-recognized state interests, including the interests in “making districts compact, respecting municipal boundaries, preserving the cores of prior districts, and avoiding contests between incumbent [r]epresentatives.” *Karcher v. Daggett*, 462 U.S. 725, 740 (1983).

In the typical one person, one vote case—which this case is not—the question of what constitutes the “population” for purposes of computing the total population deviation is not at issue. There are really two questions embedded in this question, one theoretical and one practical. First, who are the people who should *in theory* be counted for determining equality of population? Second, what source(s) of data are acceptable for determining this population? I’ll get to the first question soon enough. As for the second question, the Supreme Court has long endorsed the use of census data as a basis for drawing legislative districts, even while acknowledging the shortcomings of that data. “[T]he census data provide the only reliable—albeit less than perfect—indication of . . . districts’ ‘real’ relative population levels. Even if one cannot say with certainty that one district is larger than another merely because it has a higher census count, one can say with certainty that

the district with a larger census count is more likely to be larger than the other district than it is to be smaller or the same size. That certainty is sufficient for decisionmaking.” *Id.* at 738.

But while census data is almost always the starting point for determining a population base, it need not, and in some cases cannot, be the ending point. The Court has recognized that blind reliance on census data can lead to unconstitutional results. In *Mahan v. Howell*, for instance, the Court considered a districting plan that relied on census data to count some 36,000 military personnel in the state senate district where they were “home-ported”—that is, the district containing their naval base. 410 U.S. at 330–31. However, only about half of these people actually lived in the district, either on the naval base or off the base but still within the district. *Id.* The Court held that the scheme was unconstitutional. The scheme “resulted in . . . significant population disparities,” and the state could not fall back on its reliance on census figures to justify these disparities because “[t]he . . . use of [a] census enumeration to support a conclusion that all of the Navy personnel on a ship actually resided within the state senatorial district in which the ship was docked placed upon the census figures a weight that they were not intended to bear.” *Id.*



More recently, courts have allowed states to alter census data by assigning prisoners to their pre-incarceration places of residence or removing them from the population base for districting purposes. *See Fletcher v. Lamone*, 831 F. Supp. 2d 887, 894–97 (D. Md. 2011) (three-judge panel), *aff’d mem.* 133 S. Ct. 29 (2012). In allowing this, the *Fletcher* court emphasized that “a State may choose to adjust the census data, so long as those adjustments are thoroughly documented and applied in a nonarbitrary fashion and they otherwise do not violate the Constitution.” *Id.* at 894–95. In the context of prisoners, the court noted that such adjustments might be appropriate because “prisoners are counted [by the Census Bureau] where they are incarcerated for pragmatic and administrative reasons, not legal ones.” *Id.* at 895.

### **III. WHAT DOES ONE PERSON, ONE VOTE MEAN?**

#### **A. The Personal Rights and Interests Protected By “One Person, One Vote”**

The early one person, one vote cases identified two distinct personal interests that are negatively impacted by malapportionment. First, there is obviously the right or interest in voting and in having one’s vote counted on an equal basis with others. *See*

*Reynolds*, 377 U.S. at 568 (“an individual’s right to vote . . . is unconstitutionally impaired when its weight is in a substantial fashion diluted when compared with votes of citizens living in other parts of the State”). Second, there is the interest in being represented on an equal footing with one’s neighbors. *See, e.g., Kirkpatrick v. Preisler*, 394 U.S. 526, 531 (1969) (“Equal representation for equal numbers of people is a principle designed to prevent debasement of voting power *and diminution of access to elected representatives.*”) (emphasis added). Lower courts have since labeled these rights—or, more precisely, the principles related to these rights—“electoral equality” and “representational equality.” *See, e.g., Chen v. City of Houston*, 206 F.3d 502, 525 (5th Cir. 2000). An apportionment scheme that effectively weighs one voter’s vote more heavily than another’s can be said to violate the principle of electoral equality, while an apportionment scheme that effectively gives one denizen<sup>9</sup> greater “representational strength” than another can be

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<sup>9</sup> The term “denizen” is used here and throughout this opinion to mean one who lives in a district and is represented by an elected official, whether or not he or she votes or is entitled to vote. This term has significant advantages over “constituent,” which can refer either to someone entitled to vote for a representative *or* to someone represented by a representative whether or not he or she is entitled to vote. *See Constituency*, Black’s Law Dictionary (9th ed. 2009) (“1. The body of citizens dwelling in a defined area and entitled to elect a representative. 2. The residents of an electoral district.”). Denizen is also preferable to “citizen,” which of course carries with it a legal meaning that

said to violate the principle of representational equality. And when these principles are violated, it means that some people—those living in districts with too many people, typically—are denied equal protection of the laws.

Although these principles are distinct, the Supreme Court seemed to discuss them interchangeably in the early cases. This is perhaps because those cases involved districts with wide disparities in total population *and* voter population, so the districting schemes at issue violated both principles. *See Chen*, 206 F.3d at 525–26; *Daly*, 93 F.3d at 1223. Only a handful of cases have dealt with the vexing problem of what to do when districts are drawn in such a way so as to serve one principle but not the other—that is, when districts are drawn in such a way that the number of voters is the same in each, but the number of total people varies by a great amount (or the other way around).

The first of these cases was *Burns v. Richardson*, 384 U.S. 73 (1966), which involved an interim districting plan for Hawaii’s state legislature. The plan used registered voters as a population

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might be misleading in the context of this case. The term “voter” is used throughout this opinion to mean one who is entitled to vote in a jurisdiction, whether or not she actually votes. I will occasionally use “constituent,” and when it is used, it has the same meaning as denizen.

base rather than census data—that is, it attempted to roughly equalize the number of registered voters per representative across the legislative districts. 384 U.S. at 86–91. Because of the presence of a large number of military personnel stationed in Hawaii but not registered to vote there, the use of such a base led to “sizable differences in results [compared to those] produced by the distribution according to the State’s total population, as measured by the federal census figures.” *Id.* at 90.

The Supreme Court upheld the interim scheme against a “one person, one vote” challenge. In doing so, it clarified that “the Equal Protection Clause does not *require* the States to use total population figures derived from the federal census as the standard by which . . . substantial population equivalency is to be measured.” *Id.* at 91 (emphasis added). The Court further noted the following:

[T]his Court [has never] suggested that the States are required to include aliens, transients, short-term or temporary residents, or persons denied the vote for conviction of crime in the apportionment base by which their legislators are distributed and against which compliance with the Equal Protection Clause is to be measured. The decision to include or exclude any such group involves choices about the nature of representation with which we have been shown no constitutionally founded reason to interfere. Unless a choice is

one the Constitution forbids, . . . the resulting apportionment base offends no constitutional bar, and compliance with the rule established in *Reynolds v. Sims* is to be measured thereby.

*Id.* at 92 (citations omitted). Because the use of registered voters as a population base appeared to lead to similar results as would have been achieved “had state citizen population been the guide,” the Court held that the scheme complied with one person, one vote. *Id.* at 92–96.

The lower courts have interpreted *Burns* in strikingly different ways. The Ninth Circuit decision in *Garza v. County of Los Angeles*, 918 F.2d 763 (9th Cir. 1990), contains two such interpretations in its majority and dissenting opinions. *Garza* involved the redrawing of the districts for the Los Angeles County Board of Supervisors. 918 F.2d at 765. Because Los Angeles County contained a large number of nonvoters, using total population (census population, roughly speaking) as a base led to drastically different results than using voter population as a base. *Id.* at 773–74. The County, citing *Burns*, argued that the districting plan (which had been ordered by the district court) violated one person, one vote by giving voters living in districts with large populations of nonvoters more voting strength than voters in other districts. *Id.* at 773.

The majority in *Garza* not only rejected the argument that voter population was the relevant population to be equalized under *Reynolds*, but actually went so far as to suggest that equalizing voter population would *violate* one person, one vote by impairing the ability of nonvoters to access and petition their representatives. *See id.* at 774–76. The majority, despite its description of “protect[ing] the voting power of citizens” and “ensur[ing] equal representation for equal numbers of people” as “coequal goals,” basically held that representational equality trumps electoral equality. *See id.*

Judge Kozinski dissented in relevant part. After a lengthy review of the Supreme Court’s one person, one vote jurisprudence, Judge Kozinski “concluded that it is the principle of electoral equality that lies at the heart of one person one vote.” *Id.* at 785 (Kozinski, J., dissenting in relevant part). Still, Kozinski admitted that his “colleagues may ultimately have the better of the argument” and that the Supreme Court, if confronted directly with the issue, might go either way. *Id.*

Two other Circuit Courts of Appeals have considered cases pitting electoral equality against representational equality and

drawn different lessons from *Burns* than either the majority or dissent in *Garza*. In *Daly v. Hunt*, the Fourth Circuit considered a challenge to the districting scheme for a board of county commissioners and a school board. 93 F.3d at 1214. The court rejected both the *Garza* majority's approach and Judge Kozinski's approach, concluding instead that courts should defer to a state or local government's decision to favor electoral or representational equality when both cannot be achieved. *See id.* at 1225–27. The court reasoned that because districting is “inherently political,” courts (particularly federal courts) should be wary of interfering with choices about what theory of representative democracy a state or local government chooses. *See id.* The Fifth Circuit more or less followed the Fourth Circuit's lead in *Chen v. City of Houston*, 206 F.3d 502 (2000).<sup>10</sup>

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<sup>10</sup> More recently, a three-judge District Court followed the reasoning of *Chen* and *Daly* and rejected a challenge to Texas' state senate districting scheme on the grounds that it diluted voters' votes by including large groups of nonvoters in the population base. *Evenwel v. Perry*, No. A14CV335, 2014 WL 5780507 (W.D. Tex. Nov. 5, 2014), *prob. juris. noted* *Evenwel v. Abbott*, 135 S. Ct. 2349 (2015). That case is on appeal to the Supreme Court; oral arguments were held on December 8, 2015. *See Argument Transcripts*, Supreme Court of the United States, [http://www.supremecourt.gov/oral\\_arguments/argument\\_transcript/2015](http://www.supremecourt.gov/oral_arguments/argument_transcript/2015) (last visited Mar. 17, 2016).

For reasons discussed later on, I need not decide whether Judge Kozinski, the *Garza* majority, or the *Daly* court is correct. That said, the best answer is probably that the Equal Protection Clause (through the one person, one vote principle) protects *both* representational *and* electoral equality. If a state or local government chooses a population base that appears to serve either one of these principles, or even one that serves both imperfectly, it is not the job of a court to step in and enforce its particular theory of representative democracy. If a state or local government is confronted with a situation in which it *knows* that it can't serve both principles—in other words, in which it knows that it will have to draw districts in a way that dilutes some voters' voting strength or some denizens' representational strength—then the choice of which principle should prevail is one for the state or local government.

There's another point which bears mentioning. State and local governments (or whoever conducts redistricting activities) don't actually pick a theory of representative democracy; rather, they draw district lines. Ultimately, to determine whether one person, one vote principles have been violated, it is necessary to look at the population base that's been chosen, because there is no way to directly measure vote dilution or representational harm. That's



why courts seem to focus so much on the structural question of whether a particular population base is appropriate—it's the only thing that can be measured. But as discussed above in Part II.C, census data is imperfect, and other data (data on registered voters, for instance) is even worse. *See generally* Nathaniel Persily et al. as *Amici Curiae* in Support of Appellees, *Evenwel v. Abbott*, No. 14-940 (U.S. Sept. 25, 2015). The result of all this is that there is (and should be) a reluctance *on evidentiary grounds* to find that the choice of a particular population base violates one person, one vote. That is, it's hard to prove that the choice of a particular population base for redistricting leads to vote dilution and/or dilution of representational strength. The *Daly* court recognized this evidentiary problem and cited it alongside the federalism/judicial restraint rationale as a reason for being wary of interfering with a state or local government's choice of population base. *See Daly*, 93 F.3d at 1227–28.

So courts should probably be reluctant to interfere with a state or local government's districting scheme on the grounds that

it uses the “wrong” population base.<sup>11</sup> But that doesn’t mean that a court should *never* interfere. In particular, *Burns* still counsels that the choice of apportionment base can’t be “one the Constitution forbids,” 384 U.S. at 92, a somewhat circular command that will be discussed later. For now, though, it’s necessary to look more closely at something acknowledged as a key concern in *Garza*, *Daly*, and *Hunt*—representational equality.

### **B. The Nature of Representational Equality and the “Right” to be Represented**

*Garza*, *Hunt*, and *Daly* showcase at least three different theories of what one person, one vote means. But all of these theories—even Judge Kozinski’s voter-centric theory articulated in his *Garza* dissent—recognize that the choice to use voter population as a population base when there are large pockets of nonvoters costs those nonvoters something. In other words, all three theories recognize “representational equality” as a real concern to be taken into account in one person, one vote cases. Furthermore, these

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<sup>11</sup> It’s possible that things are different for congressional districts. It’s difficult to read *Wesberry*—and the constitutional provisions on which it relied—and conclude that drawing congressional districts so as to achieve electoral equality would be permissible. Article I, Section 2 (as amended by the Fourteenth Amendment) seems to mandate that representational equality be the guiding principle for congressional districting. See Brief of the ACLU and the ACLU of Texas as *Amici Curiae* in Support of Appellees at 7–13, *Evenwel v. Abbott*, No. 14-940 (U.S. Sept. 24, 2015).

cases make clear that representational equality is not a structural or administrative state interest (like preserving county lines, etc.) that justifies deviations in the number of voters, but rather a principle that reflects the existence of an underlying *personal* interest or right in being represented.

This is not an interest or right—I’ll call it a right, though for purposes of this case it doesn’t matter<sup>12</sup>—often discussed by courts. Its contours are usually not particularly germane in one person, one vote cases, and certainly not outcome-determinative. But understanding this right is crucial to deciding this case, so it is necessary to glean its rough outline. That outline is best elucidated by investigating two questions. First, what does a representative *do* for those he represents? Second, in what ways (besides voting) can someone affect the performance of the representative’s functions?

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<sup>12</sup> Whether the existence of representational equality as a valid constitutional concern implies that there exists an individual, legally cognizable *right* to be represented is an open question. Would a nonvoter in a district with an excess of people have standing to bring an Equal Protection claim alleging dilution of her “representational strength” just as a voter in such a district would have standing to bring an Equal Protection challenge alleging dilution of her vote? Frankly, it’s hard to see why not, though that view is not universally shared. See Brief for Appellants at 38–40, *Evenwel v. Abbott*, No. 14-940 (U.S. July 31, 2015) (arguing that none of the Supreme Court’s decisions “suggest (let alone hold) that a resident’s diluted access to his or her representative is a ‘legally cognizable injury’ within the meaning of the one-person, one-vote rule”).

(Or, put another way, what does the represented do for or to their representative?)

*1. What Does a Representative Do?*

In broad terms,<sup>13</sup> a representative does three key things for her constituents. First, she helps make and/or influence policy decisions, such as passing (or not passing) laws and choosing or approving administrative officials. Sometimes the effects of those decisions will be direct—a representative votes to make a county “dry,” thereby forcing bars in the area to close and affecting the livelihood of some denizens. Other times the effects will be more indirect—a representative supports a sales tax hike to fund county schools, which enables a local high school to provide its teachers with better equipment, which leads to a better-educated workforce, which increases the earning power of the denizens of the community. The policy choices made by the representative may reflect the will of her constituents, or they may reflect the representative’s

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<sup>13</sup> There is a rich social science literature on the nature of representation. *See generally Political Representation*, Stanford Encyclopedia of Philosophy (Oct. 17, 2011), <http://plato.stanford.edu/entries/political-representation/>. This case doesn’t require diving into the literature, as all that’s needed for present purposes is a rough outline of the “right to be represented.”

own determination as to what's best for her constituents,<sup>14</sup> or (more cynically) they may reflect the will of powerful special interests, or caprice, or bias.

Second, a representative acts as an “ombudsperson[,] [a] friend and guide in the complex channels of . . . government” for her constituents. *See Rossito-Canty v. Cuomo*, 86 F. Supp. 3d 175, 181–82 (E.D.N.Y. 2015). As one esteemed judge<sup>15</sup> has noted in the context of congressional representatives, a constituent “frustrated by the lack of an appropriate response with respect to a welfare payment, aid to small business in sending its products abroad, tax

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<sup>14</sup> “Your representative owes you, not his industry only, but his judgment; and he betrays, instead of serving you, if he sacrifices it to your opinion.” 2 Edmund Burke, *Speech to the Electors of Bristol*, in *The Works of the Right Honorable Edmund Burke* 89, 95 (1774), <http://www.gutenberg.org/files/15198/15198-h/15198-h.htm>. Burke’s “trustee” model of representation can be contrasted with the “delegate” model of representation, in which a representative merely enacts her constituents’ preferences. *See generally* Frederick Schauer, *Constitutions of Hope and Fear*, 124 Yale L.J. 528, 533–34 (2014). Obviously in practice most representatives fall somewhere between pure trustee and pure delegate. Indeed, Madison and Hamilton seemed to contemplate representation as encompassing both delegate- and trustee-like features. *See* Cass R. Sunstein, *Interest Groups in American Public Law*, 38 Stan. L. Rev. 29, 40–43 (1985).

<sup>15</sup> The judge in the *Rossito-Canty* case was Senior Judge Jack Weinstein, a legendary trial judge who literally wrote the book on evidence. *See* Jack B. Weinstein et al., *Evidence: Cases and Materials* (9th ed. 1997). Before he was appointed to the bench by President Johnson in 1967, Weinstein assisted the plaintiffs in *Brown v. Board of Education*, 347 U.S. 483 (1954), and wrote a brief in support of the appellants in *WMCA, Inc. v. Lomenzo*, 377 U.S. 633 (1964), one of the early one person, one vote cases. *See* Jack B. Weinstein, *The Role of Judges in a Government of, by, and for the People: Notes for the Fifty-Eighth Cardozo Lecture*, 30 Cardozo L. Rev. 1 (2008).

collections, or other matters[ may] turn[] for help to the Representative from the district” in which he lives. *Id.* Certainly the channels of government are less complex at the county level than at the national or state level, but there are still a host of things that a county representative can help her constituents with that have nothing to do with policymaking.<sup>16</sup>

Third, a representative acts as the voice of her constituents in the legislative body. This is related to, but distinct from, her role as a policymaker. There may be situations in which a representative is unable to influence policy, but can still articulate the interests of her constituents. Acting as a mouthpiece for views that are unlikely to prevail in the short term has an important instrumental function—this year’s minority view may yet garner a majority—and also arguably has an expressive element separate and apart from any policy-related utilitarian benefit. *See generally* Steven N. Sherr, *Freedom and Federalism: The First Amendment’s Protection of Legislative Voting*, 101 Yale L.J. 233 (1991).

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<sup>16</sup> Consider, for example, Leon County Commissioner Bryan Desloge. Desloge, the Commissioner for District 4 in Leon County, used to publish a newsletter (“Bryan’s Brief”) in which he sometimes informed his constituents that he was available to help them with issues related to solid waste collection. Bryan Desloge, *Bryan’s Brief* (Feb. 2014), <https://cms.leoncountyfl.gov/Portals/0/CountyCommission/District4/Newsletters/201402.pdf>.

## *2. The Role of the Represented*

The most obvious way someone can influence his representative is through voting. But voting is not the beginning and end of citizenship, just as campaigning and being elected is (hopefully) not the beginning and end of public service. Especially at the local level, the people ostensibly represented by a legislator have opportunities to engage with that legislator in multiple ways, both official and unofficial, to try to influence the representative's decisions. People write letters and mount protests, but they also take more subtle measures—they invite representatives to tour their neighborhoods; they exploit personal connections to gain greater access to representatives or to put pressure on representatives to take certain actions; and, of course, they give money.

Some courts have tied such activities to the First Amendment right to petition. *See Garza*, 918 F.2d at 775. Even given the preeminent place the First Amendment occupies in the fabric of our democracy, that may be understating the importance of these activities. “[I]t is essential to liberty that the government in general should have a common interest with the people, [and] it is particularly essential that” a legislative body elected directly by the people “should have an immediate dependence on, and an intimate

sympathy with, the people.” The Federalist No. 52, at 361 (James Madison) (Benjamin Fletcher Wright ed., 1961). Besides voting, the best way to ensure that a representative has “an intimate sympathy with” those she represents is to protect the ability of the represented to access and influence her. This goes beyond the First Amendment right to petition, and touches on something even deeper—the nature of a representative form of government. *Cf. Cruikshank*, 92 U.S. at 553 (“The very idea of a government, republican in form, implies a right on the part of its citizens to meet peaceably for consultation in respect to public affairs and to petition for a redress of grievances.”).

### **C. Representational Injuries Caused By Malapportionment**

With a better grasp of the nature of the right to be represented, it’s possible to understand how malapportionment negatively affects that right. The most commonly cited harm to denizens in a district with too many people is the harm of “dilute[d] . . . access . . . to their representative.” *Garza*, 918 F.2d at 775. This “access harm” would affect the right to be represented in multiple ways. Most obviously, it would infringe on the ability to influence representatives’ policy choices. It would also diminish the ability



to use representatives as ombudspersons, and it would limit the ability of representatives to voice all their constituents' views.

But as the Fourth Circuit noted in *Daly*—and as the discussion above makes clear— “the right to petition one’s representative is but one facet of the concept of representation,” *Daly*, 93 F.3d at 1226, and the harm flowing from malapportionment is greater than just the harm of diminished ability to access or petition one’s representative. Judge Kozinski identified a second type of harm in his *Garza* dissent. “[A]ssuming that elected officials are able to obtain benefits for their districts in proportion to their share of the total membership of the governing body,” a representative with a larger number of denizens in her district will bring home a lower level of services per denizen. *See Garza*, 918 F.2d at 781 (Kozinski, J., dissenting in relevant part).

In addition, a representative with a relatively large constituency is likely to have a wider range of interests, and even some internal conflicts, within that constituency, making it more difficult to determine which policy choices would benefit her constituents the most. Her effectiveness as a representative may be impaired by the need to familiarize herself with and reconcile this

larger set of (possibly competing) interests. *See* Nicholas O. Stephanopoulos, *Spatial Diversity*, 125 Harv. L. Rev. 1903, 1919–20, 1944–46 (2013) (discussing how a larger variety of interests within a district impairs the ability of an elected official to represent her constituents’ views); *cf.* The Federalist No. 56, at 379–83 (James Madison) (Benjamin Fletcher Wright ed., 1961) (arguing that a ratio of one member of the House of Representatives to every 30,000 inhabitants would be large enough to ensure that each representative would “be acquainted with the interests and circumstances of his constituents”).

Finally, there’s the harm that occurs as a result of having the same “power”—that is, one vote in the legislative body—spread over a larger number of people. “Although the overall power of [a] governing body is generally not divisible, each representative individually should have the same ability to influence the actions performed by the governing body as a whole. These representatives should represent roughly the same number of constituents, so that each person, whether or not they are entitled to vote, receives a fair share of the governmental power, through his or her representative.” *Daly*, 93 F.3d at 1226; *see also Wesberry*, 376 U.S. at 14–15 (discussing the evils of the old British system in which some

small villages enjoyed much smaller inhabitant-to-representative ratios than large cities like London).

Note that all of these harms sound in equal protection because the denizens of a district with a relatively large number of people have *less* access, influence, etc. than those in districts with a smaller population. That is, they have less “representational strength.”

#### **D. The Need for a Representational Nexus**

The harms discussed above—reduced access, reduced influence, a reduced portion of government services, less effective representation, and diminished power in the polity as a whole—only occur to people who are meaningfully affected by a representative’s actions.<sup>17</sup> If the representative can’t make decisions that meaningfully affect *me*; if the representative can’t act as *my* ombudsperson because the governing body to which she belongs can’t do anything for *me*; if *I’m* not receiving services from the governing body—under these circumstances, there’s no representational nexus<sup>18</sup> between the representative and me.

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<sup>17</sup> The one minor exception being the expressive aspect of a representative’s speech on behalf of others.

<sup>18</sup> This term was first used in a reported case by Judge Kozinski. See *Pub. Integrity Alliance, Inc. v. City of Tucson*, 805 F.3d 876, 881 (9th Cir. 2015).

I've been assuming all along that everyone who "lives in" a representative's district has a representational nexus with that representative and is therefore a denizen of that representative's district, and indeed that's a good assumption. If someone is physically located or housed in a particular legislative district, that is almost always a good indication that there's a representational nexus between that person and the representative for the district. But this is a matter of correlation, not causation. A person does not have a representational nexus with a representative *because* of that person's physical location, but rather because of the ability of the representative to meaningfully affect that person's life, and the representative will *normally* have such an ability as to all people physically located in her district.

It's easy to think of situations in which neither physical presence nor representational nexus is present—I don't live in San Francisco, nor do I have much, if any, interest in how San Francisco draws its Board of Supervisors districts—and of course it's

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He used it to refer to the relationship between an elected official and his constituency: "Given the city's concession that each council member represents all of Tucson, it's clear that the representational nexus runs between the city and the council member, not between the ward and the council member." *Id.* I use it in a slightly different way to mean a relationship between an official and an individual denizen.

easy to conceive of situations in which both are present. There are also certainly situations in which a person arguably has a representational nexus with someone who represents a different jurisdiction. Consider Belleville, Illinois, just across the Mississippi River from St. Louis. About a quarter of working Bellevillians work in St. Louis.<sup>19</sup> One would assume that many Bellevillians are greatly affected by at least some of the decisions made by the Missouri Legislature, and that they probably have a representational nexus with the Missouri state representatives from St. Louis.

This case represents an even odder situation, one in which a group of people lives full-time within the geographical boundaries of a district and yet has little, if any, representational nexus with the representative from that district or the legislative body to which he belongs.

More on that later, though. For now, armed with a better understanding of what the right to representation means, I'll turn to the question of what legal standard should be used to analyze whether inclusion of a particular group in a population base offends the Equal Protection Clause.

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<sup>19</sup> See City of Belleville Comprehensive Plan § 5, pg. 7 (adopted June 16, 2014), <http://belleville.net/DocumentCenter/View/1208>.

### E. “A Choice the Constitution Forbids”

The Court in *Burns* emphasized (and the lower courts’ decisions in *Daly* and *Chen* confirmed) that states have flexibility in choosing which population should be equalized in drawing districts. The only condition is that the choice cannot be “one the Constitution forbids,” *Burns*, 384 U.S. at 92, which on its own is not a very helpful limitation. (“A choice of population base is constitutional unless the Constitution forbids it.”) But this language is not the only clue as to what the Court meant. *Burns* itself, the other early one person, one vote cases discussed above, and *Chen*, *Garza*, and *Daly*’s treatment of those cases suggest two different (but ultimately equivalent) methods to determine whether use of a particular population base violates Equal Protection.

#### 1. *The Choice Can’t Violate Both Electoral and Representational Equality Principles*

Judge Kozinski noted in his *Garza* dissent that “a careful reading of the Court’s [one person, one vote] opinions suggests that equalizing total population is viewed not as an end in itself, but as a means of achieving electoral equality.” 918 F.2d at 783 (Kozinski, J., dissenting in relevant part). Judge Kozinski was trying to make

the point that electoral equality is more important than representational equality—a point about which this Court expresses no opinion—but he was also arguing that the ultimate injury inflicted by malapportionment is the infringement of individual rights, not the fact of malapportionment itself. As discussed earlier, disparities in total census population are *evidence* that these individual rights are being infringed, but are not in and of themselves unconstitutional. *Cf. id.* (noting that “[t]otal population . . . is only a proxy for equalizing the voting strength of eligible voters”).

But which individual rights? Judge Kozinski thought the right “to cast equally weighted votes,” and therefore the principle of electoral equality, was of paramount importance, and that the principle of representational equality was “subservient.” *Id.* at 782–83. The *Garza* majority disagreed, holding that the need to ensure equal representational rights for nonvoting denizens was more important than ensuring electoral equality. *Id.* at 774–76 (majority opinion). The *Chen* and *Daly* courts in effect held that a state could choose whether to satisfy representational equality or electoral equality—that is, in case of a conflict, a state could decide whether the right to be represented equally or the right to cast an equally weighted vote was more important.

What none of these cases held was that a state or local government could draw districts in a way that violates *both* electoral and representational equality. Such a districting scheme would deny *all* denizens of some districts—voters and nonvoters alike—equal protection of the laws. It would of course dilute the voting strength of voters, but it would also dilute the representational strength of those voters *and* of their nonvoting neighbors. A scheme that violates both of these principles is unconstitutional under any interpretation of one person, one vote. *See Davidson v. City of Cranston*, 52 F. Supp. 3d 325, 332 (D.R.I. 2014).

So one “choice the Constitution forbids” is a choice that violates both representational and electoral equality. This brings me back to the “representational nexus” concept. People who lack a meaningful or substantial representational nexus with a given legislative body, or whose representational nexus with that body is substantially attenuated relative to others in the body’s jurisdiction, don’t “count” for purposes of representational equality—that is, their cognizable representational rights vis-à-vis that body are not affected by the size of that body’s districts, nor does their presence affect the representational rights of others. Nonvoters, of course, don’t “count” for purposes of electoral equality. Nonvoters



who also lack a meaningful representational nexus don't count *at all*, and including a relatively large, geographically compact group of such people in a district impermissibly dilutes the voting *and* representational strength of people in *other* districts.

## 2. *The Choice Can't Discriminate "Arbitrarily"*

The second method is more doctrinally orthodox. In *Burns*, the Court cited *Carrington v. Rash*, 380 U.S. 89 (1965), as a case containing an example of a "choice the Constitution forbids," and discussed that same case in a footnote. *See Burns*, 384 U.S. at 92. *Carrington* involved Texas' blanket rule denying all members of the armed services the franchise even when some of those servicemen and women would have qualified as residents. 380 U.S. at 91–93. *Burns* pointed to this sort of categorization as arbitrary, as opposed to categorization based on (presumably reasonable) residency requirements. *Burns*, 384 U.S. at 92 n.21 ("The difference between exclusion of all military and military-related personnel, and exclusion of those not meeting a State's residence requirements is a difference between an arbitrary and a constitutionally permissible classification.").

This portion of *Burns* suggests that when choosing to include a group in or exclude a group from its population base for purposes

of districting, a state or local government must not discriminate in violation of the Equal Protection Clause. That is, the choice to include or exclude any identifiable group from the population base must pass muster under the applicable equal protection standard. But how to determine the standard? Although the Court in *Burns* characterized the discrimination in *Carrington* as “arbitrary”—implying that the traditional rational basis/strict scrutiny framework should be applied—it’s difficult to see how Texas lacked a rational basis in the traditional sense for denying the vote to members of the military. If the end goal was to ensure that only true residents could vote, then excluding a class of people containing many non-residents would qualify as rational. *See Leib v. Hillsborough Cty. Pub. Transp. Comm’n*, 558 F.3d 1301, 1306 (11th Cir. 2009) (“Under rational basis review, a court must accept a legislature’s generalizations even when there is an imperfect fit between means and ends.”).

The better reading of *Burns*—and a reading more consistent with equal protection jurisprudence in the vote-dilution context—is that choices about whether to exclude a particular group from (or include a group in) the population base are subject to something

more exacting than rational basis review. *Cf. Green v. City of Tucson*, 340 F.3d at 898–900 (“In the absence of a suspect classification, the Supreme Court has applied strict scrutiny to only two types of voting regulations. The first type includes regulations that unreasonably deprive some residents in a geographically defined governmental unit from voting in a unit wide election. . . . The second type are regulations that contravene the principle of ‘one person, one vote’ by diluting the voting power of some qualified voters within the electoral unit.”). This is not inconsistent with the statement in *Burns* that “[s]tates are [not] required to include aliens, transients, short-term or temporary residents, or persons denied the vote for conviction of crime in the apportionment base by which their legislators are distributed.” 384 U.S. at 92. All of the listed groups are by definition not permanent residents, and therefore discrimination on the basis of residency—which is allowed—would exclude them from the population base without any overinclusion of the type found impermissible in *Carrington*.

*Burns* and *Carrington* suggest the following equal protection methodology to determine whether a population base is permissi-

ble. First, start with the census population. It's an imperfect measure, but it's the traditional starting point for most legislative bodies. *See, e.g., Gaffney v. Cummings*, 412 U.S. 735, 744–49 (1973).

Second, identify any groups to be excluded. A group may be excluded from the population base if it is not similarly situated to the remainder of the population either with respect to citizenship (that is, ability to vote), residency, or denizenship. So, consistent with *Burns* and *Carrington*, “exclusion of those not meeting a State’s residence requirements” would be proper because such people are not similarly situated to residents. On the other hand, exclusion of a group based on some characteristic that might be correlated with citizenship, etc.—like military status—is forbidden. *See Carrington*, 380 U.S. at 93–96; *see also Davis v. Mann*, 377 U.S. at 692. The “fit” has to be fairly good—better than would be required for rational basis review.

Third, even if no group is sought to be excluded, the census baseline *itself* must be examined. The Census Bureau does not include or exclude any group based on any coherent theory of representative democracy, but rather makes choices about who to count and where to count them for reasons of efficiency and administrative ease. *See, e.g., Fletcher*, 831 F. Supp. 2d at 895. It may be the

case that the census count itself makes choices that are inconsistent with the Equal Protection Clause. *See Mahan*, 410 U.S. at 330–31.

In particular, it may be that the census *includes* some group that is not similarly situated to the rest of the populace in any relevant respect. Treating such a group the same as other citizens, denizens, or residents would violate the Equal Protection Clause because “[s]ometimes the grossest discrimination can lie in treating things that are different as though they were exactly alike.” *Jenness v. Fortson*, 403 U.S. 431, 442 (1971).

Consider in this regard a jurisdiction with a large pocket of nonvoters who also happen to lack a meaningful representational nexus with the local legislative body. This group is not similarly situated to its “neighbors” in terms of residency, citizenship, or denizenship. Treating this group as if it were like the people surrounding it would be just as “arbitrary”—more arbitrary, in fact—than the exclusion of military personnel from the population base on the grounds that they’re not really residents.

As promised, then, this second line of thinking leads to the same place as the first—inclusion of a group of nonvoters who also

lack a substantial representational nexus with the relevant legislative body violates one person, one vote if such inclusion seriously dilutes the voting power and-or representational strength of others. This sort of arbitrary (in the *Burns/Carrington* sense of “arbitrary,” not the “lacking a rational basis” sense of arbitrary) state action does not pass muster under the Equal Protection Clause.

#### IV. ANALYSIS

##### A. The “Safe Harbor” Rule

The peskiest of the pin bones keeping us from the meat of this case is the so-called “safe harbor” rule, which the parties (particularly Defendants) devote tremendous energy to discussing. This rule provides that state and local districting schemes with total deviations of less than 10% are presumptively constitutional and represent “the result of an ‘honest and good faith effort to construct districts . . . as nearly of equal population as is practicable.’” *Daly*, 93 F.3d at 1220 (quoting *Reynolds*, 377 U.S. at 577)).

As an initial matter, it should be noted that the safe harbor rule is not a substantive rule of constitutional law, but rather a way of determining in one person, one vote cases which party should bear the burden of proof in demonstrating compliance or noncompliance with the Constitution. *See, e.g., Larios*, 300 F.

Supp. 2d at 1340–41. “[T]he Supreme Court has not created a 10% maximum population deviation threshold, below which all redistricting decisions are inherently constitutional.” *Wright v. North Carolina*, 787 F.3d 256, 267 (4th Cir. 2015). Even assuming that the safe harbor rule were applicable with full force to this case, the fact that the districting scheme has population deviations smaller than 10% does not insulate it from judicial review.

But there are two good reasons why the safe harbor rule is of little use in this case. First, one of the central legal issues in this case concerns the assumptions underlying the rule. If the major factor in determining compliance with one person, one vote is substantial equality of total census population between districts, then *of course* a rule that uses a measure of such equality as a way to determine the likelihood of compliance makes sense. But one of the issues here is *whether* substantial equality of total census population between districts is the indispensable measure of compliance with one person, one vote under the facts of this case.

Consider the following hypothetical. Let’s say Jefferson County decided to draw districts so as to equalize the number of people in each district who *don’t* own pet lizards. Let’s further say that only 0.5% of Jefferson County denizens own pet lizards, and

that all of them are clustered in a single geographic area. The result of this scheme would be that the district containing the lizard-owner cluster would have more total people, and that each of these denizens' voting and representational strength would be diluted.

Now imagine that a lizard owner living in the overpopulated district brings a one person, one vote claim, arguing that the choice to exclude lizard owners from the population base is a "choice the Constitution forbids" because it amounts to arbitrary discrimination. Under Defendants' theory, that challenge would be doomed because, even assuming that total population (including lizard owners) were used as a population base, the total deviation would be far less than 10%. This is not a convincing argument—the basis of the challenge is that the chosen population base makes no sense, not that the lines have been drawn in a discriminatory way. The safe harbor rule is designed to be used when a challenge is brought to the way district lines are drawn, not when a challenge is brought to what population is equalized within a set of district lines.

Second, the safe harbor rule was not designed to be used in a factual situation such as this one. As Judge Posner has noted about the safe harbor rule, "[r]ules are attractive devices for economizing on litigation costs and minimizing judicial discretion; and



safe harbors are particularly welcome to the bar. But a rule applied to circumstances remote from those contemplated when it was adopted can produce perverse results.” *Forest Cty.*, 336 F.3d at 572–73. In *Forest County*, it was the plaintiffs rather than the defendants who sought to use the safe harbor rule to their advantage, but the underlying error was similar: the safe harbor rule was designed to be used for relatively *large* districts, not small districts. For districts of the size at issue in this case, blocks of nonvoters as found in a prison may greatly distort the rough equivalence between total population and voter population that the Supreme Court presumed existed, and which did in fact exist, in its early one person, one vote cases. *See Daly*, 93 F.3d at 1223. To mechanically apply the rule in this case would be to ignore this dramatic difference in factual scenarios.

The safe harbor rule is simply not very relevant to this case. If Plaintiffs can show that, under the facts of this case, including the JCI inmates in the population base is “a choice the Constitution forbids,” then they are entitled to relief.

### **B. Representational Nexus**

The two doctrinal paths outlined above in Part III.E lead to the same point. An apportionment base for a given legislative body

cannot be chosen so that a large number of nonvoters who also lack a meaningful representational nexus with that body<sup>20</sup> are packed into a small subset of legislative districts. Doing so impermissibly dilutes the voting *and* representational strength of denizens in other districts and violates the Equal Protection Clause.

For Plaintiffs to prevail in this case, they have to show that the JCI inmates comprise a (1) large number of (2) nonvoters who (3) lack a meaningful representational nexus with the Boards, and that they're (4) packed into a small subset of legislative districts. Elements (2) and (4) are undisputed. I'll get to element (1) later. The crux of this case is whether Plaintiffs have shown that the JCI inmates lack a meaningful representational nexus with the Boards.

I'll answer this question by examining three types of facts. First and most important is the evidence in the record—the adjudicative facts. This includes a number of stipulated facts, some depositions, two expert reports, and a large number of state laws

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<sup>20</sup> Or, equivalently, a large number of nonvoters whose representational nexus with the legislative body is substantially different—different in kind, not just degree—from the typical person present in the legislative body's jurisdiction. The question is whether the population at issue is similarly situated in any relevant way to the typical denizens and/or voters of the jurisdiction with respect to the legislative body.

and regulations of which I can take judicial notice. Second are what might be termed “legislative facts.” By that I mean “proposition[s] about the state of the world, as opposed to . . . proposition[s] about these litigants.” *Frank v. Walker*, 768 F.3d 744, 750 (7th Cir. 2014).

These two types of evidence clearly show that the JCI inmates lack any meaningful representational nexus with the Boards, and there’s no need from a purely legal standpoint to go any further. But my conclusion is bolstered—and in some sense brought to life—by examining what are sometimes called background facts; that is, “facts . . . designed to increase the reader’s understanding of a case by placing the adjudicative facts in an illuminating context.” Richard A. Posner, *Reflections on Judging* 137 (2013). These facts, while insufficient on their own to support the finding that the JCI inmates lack a meaningful representational nexus with the Boards, help ground this finding in the context of the real world.

### *1. The Record*

A review of the record leads inexorably to three interrelated factual conclusions. First, the conditions of confinement for the inmates at JCI are almost entirely determined by policies set at the

state level and by prison officials acting under state law. Second, most of the inmates at JCI have very little meaningful opportunity to engage with members of the nonincarcerated public, and those who are allowed to engage with the public must do so under conditions prescribed by prison officials. Third, the District 3 representatives on the Boards have not, as a matter of fact, made any meaningful effort to engage with prisoners.

JCI is run by its warden “subject to the orders, policies, and regulations established” by DOC. § 944.14, Fla. Stat. (2015).<sup>21</sup> Its operations are also controlled by Florida statutory law, which prescribes everything from the areas in which prisoners can smoke, *id.* § 944.115, to the conditions under which restraints may be used on a pregnant prisoner, *id.* § 944.241.<sup>22</sup> For the most part, however, the Florida Legislature has delegated to DOC the job of regulating state prisons like JCI. Florida law states that “[DOC] shall have supervisory and protective care, custody, and control of the in-

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<sup>21</sup> Laws passed by the Florida Legislature and the regulations promulgated pursuant to those laws are proper subjects of judicial notice to the extent they’re adjudicative facts. *See, e.g., United States v. City of Miami*, 664 F.2d 435, 443 n.16 (5th Cir. 1981).

<sup>22</sup> JCI only houses males, so this probably doesn’t come up that often.

mates, buildings, grounds, property, and all other matters pertaining to . . . adult correctional institutions.” *Id.* § 945.025(1). Pursuant to the authority granted to it, DOC has adopted regulations governing everything from inmate grievance procedures, *see* Fla. Admin. Code Ch. 33-103, to the provision of food services in state prisons, *id.* Ch. 33-204, to the provision of dental services, *id.* R. 33-402.101.

The deposition testimony of JCI’s warden confirms that the conditions of JCI inmates’ confinement are largely determined by prison officials, state-level administrators, and state legislators. Inmates’ mail—outgoing and in some cases incoming—is reviewed by prison officials. ECF No. 48-1, at 14–15. Prison officials, acting pursuant to DOC regulations, decide who can visit inmates and under what conditions those visits may take place. *Id.* at 17–18. When inmates are allowed to leave the prison for some reason (death in the family, court appearance, etc.), they are well supervised for the duration of their release and are thoroughly searched upon returning. *Id.* at 22–30.

In addition to having their prison environment largely controlled by prison officials and state-level actors, JCI inmates are mostly isolated from the outside world. Most prisoners at JCI are

on close or medium confinement,<sup>23</sup> which means that they generally cannot leave the institution. *Id.* at 78–79. JCI must therefore be a world unto itself, separated from the rest of the county and self-reliant. JCI (through a private contractor) provides most medical services for prisoners “in-house.” *Id.* at 80. JCI has its own library and law library. *Id.* at 79. JCI has its own water system and its own sewage treatment system, ECF No. 45, at 2 ¶¶ 4, 6. When there is a need for law enforcement to investigate an incident at JCI, the Inspector General’s Office—not local law enforcement—typically is the first to respond. ECF No. 48-1, at 82.

It’s true that some JCI inmates work outside the prison and therefore have slightly more of a connection to the community. *Id.* at 32–47, 52–57, 61–65, 73–75. But even these inmates largely operate in a bubble, prohibited from interacting with members of the community (aside from the county or City of Monticello employees supervising them) and heavily regulated in their movements. *See*

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<sup>23</sup> The Warden “guessed” that the percentage of prisoners on community or minimum confinement was 15–20%, which would put the percentage on close or medium confinement at 80–85%. *See* ECF No. 48-1, at 79.

*id.* at 40–43. The Warden made clear that an inmate working outside JCI “shouldn’t approach [a citizen] and communicate with a citizen.” *Id.* at 63.

It’s also true that the prison is not *completely* divorced from the county. If there is a medical emergency, officials at the prison will call 911, which will in turn cause Jefferson County Fire & Rescue to send an ambulance to the prison.<sup>24</sup> *Id.* at 48; 80–81. Similarly, JCI will call 911 for a fire. *Id.* at 49. JCI has an agreement with Jefferson County to carry off its trash. *Id.* at 46. Numerous organizations—religious groups such as churches, mostly—come to JCI and work with or minister to inmates. *Id.* at 60–61.

On the whole, though, the record bears out Plaintiffs’ contention that “JCI inmates are not true constituents in Jefferson County.” ECF No. 48, at 8. The JCI inmates’ isolation and the fact that state-level entities (DOC, mostly) have legal authority to alter the conditions of the inmates’ confinement combine to render the Boards impotent to meaningfully affect inmates’ lives. The Boards can’t directly regulate the lives of inmates because any such regulations would be preempted to the extent they conflicted with state

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<sup>24</sup> Of course, the ambulance would take the inmate to a hospital in Leon County. ECF No. 48-1, at 80.

law. *See Tallahassee Mem'l Reg'l Med. Ctr., Inc. v. Tallahassee Med. Ctr., Inc.*, 681 So. 2d 826, 831–32 (Fla. 1st DCA 1996) (discussing preemption).

Nor can the Boards meaningfully affect the lives of inmates indirectly by the economic and social policy decisions they make at the county level. If the Board of Commissioners decides to exercise its powers under Florida law to “[p]rovide and operate . . . public transportation systems” or “license and regulate taxis,”<sup>25</sup> these choices will have next to no effect on inmates. The same is true of most decisions regarding zoning, infrastructure, and the like—the inmates’ isolation from the rest of Jefferson County means that the policy choices made by the Board of Commissioners affect the inmates substantially less than they affect the denizens of District 3. This is even more true of the School Board, which has far more limited powers than the Board of Commissioners.<sup>26</sup> *See generally* §§ 1001.41–.42, Fla. Stat. (2015).

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<sup>25</sup> *See* § 125.01(1), Fla. Stat. (2015). This section sets out a long list of the “powers and duties” of county governments.

<sup>26</sup> As mentioned above in Part I.A, each of the members of the School Board “serve[s] as the representative of the entire [county], rather than as the representative of” the district from which he was elected. § 1001.363, Fla. Stat. (2015). This means that the representational strength of any denizen vis-à-vis the School Board is not affected by the size of the district in which he lives,



This is not to say that some of the decisions of the Boards won't have incidental effects on the JCI inmates. For instance, if the Board of Commissioners decides to make efforts to help small businesses in the community, the effect may be to make visiting Jefferson County more pleasant, which might in turn make it more likely for inmates' family members to come visit them at JCI. But there is little doubt that the inmates stand in a different position vis-à-vis the Boards than do the denizens of District 3.

The record also shows that the District 3 representatives (and the Boards as a whole) have made very little effort to engage with the inmates at JCI. The warden stated that he has no discussions with any County Commissioner "regarding issues related to inmates," ECF No. 48-1, at 49, and that he also can't recall any County Commissioners or School Board members meeting one-on-one with any inmates, *id.* at 18–19. District 3 County Commissioner Hines Boyd stated that "[a]bout the only opportunity we have to interact with the inmates directly would be maybe when we see them on work crews." ECF No. 48-7, at 16. Boyd described

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making the inclusion of the JCI inmates in District 3's population utterly unjustifiable on representational equality grounds. The parties don't bring this up, and at any rate it doesn't alter the result, so I'll assume that each School Board member represents his district alone.

touring the prison and meeting with officials and employees at the prison, but it appears that the occasion for many of those meetings was the threatened closure of JCI. *Id.* at 16–19. That closure would have had a negative impact on the employees at JCI, *id.* at 18–19—many of whom presumably live in Jefferson County—so Boyd’s increased interest in the prison at the time of its threatened closure makes perfect sense. Boyd was responding to the needs of his constituents—the employees at JCI. Shirley Washington, the School Board member from District 3, has visited the prison, but not in her “School Board capacity.” ECF No. 48-9, at 32.

2. *“Propositions About the State of the World”*

The record facts reveal that JCI is a state-run island inside Jefferson County, and that its inmates are mostly immune to the policy choices made at the county level. This is entirely consistent with general observations made by other courts about prisoners and their relationship with the communities surrounding their prisons. In *Fletcher v. Lamone*, for instance, the court addressed an argument that it was improper for a state to adjust census data to account for prisoners without also adjusting for college students and members of the military. 831 F. Supp. 2d at 896. The court

rejected this argument in part because “college students and military personnel have the liberty to interact with members of the surrounding community and to engage fully in civic life. In this sense, both groups have a much more substantial connection to, and effect on, the communities where they reside than do prisoners.” *Id.*

The broader point—one so obvious it’s properly termed a legislative fact—is that prisoners are isolated from society. Indeed, this is one of the *purposes* of incarceration. *See, e.g.,* Donald Braman, *Punishment and Accountability: Understanding and Reforming Criminal Sanctions in America*, 53 UCLA L. Rev. 1143, 1174–75 (2006). Moreover, prisoners are subject to control by the authority operating the institution in which they are incarcerated. *See United States v. McQueen*, 727 F.3d 1144, 1158 (11th Cir. 2013) (noting that “[p]rison inmates serve their sentences under the pervasive control of the corrections staff”). These two facts together make state prisons into de facto islands of state control.

This is in contrast to other situations in which people live on an “island” under the legal control of some superior level of government. Consider *Evans v. Cornman*, a case in which the Su-

preme Court considered whether Maryland could deny the franchise to people living on the grounds of the National Institutes of Health (“NIH”), a federal enclave in the state. 398 U.S. 419, 419–20 (1970). The Court, in addressing the question of whether the people living in the enclave were among those “primarily or substantially interested in or affected by electoral decisions” made at the state and local levels, identified a number of ways in which such decisions would affect NIH residents:

[Residents of the federal enclave] are as concerned with state spending and taxing decisions as other Maryland residents, for Congress has permitted the States to levy and collect their income, gasoline, sales, and use taxes—the major sources of state revenues—on federal enclaves. . . . State unemployment laws and workmen’s compensation laws likewise apply to persons who live and work in federal areas. . . . [NIH residents] are required to register their automobiles in Maryland and obtain drivers’ permits and license plates from the State; they are subject to the process and jurisdiction of State courts; they themselves can resort to those courts in divorce and child adoption proceedings; and they send their children to Maryland public schools.

*Id.* at 424. In other words, the residents of the NIH enclave would necessarily come into contact with the machinery of state government in the course of living their lives. As the Court put it, “[i]n their day-to-day affairs, residents of the NIH grounds are just as

interested in and connected with electoral decisions . . . as are their neighbors who live off the enclave.” *Id.* at 426. The same cannot be said of the JCI inmates and the Boards.

### 3. “*Outside the Record*”

In some sense, the question of whether there’s a representational nexus between the JCI inmates and the Boards is really a question of whether the JCI inmates could reasonably be considered part of the political community of District 3. The facts discussed above—adjudicative and legislative—give an emphatic “no” answer to that question. The correctness of that answer is confirmed by looking at two sources outside the record.

The first source is really a compilation of sources that together shed light on whether prisoners are commonly *perceived* as belonging to the community. Note first that Florida law uses some variant of the phrase “reentry into the community” in numerous places when discussing state prisoners. *See, e.g.*, § 944.705, Fla. Stat. (2015). This suggests that inmates are *not* part of the surrounding community while incarcerated (otherwise there would be no “reentry”). Indeed, Florida even has an *alternative* to incarceration called “community control,” defined as “a form of intensive, supervised custody *in the community*, including surveillance on

weekends and holidays, administered by officers with restricted caseloads. Community control is an individualized program in which the freedom of an offender is restricted *within the community, home, or noninstitutional residential placement* and specific sanctions are imposed and enforced.” *Id.* § 948.001(3) (emphasis added). Numerous other sources similarly speak of the prison as being something separate and apart from the community. *See, e.g.*, Timothy Hughes & Doris James Wilson, Bureau of Justice Statistics, U.S. Dep’t of Justice, *Reentry Trends in the United States* (Aug. 20, 2003), <http://www.bjs.gov/content/pub/pdf/reentry.pdf>. The fact that Florida legislators (and many others) appear to consider being in the community and being incarcerated as two distinct and mutually exclusive states does not, by itself, prove anything. But it is completely consistent with (and therefore reinforces) the JCI-specific facts in the record, the observations of numerous courts considering the nature of incarceration generally, and, frankly, common sense.

The second “outside the record” source that confirms that JCI inmates are not properly considered part of the political community vis-à-vis the Boards is the publicly-available information about the Boards’ activities. The minutes, agendas, etc. from the

Boards' meeting are available online,<sup>27</sup> which makes it possible to get a sense of what the Boards *actually* do. An examination of the agendas of some the Board of County Commissioners' recent meetings gives a flavor of its activities. Consider the Board's August 4, 2015 meeting. *See Minutes of Regular Session, Jefferson Cty. Bd. of Cty. Comm'rs* (Aug. 4, 2015). After the call to order, invocation, etc. the Board considered the following matters (among others): whether to issue a small grant to a private Christian school, *id.* at 2; the ongoing process of designating two properties in the county as brownfield sites, *id.*; and whether to approve a bid for a sidewalk construction project (it was approved), *id.*

Two weeks later, following what appears to have been a lively debate, the Board passed a resolution banning the practice of hydraulic fracturing ("fracking"). *See Minutes of Regular Session, Jefferson Cty. Bd. of Cty. Comm'rs* 1–2 (Aug. 18, 2015). The Board also voted to keep the millage rate at 8.3 mills, *id.* at 2, and discussed (with input from at least one Jefferson County denizen) concerns about the size of the Sheriff's Office budget, *id.* at 2–3.<sup>28</sup>

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<sup>27</sup> *See BOCC Records*, Jefferson County Clerk of Court, <http://www.jeffersonclerk.com/bocc-records.aspx> (last visited Mar. 11, 2016).

<sup>28</sup> None of this is mentioned to diminish the importance of the Board of Commissioners. The Board has "broad authority to enact 'county ordinances

Later, in November 2015, the Board voted to install stairs at a local park and approved a new library director. *See* Minutes of Regular Session, Jefferson Cty. Bd. of Cty. Comm’rs 2 (Nov. 3, 2015). Two citizens spoke about items not on the agenda—one “expressed his concerns about government spending” and the other “stated his concerns that log trucks traveling in Wacissa and Waukeenah were speeding and putting citizens in danger” and “asked the Board to consider additional signage and/or speed bumps.” *Id.* at 1.

Would some of these discussions have been of possible interest to JCI inmates? Certainly—fracking, for instance, could conceivably affect the water supply at JCI.<sup>29</sup> But most of the matters dealt with at the meetings would have little, if any, practical effect on JCI inmates. The meeting minutes tend to confirm that the Board of Commissioners’ power does not penetrate the walls of

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not inconsistent with general or special law.” *Tallahassee Med. Ctr.*, 681 So. 2d at 831 (quoting what is now Fla. Const. art. VIII, § 1(f)). Undoubtedly the Board’s policy decisions are of great moment to the denizens of Jefferson County, as evidenced by the spirited debates recounted in the minutes of the Board’s meetings.

<sup>29</sup> *See* EPA, Draft Assessment of the Potential Impacts of Hydraulic Fracturing for Oil and Gas on Drinking Water Resources: Executive Summary ES-6 (June 2015) (“From our assessment, we conclude there are above and below ground mechanisms by which hydraulic fracturing activities have the potential to impact drinking water resources.”)



JCI, and that the inmates, while they're physically located in Jefferson County, are effectively living in a state-run enclave.

*4. JCI Inmates Lack a Meaningful Representational Nexus With the Boards*

To summarize, the inmates at JCI are isolated from the surrounding community and subject to the control of DOC and the state. The Boards possess little legal authority or practical ability to substantially affect the JCI inmates' lives through their policies. The District 3 representatives, and the Boards as a whole, appear to have made very little, if any, effort to solicit the input of JCI inmates. All of this is completely consistent with the general proposition that prisoners go on with their lives mostly separated from the communities in which their facilities happen to be located.

Given these facts, it's clear that the inmates lack a meaningful representational nexus with the District 3 representatives and with the Boards as a whole. It is difficult to see how the District 3 representatives "represent" the inmates in the same way they represent others who are physically located in District 3. The representatives can't really make policy decisions that would affect the inmates. The representatives *could*, of course, discuss issues of concern to the inmates during meetings and informally with other

members of the Boards, but to what end? The proper target of such concerns in the vast majority of situations would be prison officials or state legislators. Given the nature of the inmates' incarceration and the fact that DOC already has a comprehensive grievance system in place, it is unclear how the District 3 representatives could function as ombudspersons to inmates. Finally, any government benefits "brought home" by the representatives would likely be unavailable to the inmates because of their isolation from the community and the limits placed on their liberty.

Defendants nonetheless claim that the JCI inmates are properly counted as part of the political community and that they have a representational nexus with the Boards. ECF No. 46, at 10–11. Defendants point out a number of ways in which the Boards act, directly or indirectly, to affect the lives of JCI inmates, but they basically boil down to three arguments: (1) the county provides emergency medical (ambulance), fire, and waste pickup services to JCI, ECF No. 46, at 3–7; (2) local government officials (including members of the Boards) can and have met with JCI offi-

cials “acting on behalf of” inmates, *id.* at 3–4; and (3) local government officials and/or members of the community occasionally interact with inmates, *id.* at 4–6.<sup>30</sup>

These arguments are unpersuasive. The first argument is true as far as it goes—JCI *is* served by Jefferson County Fire & Rescue, *see* ECF No. 47-7, at 8–9—but it doesn’t really help Defendants much. The question isn’t whether the JCI inmates have *any* connection to the governing bodies of Jefferson County, but rather whether they have a substantial enough connection to plausibly be considered denizens on the same footing as the denizens of District 3. Having access to emergency medical and fire services doesn’t establish such a connection. The second argument fails because (1) it appears that local officials have met with prison officials quite infrequently, and (2) local officials have not met with prison officials to discuss the welfare of *inmates*, but rather to discuss how the prison affects the local economy—that is, how it affects nonincarcerated persons in the county. *See* ECF No. 48-1, at

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<sup>30</sup> Defendants also advance an argument that goes like this: the Boards “vote on budgets that impact the quality of education in the public schools in Jefferson County,” which then affects the quality of the labor pool, which then affects the “quality of correctional officers selected from that pool,” which then affects prisoners’ lives. ECF No. 36, at 7. This argument fails. A rubber band won’t stretch that far without snapping.

66–67; ECF No. 48-7, at 17–19. The third argument fails because, as discussed earlier, the direct interactions between inmates and local officials have been so minimal as to be nearly nonexistent.

There are two anecdotes recounted by the District 3 representatives during their depositions that are in some ways more telling than anything else in the record. Hines Boyd, who has been the County Commissioner for District 3 for over seven years, was asked at his deposition about a statement in his affidavit that he had received letters from JCI inmates “on occasion.”

Q. Okay. Now, you state in this affidavit that you can’t recall the subject of those letters. But sitting here today, do you recall the subject matter of those inmate letters?

A. No. There was nothing that I could help any of those prisoners with that they asked for. So I just opened the letter, and I read it and set it aside.

Q. Did you ever respond to any of those letters?

A. No, I did not.

ECF No. 48-7, at 21. It’s not surprising that Boyd couldn’t help the inmates writing to him—he doesn’t really represent them.

Shirley Washington, the School Board member from District 3, was asked about her relationship with the inmates at JCI. She

stated that she had gone to the prison as a community member rather than as a public official and interacted with inmates on a few occasions. ECF No. 48-9, at 32. Ms. Washington lamented the “condition” of the inmates’ confinement, confessing that her “first visit [to JCI] was quite tearful.” *Id.* Plaintiffs’ lawyer asked her to elaborate:

Q. Can you tell me what you mean by “condition?”

A. Well, the way they were living, having two in one cell. I mean, their freedom is gone.

Q. Okay. So we’re talking about their housing situation?

A. Yes.

...

Q. Okay. Did you do anything after that visit to address the housing condition for those inmates?

A. There was nothing I can do there about that, because they have administrators and other folks to take care of that. That would have been certainly out of my lane.

...

Q. . . . [D]id you believe that as a School Board member, there was anything you could do to improve their conditions, their housing conditions that you witnessed?

A. No, no.

*Id.* at 32–34.

These are anecdotes, and do not by themselves *prove* anything about the JCI inmates' representational nexus with the Boards. But they certainly support the conclusion—arrived at after considering other facts in the record and certain “legislative facts” about the nature of incarceration—that the JCI inmates cannot reasonably be considered to be denizens in the same way as other people living in Jefferson County.<sup>31</sup>

### **C. The Constitutionality of the County's Districting Scheme**

#### *1. Size of Deviations*

The inmates at JCI lack a meaningful representational nexus with the Boards. They are situated differently with respect to the Boards than other people in Jefferson County—the true denizens of the County—in every way that matters for representative democracy. Treating them alike makes little if any sense. The question becomes whether there's enough cognizable harm to the representational and voting rights of those living in other districts

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<sup>31</sup> What about JCI inmates who were residents of Jefferson County pre-incarceration? They are more likely to have a representational nexus with the Boards, and should perhaps be counted. Plaintiffs suggest that there are nine such people, but a closer look reveals that there are nine inmates who were *convicted* in Jefferson County. ECF No. 30-1, at 52. It's unclear whether all or some or none of these inmates were actually residents of Jefferson County. At any rate, the number is so small that accidentally excluding some of these inmates from the count would not appreciably dilute anyone's voting or representational rights.

to strike down the scheme as violative of one person, one vote. In other words, is the inmate population large enough that counting it dilutes these rights?

In some sense, the size of the inmate population shouldn't matter. The "arbitrary discrimination" doctrinal path discussed earlier suggests that *any* population arbitrarily included in a population base, no matter how small, works an unconstitutional dilution of others' rights.

But there's no need to go that far—in this case, the inmate population is relatively large, and its inclusion quite clearly denies the denizens of Districts 1, 2, 4, and 5 equal protection of the laws by diluting both their representational and voting strength.<sup>32</sup> The true denizen population of District 3 is about two-thirds the denizen population of the other districts, giving each denizen in District 3 one-and-a-half times the representational strength of the

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<sup>32</sup> Plaintiffs contend that the overall population deviation once the JCI inmates are excluded is above the 10% "safe harbor" threshold, and that Defendants have failed to provide a justification for such a large deviation. ECF No. 30, at 15–17. This argument, much like Defendants' safe harbor argument, assumes the result it wants this Court to reach in drawing its conclusion. Whether the JCI inmates should be excluded when drawing districts is precisely the question this Court must answer, and pointing out the deviations that result when they are not counted does little to address that question.

denizens of other districts and. Assuming there are no large pockets of nonvoters in Jefferson County aside from the JCI inmates, the disparity in denizen population also gives the voters in District 3 about one-and-a-half times the voting strength of the voters in other districts. This is clearly an equal protection violation.

Viewed another way, the total deviation of 42.63% that results from not counting the prisoners is simply too large to be ignored. The safe harbor rule, while inapplicable to this case, does at least provide a rough guide to how large deviations in the relevant numbers across districts must be for there to be no doubt that unlawful dilution has taken place. That threshold—10%—is crossed here, with room to spare.

## *2. Defendants' Justifications*

As discussed at length already, the typical safe harbor/burden-shifting framework used in one person, one vote cases really has no applicability to this case. Defendants nonetheless offer what amount to “justifications” for the large total deviation that results when prisoners are excluded from the population base. One such justification is that the districting plan “serves the goal of promoting representational equality.” ECF No. 46, at 8. It doesn’t.

Another argument—one not framed as a justification, but



one that nonetheless sounds like a justification—is that Florida law required the Boards to count the prisoners. ECF No. 24, at 12–13. That may or may not be true; the legal advice the Boards received was certainly to that effect. If it is true, though, it’s no justification—state law must yield when it leads to a result that conflicts with the mandates of the U.S. Constitution. *See, e.g., Felder v. Casey*, 487 U.S. 131, 138 (1988). To the extent Defendants are arguing that their good-faith belief that they were required to count the prisoners is a justification, they are mistaken. *See Raske v. Martinez*, 876 F.2d 1496, 1502 (11th Cir. 1989) (“The federal courts recognize no doctrine of ‘constitutional mistake’ that can absolve a legislature from the consequences of a misapprehension concerning a statute’s constitutionality.”)

#### **D. The Special Circumstances of this Case (Or, the Not-So-Slippery Slope)**

Defendants have predictably made a “slippery slope” argument. They warn that “should th[is] Court enter the arena of determining which individuals are worthy of being included in an entity’s population data, it should not be unexpected that arguments to exclude other segments of the population will shortly follow. Policy arguments exist to exclude resident aliens and minors, or to

give more weight to areas that have a high concentration of eligible voters, such as areas with high concentrations of the elderly as opposed to younger families with children. This Court should not wade into these political judgments.” ECF No. 36, at 8–9.

I am convinced that the slope ahead is not so slippery. There are three key features of this case that make it special. First is the fact that we are dealing with prisoners. Prisoners are not like minors, or resident aliens, or children—they are separated from the rest of society and mostly unable to participate in civic life. Second, and perhaps more importantly, we are dealing with *state* prisoners and a *county* government. It is the interplay of the limited powers of the county government, the fact that the prisoners are under state control, and the fact that the prisoners are confined that deprives the prisoners of a meaningful representational nexus with the county government. Third, the size of the prison population relative to the size of the districts is such that counting the prisoners makes a substantial difference. This would not be the case in counties with larger populations.

If *any* of these features were not present, this would be a different case. In particular, the situation would be quite different if we were dealing with a *state* legislative district, because state

prisoners are obviously affected by the policies put in place at the state level. When Mr. Boyd received letters from JCI inmates, he put those letters aside because there was nothing he could do for them in his capacity as a County Commissioner. The same would not be true of the state senator and representative whose territory includes JCI.

### **E. A Closing Thought**

Defendants maintain that concluding that the JCI inmates cannot be counted for purposes of drawing districts for the Boards is “a policy determination as to [the] political equality of a certain segment of the population, a determination that [c]ourts have explicitly refused to make.” ECF No. 36, at 2 n.2. It is certainly true that the Supreme Court has made it clear that, as a general proposition, states get to decide—usually through legislative processes—“who counts” for purposes of state and local districting. The Court has also made clear, however, that federal courts have an important role to play in protecting individual rights, and that is precisely what this Court is doing.

But to say that this Court is merely protecting the rights of the denizens of Districts 1, 2, 4, and 5 in making this decision is slightly disingenuous. My decision rests on the fact that there is

no meaningful representational nexus between the Boards and the inmates at JCI—that is, there is nothing gained, constitutionally speaking, by including JCI inmates in the population base. This is the essential difference between this case and a case like *Garza* in which the population whose inclusion was at issue clearly possessed representational rights that would be impaired if the population was not included in the population base. The lack of a representational nexus itself turns in large part on the fact that the JCI inmates live sharply circumscribed lives. The fact is that the JCI inmates *do not* have “political equality” with the other denizens of Jefferson County vis-à-vis the Boards—not in terms of voting, of course, but also not in terms of representation.

That lack of political equality is not a consequence of my decision, but a factual predicate of it. In short, *I* have not decided that the JCI inmates lack political equality with their “neighbors” in Jefferson County—the State of Florida has. Florida has explicitly deprived the JCI inmates of their voting rights, *see* § 944.292(1), Fla. Stat. (2015), and it has implicitly deprived them of their representational rights, at least with respect to units of local government. That the deprivation is implicit makes it no less a deprivation.

## F. Remedy

“When a federal court declares an existing apportionment scheme unconstitutional, it is . . . appropriate, whenever practicable, to afford a reasonable opportunity for the legislature to meet constitutional requirements by adopting a substitute measure rather than for the federal court to devise and order into effect its own plan.” *Wise v. Lipscomb*, 437 U.S. 535, 540 (1978). Despite the fact that this is an election year, I’m confident that the Boards can quickly devise a plan that does not impermissibly dilute the voting and representational strength of the denizens of Jefferson County. Plaintiffs have submitted what they term an “illustrative plan,” and their expert claims that this plan meets all constitutional and statutory requirements. ECF No. 30-1, at 14–17. This could perhaps be a starting point for the Boards—or perhaps not.

Whatever they choose to do, the Boards must act relatively quickly. If they “do not respond, or the imminence of [the] . . . election makes it impractical for them to do so, it [will] become[] the ‘unwelcome obligation’” of this Court to devise an interim districting plan. *See Lipscomb*, 437 U.S. at 540.

## V. CONCLUSION

Defendants argue vigorously that excluding the JCI inmates from the population base for districting purposes would be “arbitrary.” ECF No. 46, at 8; ECF No. 36, at 7–8. The opposite is true—including them in the population base is arbitrary. The inmates at JCI, unlike aliens, children, etc. living in Jefferson County, are not meaningfully affected by the decisions of the Boards. To say they are “constituents” of the Board representatives from District 3 is to diminish the term constituent. To treat the inmates the same as actual constituents makes no sense under any theory of one person, one vote, and indeed under any theory of representative democracy. Furthermore, such treatment greatly dilutes the voting and representational strength of denizens in other districts. Jefferson County’s districting scheme for its Board of County Commissioners and School Board therefore violates the Equal Protection Clause.

Accordingly,

### IT IS ORDERED:

1. Plaintiffs’ Cross-Motion for Summary Judgment, ECF No. 30, is **GRANTED**. Defendants’ Joint Motion for Summary Judgment, ECF No. 24, is **DENIED**.

2. Defendants are enjoined from using the current districting plan for the Jefferson County Board of County Commissioners and the Jefferson County School Board.
3. Defendants must submit to this Court **on or before Monday, April 4, 2016** a proposed districting plan that complies with this Order and with all applicable federal and state laws, to the extent those state laws are compatible with federal law.

**SO ORDERED on March 19, 2016.**

s/Mark E. Walker  
**United States District Judge**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
UNITED STATES OF AMERICA and CESAR RUIZ,

Plaintiffs,

v.

06 Civ 15173 (SCR)

VILLAGE OF PORT CHESTER,

Defendant.  
-----x

DECLARATION OF CLARK H. BENSEN

CLARK H. BENSEN, pursuant to the provisions of 28 U.S.C. § 1746, declares as follows:

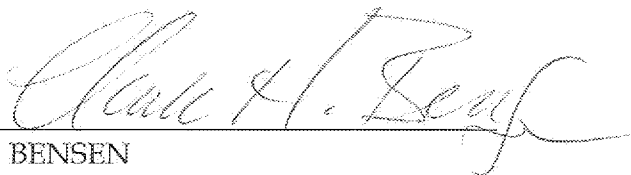
1. With this declaration I offer a report in rebuttal to the declaration of Andrew A. Beveridge, PhD., dated February 7, 2008.
2. Accompanying my declaration are the following documents: a) report; b) appendix to the report; c) biographical summary; and d) curriculum vita.

I declare under penalty of perjury that the accompanying material is true and correct based upon the information provided to, or obtained by, me. To the extent that such information formulates an opinion, it represents a true and accurate statement of my opinion.

Dated: 16 March 2008.

Signed: \_\_\_\_\_

CLARK H. BENSEN





Bensen Rebuttal Report, page 1

**1.1. Inquiry:** I was asked by counsel to review the declaration of Dr. Andrew A. Beveridge, PhD., dated February 7, 2008. His declaration includes three items: a) a proposed plan for the Village of Port Chester, “identical to the Modified Plan A, introduced at the Preliminary Injunction Hearing”; b) one set of summary statistics for this proposed plan; and c) one set of summary statistics for selected districting plans in the state of New York. Each set of statistics includes some information by district as well as selected summary statistics for each plan.

The summary statistics offered by Dr. Beveridge for comparison are included for the following: New York State Congressional Delegation to the U.S. House; New York State Senate; New York State Assembly; City Council of New York City; the County Legislature of Westchester County; and local boards for the City of Yonkers, and the City of New Rochelle. These will be referred to hereinafter as the “offered comparative plans” though there was no underlying plan geography included with his declaration.

**1.2. Summary:** I have reviewed the information provided by Dr. Beveridge and have prepared the following summary with respect to the summary statistics included in the appendix to his declaration.

**1.2.1. Incomplete Statistics.** The summary statistics provided by Dr. Beveridge do not include other key statistical indicators that are standard measurements for plan review used by both plan drafters and courts and which are readily available or ascertainable. The summary statistics provided by Dr. Beveridge for the Modified Plan A for Port Chester do not even include all the statistics comparable to those included for the offered *comparative* plans.

**1.2.2. Modified Plan A presents the largest deviations from equality.** When reviewing the distribution of population amongst districts, there are several measures used to quantify the degree to which there is a deviation from absolute equality amongst districts. Generally, for these measures, the larger the indicated value, the greater the degree of inequality in the distribution of the apportionment population.

Calculating these indicators from the material provided by Dr. Beveridge illustrates that the proposed plan for Port Chester, Modified Plan A, has variations from equality larger than the offered comparative plans on all but one of the following indicators.

a) Deviation of Population Distribution: The proposed plan presents the largest values of all the offered comparative plans for deviation from equality

## Bensen Rebuttal Report, page 2

based upon Dr. Beveridge's approximations of the 2000 census citizen voting age population (CVAP) for [1] the *overall range*; [2] the *average deviation*; and [3] the *standard deviation*.

b) Minimum Controlling Population: The proposed Modified Plan A presents the largest decrease in parity of all the offered comparative plans in the *minimum percentage* of persons who could theoretically control the elected board, chamber, or delegation, based upon Dr. Beveridge's 2000 CVAP, when compared to the corresponding percentage for the overall population (POP).

c) Deviation of Vote Weight: The proposed Modified Plan A presents the largest values of all the offered comparative plans for deviation from equality of vote weight based upon Dr. Beveridge's 2000 CVAP for two of three indicators. The value for Modified Plan A for [1] the *overall range* of the vote weight, is not the largest value but is a close second place to the plan for the State Assembly (1.44 for Port Chester versus 1.49 for the State Assembly). However, the Modified Plan A does present the largest values of all the offered comparative plans for [2] the *average deviation* and [3] the *standard deviation*.

**1.2.3. Use of 2000 CVAP for districting.** There is a fundamental problem in using census information relating to citizen voting age population from the 2000 census for districting in that this information represents sample data produced by the Bureau of the Census as a Special Tabulation. These data are available only at the block group level of census geography, not the census block. To use this information at the block level for districting requires a hypothetical distribution (sometimes known as deallocation) of the block group data to the component blocks.

**1.2.4. Projections of CVAP out in time.** There is also a fundamental problem in using CVAP from the 2000 census and extrapolating it out in time because there is no post-census estimate of CVAP provided by the Bureau of the Census that includes low levels of geography. While an approximation of post-census CVAP is possible for higher levels of census geography, projecting and approximating this at the level of the block group or the census block is highly speculative.

**1.2.5. Distribution of CVAP from block group to census block.** Due to these previous two considerations, any aggregation of CVAP for a districting plan is a hypothetical number subject to some degree of error from several sources: the sampling and the deallocation process. For any post-census approximation, the judgment calls made as to which demographic factors to use are subjective and depend upon the data analyst's assessment of relevance. Regardless, this information is an approximation: there is no hard number of CVAP for each census block.

**1.2.7. Uncertainty in CVAP at the census block level.** One way to minimize the problems of deallocation of the CVAP tabulation is to maintain the level for which this information is provided by the Bureau, i.e., the block group, keeping these units whole as much as possible. However, as between Dr. Beveridge’s Original Plan A and the Modified Plan A the number of block groups that are split by district lines has increased, both in the number of block groups and the number of census blocks affected by the splits. This has added to the uncertainty of the CVAP numbers used by Dr. Beveridge.

**2.1. Plan Summary Statistics.** The federal government’s expert, Dr. Beveridge, offers statistical summary information about the population distribution of districting plans prepared for other governmental bodies in the Empire State. These plans include those for other localities in Westchester County, the county and state legislatures, and the City Council of New York City. This information also includes the plan used to elect members of the state’s congressional delegation to the U.S. House.

The information provided in the Beveridge declaration includes only the basic total population (TPOP) and his approximation of the 2000 citizen voting age population (CVAP) as the available apportionment population bases. This information is provided for all of the offered comparative plans. The information provided for the proposed plan for Port Chester, Modified Plan A, includes additional information but also excludes some similar statistics provided for the comparative plans. For example, the information included for each offered comparative plan includes the overall range, denominated as the “Total CVAP Deviation”, yet the material included for the Modified Plan A excludes this calculation<sup>1</sup>. For the record, the comparable value for Modified Plan A is 78.37% “Total CVAP Deviation” based upon Dr. Beveridge’s approximation of the 2000 CVAP.

The information provided by Dr. Beveridge for the offered comparative plans also excludes several plan indicators that are standard measurements used by plan drafters and courts. The information provided by Dr. Beveridge includes only the calculations of the deviations from what would be the *ideal apportionment population per member*. The ideal apportionment population is merely determined by dividing the total number of persons, as determined by the selection of the apportionment base (POP or CVAP), and dividing it by the

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<sup>1</sup> The Appendix to my declaration includes a table, designated as Table 11, which provides the comparable information for the Modified Plan A for Port Chester. Table 11 is in a format similar to that of the other tables provided by Dr. Beveridge for the offered comparative plans.

number of members to be elected by district. (See sidebar for additional detail on calculations.)

The degree as to how close each district is in meeting this ideal population is assessed by the calculation of deviations. The *absolute deviation* is calculated by subtracting the district apportionment population from the ideal apportionment population, and is represented as a raw number of persons: this could be a positive number, indicating more persons than ideal, or a negative number, indicating fewer persons than ideal. The *relative deviation* is merely the absolute deviation divided by the ideal, and is represented as a percentage value; it too can be a positive or negative value. In Dr. Beveridge’s tables (“Exhibit 3” for the offered comparative plans) the absolute deviation is detailed in the “Population Deviation” and “CVAP Deviation” columns; the relative deviation is detailed in the “% Population Deviation” and “% CVAP Deviation” columns. These calculations are easily generated by today’s redistricting software such as Maptitude for Redistricting (hereinafter MTR) which is one of a handful of “off-the-shelf” specialized software packages available for today’s personal computers<sup>2</sup>.

POPULATION PLAN SUMMARY STATISTICS:

There are several factors generated by the Maptitude for Redistricting (MTR) software as part of its “Population Summary Report” which summarize some statistical aspects of a districting plan. These include the following.

- 1) The overall range of population, which is merely indicating the population numbers for the district with the smallest number of apportionment persons and the population numbers for the district with the largest number of apportionment persons and taking the difference between these two values. (The term “apportionment persons” refers to the population base to be distributed, e.g., total population or citizens of voting age.) This can be calculated from just two values. The MTR reports label this as the Population Range but the difference is listed under Absolute Overall Range.
- 2) The ratio of smallest to largest district, which is calculated as dividing the apportionment population for the district with the largest number of persons by the apportionment population for the district with the smallest number of persons. This can be calculated from just two values. The MTR reports label this as Ratio Range.

<sup>2</sup> This software is referenced as it appears to have been used by Dr. Beveridge. The section of his declaration on compactness, “Exhibit 4”, indicates as much and lists results generated by that software. Aside from a bit of rearrangement, that section also includes a copy of the compactness descriptions from the Users Guide for the software. I see no “brief discussion” aside from this.

- 3) The overall range of deviation, which is calculated by taking the absolute values of the lowest deviation (minimum) and adding it to the value for the highest deviation (maximum); this is calculated for both the absolute and the relative deviations. This can be calculated from just two values for each comparison (absolute and relative). The MTR reports label these as Absolute Range (the minimum and maximum districts) and the Absolute Overall Range as the calculation; same for the Relative Range and Relative Overall Range.
- 4) The average deviation, which is calculated by taking the average of the absolute values (i.e., ignoring the signs) for both the absolute and relative deviations. This can only be calculated using values for all districts. The MTR reports label these as Absolute Mean Deviation and Relative Mean Deviation.
- 5) The standard deviation, which is calculated as the square root of the variance, measures the dispersion of all districts and how close they are to the average deviation. This can only be calculated using values for all districts. The MTR reports label this as Standard Deviation and it is a comparison with the Absolute Mean Deviation.

*Information on the Maptitude software can be found at the following website: [www.caliper.com](http://www.caliper.com). More information on these types of summary statistics can be found in the following book: National Conference of State Legislatures (NCSL). Redistricting Law, 2000. (Denver; NCSL; 1999). See p. 20 et seq.*

**3.1. Measurement Considerations:** With respect to the distribution of the apportionment population, the primary case from the June 1964 round of apportionment cases issued by the U.S. Supreme Court, *Reynolds v. Sims*, 377 U.S. 533, 565 (1964), summarizes the constitutional goals: “fair and effective representation for all citizens” and “equal participation by all voters in the election”. To review how well a plan meets this goal, plans are reviewed for differential vote weights. There are several measures for assessing the degree to which any districting plan meets this goal of fair and effective representation.

**3.2. Population Deviation.** The basic measure is to assess the population deviation, i.e., the distribution of the population amongst all districts. Population deviation measurements are, of course, the standard by which districting plans have been measured for several decades. However, as mentioned above, there are several factors to review for a population deviation analysis and, generally for these measures, the larger the indicated value, the greater the degree of inequality in the distribution of the apportionment population.

Aside from the *overall range*, as summarized by Dr. Beveridge<sup>3</sup>, the other summary factors to consider are the *average relative deviation* and the *standard deviation*. I calculated these values for each of the offered comparative plans for each apportionment base (population and citizen voting age population), from the district-level information provided in the tables in Dr. Beveridge's declaration.

Based upon Dr. Beveridge's approximation of the 2000 CVAP, the proposed plan for the Village of Port Chester, Modified Plan A, has the highest *overall range*, at 78.37%. This plan also presents the highest *average relative deviation*, at 22.6%, and the highest *standard deviation*, at 15.5%, of all the offered comparative plans. While the State Assembly plan has a high overall range as well (at 75.79%), the values for the Modified Plan A by the other two indicators are considerably higher than the next largest values: a 14.5% *average relative deviation* for the State Assembly (versus 22.6% for Modified Plan A) and a 10.4% *standard deviation* for the New York City Council (versus 15.5% for Modified Plan A). The high values for Port Chester are mostly the result of the large differential between districts 1 and 4 in the proposed plan.

**3.3. Minimum Controlling Population.** Another measurement, used frequently by reviewers during the Reapportionment Revolution of the 1960s, was to determine the smallest percentage of the population that could elect a majority, or "control" the legislative body. While this is just a theoretical construct it does allow for an objective means by which unequal vote weighting can be measured between plans<sup>4</sup>.

The concept is simple, stated by the Court in *Reynolds*: that "logically, in a society ostensibly grounded on representative government, it would seem reasonable that the majority of the people of a state could elect a majority of the state's legislators." (See *Reynolds* at 565.) To facilitate this measurement, all districts are simply arranged by the apportionment population of the district, from the smallest to the largest. Proceeding down the list, once the point has been reached where enough members for control could have theoretically been elected, the cumulative percentage of the population in all districts to this point is calculated. Conceptually this would be about 50%, however, a few other factors come into play, notably whether the body has an even or odd number of members and, of

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<sup>3</sup> Denoted as "Total Population Deviation" and "Total CVAP Deviation" in his "Exhibit 3" tables but not included in his "Exhibit 2".

<sup>4</sup> This is also known as the "Theoretical Controlling Population" or the "Electoral Percentage" or the "Minimum Population Necessary to Elect...a Majority". See National Municipal League. *Apportionment in the Nineteen Sixties: State Legislatures; Congressional Districts*. (Washington, D.C.; National Municipal League, 1970). See Robert G. Dixon, Jr. *Democratic Representation: Reapportionment in Law and Politics*. (New York, N.Y., Oxford Univ. Press, 1968).

## Bensen Rebuttal Report, page 7

course, any differential distribution of the population as measured by the deviation factors.

Applying this measurement to the offered comparative plans leads to the conclusion that far short of a majority of the citizens of voting age could theoretically control the Board of Trustees in Port Chester<sup>5</sup>. In fact, of all the offered comparative plans, the Modified Plan A for Port Chester has the largest *differential from parity* as between the minimum percentage for population compared to citizen voting age population.

For the Modified Plan A, using the data provided by Dr. Beveridge: with population (TPOP) as the apportionment base, 49.5% could elect 3 members; with the deallocated 2000 citizen voting age population (CVAP) as the apportionment base, 38.7% of the entire population could elect 3 members. This represents a drop of 10.9 percentage points<sup>6</sup>.

The next largest drop was in the City of Yonkers, where the TPOP percentage was 49.1%, the CVAP percentage was 43.0%, a drop of 6.1 percentage points. The smallest drop under this measure was for the Westchester County Legislature, where, to elect 9 of the 17 members the minimum TPOP percentage was 52.3%, and the CVAP percentage was 49.5%, a drop of 2.8 percentage points. Viewed from another perspective, the 10.9 point drop in Port Chester represents a 21.9% drop from the previous position, which was 0.5% below the 50% point.

**3.4. Vote Weight.** The next measurement to consider is the weight of a vote under each of the offered comparative plans and the Modified Plan A for Port Chester. In this case, the determination is made that the district which has the largest number of apportionment persons is assigned a vote weight of 1. The vote weight for every other district can thus be easily determined, by dividing the district with the largest number of apportionment persons by the apportionment population for each district. For example, if the district with the largest apportionment population, District A, had 1,000 persons and district B had 500 persons, district B would have a vote weight of 2 (1,000/500). In fact, with the Maptitude software, no calculation is needed: the vote weight is denominated as the "Ratio Range" in the Population Summary Report. Although this is normally

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<sup>5</sup> Note that for the purposes of comparison I have treated the three local entities as if 3 of the 6 members granted control. The distinction as to the actual level of control is not critical as this is merely to assist in comparison with the other plans. The values for these three boards using 4 members for control are: Yonkers: 65.9% POP; 62.8% CVAP; New Rochelle: 65.7% POP; 60.5% CVAP; Port Chester: 66.3% POP; 56.9% CVAP. The Modified Plan A for Port Chester would have the largest differential at this level as well.

<sup>6</sup> As with many calculations, some rounding for the sake of clarity may result in a slight variation in the decimal values. See the Appendix for more precision.

based only upon population, it can also be made to reflect the calculations for other population numbers, e.g., TVAP or CVAP.

As with the review of population deviation, similar calculations can be made for the disparities in vote weight amongst districts. Based upon a review of this measurement for the deallocated 2000 CVAP apportionment base, the proposed Modified Plan A for Port Chester has the highest *average vote weight*, at 1.44, and the highest *standard deviation*, at 0.55. This means that a vote in the average district was 0.44 (44%) more powerful than the district with the lowest value of 1.0.<sup>7</sup> The high standard deviation value indicates that the variation from the average was large, again, due primarily to the difference between districts 1 and 4 in the proposed plan<sup>8</sup>.

In summary, of all the offered comparative plans, based upon Dr. Beveridge's deallocated 2000 CVAP, the proposed Modified Plan A for the Village of Port Chester has the highest values for: the value of and the decrease in the *minimum controlling population percentage*; the *average relative deviation* and *standard deviation* for population deviations; and the *average relative deviation* and *standard deviation* for vote weights.

**4.1. Citizen Voting Age Population (2000).** With respect to the citizenship data, there is a fundamental concept that needs to be understood in order to include the 2000 census CVAP as a standard of measurement for a districting plan. This concept involves two basic operational considerations: 1) the CVAP numbers are the results of a sample of the overall population; and 2) this information is only provided at the census geography level of the block group.

These two differences mean that this information is not strictly comparable to the population or voting age population numbers, which are both the result of an enumeration of the entire universe of residents (the so-called 100-percent count information). For the 2000 Census the CVAP numbers were asked of a sample of the entire population; on average, it was asked of 1 out of 6, or 17%, of the overall universe of housing units.

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<sup>7</sup> Note that the district with the value of 1.0 is included in the calculation of the average for convenience. Dropping it from the calculation would increase the average by some degree, the degree varying by the number of districts in the plan.

<sup>8</sup> Note that this calculation may be made using other means. For example, Dr. Morrison uses the terms one-person/1.7 vote and one-person/0.7 vote, referencing the deviation from 1.0. My calculation uses 1.0 as the minimum weight to assess the overvaluation of a vote.



## Bensen Rebuttal Report, page 9

Also, the 2000 CVAP data were not released at the same time nor were they available at the same low level of census geography as were the POP and VAP numbers<sup>9</sup>. The so-called “PL94-171” datasets released by the Bureau contain population counts at the level of the census block, which is the molecular level for the census tabulation system. The CVAP numbers were only released later as a Special Tabulation and only at the next higher level, that of the block group<sup>10</sup>. Even then, as a Special Tabulation, it is subject to some suppression and rounding to maintain respondent privacy.

To arrive at CVAP numbers for districting, one of two choices must be made: a) either to use the block group as the indivisible building block for the plan, or, b) undertake an approximation of the CVAP numbers for each census block. The latter process is sometimes known as deallocation as it takes the total number of CVAP for a block group and allocates them to each census block via a deallocation factor. This factor is normally the census block’s percentage of the block group’s total population or total voting age population, depending upon the item to be distributed. However, this is just an approximation: because it is sample data there is no hard number of CVAP for each census block.

Without seeing the underlying information used by Dr. Beveridge it would be difficult to assess which factor was used for the deallocation: population, voting age population, or something else<sup>11</sup>.

An aspect of the deallocation process is that whatever factor is used for the distribution of the block group persons to the census blocks, this factor is generally applied in a consistent fashion to all census blocks in that block group. For example, assume there are two census blocks in block group 1, census block 1001 with 100 persons and census block 1005 with 50 persons. Assume that the block group total population is 1,000 persons: the deallocation percentage for census block 1001 is 10% (100/1000) and the deallocation percentage for census block 1005 is 5% (50/1000). It does not matter if there are variations between census block 1001 and census block 1005 with respect to any demographic factors: census block 1001 gets 10% of whatever is being deallocated (e.g., CVAP) and census block 1005 gets 5%. Theoretically, it is possible to modify this neutral deallocation by taking into account other factors, block-by-block, but these make for a more complicated process of deallocation.

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<sup>9</sup> The CVAP information for the 2000 census was not even available until December of 2002, the result of a Special Tabulation compiled upon request.

<sup>10</sup> Block groups are comprised of compact and contiguous census blocks in the same geographic area and contain a minimum of 600 persons (240 housing units) but may contain as many as a few thousand persons. Block groups are subdivisions of census tracts..

<sup>11</sup> Also, with respect to rounding: the Bureau rounds each summary of this information to the nearest 5 persons. This results in some small degree of error in the allocation process.

Nevertheless, because of these aspects of the census CVAP tabulation, using them for districting presents some degree of systemic uncertainty.

**4.2. Post-Census CVAP Projections.** The same type of uncertainty mentioned above is also involved with any deallocation of any post-census projection of CVAP except there is an additional element to consider with respect to uncertainty. The Bureau does release annual estimates of the total population and it also releases periodic characteristics of demographic factors. From this information analysts can make their own approximations of the census voting age population. The annual population estimates are released for the higher levels of census geography: state, county, county subdivision and incorporated place. The type and availability of the demographic characteristics will vary. This information by county is normally released in March of the year following the estimate date of July 1. The latest release for this information is to be released during March of 2008.

However, there are no estimates and there are no projections of citizenship after the 2000 census from the Bureau of the Census at the level of the block group or census block. Analysts can use the information provided by the Bureau to create their own approximations of CVAP at the level for which the Bureau has released the underlying data, i.e., the higher levels of geography.

Thus, any estimates, projections, or, approximations of the CVAP for dates after the 2000 census for the geographic level of the block group reflects not only a more complicated process but also a leap of faith by the data analyst. Such information projected out in time and deallocated to blocks would be highly speculative and depend largely upon subjective assessment of several factors.

**4.3. Citizenship Status in the 2010 Census.** The degree to which this information will be available for the districting following the 2010 census should also be mentioned.

For the 2010 census, the long form, which has heretofore been the source of the socio-economic characteristic information, such as citizenship status, is to be replaced by the American Community Survey (ACS). The ACS was designed to provide more current demographic characteristic information by releasing information on an annual basis rather than once a decade<sup>12</sup>. It uses an ongoing

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<sup>12</sup> The ACS also differs in mission compared to that of the long form. "The goals of the ACS are to: Provide federal, state, and local governments an information base for the administration and evaluation of government programs; Facilitate improvement of the 2010 Census by allowing the decennial census to focus on counting the population; Provide data users with timely demographic, housing, social, and economic statistics updated every year that can be compared

## Bensen Rebuttal Report, page 11

survey and produces multi-year estimates for these characteristics. By 2010, the Bureau's plan is to have information available at the level of the block group for such information, using three-year averages for higher levels of geography and five-year averages for the lowest levels for which it will be available: the census tract and the block group. The long form sampled an average of 1 out of 6 housing units, roughly about 20 million units; the ACS is expected to sample about 3 million units each year.

There are differences between the operational aspects of the ACS versus the census long form that may affect the information available upon release.

- 1) Reference Dates: the reference dates are different: the long form was based upon a census date of April 1; the ACS is an ongoing survey over the entire year, and the multi-year rolling averages mean the timeframe is much longer;
- 2) Response Rates: the response rate for the ACS may be less than the census: the census is accompanied by widespread advertising and the concomitant focus of the American population; thus people are more likely to be expecting their census form in the mail; the ACS is still a new concept and as it is ongoing throughout the year such a focus may be difficult to create or maintain;
- 3) Non-Response Follow-up: the follow-up programs for non-response will be different: the determination as to what is a non-response for follow-up may be different as the census is concerned with the count and the ACS is concerned with the characteristics; also, there was an extensive on-the-ground follow-up for the census; the plan for the ACS is to rely upon telephone follow-up with some on-the-ground personal interviews but resources throughout the decade may be more of a problem with the ACS;
- 4) Imputation: the imputation rules will be different: the long form imputation had a larger universe from which to choose when questions were left blank; the ACS will rely upon a smaller universe, i.e.; only other units in the sample at the time of processing.

The annual release of multi-year rolling averages is bound to cause some confusion in using this information. As the numbers are all the result of sampling, there will be some variation in the discrete values, the so-called point estimates, with each release. The degree to which the point estimate changes from year to year may reflect actual changes in the demography, or, it could be due to the multiple samples used for the ACS in that geographic area.

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across states, communities, and population groups." See Census Bureau. American Community Survey: Operations Plan; Release 1, March 2003. Available on the internet at the following URL (visited March 2008): <http://www.census.gov/acs/www/Downloads/OpsPlanfinal.pdf>.

## Bensen Rebuttal Report, page 12

Moreover, due to combination of sample data from previous year into the multi-year rolling average, the ACS estimates may be affected by the highly mobile nature of the American people. For 2006, the Census Bureau reports that nearly 17% of the national population lived in a different house than they did just one year before<sup>13</sup>. This means that people who were interviewed but who no longer live in the area will still have their survey responses included in the data released for several years.

Additional areas of concern include a) the very nature of sampling means that variations from a full count may be more evident for demographic groups that are not very evenly distributed and/or for geographic areas with fewer persons; and b) the 2000 CVAP numbers were the result of a specific request from an outside group tabulating all long form responses; there is no guarantee this information will be available from the ACS data.

While it is too early to tell, there is reason to believe that using ACS data relating to citizenship status for the 2011-2012 apportionment cycle will be a more difficult process and is likely to be subject to varying interpretations as to what the appropriate numbers are for any plan drafting or plan review.

**5.1. Integrity of Block Groups.** As mentioned above, one way to minimize the degree to which the deallocation process affects the hypothetical distribution of the CVAP numbers to the component census blocks is to strive to maintain the integrity of the block group. In fact, I understand that Dr. Beveridge did offer a plan keeping block groups intact as one iteration of a proposed plan. But, as between the latest Original Plan A and the Modified Plan A, the integrity of the block group has been lessened.

The Modified Plan has more block groups that would be split (from 6 to 8) and there are more blocks affected by these splits. District 2 is the only district that has the same boundaries in both the Original and Modified plans. Otherwise, most of the block reassignment appears to have centered around district 4 which has now taken on the look of either a southpaw winding up for the pitch or a hockey goalie deflecting a high shot with his stick-hand pad. Thus, the purpose for the Modified Plan A could not have been to minimize any data uncertainty.

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<sup>13</sup> This represents 16.8% of the population 1 year and older. See the American Community Survey at <http://factfinder.census.gov>.

**5.2. The Original Plan vs. the Modified Plan:** There are several reasons why a modified plan could be offered to this court.

- a) As mentioned above, maintenance of the block group integrity appears to have not been one of these reasons.
- b) Improvement as to population deviations could be another reason, and while there was some reduction in the overall population deviation as between the plans, even a cursory review indicates that this deviation could probably have been reduced even further. For example, reassigning one block from district 3 to 2 would have decreased the overall range from 155 (3.34%) to 113 (2.43%); reassigning one additional block from district 2 to 5 would have decreased the overall range from 113 (2.43%) to 44 (0.95%). So, equal population alone was not a reason for the Modified Plan A<sup>14</sup>.
- c) Likewise, while compactness does not appear to be much of an issue overall, clearly the Modified Plan A did little to improve this. The average value for the seven measures provided by Dr. Beveridge was only improved on one, that of the Ehrenburg inscribed-circle measure.
- d) Nor is there any improvement in the degree to which the election precincts are kept intact. The Modified Plan A raised the number of split VTDs<sup>15</sup> from 7 to 8.
- e) I have no personal knowledge of any other local factors, e.g., the residence of any incumbents or candidates. However, counsel has informed me that the plaintiff-intervenor does *not* currently reside in district 4 of the Modified Plan A. So, this does not appear to have been a reason for the Modified Plan A.

In sum, the only difference between the Original Plan A and the Modified Plan A that seems obvious relates to the demographics at issue: according to Dr. Beveridge's deallocation of the 2000 CVAP, he reports an increase in the 2000 Hispanic CVAP percentage (HCVAP) for district 4, from just over 50% to 56.27%. These numbers would translate into a reported increase in a majority from single digits to 78 persons<sup>16</sup>.

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<sup>14</sup> Note also that the calculations of the population deviations in Dr. Beveridge's "Exhibit 2" are incorrectly reported in the first sub-table because the signs are reversed. The district with the smallest number of persons is district 5: at 4,575 persons, this is a population deviation from the 4,645 ideal population of -70, or -1.5%. The district with the largest number of persons is District 3: at 4,730 persons, this is a population deviation from the 4,645 ideal population of +85, or +1.8%. Dr. Beveridge did not include any deviations for the other apportionment bases in this Exhibit.

<sup>15</sup> These are known as election districts in New York and as Voting Tabulation Districts, or VTDs, in census terminology.

<sup>16</sup> I have seen several sets of numbers for the "Original Plan": with the CVAP being reported as 1365 CVAP and 688 HCVAP (50.41% in Table 3); 1350 and 680 HCVAP (50.37% in Table 1: "Block

**5.3. Shifting Census Blocks & Vote Weight.** The countervailing aspect of this increase in the HCVAP is that it has also increased the differential in the vote weight equality as between the two districts with the extreme values for this measurement<sup>17</sup>.

Using Dr. Beveridge's deallocation of the 2000 CVAP numbers the shifts in these two districts between the Original Plan A and the Modified Plan A would be as follows. District 1 would lose some overall population (from 4,789 TPOP to 4,671 for -118 persons) and would also decrease in citizen voting age population (from 3,144 CVAP to 3,065 for -79 persons). District 4 would gain in overall population (from 4,574 TPOP to 4,639 for +65 persons) but would decrease in citizen voting age population (from 1,362 CVAP to 1,239 for -123 persons). Thus, based upon Dr. Beveridge's deallocation of the 2000 CVAP tabulation, the overall vote weight ratio would increase from 2.31 for the Original Plan A to 2.47 for the Modified Plan A<sup>18</sup>.

These numbers mean that the vote weight of a citizen of voting age in district 4 would be 147% larger than the vote weight of a citizen of voting age in district 1. Of course, applying this same calculation to the actual number of citizens of voting age who registered to vote or who voted yields an even larger imbalance in vote weight. Using the numbers from Dr. Morrison's revised report for the Modified Plan A<sup>19</sup> the comparable values are that the vote weight ratio would be 2.67 based upon registration and 5.58 based upon turnout in March 2007 election<sup>20</sup>.

**6.1 Summary.** If there is one lesson to be learned from the Reapportionment Revolution of the 1960s, it is this: just because everyone does apportionment in a similar manner does not mean anyone of them is doing apportionment in the correct manner. Just because every other plan offered by the federal government suffers from some degree of disparity in the distribution of citizens of voting age

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Group In-Tact"[sic]); 1362 CVAP and 688 HCVAP (50.51% in Exhibit F); and for each of these the HCVAP majority is calculated in single digits. This may account for slight variations in some calculations in various reports.

<sup>17</sup> Numbers for the Original Plan from Dr. Beveridge's, Exhibit F.

<sup>18</sup> This is calculated using the two CVAP numbers for the Original Plan A: district 1's 3,144 with district 4's 1,362 and the two CVAP numbers for the Modified Plan A: district 1's 3,065 with district 4's 1,239.

<sup>19</sup> See Morrison Report, Revised May 11, 2007, Tables 4& 5 at p.23. Note that the tables provided by Dr. Morrison did not account for a small percentage of the overall universe of registrants or voters, about 2%, due to geographic cross-referencing of the list of registrants and voters.

<sup>20</sup> By way of comparison, Dr. Morrison's numbers for the Original Plan indicate that for turnout in the November 2006 election the vote weight ratio would be 3.67.

Bensen Rebuttal Report, page 15

does not mean that any of these plans were drawn to equalize the opportunity of all citizens to participate in the political process by the equal weighting of their votes.

The proposed plan for the Village of Port Chester would create a situation in which the vote of a citizen of voting age in district 4 would have a very high valuation in comparison to other districts in the plan: the vote of a citizen in district 4 could be worth at least 2, or 3 times, the vote of a citizen of voting age in district 1, whose citizens would have their votes substantially devalued. Surely, this can not be what the Supreme Court intended when it changed the political landscape by seeking to implement the constitutional goal of “fair and effective representation”.

**7.1. Appendix.** Accompanying this report are a few tables summarizing this information mentioned in the report. These include:

- 1) Selected Population Summary Factors for Modified Plan A [Table 11];
- 2) Population Summary Report for Modified Plan A from Maptitude;
- 3) Summary of Plan Factors for All Offered Comparative Plans;
- 4) Apportionment Population and Vote Weight: Village of Port Chester;
- 5) Map of Port Chester Modified Plan A with HVAP by Census Block;
- 6) Map of Port Chester Modified Plan A with District Outline.

**7.1.1. Selected Population Summary Factors for Modified Plan A [Table 11];**

This is a table compiled in a format similar to that compiled by Dr. Beveridge for the offered comparative plans. However, as there was no table presenting comparable information for the Modified Plan A for Port Chester, I took the appropriate information from Dr. Beveridge’s “Exhibit 2” of his declaration and formatted it in like manner making the appropriate calculations. This facilitates comparison of the Modified Plan A with the offered comparative plans by providing information not provided for Modified Plan A.

**7.1.2. Population Summary Report for Modified Plan A from Maptitude**

**Software:** This is the report generated by the Maptitude for Redistricting software for the Modified Plan A. It merely illustrates all the standard measurements readily available to the plan drafter with this software.

**7.1.3. Summary of Plan Factors for All Offered Comparative Plans:** This is a table accompanied by three charts. This information was compiled by me from the district-level population and citizen voting age numbers provided in Dr. Beveridge’s “Exhibit 3” of his declaration.

The table summarizes the plan summary statistics for each of the offered comparative plans Dr. Beveridge included in his declaration. The first page summarizes these factors across the page for each plan down the page. The second page indicates the lowest and highest value for these indicators. The charts summarize selected factors for all plans.

Column A: The plan, the number of members elected by district and the number of members to ‘control’ the body, or chamber, or delegation. Note that for the local plans the number for control is set to 3 for comparative purposes. See the footnote in section 3.3 Minimum Controlling of my report.

Column B: Designates whether the information in the remaining columns is based upon the apportionment base of the total population count or the citizens of voting age population approximation provided by Dr. Beveridge. The Differences column is merely a comparison of the TPOP



Bensen Rebuttal Report: Appendix, page 2

with the CVAP values. In every case aside from Column D this is just a subtraction.

Column C: Indicates the value for the factor identified at the top of the column or, for the Differences line, the absolute difference.

Column D: For the Differences line, this is the relative difference between the Controlling Population for TPOP and the Controlling Population for CVAP.

Column E: The Overall Range for the population deviation, for each apportionment base.

Column F: The Average Relative Deviation for the population deviation, for each apportionment base.

Column G: The Standard Deviation for the population deviation, for each apportionment base.

Column H: The Overall Range for the vote weight, for each apportionment base.

Column I: The Average Relative Deviation for the vote weight, for each apportionment base.

Column J: The Standard Deviation for the vote weight, for each apportionment base.

Chart 1. Minimum Controlling Population, TPOP vs. CVAP: This chart illustrates the values for each plan for the minimum percentage of the population that could 'control' a majority of the chamber or body, or 3 members for the 6 member boards. A reference line is added to compare with 50%. The solid (orange) bar indicates the percentage for TPOP and the diagonal patterned bars indicate the percentage for CVAP. For example, this chart illustrates that the minimum controlling percentage for the Congressional Delegation (first bars on the left) was 51.72% for TPOP and about 46.72% for CVAP. The corresponding values for the proposed plan for Port Chester are on the right hand side of the charts: just under 49.54% for TPOP and about 38.68% for CVAP.

Chart 2. Relative Deviation, Average & Standard Deviation, CVAP: This chart illustrates the average and standard deviations for the population deviation based upon CVAP as the apportionment base. For example, for Congress, the bars on the left hand side of the chart illustrate about a 10.28% average deviation and about a 6.29% standard deviation. For the Port Chester proposed plan, the corresponding values on the right hand side of the chart are 22.63% and 15.46%.

Chart 3. Vote Weight (value above 1.0 minimum), Average & Standard Deviation, CVAP: This chart illustrates the third panel of the table, those columns on the right hand side of page 1. The vote weight bar is adjusted by subtracting 1.0 (the minimum value) in order to show the comparative values for both indicators. For example, for Congress, again, for the bars on the left hand side of the chart, the average of all districts for the vote weight is 1.16 with a

standard deviation of 0.16. For the proposed plan for Port Chester, again, at the right hand side of the chart, the corresponding values are 1.44 average and 0.55 standard deviation.

**7.1.4. Apportionment Population and Vote Weight: Village of Port Chester:**

This appendix item includes two separate sets of tables and charts, one for the plan based upon TPOP and the other for CVAP. The first page of each set summarizes the statistics for the entire plan; the second and third pages are charts illustrating these factors; and the remaining pages detail the district-level information to indicate how the measurements were determined.

Each table includes three panels of information, all derived from the district-level detail of the apportionment population. The first panel, on the left hand side of the page, indicates the apportionment population by district, in district order. It also accumulates this population merely as a check on the data. The second panel, in the middle of the page, includes the apportionment population but arranges it from the smallest number to the largest number in order to calculate the minimum controlling population. The third panel, on the right hand side of the page, indicates the apportionment population with the calculation of the deviation and the vote weight (the column farthest to the right after the dotted vertical lines). Some of this information is included in the first appendix table summarizing all plans.

The first chart illustrates the distribution of the population by arranging all districts from the district with the largest negative deviation (smallest number of apportionment persons) to the district with the largest positive deviation (largest number of apportionment persons). The second chart illustrates the distribution of the vote weight amongst all districts arranged in district order.

For example, the charts for the TPOP apportionment base illustrate that the overall range of population deviation isn't very large and that the overall range for the vote weight is likewise not very large. The charts for the CVAP apportionment base illustrate that the degree to which the deviation based upon CVAP is considerably larger and the vote weight charts illustrates that the large overall range is largely due to the disparity between the extreme districts.

**7.1.5. Map of Port Chester Modified Plan with HVAP by Census Block:** This map illustrates the block-level distribution of persons who are Hispanic and of Voting Age (HVAP) as a percentage of the overall population in that block. This information is derived from the 100-percent count of the population as released in the PL94-171 datasets.

Bensen Rebuttal Report: Appendix, page 4

The darker, or redder, shading indicates a higher concentration of HVAP in that block. The census blocks with the darkest shading are over 50% HVAP. The number in the census block is the total population.

Overlaid on this map are streets and the district boundaries for the proposed plan, Modified Plan A, for the Village of Port Chester. The additional streets on the upper left hand side of the map indicate merely than one VTD (election precinct, called an election district in New York State) covers a portion of the Village of Port Chester<sup>1</sup>. Otherwise, blocks without shading, and within the limits of the Village, had no population according to the census counts.

The table at the bottom of the map summarizes a few demographic factors for the proposed plan, Modified Plan A, which are generally comparable with some of the information listed in Dr. Beveridge’s “Exhibit 2” of his declaration (the first two sub-tables) and are used to verify the plan comparison. The reader will note two differences in this regard. First, due to rounding, the ideal apportionment population is 4,644.5, which may be rounded up or down, or not at all, and thus some figures may be off by 1 person. Second, for some reason, the deviations in the Dr. Beveridge’s “Exhibit 2” are calculated in exactly the opposite of standard practice, which was probably just an oversight that didn’t get corrected before filing. Thus Dr. Beveridge’s deviations should have the signs reversed. Note also that many percentage values are listed to two decimal points: this is merely the standard manner in which the districting software reports this information.

**7.1.6. Map of Port Chester Modified Plan with District Outline:** This map is just a reference map to more easily review each district overall without any underlying reference points. Note that the blank area to the right of the map is unassigned water geography.

---

<sup>1</sup> This VTD is a geographic approximation of the combination of two election precincts (19 and 26); only the 19th includes the Village of Port Chester for elections.

Table 11. Village of Port Chester. Proposed Districts: Modified Plan A. Population and CVAP Deviation  
Number of districts: 6

[A]	[B]	[C]	[D]	[E]	[F]	[G]
Proposed District	Total Population	Population Deviation	% Population Deviation	Total Citizens of Voting Age	CVAP Deviation	% CVAP Deviation
<i>Dst.</i>	<i>TPOP</i>	<i>AbsDev</i> <i>TPOP</i>	<i>RelDev</i> <i>TPOP</i>	<i>CVAP</i>	<i>AbsDev</i> <i>CVAP</i>	<i>RelDev</i> <i>CVAP</i>
1	4,671	26	0.56	3,065	735	31.55
2	4,592	(53)	(1.14)	2,964	634	27.21
3	4,730	85	1.83	2,182	(148)	(6.35)
4	4,639	(6)	(0.13)	1,239	(1,091)	(46.82)
5	4,575	(70)	(1.51)	2,543	213	9.14
6	4,660	15	0.32	1,987	(343)	(14.72)
Total	27,867	(3)	(0.06)	13,980	0	0.00
Ideal	4,645	(0)	(0.00)	2,330	0	0.00
Average	4,644.5	(1)	(0.01)	2,330.0	0	(0.00)
Low	4,575	(70)	(1.51)	1,239	(1,091)	(46.82)
High	4,730	85	1.83	3,065	735	31.55
Range	155	155	3.34	1,826	1,826	78.37

Total Population Deviation 3.34

Total CVAP Deviation 78.37

Lowest	Highest
(1.51)	1.83
(46.82)	31.55

Plan: nyportc\_modifiedplana\_hc04  
Plan Type:  
Administrator:  
User:

Population Summary Report

Tuesday March 4, 2008 12:30 PM

DISTRICT	Population	DEVIATION	% DEVN.
1	4,671	26	0.56
2	4,592	-53	-1.14
3	4,730	85	1.83
4	4,639	-6	-0.13
5	4,575	-70	-1.51
6	4,660	15	0.32

Total Population: 27,867  
Ideal District Population: 4,645  
**Summary Statistics**  
Population Range: 4,575 to 4,730  
Ratio Range: 1.03  
Absolute Range: -70 to 85  
Absolute Overall Range: 155.00  
Relative Range: -1.51% to 1.83%  
Relative Overall Range: 3.34%  
Absolute Mean Deviation: 42.50  
Relative Mean Deviation: 0.91%  
Standard Deviation: 56.34

Summary of Plan Factors for Offered Comparative Plans

Shaded boxes indicate the largest value.

[A]	[B]	[C]	[D]	[E]	[F]	[G]	[H]	[I]	[J]
	Minimum Controlling Population			Relative Deviation			Vote Weight		
	Values	# Diff.	% Diff.	Range	Average	StDev	Range	Average	StDev
Congress: U.S. House 29 members, 15 to control	TPOP	51.72		0.00	0.00	0.00	0.00	1.00	0.00
	CVAP	46.72		41.47	10.28	6.29	0.57	1.16	0.16
	Differences	-5.00	-9.67	41.47	10.28	6.29	0.57	0.16	0.16
State Senate 62 members, 32 to control	TPOP	50.50		9.78	2.22	1.55	0.10	1.05	0.03
	CVAP	47.15		63.07	9.56	7.20	1.03	1.26	0.18
	Differences	-3.35	-6.63	53.29	7.34	5.65	0.93	0.21	0.15
State Assembly 150 members, 76 to control	TPOP	49.35		9.43	2.67	1.39	0.10	1.05	0.03
	CVAP	43.94		75.79	14.53	8.38	1.59	1.28	0.27
	Differences	-5.41	-10.96	66.36	11.86	6.99	1.49	0.23	0.24
New York City Council 51 members, 26 to control	TPOP	49.39		9.99	3.21	1.49	0.11	1.05	0.04
	CVAP	44.30		74.54	13.40	10.43	1.20	1.41	0.26
	Differences	-5.09	-10.31	64.55	10.19	8.94	1.09	0.36	0.22
Westchester County Legislature 17 members, 9 to control	TPOP	52.31		5.22	1.26	0.88	0.05	1.03	0.02
	CVAP	49.50		38.73	7.43	5.63	0.52	1.14	0.12
	Differences	-2.81	-5.37	33.51	6.17	4.75	0.47	0.11	0.10
City of Yonkers Council 6 members, 3 to control	TPOP	49.07		7.54	1.98	1.51	0.08	1.03	0.03
	CVAP	42.98		48.17	14.04	9.07	0.64	1.27	0.24
	Differences	-6.09	-12.41	40.63	12.06	7.56	0.56	0.24	0.21
City of New Rochelle Council 6 members, 3 to control	TPOP	48.79		6.46	2.42	0.90	0.07	1.03	0.03
	CVAP	45.62		40.11	9.52	8.52	0.52	1.19	0.18
	Differences	-3.17	-6.50	33.65	7.10	7.62	0.45	0.16	0.15
Village of Port Chester 6 members, 3 to control	TPOP	49.54		3.34	0.92	0.68	0.03	1.02	0.01
	CVAP	38.68		78.37	22.63	15.46	1.47	1.44	0.55
	Differences	-10.86	-21.92	75.03	21.71	14.78	1.44	0.42	0.54

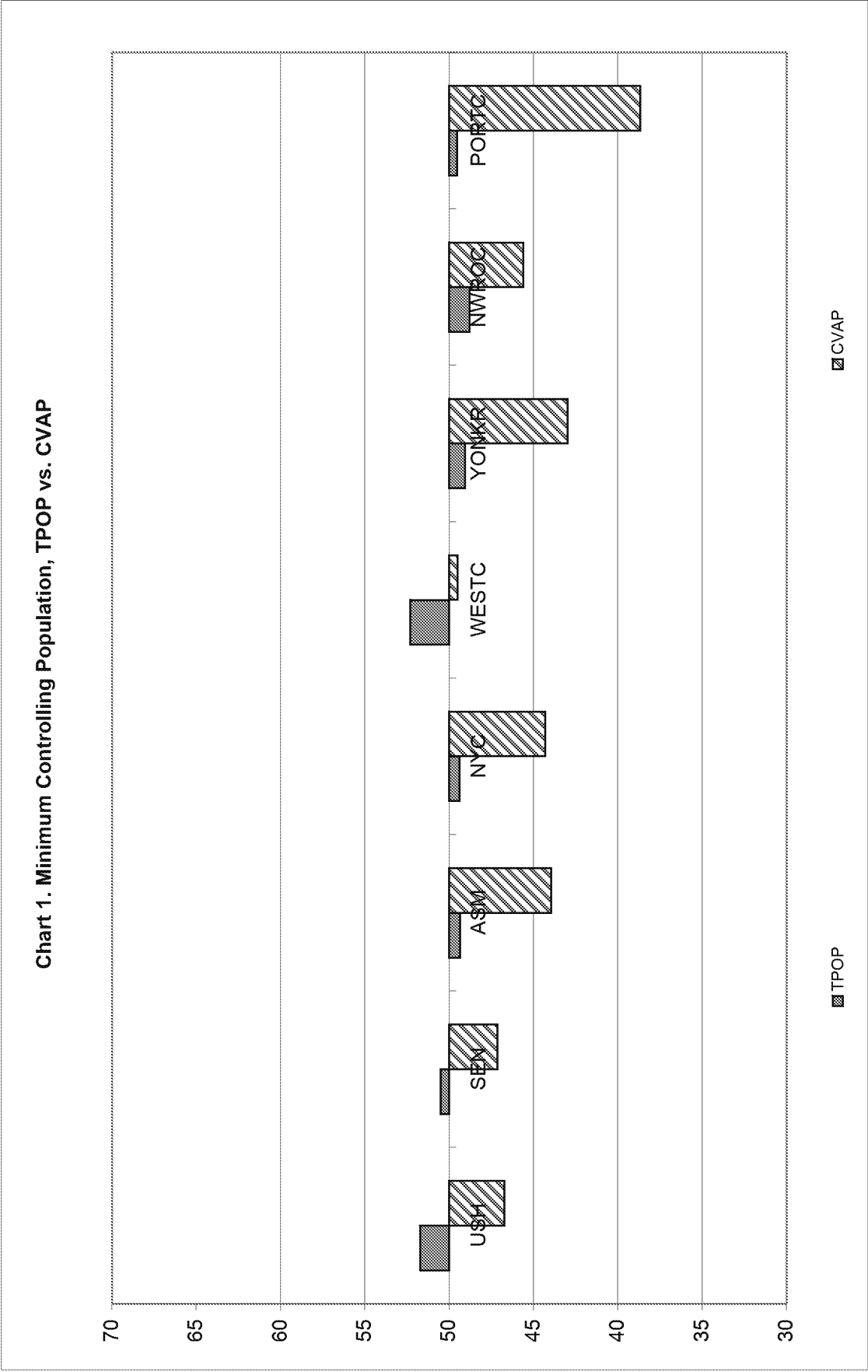
Summary of Plan Factors for Offered Comparative Plans

[A]	[B]	[C]	[D]	[E]	[F]	[G]	[H]	[I]	[J]
Minimum Controlling Population									
Values									
# Diff. % Diff.									
Relative Deviation									
Range									
Average									
StDev									
Vote Weight									
Range									
Average									
StDev									
Summary for CVAP-related factors:									
Minimum of Above									
TPOP									
CVAP									
Maximum of Above									
TPOP									
CVAP									
Differences									
-10.86 -21.92									
1.49 0.42 0.54									

Maximum cases are highlighted for the factors outlined by double boxes above.

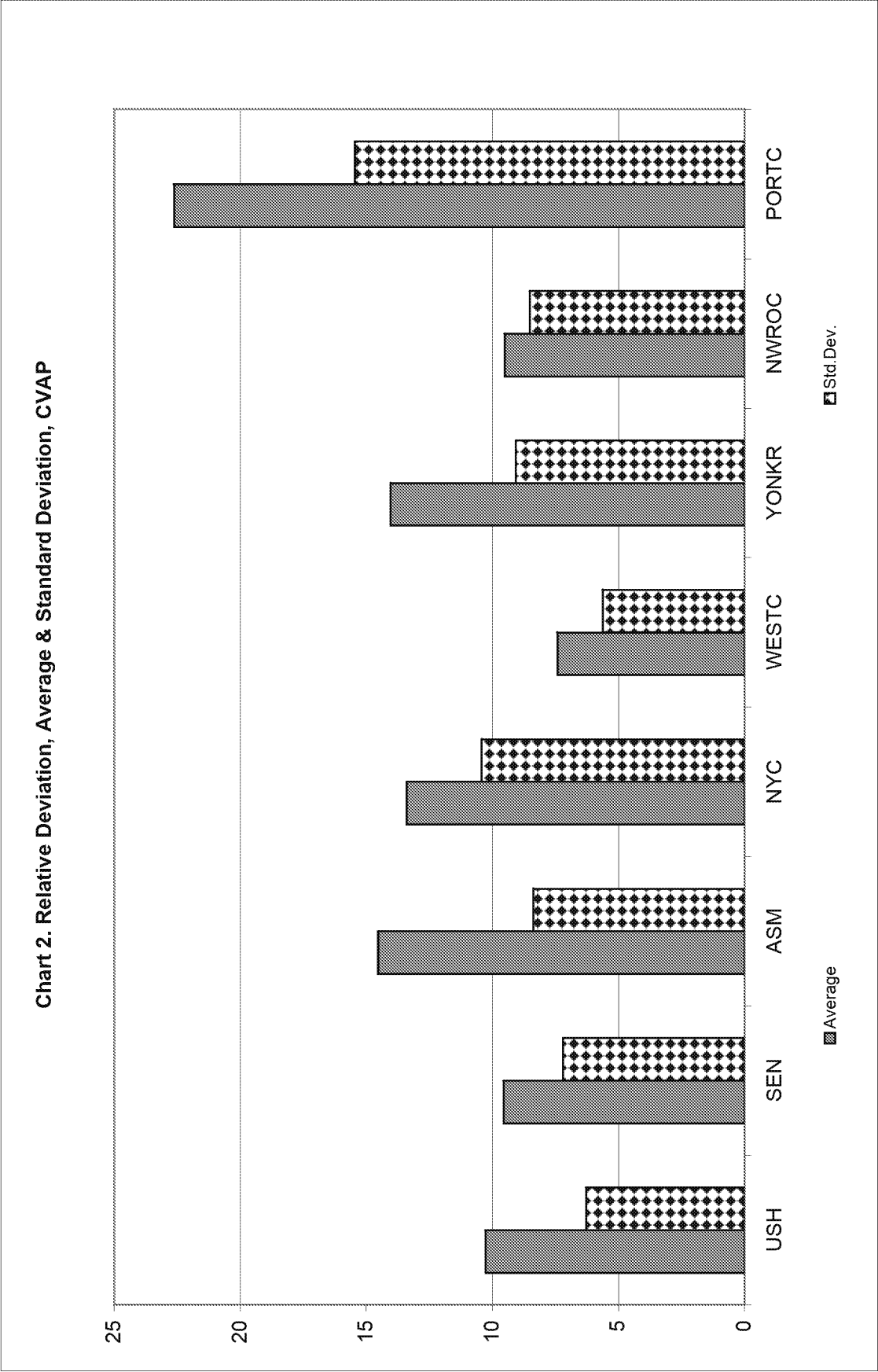
To facilitate comparison for the calculation of the Minimum Controlling Population, the number of members for control has been placed at 3 for each of the local bodies with 6 members (Yonkers, New Rochelle, and Port Chester). Actual control may vary.

Summary of Plan Factors for Offered Comparative Plans

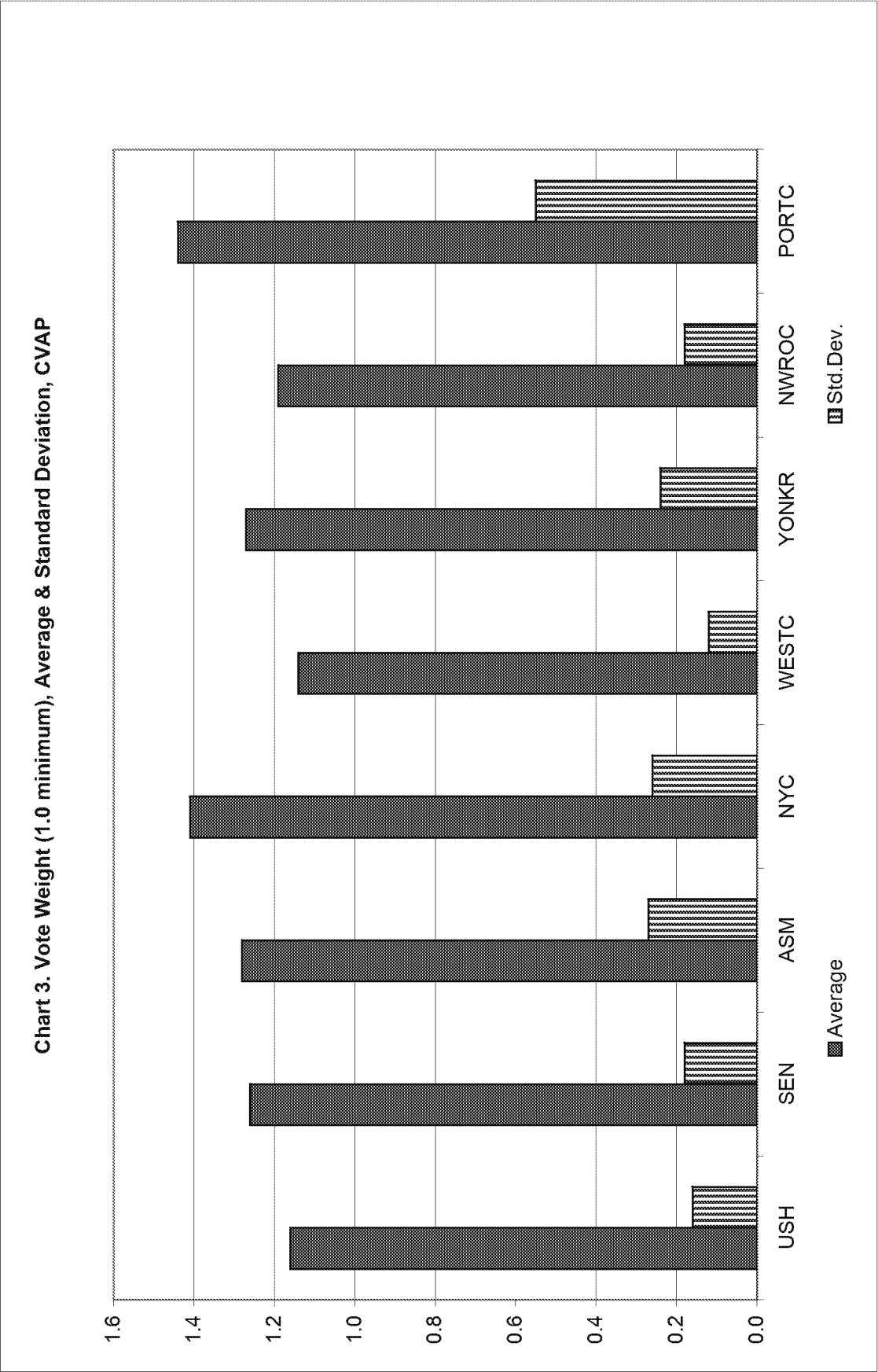




Summary of Plan Factors for Offered Comparative Plans



Summary of Plan Factors for Offered Comparative Plans



Apportionment Population and Vote Weight

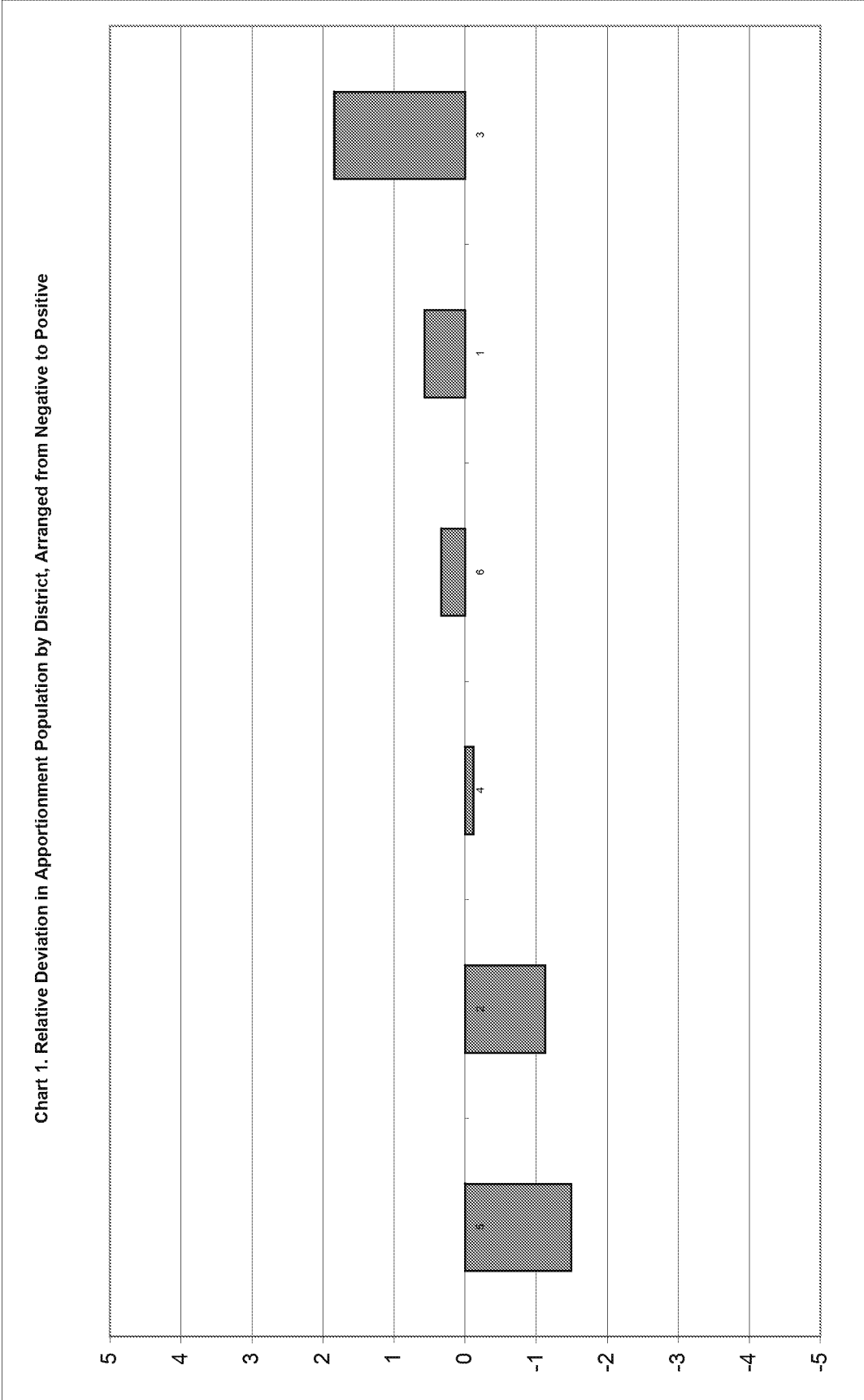
Total Population (2000)  
Village of Port Chester Trustees

Total Population (2000) Source: Beveridge declaration, Feb. 7, 2008, "Exhibit 2".

Summary of Plan, District Detail Follows										
[A]	[B]	[C]	[D]	[E]	[F]	[G]	[H]	[I]	[J]	[K]
Panel 1			Panel 2			Panel 3				
District Order			Ranked by App.Pop., Low to High			Deviation and Vote Weight				
District % of Cumulative Total			District % of Cumulative Total			Deviation and Vote Weight				
Dst. App.Pop.	Total App.Pop.	Pct.	Dst. App.Pop.	Total App.Pop.	Pct.	Dst. Pop.Base	Dev#	Dev%	Vote Weight	
Sum	27,867	100.0	27,867	100.00	0	27,867	0			
Number of districts:			Minimum Controlling Pop.			4,645	0	0.00		
Number for Control:			Abs. difference from 50.0% is			4,575	(70)	(1.50)		
						4,730	86	1.84		
						155	155			
						4,645	43			
						56	32			
						1.03	1.23			

Apportionment Population and Vote Weight

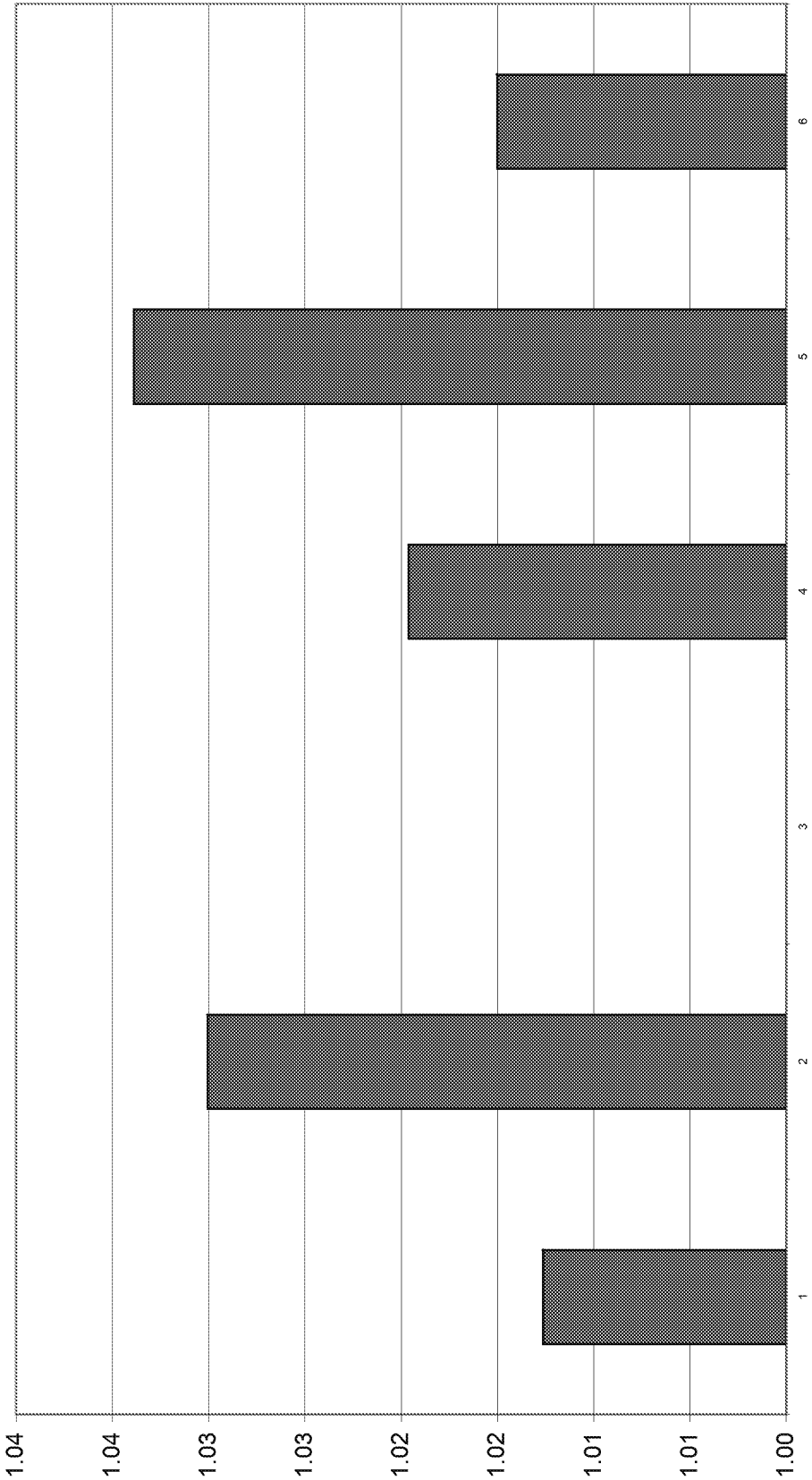
Total Population (2000)  
Village of Port Chester Trustees



Apportionment Population and Vote Weight

Total Population (2000)  
Village of Port Chester Trustees

Chart 2. Vote Weight by District from Panel 3, Arranged in District Order



Apportionment Population and Vote Weight

Total Population (2000)  
Village of Port Chester Trustees

Notes:

- 1) Box below in Panel 2 indicates the Minimum Controlling Population: i.e., the smallest percentage that could elect a majority.
- 2) Districts highlighted below in Panel 3 are those with the smallest and largest vote weight.

[A]	[B]	[C]	[D]	[E]	[F]	[G]	[H]	[I]	[J]	[K]	[L]	[M]	[N]	[O]
District Detail														
Panel 1					Panel 2					Panel 3				
District Order					Ranked by App.Pop., Low to High					Deviation and Vote Weight				
Dst. App.Pop.	Total	% of	Cumulative	Total	Dst. App.Pop.	District	% of	Cumulative	Total	Dst. Pop.Base	Dev#	Dev%	Dev%	Vote Weight
1	4,671	16.76	16.76	16.76	5	4,575	16.42	4,575	16.42	1	4,671	27	0.57	1.01
2	4,592	16.48	33.24	33.24	2	4,592	16.48	9,167	32.90	2	4,592	(53)	(1.13)	1.03
3	4,730	16.97	50.21	50.21	4	4,639	16.65	13,806	49.54	3	4,730	86	1.84	1.00
4	4,639	16.65	66.86	66.86	6	4,660	16.72	18,466	66.26	4	4,639	(6)	(0.12)	1.02
5	4,575	16.42	83.28	83.28	1	4,671	16.76	23,137	83.03	5	4,575	(70)	(1.50)	1.03
6	4,660	16.72	100.00	100.00	3	4,730	16.97	27,867	100.00	6	4,660	16	0.33	1.02
District Detail														
Panel 1					Panel 2					Panel 3				
District Order					Ranked by App.Pop., Low to High					Deviation and Vote Weight				
Dst. App.Pop.	Total	% of	Cumulative	Total	Dst. App.Pop.	District	% of	Cumulative	Total	Dst. Pop.Base	Dev#	Dev%	Dev%	Vote Weight

Apportionment Population and Vote Weight

Citizen Voting Age Population (2000\*)  
Village of Port Chester Trustees

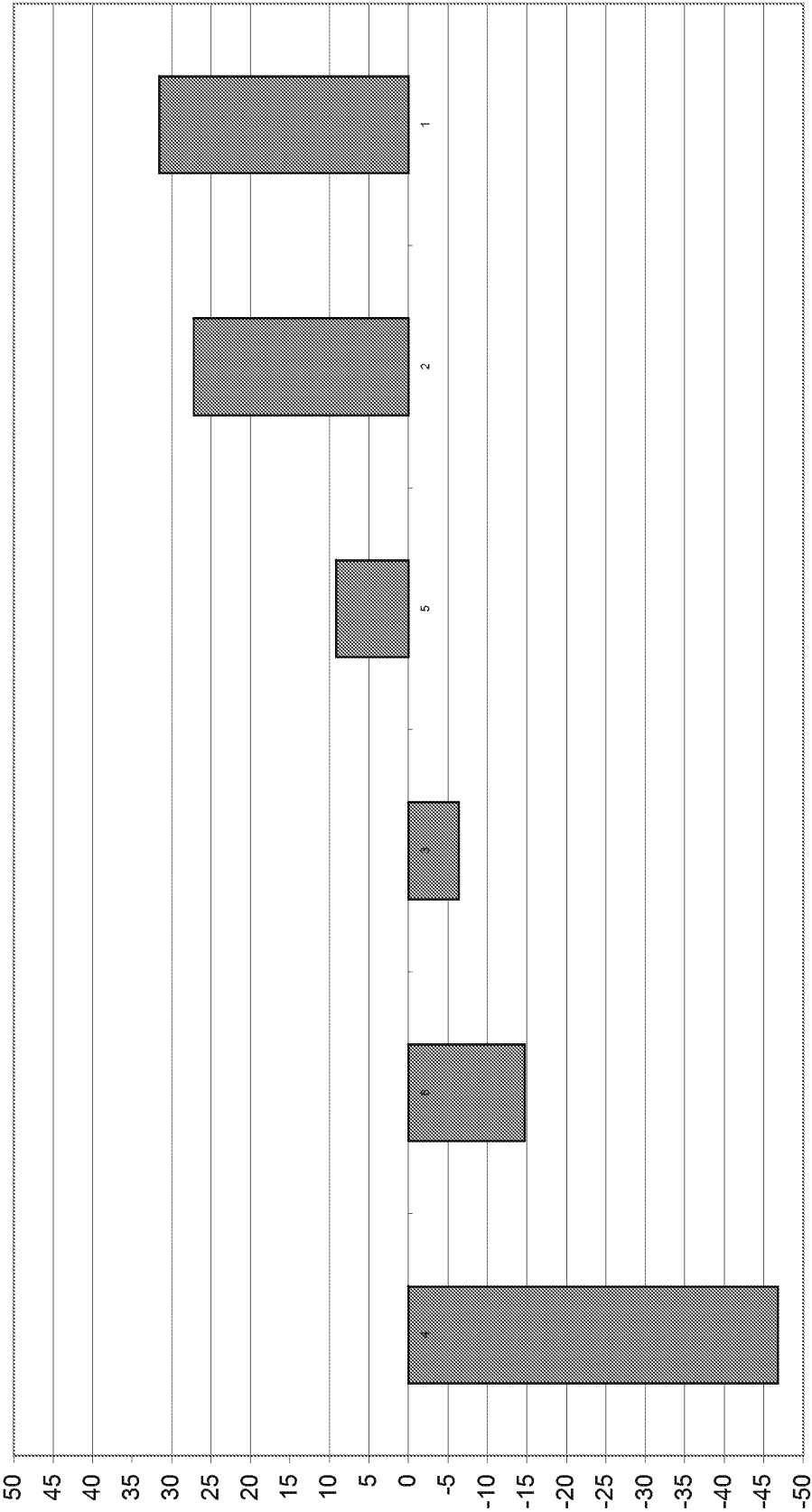
Citizen Voting Age Population (2000\*) Source: Beveridge declaration, Feb. 7, 2008, "Exhibit 2".

Summary of Plan, District Detail Follows										
[A]	[B]	[C]	[D]	[E]	[F]	[G]	[H]	[I]	[J]	[K]
Panel 1			Panel 2			Panel 3				
District Order			Ranked by App.Pop., Low to High			Deviation and Vote Weight				
District % of Cumulative Total			District % of Cumulative Total			Deviation and Vote Weight				
Dst. App.Pop.	Total App.Pop.	Pct.	Dst. App.Pop.	Total App.Pop.	Pct.	Dst. Pop.Base	Dev#	Dev%	Vote Weight	
Sum	13,980	100.0	13,980	100.00	0	13,980	0			
Number of districts:			Minimum Controlling Pop.			2,330	0	0.00		
Number for Control:			Abs. difference from 50.0% is			1,239	(1,091)	(46.82)	1.00	
						3,065	735	31.55	2.47	
						1,826	1,826		1.47	
						2,330	527	22.63	1.44	
						681	360	15.46	0.55	
Mayor Elected At-Large						2.47	0.67	0.67	2.47	

Apportionment Population and Vote Weight

Citizen Voting Age Population (2000\*)  
Village of Port Chester Trustees

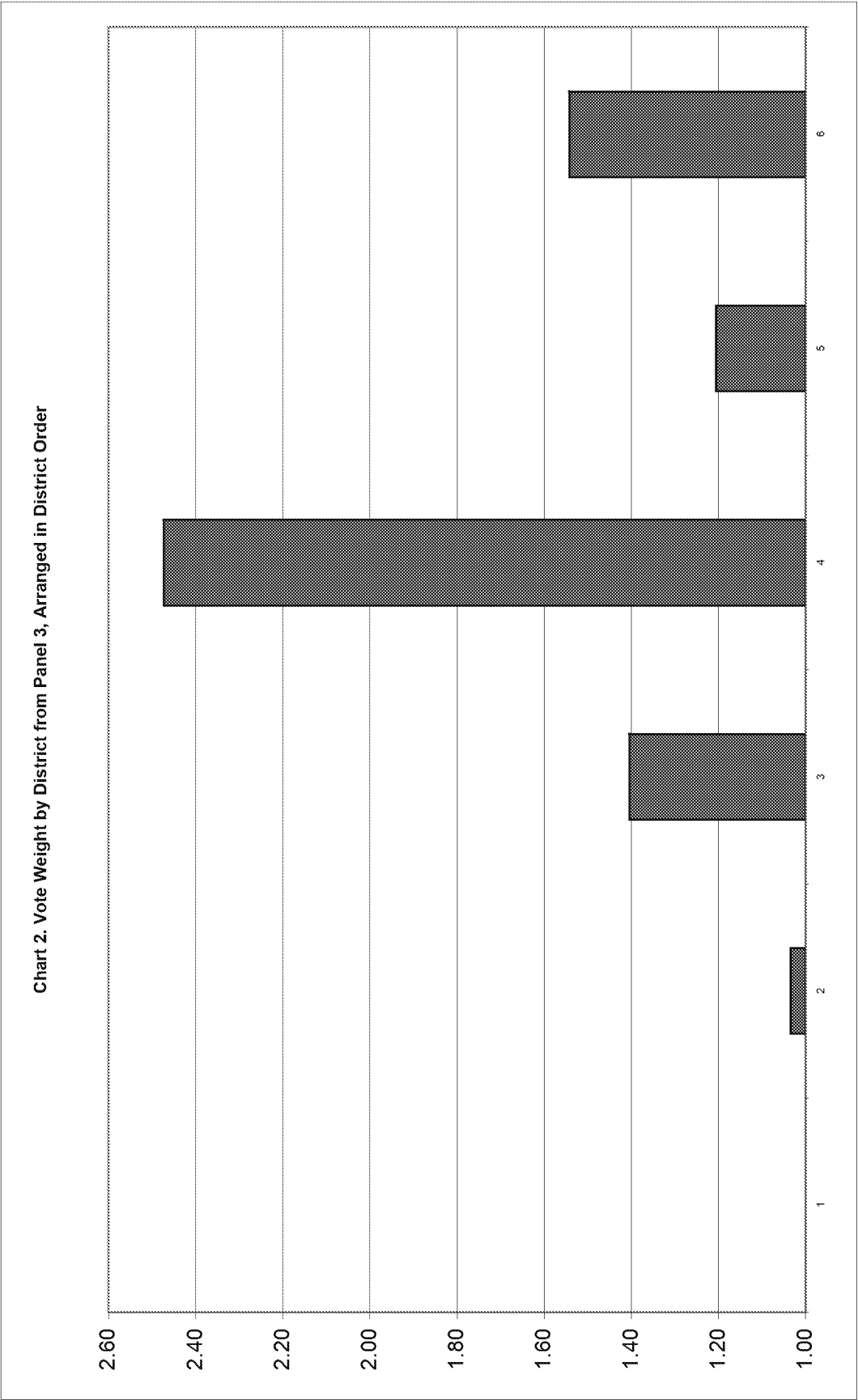
Chart 1. Relative Deviation in Apportionment Population by District, Arranged from Negative to Positive





Apportionment Population and Vote Weight

Citizen Voting Age Population (2000\*)  
Village of Port Chester Trustees



Apportionment Population and Vote Weight

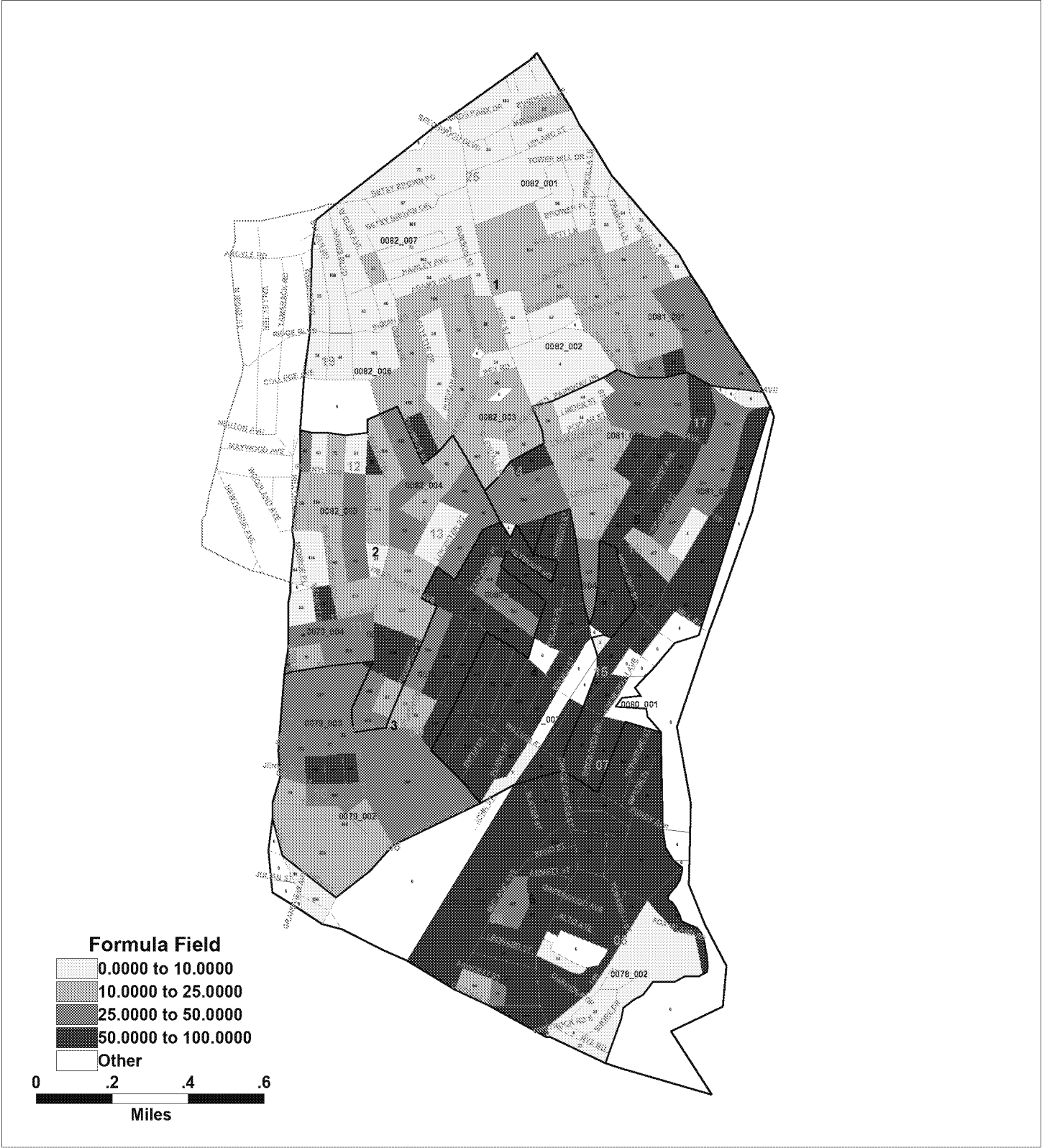
Citizen Voting Age Population (2000\*)  
Village of Port Chester Trustees

Notes:

- 1) Box below in Panel 2 indicates the Minimum Controlling Population: i.e., the smallest percentage that could elect a majority.
- 2) Districts highlighted below in Panel 3 are those with the smallest and largest vote weight.

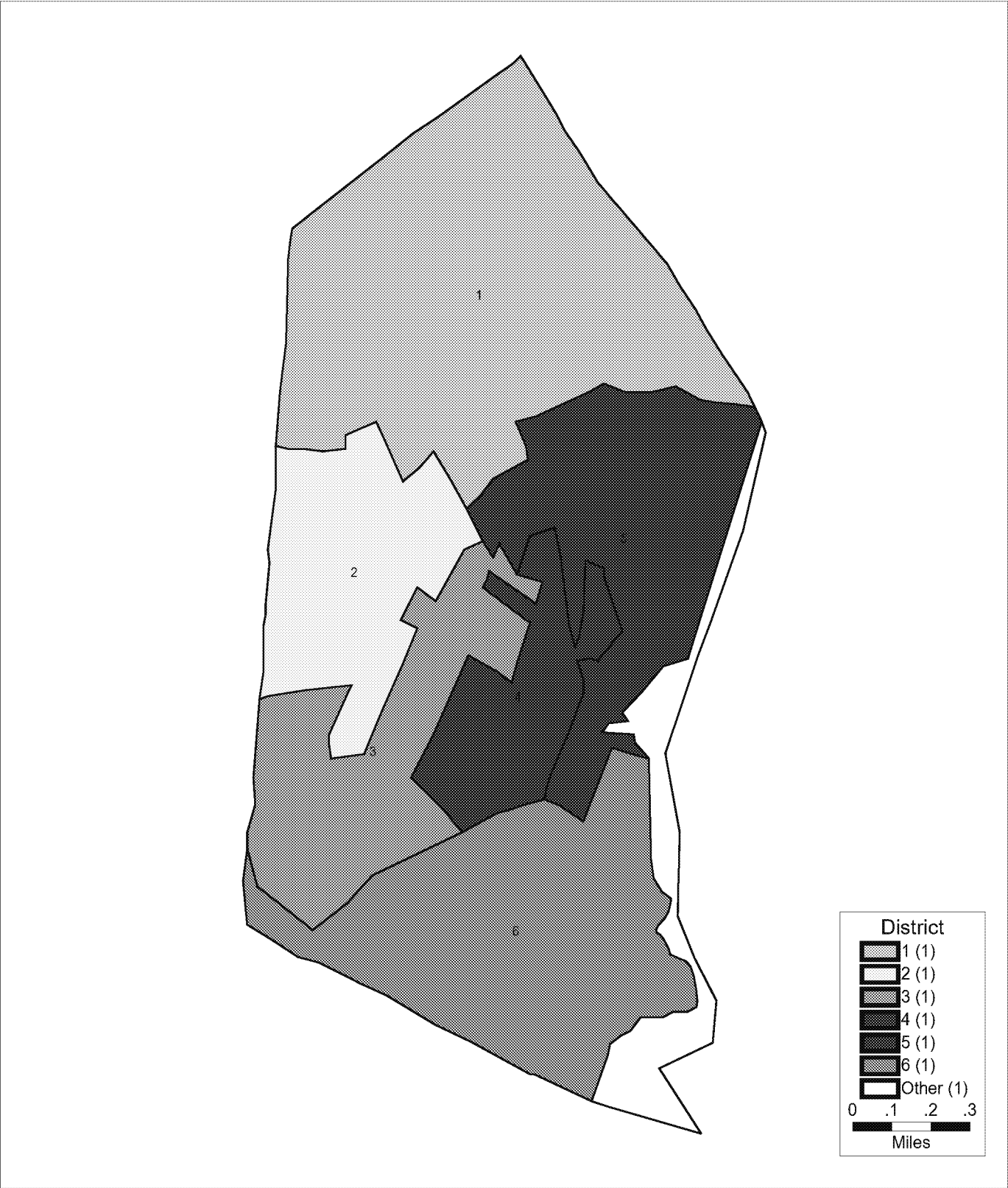
[A]	[B]	[C]	[D]	[E]	[F]	[G]	[H]	[I]	[J]	[K]	[L]	[M]	[N]	[O]
District Detail														
Panel 1					Panel 2					Panel 3				
District Order					Ranked by App.Pop., Low to High					Deviation and Vote Weight				
District	% of	Cumulative	Total	Pct.	District	% of	Cumulative	Total	Pct.	Dst. Pop.	Base	Dev#	Dev%	Vote Weight
1	3,065	21.92	3,065	21.92	4	1,239	8.86	1,239	8.86	1	3,065	735	31.55	1.00
2	2,964	21.20	6,029	43.13	6	1,987	14.21	3,226	23.08	2	2,964	634	27.21	1.03
3	2,182	15.61	8,211	58.73	3	2,182	15.61	5,408	38.68	3	2,182	(148)	(6.35)	1.40
4	1,239	8.86	9,450	67.60	5	2,543	18.19	7,951	56.87	4	1,239	(1,091)	(46.82)	2.47
5	2,543	18.19	11,993	85.79	2	2,964	21.20	10,915	78.08	5	2,543	213	9.14	1.21
6	1,987	14.21	13,980	100.00	1	3,065	21.92	13,980	100.00	6	1,987	(343)	(14.72)	1.54
District Detail														
Panel 1					Panel 2					Panel 3				
District Order					Ranked by App.Pop., Low to High					Deviation and Vote Weight				
District	% of	Cumulative	Total	Pct.	District	% of	Cumulative	Total	Pct.	Dst. Pop.	Base	Dev#	Dev%	Vote Weight

# Port Chester; Modified Plan A; HVAP% by Census Block



District	Population	Deviation	% Deviation	Hispanic Origin	% Hispanic Origin	18+_Pop	% 18+_Pop	H18+_Pop	% H18+_Pop
	0	-4,645	-100%	0	--	0	--	0	--
1	4671	26	0.56%	849	18.18%	3578	76.6%	600	16.77%
2	4592	-53	-1.14%	1281	27.9%	3739	81.42%	913	24.42%
3	4730	85	1.83%	2376	50.23%	3687	77.95%	1749	47.44%
4	4639	-6	-0.13%	3621	78.06%	3458	74.54%	2672	77.27%
5	4575	-70	-1.51%	2070	45.25%	3696	80.79%	1532	41.45%
6	4660	15	0.32%	2687	57.66%	3442	73.86%	1896	55.08%

# Port Chester; Modified Plan A



District	Population	Deviation	% Deviation
	0	-4,645	-100%
1	4671	26	0.56%
2	4592	-53	-1.14%
3	4730	85	1.83%
4	4639	-6	-0.13%
5	4575	-70	-1.51%
6	4660	15	0.32%



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## Clark H. Bensen

### *Biographical Summary*

An attorney by training and a data analyst by practice, Clark Bensen has been involved in projects related to the art of politics for over thirty years. He has been involved in redistricting and census issues throughout the past three redistricting cycles and has developed political and census datasets for every state in the nation. His company, a demographic and political research firm outside Washington, D.C., is also the publisher of the POLIDATA® DEMOGRAPHIC AND POLITICAL GUIDES.

Originally admitted to practice before the courts of Vermont, and now the Supreme Court of the United States, he has been part of the litigation teams for several appeals to the nation's highest court. This role has included work as a consultant to the legal teams as well as expert testimony in both state and federal courts. For both the 1990 and 2000 redistricting cycles this has involved a variety of specialized data analyses and has resulted in work in over 20 states.

As a data analyst familiar with both census and political data, he has developed countless political, demographic, and combined datasets for analysis. Development of election datasets for every level of geography has been a specialty since 1974. For several projects he has been responsible for the establishment of a nationwide database of demographic and political information. Development of block-level datasets with census information and estimated political data are the key elements for many analyses related to apportionment and voting rights litigation.

Other major projects include the compilation of the Presidential Results for Congressional Districts. In conjunction with National Journal, Congressional Quarterly, and the Cook Political Report, POLIDATA has had the lead on this project since the 1984 election. In addition, frequent Apportionment Analyses are generated when population estimates are released. He is also a member of the 2010 Census Advisory Board, appointed by the Secretary of Commerce.

In 1995 he established a publishing venture, POLIDATA® DEMOGRAPHIC AND POLITICAL GUIDES which produces *reference tools for demographic and political research*. Each state-oriented publication has its entire focus specifically on one state with a state focus but with local detail. A Demographic and an Election volume are available for each state. In addition, several publications are national in scope, including the DEMOGRAPHIC GUIDE TO THE U.S.: COUNTIES AND SELECTED AREAS. In addition, several volumes summarize historical legislative membership information and analyze roll call voting for members and selected legislative groups.

Clark Bensen has been actively involved in elective politics for the past three decades. His participation has included service at every level of local, state and national politics, moving to Washington following the 1980 elections. He focuses on database development, analysis, and publication while developing political and census datasets for political stakeholders, the press and academics as well as providing litigation support for politically-related legal actions.

## **Curriculum Vita**

### **CLARK HAMILTON BENSEN, B.A., J.D.**

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#### **PRESENT POSITION:**

POLIDATA ® POLITICAL DATA ANALYSIS: Consulting data analyst and attorney specializing in politically-related matters. POLIDATA ® DEMOGRAPHIC AND POLITICAL GUIDES AND ATLASES: publisher of reference tools for demographic and political research.

#### **EDUCATION:**

Graduate: VERMONT LAW SCHOOL, South Royalton, Vermont 05068 (September 1975-January 1978). Transferred as incoming second year student with full credits. Elective concentration: Environmental, Land Use, Administrative and Governmental Law, Antitrust and Civil Procedure. Legislative intern. A full leave of absence for service in the Vermont General Assembly resulted in a graduation in June 1978. Degree: Juris Doctor, February 1978. WESTERN NEW ENGLAND COLLEGE, SCHOOL OF LAW, Springfield, Massachusetts 01119. Academic rank after first year: 17/205 (August 1974-May 1975)

Undergraduate: UNIVERSITY OF VERMONT, COLLEGE OF ARTS AND SCIENCES, Burlington, Vermont 05405 (September 1970-May 1974). Political science major, economics and computer applications minor. Legislative intern. Degree: Bachelor of Arts, May 1974.

#### **LEGISLATIVE EXPERIENCE:**

State Representative. VERMONT HOUSE OF REPRESENTATIVES, Sessions of 1977-1978, elected 1976 from district Chittenden 5-1. Member House Committee on Natural Resources.

Clark Hamilton Bensen  
Curriculum Vita, Page 2

Legislative Intern. VERMONT HOUSE OF REPRESENTATIVES, Adjourned Session, 1976. Attached to Rep. Douglas I. Tudhope, House Committee on Appropriations.

Legislative Intern. VERMONT HOUSE OF REPRESENTATIVES, Adjourned Session, 1974. Attached to House Committee on Commerce, Paul R. Graves, Esq., Chairman.

## **LEGAL EXPERIENCE:**

Adjunct Counsel: part of the litigation team for several cases relating to redistricting and census issues either following the 2000 or the 1990 redistricting cycles or in preparation for the cycle to follow the 2010 census. (details *infra*.)

Adjunct Assistant Counsel, Office of the Chief Counsel, REPUBLICAN NATIONAL COMMITTEE, 1986 to 1989.

Staff Counsel, Committee on Contests/Committee on Credentials, REPUBLICAN NATIONAL CONVENTION, 1988, New Orleans, LA.

Admitted to the practice of law before the SUPREME COURT OF THE UNITED STATES, October 1985.

Admitted to the practice of law before the SUPREME COURT OF THE STATE OF VERMONT, October 1979. Inactive from 1997-2005.

Law Clerk, Cleveland, Unsworth, Bennett and Bailey, Ltd., Shelburne, Vermont 05482, 1978.

Law Clerk, State's Attorney, Addison County, Middlebury, Vermont 05753, 1976.

## **POLITICAL EXPERIENCE:**

REPUBLICAN STATE COMMITTEE. At-large member of the Executive Committee of the State Committee, 1979-81. At-large member of the State Committee from Chittenden County, 1977-81. Member of the Legislative Campaign Committee, 1978 and 1980.

CHITTENDEN COUNTY REPUBLICAN COMMITTEE. Member from South Burlington City, 1975-81. Member of the Executive Committee, 1979-81.

SOUTH BURLINGTON REPUBLICAN CITY COMMITTEE. Chairman, 1979-81. Member, 1972-date.

Clark Hamilton Bensen  
Curriculum Vita, Page 3

*GEORGE BUSH FOR PRESIDENT*, Executive Director of the Vermont Campaign for the March 4, 1980 Presidential Preference Primary.

Active in various campaigns for statewide office in various capacities: *SMITH FOR CONGRESS*(1988), *SMITH FOR GOVERNOR*(1986), *EASTON FOR GOVERNOR*(1984), *SMITH FOR LT.GOVERNOR*(1982), *SNELLING FOR GOVERNOR*(1978,1980), *EASTON FOR ATTORNEY GENERAL*(1980), *DOUGLAS FOR SECRETARY OF STATE*(1980), *PETER SMITH FOR LT. GOVERNOR*(1978), *TUDHOPE FOR LT. GOVERNOR*(1976), *HACKETT FOR GOVERNOR*(1972), *DAVIS FOR GOVERNOR*(1968,1970). Most direct interaction with campaigns since 1988 has been as a consultant on smaller projects or as an unofficial advisor on an infrequent basis, including some in Vermont, *DOUGLAS FOR SENATE* (1992); *JEFFORDS FOR SENATE* (1994), *SWEETSER FOR CONGRESS* (1996).

Twice Republican Nominee for the VERMONT HOUSE OF REPRESENTATIVES, Chittenden District 5-1, 1976 and 1978.

Member, VERMONT HOUSE OF REPRESENTATIVES, Chittenden 5-1, 1977-78.

### **PROFESSIONAL EXPERIENCE:**

POLIDATA ® POLITICAL DATA ANALYSIS, Consulting Data Analyst and Attorney, since 1989, and POLIDATA ® DEMOGRAPHIC AND POLITICAL GUIDES AND ATLASES, since 1995. POLIDATA is one company with two divisions. I divide my time between the two operations on a varying basis.

POLIDATA: POLITICAL DATA ANALYSIS: (1989 to date).

- o Redistricting Support: A considerable effort was made on behalf of redistricting stakeholders in their preparation and participation in the redistricting cycle following the 2000 Census. (See detail *infra*.)

- o Redistricting Litigation Support, Precinct Development Project: A major client from October 1989 through 1991 was the Metromail Corporation, which had a contract to develop a nationwide precinct level election database. This project included all partisan general elections from 1984 to 1990 for the nearly 200,000 reporting units (e.g., precincts) in the 50 states and the District of Columbia. My assignment here was to design the structure of the databases and give final approval of each dataset so that the final product is a good foundation from which any litigant in the 1990 redistricting process would be able to create an integrated



Clark Hamilton Bensen  
Curriculum Vita, Page 4

database and be able to use it in litigation without much additional development work.

- o Census Adjustment Review: During the 1990 census process, several clients retained me to review the various political aspects of any adjustment to the 1990 federal census. These analyses have focused on the pragmatic political aspects of the process. The results of these analyses have been used by clients and other interested parties as material for testimony before Congress and state legislative bodies as well as for press distribution.

- o Election Data Analysis: Several projects have been undertaken over the years to compile the results of the Presidential Elections by Congressional Districts. Either at the RNC or independently, POLIDATA has taken the lead on this project since the 1984 elections, several times with CONGRESSIONAL QUARTERLY and/or NATIONAL JOURNAL. This project involves coordination with hundreds of local election officials and takes six months to complete due to the complex and multi-jurisdictional nature of many Congressional Districts. Clients, and/or publications using these, and related results include: POLITICS IN AMERICA and/or THE ALMANAC OF AMERICAN POLITICS, in CONGRESSIONAL DISTRICTS IN THE 1990s, and 2000s, the COOK POLITICAL REPORT, separate analytical volumes by POLIDATA and several national media organizations.

- o Redistricting Consulting: Several clients have retained Polidata for the provision of generalized consulting with respect to the legal, data, and technical aspects of the redistricting cycle, including census issues.

- o Campaign Finance Analysis: Several projects have revolved around campaign finance data, federal and state, including normal in-cycle review of spending patterns to comprehensive "data-mining" of the extensive campaign disclosure database maintained by the Federal Election Commission.

- o Campaign Finance Litigation: worked with the legal team to prepare data analysis in the *Landell v. Sorrell* (D. VT, 1999) case challenging certain aspects of the Vermont campaign finance law; testified as an expert witness on the results of this analysis. This case was appealed to the U.S. Supreme Court; argument was heard February 28, 2005. The opinion by Justice Breyer made specific mention of the expert report and testimony offered at the trial as being probative.

Clark Hamilton Bensen  
Curriculum Vita, Page 5

- o Demographic and Political Research: Several projects involve the analysis of these data for a variety of purposes, including campaign targeting and overlay of information to voter lists for campaign use in direct mail or other voter contact.

POLIDATA: DEMOGRAPHIC AND POLITICAL GUIDES AND ATLASES: (1995 to date). This is a project to compile information relating to the art of politics and assemble it in a format that meets the needs of demographic and political researchers. The market is primarily the public, academic or research library or participants in state and national politics, both practitioners and media. Volumes are produced for both the state and national market in several standing series. (detail *infra*.)

COMPUTER SERVICES DIVISION, REPUBLICAN NATIONAL COMMITTEE: (1993 to 1995). I returned to the RNC for the 1994 election cycle. My position was as the Director of this Division, a senior staff position. My staff numbered between 15 and 20 persons. The responsibilities of the Division included: operation of a in-house computer network for approximately 250 workstations and an off-site network with all 50 states; development of software for the entire RNC staff; development and processing of voter lists for all 50 states; development of precinct-level election datasets for all 50 states; maintenance of all in-house lists aside from donors; substantial direct assistance to the Political/Campaign Operations Division; coordination of special projects for every Division of the RNC.

POLITICAL ANALYSIS, REPUBLICAN NATIONAL COMMITTEE: (1981 to 1989). As the first director of this department, started in 1983, the role here was to undertake the collection, compilation, systematization and analysis of politically related data. With a combination of technical, analytical and legal skills, this project resulted in a complex data system which allowed the organized study of political, demographic and economic data.

- o Publications and analysis: The primary result of the data system was the biennial publications, *The Republican Almanac*, three editions of which were my responsibility, and the *Election Summary*. The *Almanac* profiles each state from a political/election perspective and the *Election Summary* reviews election results for all states from a national perspective. Other reports which were produced involve these political data and were produced for a clientele ranging from the Republican state committees to a more limited group of political activists in the Washington area, notably White House sections, presidential campaigns and the major Republican national committees.

- o Legal activities: As the analysis of data plays a role in several legal activities of participants in national politics, litigation support analyses have been performed

Clark Hamilton Bensen  
Curriculum Vita, Page 6

on the following: Congressional reapportionment and legislative redistricting (see infra.), matters relating to the rules of the party and the convention, assistance to the Contests and Credentials Committee for the 1988 Convention, and several ad hoc special analyses relating to miscellaneous proposals before the national committee.

- o Public Speaking: Though not as often as with my earlier activities as a politician, opportunities were provided to speak before several groups. These talks included instruction in targeting and computer application in political environments, the role of the RNC and the parties in politics in America, and technical/legal discussions relating to reapportionment and redistricting. This also included being a surrogate for BUSH/QUAYLE '88 in a debate.

- o Management: Throughout these eight years at the Republican National Committee, project and personnel management were part of my positional responsibilities, ranging from the normal departmental staff of about ten to overseeing ad hoc projects involving several dozen personnel, to a role as Deputy Director for the Computer Services Division. These positions resulted in senior staff status starting in 1986.

REAPPORTIONMENT, REDISTRICTING AND RELATED PROJECTS: (1980 to date).

- o VERMONT, LEGISLATIVE APPORTIONMENT BOARD: Served as consultant to the Board during 1981. This assignment resulted in the preparation and analysis of numerous potential redistricting plans and proposals for both the Vermont Senate and the Vermont House of Representatives, preparing them for submission to each legislative body.

- o VERMONT, HOUSE OF REPRESENTATIVES: Due to the structure of the reapportionment/redistricting process in Vermont, I was able to also serve the Government Operations Committee as consultant to prepare and review several proposals for the House.

- o National, Data Analysis: Since 1981, involvement in redistricting has revolved around the perspective of the REPUBLICAN NATIONAL COMMITTEE. This included frequent analysis of the 1990 reapportionment of the U.S. House through the use of population estimates and the monitoring and analysis of congressional proposals to adjust the 1990 Census after the fact.

Clark Hamilton Bensen  
Curriculum Vita, Page 7

o National, Litigation Support: Activities in this regard relate to litigation support for redistricting cases which were on appeal to the U.S. Supreme Court or federal appellate courts. The principal cases here were the landmark case of *DAVIS v. BANDEMER*, a 1986 Supreme Court case which decided that the question of political gerrymandering was justiciable, and *BADHAM v. EU*, a case which was on appeal to the Supreme Court, relating to Congressional gerrymandering in California. Involvement in this case resulted in the status of an assistant counsel on matters submitted to the U.S. Supreme Court.

o National, Legal Preparation: Activity in this area also includes assistance in the preparation of a redistricting legal manual.

o Redistricting Clients: during the 1990 redistricting cycle I worked with several entities involved in the process, mostly Republican or non-partisan groups, nationally and in the following states: Wyoming, Illinois, Ohio, New York, and Florida. Cases in which I participated included at least the following: Wyoming: *Gorin v. Karpan*, 788 F. Supp 1199 (D. Wyo. 1992); Illinois: *Legislative Redistricting Commission v. LaPaille*, 786 F. Supp. 704 (N.D. Ill. 1992), 792 F. Supp. 1110 (N.D. Ill. 1992), aff'd 506 U.S. 948 (1992); Ohio: *Quilter v. Voinovich*, this case had many different paths, including several trips to the Supreme Court, see. 503 U.S. 979 (1993), 507 U.S. 146 (1993) and 116 S.Ct. 2542 (1996); New York: *FAIR v. Weprin*, 796 F. Supp. 662 (N.D., NY 1992), aff'd 506 U.S. 1017 (1992); Florida: *Johnson v. DeGrandy*, 114 S.Ct. 2647 (1994). Project assignments included several different levels of production, from strict database development, preparation of material for expert witnesses, witness testimony as to database development, working with the litigation team, being a part of the litigation team. I co-authored a brief to the U.S. Supreme Court in the *FAIR v. Weprin* case.

o Census Litigation: in preparation for the current 2001-2002 redistricting cycle following the 2000 census, I have worked on several fronts, including work on the consolidated cases of *Glavin v. Clinton* and *Department of Commerce v. U.S. House of Representatives* (January 26, 1999), as well as work for the HOUSE SUBCOMMITTEE ON THE CENSUS and the CENSUS MONITORING BOARD, CONGRESSIONAL MEMBERS. Project assignments included several different levels of production, from strict database development, preparation of material for expert witnesses, witness testimony as to database development, working with the litigation team, being a part of the litigation team; co-authored a brief to the U.S. Supreme Court in the *U.S. Department of Commerce v. U.S. House of Representatives* case.

Clark Hamilton Bensen  
Curriculum Vita, Page 8

o Redistricting Litigation, (2000 census cycle cases in which reports or testimony were prepared or offered for submission): VIRGINIA LEGISLATIVE, (*West v. Gilmore*, August 2001): prepared for testimony relating to the data aspect of the partisan gerrymandering claim; the claim was dropped during the trial and testimony was not offered. TEXAS CONGRESSIONAL, (*Balderas vs. Texas*, October 2001): testified as an expert witness as to partisan fairness in the federal court action. TEXAS LEGISLATIVE, (November 2001): a similar fairness report was submitted for the proposed legislative lines but was rejected for timeliness. NEW MEXICO CONGRESSIONAL, (*Jepsen vs. Vigil*, December 2001): testified as an expert witness as to a Least Changes plan in the state court action; this was the congressional plan adopted by the Court. MARYLAND LEGISLATIVE, (*In the Matter of Legislative Redistricting*, May 2002): testified on behalf of Michael Steele, Chairman of Maryland Republican Party at the Special Master hearing; a new plan was ordered by the state Court of Appeals. OKLAHOMA CONGRESSIONAL, (*Alexander v. Taylor*, May 2002): testified as an expert witness as to partisan fairness in the state court action; the fairness analysis was cited by the Court. OHIO LEGISLATIVE, (*In re Legislative Apportionment Board*, October 2002): testified as an expert witness as to the suitability of data for racial bloc voting analysis. GEORGIA LEGISLATIVE AND CONGRESSIONAL, (*Georgia v. Ashcroft*, 2002, and *Larios v. Cox*, 2004): testified as expert witness as to population deviation in *Larios*. [Case styles may be working titles only.]

o Election Contests: actively worked with several election contest teams since 1980, including the 1980 Vermont U.S. Senate Recount, 1981 New Jersey Gubernatorial Recount, the 1982 Illinois Gubernatorial Recount, and the 2004 Washington Gubernatorial Recount.

o Election-related litigation: worked as a consultant to the litigation team in the Indiana voter identification (*Indiana Democratic Party v. Rokita*, S.D., Ind., 2006) and submitted an expert report.

o Redistricting Consulting (2000 census cycle): Redistricting projects for this cycle include several types of entities in at least the following states: Vermont, New Hampshire, Connecticut, New York, Pennsylvania, Ohio, Illinois, Wisconsin, Maryland, Virginia, South Carolina, Georgia, Florida, Tennessee, Oklahoma, Texas, New Mexico, Colorado, Nevada and California.

o Census Issues: Commented on several topics relating to the federal census and reapportionment and redistricting at numerous meetings over the past two decades, including panels at the National Conference of State Legislatures (NCSL)

Clark Hamilton Bensen  
Curriculum Vita, Page 9

testimony before Congressional panels and comments as a speaker at other conferences. Worked as a consultant to the U.S. Census Monitoring Board, Congressional Members, periodically from 1995-2000.

- o Census Decennial Advisory Committee: Named to this federal panel by the Secretary of Commerce, August 2005. This panel of 20 organizations advises the Secretary and the Census Director on issues relating to the decennial census, including how the census affects the apportionment process and the districting phase thereof.

- o Election Assistance Commission: Part of a team that worked with the U.S. Election Assistance Commission to summarize the results of a nationwide survey of election-related information with respect to the 2006 General Elections. Status was as a subcontractor and the role was largely relating to the data conversion and/or preparation and formatting for reports. A follow-up contract was also involved for the preparation for the 2008 survey instrument.

CONGRESSIONAL COMMITTEES PROJECT: (1977-1989). Serving as Technical Consultant for the compilation of a database including, for every member, for every Congress since 1789, every assignment to Standing, Select and Special committees. This project continues under the direction of Professor Garrison Nelson, Ph.D., at the University of Vermont at Burlington. The end result is a multiple volume reference work published by Congressional Quarterly of Washington, DC. This project was the recipient of a grant from the National Science Foundation for the period of 1980 and 1981.

VERMONT POLIDATA: (1974 to 1989). This is an independent venture that had been a part-time activity for the past several years and is now a part of my full-time activity. This entails various projects which revolve around the political scene in Vermont and the political data relating thereto. For example, the study of legislative voting behavior results in annual summaries of voting record analyses for the participants, the aspirants, and the observers of the political scene. These studies range from the individual to the collective perspective, from a mere recitation of the member's record to a comparative analysis on a range of issues or a rating of the member's record from the viewpoint of the Chief Executive, or an interest group. The name was changed to Polidata during the 1990 redistricting cycle as more work was focused on states other than Vermont.

Other research studies include election analysis, historical trends in the state and the establishment of large data systems. For example, the establishment of a complete system

Clark Hamilton Bensen  
Curriculum Vita, Page 10

for the efficient implementation of the election process for the office of the Secretary of State in Vermont (the Uniform System of Election Recording, or USER). Also, the creation of a reapportionment analysis system for the Vermont General Assembly.

VERMONT ELECTIONS PROJECT: (1972-1989). This project also involved large data systems and revolved around the computerization of town-level election data for the state of Vermont for the period from 1828 to date. Contemporary data have been published in the form of *Primary and General Elections, Vermont, (for 1978, 1980 and 1982)*, published with the cooperation of the Secretary of State. Assignment here was Analyst and Editor.

## **PUBLICATIONS:**

POLIDATA ® DEMOGRAPHIC AND POLITICAL GUIDES:

POLIDATA publishes volumes for both national and state markets. A few state series have covered volumes for every state, a few have only seen volumes for a handful of states completed to date. Series and titles published include:

### National Publications:

#### Election Reports:

PRESIDENTIAL RESULTS BY CONGRESSIONAL DISTRICT, 1992: 2 volumes; 1996: 1 volume; 2000: 1 volume; 2004: 1 volume

PRESIDENTIAL ELECTION, 1996: 3 volumes

PRESIDENTIAL ELECTION, 2000: 2 volumes

PRESIDENTIAL ELECTION, 2004: 2 volumes

CONGRESSIONAL VOTE, DISTRICTS BY COUNTY: 1992; 1996; 1 volume each

#### Demographic Reports:

DEMOGRAPHIC GUIDE TO THE U.S, STATES & COUNTIES, 2000 Census

DEMOGRAPHIC GUIDE TO THE U.S., DISTRICTS OF THE 108TH CONGRESS; updated for the 109<sup>th</sup> and the 110<sup>th</sup> Congresses

POPULATION ESTIMATES, STATES AND COUNTIES: annually from 1995 to 2006

DEMOGRAPHIC BASE MAPS, COUNTY-BASED REGIONS

#### Political Reports:

APPORTIONMENT IN 2000, NATIONAL SUMMARY: annually from 1998 to 2000

APPORTIONMENT IN 2010, NATIONAL SUMMARY: annually from 2003

### State Publications:

DEMOGRAPHIC ATLASES: 25 states for the 1990 census

Clark Hamilton Bensen  
Curriculum Vita, Page 11

DEMOGRAPHIC GUIDES: 25 states for the 1990 census; 50 for the 2000 census

DEMOGRAPHIC AND POLITICAL GUIDES: 3 states for the 1990 census

DEMOGRAPHIC ABSTRACTS: customized for a county for the 1990 census

POLITICAL GUIDES: 1 state

POLITICAL ATLASES: 1 state

ELECTION YEARBOOKS: 5 states through 1998

ELECTION HISTORIES: 48 states through 2003-2004

POLITICAL HANDBOOKS: 50 states for the 2000 census

POLIDATA ® POLITICAL DATA ANALYSIS:

During the period from 1989 to date, most papers have been prepared directly for clients. However, some material has been published via Press Releases or as part of Remarks, Testimony. A few examples of material publicly available are listed below. Many are available at the website [www.polidata.org](http://www.polidata.org). A few are annual releases, notably relating to apportionment projections; see the News page for more information: [www.polidata.org/news.htm](http://www.polidata.org/news.htm).

February 1, 2006: *Jackson v. Perry et al., Amicus Brief in consolidated cases 05-204, 05-254, 05-276 and 05-439*. Submitted by Alan Heslop, Ph.D., et al. Coauthored brief for the U.S. Supreme Court in this case.

December 6, 2005: *The Impact of Citizen Apportionment*. Written testimony to accompany appearance as a witness before the U.S. House Committee on Government Reform. This was an exploratory hearing reviewing potential impacts of such a measure.

March 25, 2005: *Presidential Results by Congressional Districts, 2004. Preliminary Summary*. Published by Polidata. These results also published in the *Cook Political Report*, a national political newsletter and the *Almanac of American Politics*, published by National Journal.

December 10, 2004: *"Substantial Political Consequences, A Practitioner's Perspective on Redistricting"*. An article published in *Extensions*, by the Carl Albert Center at the University of Oklahoma.

September 4, 2004: *The Constitution, The Census & Overseas Americans*. Written testimony prepared for the U.S. House Committee on Government Reform.

March 4, 2004: *Apportionment and Fair Representation, When Equal Population Isn't Fair or Equal*. Written comments prepared for the Bureau of the Census Symposium, America's



Clark Hamilton Bensen  
Curriculum Vita, Page 12

Scorecard, The Historic Role of the Census in an Ever-Changing Nation, held March 4-5 in Washington, DC.

March 17, 2001: *Presidential Results by Congressional Districts, 2000. Preliminary Summary*. Published by Polidata. These results also published in the *Cook Political Report*, a national political newsletter.

March 4, 2001: *Electoral Votes by Congressional District, 1952-2000*. Paper made available on the internet for political observers.

December 28, 2000: *Apportionment Review, 2000*. Paper made available on the internet for political observers.

April 28, 2000: Selected papers presented to the Redistricting Conference of the Republican National Committee, held in Washington, DC.

January 5, 2000: *Shifts in Congressional Seats: Reapportionment and the 2000 Census*. Television show aired on C-SPAN, one of two guests discussing the Apportionment of Seats in the U.S. House following the 2000 Census.

December 29, 1999: *New Population Estimates Confirm Power Shift in U.S. House; Colorado picks up a seat; Illinois drops a seat; Georgia picks up two seats*. Press Release on Apportionment of the U.S. House following the 2000 Census, with 1999 Estimates and Projections for 2000 by POLIDATA.

October 15, 1999: *An Update on the Census Case; Commerce General Counsel Responds to Congress*. Press Release on the Census Case, an update on the letter from the General Counsel of the Department of Commerce.

October 1, 1999: *An Update on the Census Case; Census Monitoring Board Congressional Members Release Report*. Press Release on the new report analyzing statistical problems with the Bureau's methodology.

January 28, 1999: *Redistricting is An Apportionment Purpose: The Census Case*. Press Release on the impact of the Census Case.

January 26, 1999: *Congressional Reapportionment: Winners and Losers in 2000; New Set of Population Projections Adds Colorado as a Winner*. Press Release on the Apportionment of

Clark Hamilton Bensen  
Curriculum Vita, Page 13

the the U.S. House following the 2000 Census, with 1998 Estimates and Projections for 2000 by POLIDATA. [Updated following the Census Case on January 25, 1999.]

January 21, 1999: *Congressional Reapportionment: Winners and Losers in 2000; New Set of Population Projections Adds Colorado as a Winner*. Press Release on the Apportionment of the the U.S. House following the 2000 Census, with 1998 Estimates and Projections for 2000 by POLIDATA.

December 31, 1998: *Congressional Reapportionment: Winners and Losers in 2000; Population Estimates for July 1998 Detail Seats Shifts; Adjustment Still an Issue*. Press Release on the Apportionment of the the U.S. House following the 2000 Census, with 1998 Estimates.

November 3, 1998: *Brief of Amicus Curiae in Support of Appellees, U.S. Department of Commerce v. U.S. House of Representatives*, U.S. Sup. Ct., No. 98-404. co-authored with Mark Braden and Suvarna Rajguru.

February 8, 1998: *Congressional Reapportionment: Winners and Losers in 2000; Latest Population Estimates Detail Seats Shifts; Adjustment Still an Issue*. Press Release on the Apportionment of the the U.S. House following the 2000 Census, with 1997 Estimates.

January 1998: *Vote Goals, Projections of Registration and Turnout for 1998: with selected examples*. Political Analysis Notes, 98-1, Polidata, Lake Ridge, VA. An occasional newsletter.

October 1997: *Vote Goals, How Many Votes Do You Need to Win? Steps in Projecting Your Votes for Your District*. Political Analysis Notes, 97-3, Polidata, Lake Ridge, VA. An occasional newsletter.

September 16, 1997: *Comments on Race and Hispanic Origin Questions for the Census 2000 Dress Rehearsal*. Comments submitted to the Department of Commerce for the record.

September 12, 1997: *Remarks; 2000 Census Advisory Committee*. Washington, DC. Remarks on census adjustment through sampling and estimation submitted for the record.

September 1997: *Basics of the Census: Adjustment, Apportionment and Redistricting; Why do we even bother to count every person in America?* Political Analysis Notes 97-2, Polidata, Lake Ridge, VA. An occasional newsletter.

Clark Hamilton Bensen  
Curriculum Vita, Page 14

September 1997: *Was 1996 a Reprise of 1992? New Study Summarizes Results for States, Counties, Districts and Media Market*. Political Analysis Notes 97-1, Polidata, Lake Ridge, VA. An occasional newsletter.

August 7, 1997: *Remarks; Reapportionment Task Force, National Conference of State Legislatures*. Philadelphia, PA. Remarks on census adjustment through sampling and estimation submitted for the record.

September 26, 1997: *Remarks; 2000 Census Advisory Committee*. Washington, DC. Remarks on census adjustment through sampling and estimation submitted for the record.

September 5, 1996: *Confidence in Population Estimates from Sampling and Estimation Based upon the 1995 Test Census: A Preliminary Assessment*. Polidata, Lake Ridge, VA. An analysis of data from the 1995 Test Census and statistical error at various levels of census geography.

July 28, 1996: *Remarks; Reapportionment Task Force, National Conference of State Legislatures*. St. Louis, MO. Remarks on census adjustment through sampling and estimation submitted for the record.

??? 1994, Testimony before the Government Operations Committee, U.S. Senate, Washington, DC. Testimony on census adjustment and the Constitution.

October 5, 1992: *Jurisdictional Statement in Fund for Accurate and Informed Representation, Inc. (FAIR) v. Weprin*, U.S. Sup. Ct., No. 92-\_\_\_\_. co-authored with Mark Braden.

POLITICS IN AMERICA, various volumes, Congressional Quarterly, Washington, DC. POLIDATA was the compiler of the Presidential Election Results by Congressional Districts (District Vote) which appear in selected editions of this biennial volume.

COMMITTEES IN THE U.S. CONGRESS, 1947-1992, VOLUMES 1 AND 2, with Garrison Nelson (as Technical Advisor), Congressional Quarterly, 1993 and 1994, Washington, DC.

#### PRE-1990 PUBLICATIONS:

"The 1986 Election in Vermont", with Frank M. Bryan, *Vermont History*, Fall 1988, Montpelier, Vt.

Clark Hamilton Bensen  
Curriculum Vita, Page 15

"Congressional Seat Shifts in the 1990 Reapportionment" and "How Congressional Seats are Assigned to States", REDISTRICTING LINES Newsletter, Volume 2, Number 1, Spring 1988, REPUBLICAN NATIONAL COMMITTEE, Washington, DC.

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Clark Hamilton Bensen  
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Montpelier, Vt.

**PROFESSIONAL AFFILIATIONS:**  
Vermont Bar Association.

Clark Hamilton Bensen  
Curriculum Vita, Page 17

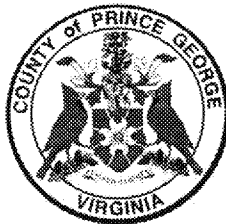
**PERSONAL:**

Born 1952; married; two children.

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## COUNTY OF PRINCE GEORGE, VIRGINIA

Percy C. Ashcraft  
County Administrator  
Phone: (804) 722-8600  
Facsimile: (804) 732-3604



### BOARD OF SUPERVISORS

Alan R. Carmichael  
Donald Hunter  
William A. Robertson, Jr.  
Jerry J. Skalsky  
T. J. Webb

July 25, 2016

Ms. Karen Humes  
Chief Population Division  
U.S. Census Bureau  
Room 6H174  
Washington, DC 20233  
BY U.S. MAIL AND E-MAIL TO POP.2020.Residence.Rule@census.gov

RE: Support for Inmate in Prison and Jails  
Proposed 2020 Census Residence Rule  
"Comment Submission"

Dear Ms. Humes:

Enclosed please find a resolution unanimously adopted by the Board of Supervisors of Prince George County, Virginia supporting the Census Bureau's proposed 2020 Census Residence Rule 15 that counts incarcerated people as residents of the correctional facility where they have been assigned (Attachment A).

Prince George County is located just south of the James River approximately 30 miles southeast of the City of Richmond metropolitan area. The County is a political subdivision of the Commonwealth of Virginia with no incorporated cities or towns within Prince George. Prince George provides a full-range of municipal services to its residents. Our population as of 2015 was estimated at 37,862 persons (Attachment B).

There are two correctional facilities located entirely within Prince George County: the Federal Correctional Institution, Petersburg, which houses approximately 2,827 low- and medium-security convicted felons; and the Riverside Regional Jail, which houses approximately 1,552 persons, that includes misdemeanants from Prince George County and six other nearby localities as well as state inmates awaiting transit to state prisons. Many of the inmates at the federal facility have been sentenced to relatively long periods of incarceration. Counting these prisoners as part of Prince George County is logical, because the County is responsible for providing or assisting emergency response services for both facilities and has certain law enforcement responsibilities at the jail performed by our police department and Sheriff's office. Moreover, family visitors to either facility travel on local roads and use local commercial

P. O. Box 68, Prince George, Virginia 23875-0068 Phone (804) 722-8600/Fax (804) 732-3604  
<http://www.princegeorgecountyva.gov>

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Ms. Karen Humes

July 25, 2016

Page Two

services such as hotels and restaurants. Any other approach to counting inmates is likely to result in a national undercount because of the difficulty in tracking inmates in transit.

For these reasons, the Prince George County Board of Supervisors has voiced its unanimous support for the proposed "2020 Census Residence Rule and Residence Situations" Rules 15(a) and 15(b) for counting prisoners in both prisons and jails at the facilities in which they are incarcerated. By this letter, the County endorses these proposed Census rules and encourages the U.S. Census Bureau to adopt them as written.

Thank you for your consideration of the County's position in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "William A. Robertson". The signature is fluid and cursive, with a long horizontal stroke at the end.

William A. Robertson, Chairman  
Prince George County Board of Supervisors

WAR:cc

Enclosures

C: Board of Supervisors  
Mr. Percy C. Ashcraft



Attachment A

WHEREAS, children who are kindergarten ready are more likely to make the most of their educational experience; and

WHEREAS, a successful kindergarten experience is the start to a successful completion of high school and preparation for a successful career.

NOW, THEREFORE, BE IT RESOLVED, that the County Board of Supervisors of Prince George recognizes the importance of early childhood education to children’s future success in school and in life; and

THEREFORE, BE IT FURTHER RESOLVED, that the County Board of Prince George commends the teachers, volunteers, parents, community leaders and students involved in early childhood education for their contributions.

R-16-060B

C-4.

RESOLUTION; APPROPRIATION (\$443,996 MACHINERY AND TOOLS TAX REBATE)

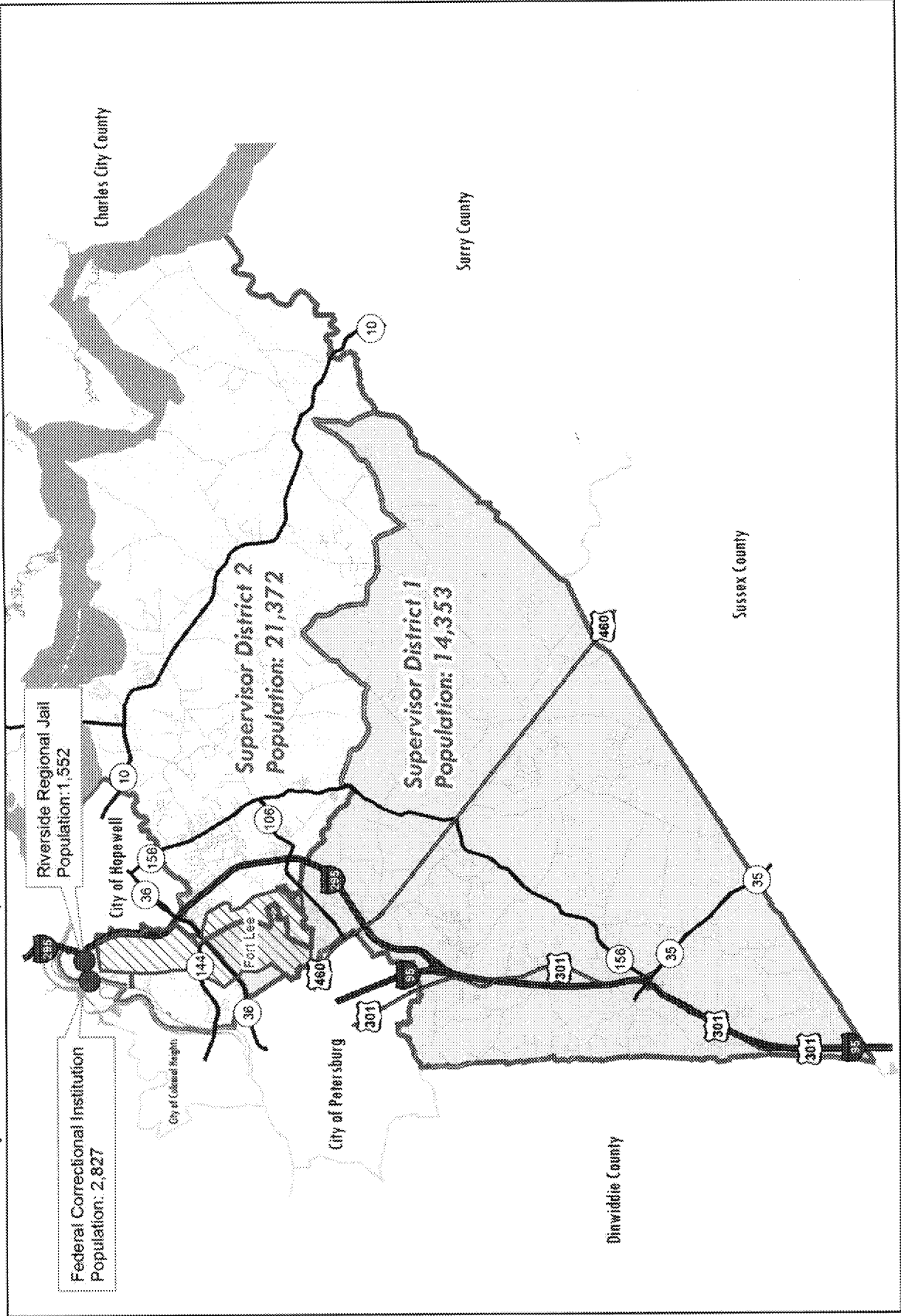
BE IT RESOLVED That the Board of Supervisors of the County of Prince George this 12<sup>th</sup> day of July, 2016, does hereby authorize the following increase of funds within the 2015-2016 Budget, such line items increased as follows, which monies to be expended in accordance with Section 2-2 (11) of the County Code for purposes authorized and approved by the Board of Supervisors of the County of Prince George:

<u>FUND/ORGANIZATION</u>		<u>AMOUNT</u>
<u>Expenditure:</u>		
0215-08-301-2151-45660	Economic Dev. Machinery & Tools Tax Rebate	\$443,996
<u>Revenue:</u>		
0100-10-501-8103-311401	General Fund: Machinery & Tools Tax	\$443,996

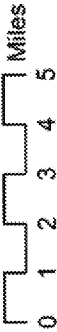
C-5. Consideration of Supporting the Census Bureau’s Proposed Rule to Count Prisoners in Federal and Regional Correction Facilities as Prince George Residents in the 2020 Census. The Board agreed by consensus to support the Census Bureau’s proposed rule to count prisoners in federal and regional correction facilities as Prince George County residents in the 2020 Census.

R-16-060C

Prison and Supervisor District Populations



July 8, 2016



**American Counties By the Ratio of Incarcerated Black People Versus Non Incarcerated Black People**

Ratio Category	# of Counties	# of States Containing Those Counties
0-1	15	8
1.01-5	194	26
5.01-10	55	23
More than 10	208	34

**American Counties By the Ratio of Incarcerated Latino People Versus Non Incarcerated Latino People**

Ratio Category	# of Counties	# of States Containing Those Counties
0-1	50	17
1.01-5	141	31
5.01-10	39	16
More than 10	41	16

# PRISON POLICY INITIATIVE

PETER WAGNER

Executive Director

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Easthampton, Mass. 01027

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September 1, 2016

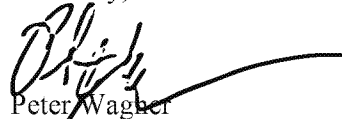
Karen Humes  
Chief, Population Division  
U.S. Census Bureau, Room 6H174  
Washington, DC 20233

Via email at [POP.2020.Residence.Rule@census.gov](mailto:POP.2020.Residence.Rule@census.gov)

Dear Ms. Humes,

Please find enclosed the Prison Policy Initiative's Comment on the Census Bureau's Proposed 2020 Residence Criteria and Residence Situations, 81 FR 42577 (June 30, 2016), consisting of a fact sheet summary and full comment letter. Thank you for your time and consideration.

Sincerely,



Peter Wagner  
Executive Director

# Counting Incarcerated People At Home in the Census

*A Prison Policy Initiative fact sheet*

**PRISON**  
POLICY INITIATIVE  
<http://www.prisonpolicy.org/>  
(413) 527-0845

Misconceptions about the realities of modern mass incarceration permeate discussions about the usual residence of incarcerated people. While the Census Bureau proposes to continue to count incarcerated people at their correctional facility for purposes of the census, an analysis of the interplay of time served, prison locations, community ties, and the usual residence rule shows that incarcerated people should in fact be counted at their home addresses.

## **People who are incarcerated on Census day are at home most of the time:**

- Many people in jails are away from home for a few days or less.
- People sentenced in Rhode Island to the state's correctional facilities generally serve only 99 days.
- Nationally, people incarcerated in state prisons have been away from home for two years.

Regardless of sentence length, **people in prisons don't reside (eat and sleep most of the time) at the particular correctional facility that they happen to be at on Census day:**

- 75% of people serve time in more than one prison facility.
- 12% of people serve time in at least 5 facilities before returning home.
- Most people incarcerated in New York State have only been at their current prison for 7 months. (Other states report similar figures.)

While they are being shuffled between facilities, incarcerated people maintain a usual residence elsewhere; **their home remains the only actual stable address.**

- Nearly all incarcerated people return home after release from correctional facilities.

For other groups who are away from home, the Bureau counts them at home because for those groups, the Bureau looks not just at time away from home, but at a person's ties to home when **determining their usual residence.**

- The Census Bureau relies on family and community ties to count other people at home (e.g., truck drivers, boarding school students, Congress, military personnel), even when they are away for long periods of time, but fails to apply the same rules to incarcerated people.

**The Census Bureau must modernize its residence criteria and count incarcerated people at home in the 2020 Census.**

**Prison Policy Initiative & Dēmos Comment on the Census Bureau’s Proposed 2020 Residence Criteria and Residence Situations, 81 FR 42577 (June 30, 2016)**

**Introduction**

The Prison Policy Initiative and Dēmos appreciate this opportunity to respond to the Census Bureau’s Proposed 2020 Census Residence Criteria and Residence Situations.<sup>1</sup> We acknowledge and thank the Census Bureau for its increased transparency and for the two technical improvements the Bureau is making to its data publication regime, but we must urge the Census Bureau to update the residence criteria and residence situations to count incarcerated people at home.

We believe that the Bureau’s proposal to again count incarcerated people as residents of the correctional facilities undermines the accuracy of the decennial Census, and is in fact inconsistent with the Bureau’s current and historical application of the residence rule. We hope that the facts we present in this letter will round out the Bureau’s research on the matter and lead to a decision to enumerate incarcerated persons at their home addresses, which will result in a much more accurate Census.

**Treating a prison as a “usual residence” reflects a fundamental misunderstanding of the nature of incarceration. The critical issue is that while a prison itself seems permanent, the people located there on any given day are not.** We will discuss these facts in some depth and then contrast how the Census Bureau treats incarcerated people with other populations who may eat and sleep in one location but who are rightly considered residents of other locations. The Bureau’s misapplication of the residence rule to incarcerated people skews our democracy through prison gerrymandering, disproportionately impacting our already-underserved minority communities and undermining the accuracy of the Census. The Prison Policy Initiative has been working to end this prison gerrymandering for 15 years. Based on the facts we present here, the Bureau should count incarcerated people at home in the 2020 Census.

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<sup>1</sup> The Bureau has shifted from using the term “rule” to “criteria” between the time it published its 2015 and 2016 Federal Register notices regarding the rule/criteria for the 2020 Census; in this comment we use the terms interchangeably.

**1. Most incarcerated people do not in fact eat and sleep “most of the time” at the correctional facility where they happen to be located on Census Day**

The Census Bureau proposes to conclude that the prison cell where a person is located on Census Day is their usual residence, in other words, that is where they eat and sleep *most of the time*. But such a conclusion ignores the realities of incarceration in our country.

There are two principal groups of incarcerated people: people confined in local jails and people confined in state or federal prisons.

**People in Jails**

People confined in jails account for about a third<sup>2</sup> of incarcerated people. Most are awaiting trial; the rest are serving short sentences of typically no more than a year.

The average time served in local jails is 23 days.<sup>3</sup> There is no national figure on the median time served in jails, but it is likely far shorter given that many people spend only hours or a few days in jail. County level data<sup>4</sup> confirms this:

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<sup>2</sup> For a helpful overview of the different types of correctional systems in this country along with their respective sizes, see Peter Wagner and Bernadette Rabuy, *Mass Incarceration: The Whole Pie 2016*, Prison Policy Initiative at <http://www.prisonpolicy.org/reports/pie2016.html>

<sup>3</sup> Vera Institute of Justice, p.10, “Incarceration’s Front Door: The Misuse of Jails in America” (2015), available at, <https://www.vera.org/publications/incarcerations-front-door-the-misuse-of-jails-in-america> and Bureau of Justice Statistics, Table 9, “Census of Jails: Population Changes, 1999 – 2013” (2015), available at, <http://www.bjs.gov/content/pub/pdf/cjpc9913.pdf>

<sup>4</sup> Numbers are left blank for each specific calculation that is unavailable in the county’s data. Allegheny County, PA: The Allegheny County Department of Human Services, p.11, “Changing Trends: An Analysis of the Allegheny County Jail Population” (2014), available at <http://acdhs.barkandbyte.info/wp-content/uploads/2016/06/Changing-Trends-An-Analysis-of-theACJ-Population-FINAL.pdf>; Cook County, IL: p.7, “Population Dynamics and the Characteristics of Inmates in the Cook County Jail” (2012), available at [http://ecommons.luc.edu/cgi/viewcontent.cgi?article=1000&context=criminaljustice\\_facpubs](http://ecommons.luc.edu/cgi/viewcontent.cgi?article=1000&context=criminaljustice_facpubs); Grafton County, NH: Policy Research Shop, Nelson A. Rockefeller Center at Dartmouth College, p.11, “PRS Policy Brief 1415-10, The Corrections System in New Hampshire: State and County Operations and Expenditures”, (2015) available at [https://rockefeller.dartmouth.edu/sites/rockefeller.drupalmulti-prod.dartmouth.edu/files/prs\\_brief\\_1415-10.pdf](https://rockefeller.dartmouth.edu/sites/rockefeller.drupalmulti-prod.dartmouth.edu/files/prs_brief_1415-10.pdf); King County, WA: BERK, p.13, “Final Report: Analysis of Statewide Adult Correctional Needs and Costs” (2014), available at [http://www.ofm.wa.gov/reports/Correctional\\_Needs\\_and\\_Costs\\_Study2014.pdf](http://www.ofm.wa.gov/reports/Correctional_Needs_and_Costs_Study2014.pdf); Multnomah County, OR: Multnomah County Sheriff’s Office, p.12, “Monthly Jail Report, July 2016” (2016), available at [https://www.mcso.us/profiles/pdf/jail\\_stats.pdf](https://www.mcso.us/profiles/pdf/jail_stats.pdf); New York City, NY, Kaba et al. p.1, “Disparities in Mental Health Referral and Diagnosis in the New York City Jail Mental Health Service”, American Journal of Public Health, (2015), available at <http://www.cochs.org/files/mental-health/menatl-health-disparities.pdf>.

County	Average (days)	Median (days)	Mode (days)
Allegheny County, PA	60	10	
Cook County, IL	54	12	
Grafton County, NH		6	
King County, WA	21	2	1
Multnomah County, OR		2	
New York City, NY		9	

Similarly, the American Jail Association asserts that “75% of people who come in the jails in this country are normally released within the first 72 hours.”<sup>5</sup>

According to John Clark, a jails expert at the Pretrial Justice Institute, there are two main causes of the difference in the length of stay reported by jails (for example, compare King and Allegheny in the chart above): 1) some of the variation among jails is the result of policing, judicial and correctional policy, and 2) some jails do not include people who spend only a few hours in the jail in their admission figures. But whether one uses the 23-day estimated average, or the more relevant <sup>6</sup> 2-12 day median figures, it is clear that a jail cell is not a usual residence.<sup>7</sup>

**People in Prisons**

The traditional line between prisons and jails is that prisons are for sentences of at least a year. But the reality of incarceration is that this population’s presence in particular prisons is often more temporary and transient than that official distinction with jails implies. First, the majority of people released from state prisons in 2014 served less than a year.<sup>8</sup> And most people in state prisons do

<sup>5</sup> Testimony of Vice President of the American Jail Association, Assistant Sheriff Mitch Lucas, Workshop of Reforming Inmate Calling Services Rates – July 10, 2013, video available at (statement is around the 3:53:40 mark):

[https://www.youtube.com/watch?feature=player\\_detailpage&v=zBfIganIF1s - t=14020s](https://www.youtube.com/watch?feature=player_detailpage&v=zBfIganIF1s - t=14020s)

<sup>6</sup> We note that Census Bureau staff at the July Quarterly Program Management Review repeatedly referred to statistics about time served in various kinds of correctional facilities in terms of averages. We believe that where available, the median is a more appropriate figure to use because it more accurately reflects the reality of the typical incarcerated person; averages are significantly distorted by the very small number of incarcerated people who are serving very long sentences.

<sup>7</sup> This reality is no doubt why the Census Bureau intended to count the jail population at home in the 1990 Census. See Charles D. Jones, *Enumeration and Residence Rules for the 1990 Census*, 1990 Decennial Policy Memorandum No. 12, October 15, 1987 available at [http://www.prisonpolicy.org/scans/Census\\_1990\\_Policy\\_Memo\\_No\\_12.pdf](http://www.prisonpolicy.org/scans/Census_1990_Policy_Memo_No_12.pdf). We do not know why the Bureau reversed this decision before the 1990 Census.

<sup>8</sup> Analysis by Peter Wagner of the National Corrections Reporting Program, DS3: Prison Releases, public-use dataset of time served by inmates released from state prisons in 2014. 53.8% served less than one year, 20.2% served 1-1.9 years, 17.3% served 2-4.9 years, 5.6% served 5-9.9 years and 3.1% served 10 years or more. Of course, the people



not stay in any given facility for long. Incarcerated people are transferred frequently between facilities, at the discretion of the administration. Nearly 75% of incarcerated people are moved between facilities before they go back home.<sup>9</sup>

The operative fact is that people found in state or federal prisons on Census Day will not have been at that facility for very long, and will in all likelihood leave it soon. In fact, 30% of people in federal and state prisons have been at the current facility for less than six months. Half have been there for under a year.<sup>10</sup>

Looking at this from another angle, the length of stay at a given facility for a typical incarcerated person will vary somewhat from state to state, but it is a typically very short period. While most states do not routinely publish this data, we were able to obtain it for a few states. In Georgia the median length of stay is 9 months<sup>11</sup>; and in New York it is 7.1 months.<sup>12</sup> In Indiana and Massachusetts, in most of the correctional facilities, the stay at that particular facility was less than a year, and in a third of the facilities in each state, the length of stay was less than 6 months.<sup>13</sup> We understand that the Bureau has received a comment letter from the Vera Institute of Justice reporting a similar finding for Washington, Oregon and Nebraska.

The frequent transfer between facilities, combined with the relatively short total time away from the individual's real home,

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found in a prison on a given day are serving longer sentences than people released in a given year, but the difference is small; even among people who are still incarcerated, almost half have been incarcerated for less than two years. (Of people incarcerated in state prisons on December 31, 2014, 30.9% had served under 1 year, 16.7% had served between 1 and 1.9 years, 22.2% had served 2 to 4.9 years, 14.4% served 5 to 9.9 years, and 15.8% having served at least 10 years. Source: Analysis by Peter Wagner of the National Corrections Reporting Program, DS4: Year-End Population.)

<sup>9</sup> Bureau of Justice Statistics, p. 20 *Sexual Victimization Reported by Former State Prisoners*, 2008, ("During their period of incarceration, inmates typically served time in more than one facility." "Three-quarters of former inmates had served time in more than one prison facility; nearly 1 in 8 had served time in 5 or more prison facilities before their release"), available at <http://www.bjs.gov/content/pub/pdf/svrfsp08.pdf>

<sup>10</sup> Email from Allen Beck to Peter Wagner, July 20, 2016. Dr. Beck's figures were based on the National Inmate Survey 2011-12 data collection in state and federal prisons.

<sup>11</sup> Georgia Department of Corrections, *Inmate Statistical Profile: All Active Inmates*, p. 35 and 39, available at [http://www.dcor.state.ga.us/sites/all/themes/gdc/pdf/Profile\\_all\\_inmates\\_2016\\_06.pdf](http://www.dcor.state.ga.us/sites/all/themes/gdc/pdf/Profile_all_inmates_2016_06.pdf).

<sup>12</sup> State of New York Department of Correctional Services, *HUB SYSTEM: Profile of Inmate Population Under Custody on January 1, 2008*, pp 36-38, available at [http://www.doccs.ny.gov/Research/Reports/2008/Hub\\_Report\\_2008.pdf](http://www.doccs.ny.gov/Research/Reports/2008/Hub_Report_2008.pdf).

<sup>13</sup> In both Indiana and Massachusetts, time served at current facility is only available at the more granular level of individual facilities and was not available to us system wide. The data we received upon request from Indiana is available at [http://www.prisonpolicy.org/scans/Indiana\\_Facility\\_LOS\\_CY2015.pdf](http://www.prisonpolicy.org/scans/Indiana_Facility_LOS_CY2015.pdf). The Massachusetts data was prepared by Jessica Simes, a Research Intern at the Massachusetts Department of Correction in August 2011 and is available at <http://scholar.harvard.edu/files/jsimes/files/simes-los2011-brief.pdf>

makes it impossible to conclude that the facility where someone is incarcerated in on Census Day should be considered that person's usual residence, especially when compared to their home address.

Apart from how short a time any given person spends at any given facility, the total length of individual sentences of persons in state prisons is much shorter than is routinely assumed. Almost half of the people incarcerated at year end in 2014 had been in state prison for less than two years.<sup>14</sup> And this population may be home quite soon as the median time served in state prison between the start of incarceration and first release is 16 months and the average is 29 months.<sup>15</sup>

The court in *Davidson v. City of Cranston*<sup>16</sup> summarized the reality of residence for people incarcerated in both prisons and jails in one representative fact about the incredible churn through Rhode Island's combined state prison and jail system (ACI):

“[T]he median length of stay for those serving a sentence at the ACI is 99 days. The median stay for those awaiting trial is three days.”<sup>17</sup>

The Bureau's conclusion that the facility at which a person is detained on Census Day is their usual residence is thus unsupported by the facts on the ground and the factual realities of modern correctional systems.

**2. Determining the true home residence of incarcerated persons: the Census Bureau's reliance on community ties in applying the residence rule compels it to count incarcerated people at home**

If the prison where people happen to be located on Census Day is not their usual residence, then the question becomes: Do they have a usual residence elsewhere? What we do know for sure is this: While incarcerated people lack a permanent residence anywhere within the correctional system, they do maintain a usual residence at their home.

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<sup>14</sup> Almost a third (30.9%) have been incarcerated for less than a year and almost half (47.6%) have been incarcerated for less than two years. (National Corrections Reporting Program, public-use dataset DS4: Year-End Population, reporting time served in state prisons since incarcerated as of December 31, 2014.)

<sup>15</sup> National Corrections Reporting Program: Time Served In State Prison, By Offense, Release Type, Sex, And Race, 2009 Table 8 available at <http://www.bjs.gov/content/data/ncrpt09.zip>

<sup>16</sup> The City of Cranston used Census data for redistricting its City Council and School Committee following the 2010 Census and in so doing, allocated the entire incarcerated population of Rhode Island's Adult Correctional Institutions (ACI) as “residents” of one ward of the City.

<sup>17</sup> *Davidson v. City of Cranston*, p.3 Memorandum and Order (May 24, 2016), (USDC Docket 1:14-cv-00091 D. Rhode Island)

It is evident from the Bureau's application of the usual residence rule to different living situations that the Bureau factors in not just time at a location, but a person's enduring family and community ties to a location, in determining his or her usual residence. In proposing to count incarcerated people at the location of the facility, the Bureau weighs the length of time incarcerated people spend away from home too heavily and ignores very real family and community ties. Other similarly-situated people are counted at home, while incarcerated people are strangely singled out to be counted in the wrong place.

Even if a person who is incarcerated happens to spend most of the year, or decade even, at the facility where they happen to be on Census Day (which is decidedly not the case for vast numbers of incarcerated persons), counting them at home would be consistent with the way the Bureau applies the residence rules to people in other situations. Much like other people away from home on Census Day, a person who is incarcerated will, under ordinary circumstances, return home.<sup>18</sup> As we will explain, the Census considers other factors for other groups in deciding where someone's residence is, and should do the same for people who are incarcerated.

**Boarding school students<sup>19</sup>**

As the Bureau explained in its June 2016 notice, "The Census Bureau has historically counted boarding school students at their parental home, and has determined that it will continue doing so because of the students' age and dependency on their parents, and the likelihood that they would return to their parents' residence when they are not attending their boarding school (*e.g.*, weekends, summer/winter breaks, and when they stop attending the school)."<sup>20</sup> The Bureau should consider that similar familial ties

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<sup>18</sup> A study conducted by the Brennan Center for Justice at NYU School of Law found that people overwhelmingly went home upon release. The conclusion was based on "interviews with criminal justice officials and data users of wide-ranging expertise" including "Jim Austin, *JFA Institute*; Allen Beck, *Bureau of Justice Statistics*; Jim Beck, *U.S. Parole Commission*; Eric Cadora, *Justice Mapping Center*; William Cooper, *FairData 2000*; Ryan King, *The Sentencing Project*; Jeremy Travis, *John Jay College*; Bruce Western, *Princeton University*; and Reggie Wilkinson, *Ohio Department of Rehabilitation and Correction*", as well as a review of various states' Department of Corrections procedures, ("*Home*" in *2010: A Report on the Feasibility of Enumerating People in Prison at their Home Addresses in the Next Census*, available at [https://www.brennancenter.org/sites/default/files/legacy/d/download\\_file\\_36223.pdf](https://www.brennancenter.org/sites/default/files/legacy/d/download_file_36223.pdf))

<sup>19</sup> To answer the inevitable question about distinguishing boarding school students and incarcerated people from college students: even college students living on campus are counted in their dorms not by virtue of being found in a group quarter on Census Day, but by the application of the criteria discussed in this section. That is exactly how college students living in off-campus housing are counted too – where they live.

<sup>20</sup> Proposed 2020 Census Residence Criteria and Residence Situations, 81 FR

bring incarcerated people back to their home after incarceration. Incarcerated people similarly depend on family members for financial support.<sup>21</sup> And in fact, incarcerated people are far more likely to return home<sup>22</sup> than boarding students, most of whom move on to college within a few short months after graduation.<sup>23</sup>

Based on the factors that the Census Bureau has identified as being significant, the living situations of boarding school students and incarcerated people are starkly similar. *We are concerned that the Bureau's current lack of explanation for how it applies the residence rule differently to incarcerated people may be attributed to a double standard, given the fact that incarcerated people are generally poorer, and more likely to be people of color.*

**Deployed military**

The Bureau recently proposed to change the way it counts deployed military to reflect the fact that even though they are deployed into locations away from home for long periods of time (as long as 15 months at a time during the surge in Iraq),<sup>24</sup> they

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42577, 42580 (June 30, 2016)

<sup>21</sup> Incarcerated people are poor before they go to prison (with a median annual income of \$19,185 prior to incarceration) and make little to no wages while they are incarcerated. As a result, they rely heavily on their families to meet the costs of incarceration. One study surveyed 368 family members in 60 cities nationwide and found that almost half of the families surveyed had trouble meeting basic food (49%) and housing (48%) needs because of the financial costs associated with having an incarcerated loved one. Beyond paying for lingering court fees, and the cost of phone calls to stay in touch, families bear most of the cost of basic necessities that incarcerated people need to purchase through commissaries, which alone amounts to \$1.6 billion each year. (For the pre-incarceration incomes of incarcerated people, see Bernadette Rabuy and Daniel Kopf, *Prisons of Poverty: Uncovering the pre-incarceration incomes of the imprisoned*, Prison Policy Initiative, July 2015, available at <http://www.prisonpolicy.org/reports/income.html> , for the wages of incarcerated people, see Peter Wagner, *The Prison Index*, Prison Policy Initiative, April 2003, at fn 531 available at <http://www.prisonpolicy.org/prisonindex/prisonlabor.html#line531> , for the size of the prison commissary market, see Stephen Raher, *Prison commissary giants prepare to merge*, Prison Policy Initiative, July 5, 2016 available at <http://www.prisonpolicy.org/blog/2016/07/05/commissary-merger/> , and for the burden on families see *Who Pays: The True Cost of Incarceration on Families*, by Ella Baker Center, Forward Together and Research Action Design, September 2015, available at <http://ellabakercenter.org/sites/default/files/downloads/who-pays.pdf> .

<sup>22</sup> Brennan Center for Justice at NYU School of Law, “Home” in 2010: *A Report on the Feasibility of Enumerating People in Prison at their Home Addresses in the Next Census*, available at

[https://www.brennancenter.org/sites/default/files/legacy/d/download\\_file\\_36223.pdf](https://www.brennancenter.org/sites/default/files/legacy/d/download_file_36223.pdf)

<sup>23</sup> LatinoJustice PRLDEF, August 22, 2016, p.4, Comment on the 2020 Decennial Census Residence Criteria and Residence Situations.

<sup>24</sup> Currently, the typical deployment is 9 months, but that has varied over time. Between September 2001 and December 2010, the average was 7.7 months. In 2007, during the surge in Iraq, deployments were 15 months, and this was reduced to 12 months in 2008, and to 9 months in 2011. See *Assessment of Readjustment Needs of Veterans, Service Members, and Their Families* Committee on the Assessment of the Readjustment Needs

should still be counted at home, reasoning that: “Personnel stationed or assigned overseas generally remain overseas for longer periods of time, and often do not return to the previous stateside location from which they left. Therefore, counting deployed personnel at their usual residence in the United States follows the standard interpretation of the residence criteria to count people at their usual residence if they are temporarily away for work purposes.”<sup>25</sup> Following this same logic, people who are incarcerated in a correctional facility on Census Day should be counted at home, where they typically return after a short period of incarceration.

### Visitors

Despite having some interactions with the community they are temporarily visiting, visitors are counted at home, where they have strong community ties. Incarcerated people have similarly strong community ties to their usual residence, but have no ties whatsoever to the location where they are incarcerated. Yet for some reason, the Bureau’s proposed rule counts incarcerated people at their temporary location where they have no family or community ties.

Todd Breitbart, a redistricting expert, contrasted these comparable populations in his 2015 comment to the Census Bureau.<sup>26</sup>

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of Military Personnel, Veterans, and Their Families; Board on the Health of Select Populations; Institute of Medicine. Academies Press (US); 2013 Mar 12, available at: <http://www.ncbi.nlm.nih.gov/books/NBK206861/>; *U.S. Is Extending Tours of Army*, available at <http://www.nytimes.com/2007/04/12/world/middleeast/12military.html> ; *President Bush Announces Shorter Deployments*, available at [https://www.army.mil/article/8416/President\\_Bush\\_Announces\\_Shorter\\_Deployments/](https://www.army.mil/article/8416/President_Bush_Announces_Shorter_Deployments/) ; and *Army to reduce deployment time in war zone to 9 months*, available at <http://www.cnn.com/2011/US/08/05/army.afghan.deployment/> . For historical comparison, the deployment period during the Vietnam War (1955-1975) was 12 months, during the Korean War (1950-1953) a tour of duty was nine to 12 months for combat troops and 18 months for rear-echelon troops, and during World War II (1939-1945) US troops served overseas for an average of 16 months. See *U.S. Forces Out of Vietnam; Hanoi Frees the Last P.O.W.*, available at <http://www.nytimes.com/learning/general/onthisday/big/0329.html> - article ; *Korea’s ‘Invisible Veterans’ Return to an Ambivalent America*, available at [http://www.koreanwar-educator.org/topics/vfw/p\\_koreas\\_invisible\\_veterans.htm](http://www.koreanwar-educator.org/topics/vfw/p_koreas_invisible_veterans.htm) ; and the *National WWII Museum’s By the Numbers: The US Military*, available at <http://www.nationalww2museum.org/learn/education/for-students/ww2-history/ww2-by-the-numbers/us-military.html> .

<sup>25</sup> Proposed 2020 Census Residence Criteria and Residence Situations, 81 FR 42577, 42579 (June 30, 2016).

<sup>26</sup> Todd A. Breitbart, July 18, 2015, Comment on the 2020 Decennial Census Residence Rule and Residence Situations, Docket No. 150409353-5353-01

Visitors “are at their Census Day location voluntarily”, prisoners are not.

Visitors “are part of the social and economic fabric of the communities where they temporarily reside: walking freely in the streets, using the roads and public transit, frequenting restaurants, visiting parks, attending sports events, museums, theatres, etc., and free to participate in politics and other aspects of civic life”, prisoners are not.

Visitors “use public services financed by local taxes: roads, public transport, police, ambulances and emergency rooms, building code enforcement, restaurant inspections, etc.”, prisoners do not.

Visitors “pay local taxes: sales taxes, for both groups; hotel occupancy taxes and, indirectly, real estate taxes, for travelers”, prisoners do not.

*The same logic that leads the Census Bureau to conclude that visitors should be counted at home requires it to count incarcerated people at home as well.*

Under the proposed residence rules, if a New Englander were to go down to Florida for several months to avoid winter weather, he would still be counted at home in the Northeast and not in the South. Snowbirds are not considered residents of Florida even though they have purposefully sought to live there, they eat there and sleep there, and they partake of activities afforded to residents of the communities to which they flock. By contrast, the Bureau proposes that the facility to which a correctional administrator has assigned an incarcerated person is that person’s residence, despite the fact that the incarcerated person often has no choice in the matter. On length of stay alone, incarcerated people and Snowbirds are nearly indistinguishable. Again, we reluctantly point out that this disparity in treatment appears to afford different treatment to groups that disproportionately come from communities of color as compared to other groups.

### **Other people obligated to be away from home**

Other people who are required to be away from home so much that their home stops being the place they eat and sleep most of the time are still counted at home.

In their 2006 book on the residence rules, the National Research Council explained how the Bureau counts people who are away from home for work: “Consider the long haul truck driver. Perhaps he (or she) is on the road 200 or more days a year. Yet he has a family and maintains a household at some fixed location. He and his family regard him as a member of this household, and it would seem to be a mistake not to classify this

person as a member of his household....In such cases, it would seem desirable to classify these persons as residents of their home—wherever they might specify it to be—even though they do not spend a large share of the time there.”<sup>27</sup>

And indeed the Census Bureau does count people in these situations as residents of their home address. Similar logic is applied to Members of Congress who spend most of their time in DC.

The Bureau has used this approach to count people obligated to be away from home on Census Day since the very first Census, where “[f]or example, during the 36-week enumeration period of the 1790 census, President George Washington spent 16 weeks traveling through the States, 15 weeks at the seat of Government, and only 10 weeks at his home in Mount Vernon. He was, however, counted as a resident of Virginia.”<sup>28</sup> A more uniform, consistent, and nondiscriminatory application of the residence rule would similarly count incarcerated people – many of whom are regarded by their family members as members of their household – at home.

### **The Bureau’s acknowledgment of community ties in residence situations mirrors customary definitions of residence**

While definitions of residence can differ for varying purposes, it is worth noting that the Census Bureau’s proposed application of its “usual residence” rule to incarcerated people is at odds with how other government bodies approach residence for nearly all other purposes. These other governmental purposes range from determining residence for diversity jurisdiction in federal courts (being incarcerated across state lines doesn’t count as residing across state lines), to where a person’s children can go to school (not welcome in the district where their parent is incarcerated), and arguably most relevant to the main use of the Census, to where a person is considered to reside for voting and election purposes (in their home district).<sup>29</sup>

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<sup>27</sup> National Research Council of the National Academies, p.123, *Only Once, and in the Right Place: Residence Rules in the Decennial Census* (2006)( internal quotations and citations omitted).

<sup>28</sup> *Franklin v Massachusetts*, (91-1502), 505 U.S. 788 (1992) available at <https://www.law.cornell.edu/supct/html/91-1502.ZO.html>

<sup>29</sup> Professor Justin Levitt (currently on leave from Loyola Law School, serving as a Deputy Assistant Attorney General in the Civil Rights Division of the U.S. Department of Justice), Comment to the Census Bureau c121 (2015), n 4, available at [https://www.census.gov/content/dam/Census/programs-surveys/decennial/2020-census/2015-12118\\_FRN\\_Comments.pdf](https://www.census.gov/content/dam/Census/programs-surveys/decennial/2020-census/2015-12118_FRN_Comments.pdf), : “See ALASKA STAT. § 15.05.020; ARIZ. CONST. art. VII, § 3; CAL. CONST. art. II, § 4; COLO. CONST. art. VII, § 4; CONN. GEN. STAT. ANN. §§ 9-14, 9-40a(a); HAW. REV. STAT. § 11-13(5); IDAHO CODE ANN. § 34-405; KAN. STAT. ANN. § 11-205(f); ME. REV. STAT. ANN. tit. 21-A, §

In sum, *almost every other governmental body that has contemplated whether a prison cell can be defined as a person’s “residence” has undoubtedly concluded that it cannot.* The Census Bureau’s current application of the usual residence rule to incarcerated persons is thus out of step with the how this nation views itself.

**3. The Census Bureau’s two proposals for special data products are helpful but are inadequate in ways the Bureau may not be aware of.**

We applaud the Bureau for proposing two changes in how it will *publish* redistricting data. The Bureau proposes to add the group quarters data to the PL94-171 redistricting data. This is the natural extension of the Bureau’s work releasing the Advance Group Quarters Summary File in 2011, and this change was a consensus recommendation by the state redistricting officials at the National Conference of State Legislators.<sup>30</sup> As the Bureau knows, being able to identify prison populations in the redistricting data is a critical prerequisite for both rural counties that wish to remove prison populations when redistricting and for state officials that wish to use their own data to reallocate incarcerated people to their home addresses.

For the 2000 cycle, this critical data was available within Summary File 1, which made it available too late for most jurisdictions. For 2010, the Bureau agreed to produce this data as soon as possible after the PL redistricting data, and the Bureau made this data available nationwide on April 20, 2011. This data was very helpful, although some jurisdictions did not discover the special product in time, and for many others the data was available too late. For 2020, the Bureau proposes to “incorporate similar group quarters information in the standard Redistricting Data (Pub. L. 94-171) Summary File for 2020”<sup>31</sup> to be released during the

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112(14); MICH. COMP. L. § 168.11(2); MINN. CONST. art. VII, § 2; MISS. CODE ANN. § 47-1-63; MO. CONST. art. VIII, § 6; MONT. CODE ANN. § 13-1-112(2); N.C. GEN. STAT. ANN. § 153A-257(a)(2); NEV. CONST. art. II, § 2; N.H. REV. STAT. § 654:2; N.M. STAT. ANN. § 1-1-7(D); N.Y. CONST. art. II, § 4; OR. CONST. art. II, § 4; 25 PA. STAT. § 2813; R.I. GEN. LAWS § 17-1-3.1(a)(2); TENN. CODE ANN. § 2-2-122(7); TEX. ELEC. CODE ANN. § 1.105(e); UTAH CODE ANN. § 20A-2-105(3)(c)(iii); VT. STAT. ANN. tit. 17, § 2122(a); WASH. CONST. art. VI, § 4; WYO. STAT. ANN. § 22-1-102(a)(xxx)(B)(III). *See generally* Dale E. Ho, *Captive Constituents: Prison-Based Gerrymandering and the Current Redistricting Cycle*, 22 STAN. L. & POL’Y REV. 355, 366-67 (2011) (reviewing residency standards).”

<sup>30</sup> Catherine McCully, *Designing Public Law (P.L.) 94-171 Redistricting Data for the Year 2020 Census: The View from the States*, available at <http://www.census.gov/content/dam/Census/library/publications/2014/rdo/pl94-171.pdf>

<sup>31</sup> Proposed 2020 Census Residence Criteria and Residence Situations, 81 FR 42577, 42578-42579 (June 30, 2016).



period from January to March 2021. This subtle change will be very beneficial to redistricting authorities in state and local governments and we commend the Bureau for this proposal.

The Bureau also proposes to, upon request and submission of the relevant data, produce for states a special file for use in state redistricting that counts incarcerated people at home. In essence, however, the Bureau is refusing to end prison gerrymandering. This proposal continues to shift responsibility to the states by offering to serve as a mere data processor if the state governments are able to collect the necessary data. Had this procedure existed in 2010, Delaware would likely have been able to implement its law ending prison gerrymandering.

*In our view, this proposal will have a severely limited usefulness for state legislatures and be entirely unable to meet the needs of county and municipal redistricting officials.*

The details remain to be announced, and while this is likely to be a helpful service, it is severely limited and hobbled by its skewed dependence on the political will of states, and worse, retaining a state-by-state ad hoc standard for redistricting data that leaves the needs of county and municipal redistricting officials out in the cold.

We believe, on factual, practical, and legal grounds, that the Bureau is incorrect in asserting that it can cede all responsibility for producing useful redistricting data to state governments. Specifically:

- Many county, municipal, school board and other local governments that want to use this alternative data product will be denied it if their state does not fully participate in a timely fashion with the Bureau's data requirements.
- State governments will not be able to collect home address information from Bureau of Prisons facilities in that state or in other states.<sup>32</sup>
- Some states are legally precluded from taking advantage of such a special tabulation. Perhaps as many as 16 states are prohibited by their state constitutions from using anything

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<sup>32</sup> See, for example, the concerns expressed in the 2015 comments of Daniel Jenkins (a resident of prison-hosting Franklin County New York available at [http://www.prisonersofthecensus.org/letters/Daniel\\_Jenkins\\_FRN\\_letter.pdf](http://www.prisonersofthecensus.org/letters/Daniel_Jenkins_FRN_letter.pdf)), Todd Breitbart (retired New York State redistricting expert, available at [http://www.prisonersofthecensus.org/letters/Todd\\_Breitbart\\_comment\\_letter.pdf](http://www.prisonersofthecensus.org/letters/Todd_Breitbart_comment_letter.pdf)), and raised in the Dēmos report by Erika Wood (available at [http://www.prisonersofthecensus.org/letters/Demos\\_Census\\_FRN\\_Comment\\_attachment.pdf](http://www.prisonersofthecensus.org/letters/Demos_Census_FRN_Comment_attachment.pdf)) which addressed the fact that the New York legislation did not seek to collect home addresses from the Bureau of Prisons and that Maryland Department of Planning's efforts to collect this data for implementation of that state's law were rebuffed by the Bureau of Prisons. Only the Federal government can solve this problem.

other than the official Census data to draw districts. Massachusetts is one of those states, and the Co-Chairs of the Massachusetts Special Joint Committee on Redistricting noted that prison gerrymandering was a significant problem they faced when they drew new electoral district lines after the 2010 Census concluding that: “The tabulation of prisoners should be at the forefront of Bureau priorities in evaluating and adjusting how the 2020 U.S. Census will be conducted...” and that “the way prisoners are currently counted does a disservice to the state and should be changed.”<sup>33</sup> Based on those findings, the Massachusetts legislature sent a resolution to the Bureau urging it to count incarcerated people at home.<sup>34</sup>

The Census Bureau is not only the best-suited agency to end prison gerrymandering, it is the only agency that can provide a uniform, nondiscriminatory, national solution.

#### **4. The inaccuracies in the Census Bureau’s data have serious repercussions**

The state and federal prison population stands at about 1.56 million, a population larger than 12 of our smallest U.S. states. Just as misplacing all of Idaho’s population would have a major impact on the accuracy of the Census, so does tabulating people incarcerated in prisons in the wrong locations.

#### **Prison Gerrymandering**

To maintain equal representation and conform to the constitutional requirements of “one person one vote”, regular population-based redistricting is required at the state and local level. The Census Bureau has become *the* data source for redistricting because it has the ability to provide accurate data down to the block level.

But it is precisely this need — accurate block level data — that is most dramatically undermined by the Bureau’s current and proposed application of the residence rules which counts incarcerated people as if they were residents of the facility they happen to be in on Census Day.

Most people in the country are harmed by prison gerrymandering to one extent or another. In Rhode Island, for

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<sup>33</sup> *Report from the Chairs of the Special Joint Committee on Redistricting* (2012), available at <https://malegislature.gov/District/FinalReport>

<sup>34</sup> The Massachusetts General Court, Resolution: *Urging the Census Bureau to provide redistricting data that counts prisoners in a manner consistent with the principles of “one person, one vote.”* (2014) available at <http://www.prisonersofthecensus.org/resolutions/MA-resolution-081414.pdf>

example, when we tallied up all the people who suffer from prison gerrymandering on the state level with senate and house elections, as well as on the local level in municipal elections, we found that only 112 Rhode Islanders — 0.011% of the state — fully benefit from counting incarcerated people in the wrong place.<sup>35</sup>

These results are significant: seven New York state senate districts drawn after the 2000 Census met minimum population requirements only because they used prison populations as padding<sup>36</sup>; four of the senators from these districts controlled the powerful Codes Committee where they opposed reforming the state's draconian Rockefeller drug laws that boosted the state's prison population.<sup>37</sup>

**Disproportionate Harm to Minority Communities**

Worst of all, counting incarcerated people in the wrong place creates the greatest inaccuracies in Census data for historically marginalized minority communities of color.

Our analysis of 2010 Census data shows that Blacks are incarcerated at 5 times the rate of non-Hispanic Whites, and Latinos are incarcerated at a rate almost two times higher than non-Hispanic Whites.<sup>38</sup> Within those disparities are greater disparities by age and gender. For example, the incarceration rate for Black men aged 25-29 peaked in 2001 when a shocking 13% of Black men of those ages were incarcerated in federal and state prisons or local jails. By contrast, that same year, only 0.04% of white women aged 45-55 were incarcerated.<sup>39</sup>

These disproportionate incarceration rates, coupled with the enduring and troubling trend of building prisons in communities that bear little demographic resemblance to the people they confine, create a false picture of our population at best, and risk retrenching systemic racially discriminatory outcomes at worst. For example, we found 161 counties where incarcerated Blacks

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<sup>35</sup> Peter Wagner and Leah Sakala, Prison gerrymandering hurts the 99.989% (May 1, 2014), available at <http://www.prisonersofthecensus.org/news/2014/05/01/ri-percent/>

<sup>36</sup> Peter Wagner, *Importing Constituents: Prisoners and Political Clout in New York*, Prison Policy Initiative (May 20, 2002), <http://www.prisonpolicy.org/importing/importing.html>.

<sup>37</sup> Peter Wagner, *Locked Up, But Still Counted: How Prison Populations Distort Democracy*, (Sept. 5, 2008), <http://www.prisonersofthecensus.org/news/2008/09/05/stillcounted/>.

<sup>38</sup> Leah Sakala, Breaking Down Mass Incarceration in the 2010 Census: State-by-State Incarceration Rates by Race/Ethnicity, Prison Policy Initiative, May 28, 2014 available at <http://www.prisonpolicy.org/reports/rates.html>

<sup>39</sup> U.S. Department of Justice, Bureau of Justice Statistics, Prison and Jail Inmates at Midyear, 2001, NCJ 191702 (Washington, DC: U.S. Department of Justice, 2002), Table 15.

outnumber free Blacks, and 20 counties where incarcerated Latinos outnumber free Latinos.<sup>40</sup>

These inaccuracies not only permeate the Bureau's data, they taint it. Their impact is clear in the redistricting context: in the 2000 Census, virtually all — 98% — of New York State's prison cells were located in state senate districts that were disproportionately White, diluting the votes of Black and Latino voters.<sup>41</sup> Similarly, in Connecticut, 75% of the state's prison cells were in state house districts that were disproportionately White.<sup>42</sup>

In Somerset County Maryland, these inaccuracies in the Bureau's data made it impossible for the residents of an African-American opportunity district to actually elect the candidate of their choice because the county counted people incarcerated in the district as if they were voting in that district. An effective African-American opportunity district could have been drawn if the prison population had not been included in the population count.<sup>43</sup> The Bureau's inconsistent application of the residence rules to incarcerated people directly curtails the voting rights of people of color.

### **Conclusion: The Risks of Inaction**

Over the last few decades, the Supreme Court's requirements for equal representation have created a need for more precise redistricting data. And the needs of redistricting bodies now

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<sup>40</sup> Peter Wagner and Daniel Kopf, *The Racial Geography of Mass Incarceration* (July, 2015), available at <http://www.prisonpolicy.org/racialgeography/>

<sup>41</sup> Peter Wagner, *98% of New York's Prison Cells Are in Disproportionately White Senate Districts*, (Jan. 17, 2005), <http://www.prisonersofthecensus.org/news/2005/01/17/white-senate-districts/>.

<sup>42</sup> *Ending Prison-Based Gerrymandering Would Aid the African-American and Latino Vote in Connecticut*, (Nov. 17, 2010), [http://www.prisonersofthecensus.org/factsheets/ct/CT\\_AfricanAmericans\\_Latinos.pdf](http://www.prisonersofthecensus.org/factsheets/ct/CT_AfricanAmericans_Latinos.pdf).

<sup>43</sup> Somerset County, which until 2010 had never elected an African-American to county government, settled a voting rights act lawsuit in the 1980s by agreeing to create one district where African-Americans could elect the candidate of their choice. Unfortunately, a prison was built and the 1990 Census was taken shortly after the first election, leaving a small African-American vote-eligible population in the district. This made it difficult for residents of the district to field strong candidates and for voters to elect an African-American Commissioner. (Brief of the Howard University School of Law Civil Rights Clinic et al. as Amici Curiae Supporting Respondents at 8–9, *Fletcher v. Lamone*, No. RWT-11cv3220 (D. Md. Dec. 23, 2011) (citing “*Maryland Bill*” *Podcast Episode #2*, (May 27, 2010), <http://www.prisonersofthecensus.org/news/2010/05/27/podcast2/>; *Our View: Fairer Election Districts Ahead*, Daily Times, Apr. 5, 2010, [http://www.prisonpolicy.org/news/Delmarva\\_Daily\\_Times\\_MD\\_4\\_5\\_10.pdf](http://www.prisonpolicy.org/news/Delmarva_Daily_Times_MD_4_5_10.pdf); ACLU of Maryland & Somerset County NAACP, *Semper Eadem: “Always the Same”?* (2009), available at [http://www.aclu-md.org/uploaded\\_files/0000/0348/finalreportwapp.pdf](http://www.aclu-md.org/uploaded_files/0000/0348/finalreportwapp.pdf)), available at [http://www.prisonersofthecensus.org/fletcher/Final\\_Fletcher\\_amicus\\_with\\_affidavit\\_and\\_service.pdf](http://www.prisonersofthecensus.org/fletcher/Final_Fletcher_amicus_with_affidavit_and_service.pdf).)

require a level of accuracy that necessitates counting incarcerated people at home rather than where they are incarcerated.

The Bureau's residence criteria require it to count incarcerated people at home, and this conclusion is not only in accordance with public opinion,<sup>44</sup> legislative opinion,<sup>45</sup> and the federal judiciary; it is logically consistent, common sense, and safeguards the Census against participating in or importing racially discriminatory outcomes into the enumeration process itself.

The US District Court in Florida summarized its conclusion in this way:

Defendants argue vigorously that excluding the JCI inmates from the population base for districting purposes would be "arbitrary." The opposite is true—including them in the population base is arbitrary. The inmates at JCI, unlike aliens, children, etc. living in Jefferson County, are not meaningfully affected by the decisions of the Boards. To say they are "constituents" of the Board representatives from District 3 is to diminish the term constituent. *To treat the inmates the same as actual constituents makes no sense under any theory of one person, one vote, and indeed under any theory of representative democracy. Furthermore, such treatment greatly dilutes the voting and representational*

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<sup>44</sup> A 2001 Quinnipiac University poll found that New York State "voters say 60 – 25 percent that prison inmates should be counted as residents of their home districts, not of where they're imprisoned. Republican and upstate voters support counting inmates in their homes, not their prisons." Quinnipiac University Poll Press Release, August 11, 2011, available at <http://www.prisonpolicy.org/scans/QuinnipiacPoll.pdf>. On this latter point that the call for reform is supported not just by urban people but by a majority of the people who live outside high incarceration areas, see also the November 6, 2013 letter from Peter Wagner to Director John Thompson and its 108-page attachment containing "a collection of news articles and editorials, plus two letters to Director Kincannon and several affidavits, that speak directly to the concerns that people who live outside of the nation's large cities have regarding the Census Bureau's current method of tabulating incarcerated people. The opinions range from concern about electoral inequities that result, to frustration with the difficulties devising a solution, to assigning responsibility for the problem." (The letter is available at [http://static.prisonersofthecensus.org/letters/Wagner\\_to\\_Director\\_Thompson-2013-Nov-06.pdf](http://static.prisonersofthecensus.org/letters/Wagner_to_Director_Thompson-2013-Nov-06.pdf) and its attachments are at [http://www.prisonersofthecensus.org/letters/Wagner\\_to\\_Director\\_Thompson-2013-Nov-06\\_Attachments.pdf](http://www.prisonersofthecensus.org/letters/Wagner_to_Director_Thompson-2013-Nov-06_Attachments.pdf).) Finally, we note that 96% of the 162 comments relating to where incarcerated people are counted in the Census that the Bureau received in response to its 2015 *Federal Register* notice were supportive of counting incarcerated people at home.

<sup>45</sup> In just the last 6 years, four states have passed legislation addressing prison gerrymandering state-wide and two states (Virginia and Tennessee) have passed legislation changing their laws that required counties and other local governments to engage in prison gerrymandering. An additional 14 states (Arkansas, Connecticut, Florida, Georgia, Illinois, Indiana, Kentucky, Minnesota, New Jersey, Oregon, Rhode Island, Tennessee, Texas, and Wisconsin) have recently considered legislation to end prison gerrymandering statewide, with some of those bills passing one chamber. A list of legislation is available at <http://www.prisonersofthecensus.org/legislation.html>

*strength of denizens in other districts. Jefferson County's districting scheme for its Board of County Commissioners and School Board therefore violates the Equal Protection Clause.* <sup>46</sup> [Citations omitted, emphasis added.]

The Bureau's current proposal would clearly result in data that is too inaccurate to be used for redistricting, leading to constitutional violations and precipitating multiple accompanying lawsuits against the Bureau's data users.

Counting incarcerated people at home, the place where they have family and community ties, accords with the consistent logic of the "usual residence" rule as applied to other similarly situated, albeit economically and racially privileged, populations.

We urge the Bureau to do just that — count incarcerated people at home in the 2020 Census and beyond.

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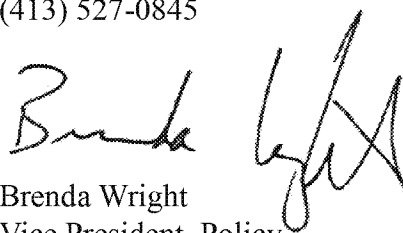


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<sup>46</sup> *Calvin v. Jefferson County Board of Commissioners*, Case No. 4:15CV131-MW/CAS, (N.D. Florida). See also, *Davidson v. City of Cranston*, (USDC Docket 1:14-cv-00091 D. Rhode Island), on appeal US Court of Appeals First Circuit, No. 16-1692), a recent similar case in Rhode Island, where the court found that "the ACI's inmates lack a 'representational nexus' with the Cranston City Council and School Committee." The court noted that "Cranston's elected officials do not campaign or endeavor to represent their ACI constituents," and pointed out that that the majority of incarcerated persons cannot vote, and those who can are required by law to vote by absentee ballot from their pre-incarceration address.

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A handwritten signature in black ink, appearing to read "Brenda Wright", with a stylized flourish at the end.

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Karen Humes, Chief  
 Population Division  
 U.S. Census Bureau, Room 5H174  
 Department of Commerce  
 Washington, D.C. 20233

RE: 2020 Decennial Census Residence Rule and Residence Situations  
 Docket Number 160526465-6465-01

Dear Ms. Humes:

These comments are submitted in response to the Public Notice, dated June 30, 2016, regarding proposed criteria to be used to determine the “usual residence” of prisoners in the upcoming 2020 Census.<sup>1</sup> Previously, undersigned counsel provided comments urging the Census Bureau to modify the Residence Rule as it relates to those who are incarcerated (Rule 13) and those in Juvenile Facilities (Rule 16). Despite the fact that 156 of the 162 comments submitted in 2015 urged the Census Bureau to modify the rule to designate the “usual residence” of those that are incarcerated as their home or pre-incarceration address, the Public Notice determined that the “usual residence” of those who are incarcerated should be at the correctional facility. This decision is flawed in two significant ways.

First, the Census Bureau incorrectly assumes that “the majority of people in prisons live and sleep most of the time at the prison.”<sup>2</sup> In reaching this determination, the Census Bureau impermissibly combines inmates of state or federal prisons with inmates of local jails.<sup>3</sup> There is a substantial difference between state and federal prisons on one hand, and local jails on the other. As noted in Exhibit A, there were 2,224,400 incarcerated people in 2014, but 744,600 of those that were incarcerated where held in local jails.<sup>4</sup> Inmates in prisons typically spend more than one year in prison, whereas it is possible that inmates held in local jails end up being incarcerated for less than 24 hours. Moreover, the number of unconvicted jail inmates is more than 150% greater than those jail inmates that have been convicted.<sup>5</sup> Therefore, there is no reasonable basis for the Census Bureau to determine that “the majority of people in prisons live and sleep most of the time at the prison.”<sup>6</sup>

<sup>1</sup> See *Proposed 2020 Census Residence Criteria and Residence Situations*, 81 Fed. Reg. 42,577 (rel. June 30, 2016) (the “Public Notice”). The deadline for submitting comments was extended to September 1, 2016.

<sup>2</sup> *Public Notice*, 81 Fed. Reg. at 42,578.

<sup>3</sup> *Id.*, nt. 2.

<sup>4</sup> *Correctional Populations in the United States, 2014*, pg. 2.

<sup>5</sup> See Exhibit B, *Jail Inmates at Midyear 2014*, pg. 3.

<sup>6</sup> *Public Notice*, 81 Fed. Reg. at 42,578.



Second, there is significant churn within prisons and jails. As noted in Exhibit C, there were 575,779 admissions in state prisons in 2014, and 50,865 admissions in federal prisons. However, during that same year, there were 581,817 releases from state prisons and 54,529 releases from federal prisons.<sup>7</sup> The same analysis holds true for jails, where 58.1% of the jail population turns over in one week!<sup>8</sup> Thus, the Census Bureau's determination that "the majority of people in prisons [including local jails] live and sleep most of the time at prison" is simply not correct. Instead, both prison and jail inmates are constantly rotating through several stages of incarceration (pre-trial, post-trial, parole, residential reentry centers) which make the proposed one-size-fits-all definition for both prison and jail inmates illogical and legally unsustainable.

Therefore, the tentative conclusion that "counting prisoners anywhere other than the facility would violate the concept of usual residence" is simply incorrect and most likely is the result of both (i) combining inmates in prisons and in jails into one group; and (ii) failing to consider the enormous churn of inmates in both prisons and jails.

Moreover, there is no difference between inmates being held in local jails (33% of the total inmates incarcerated in 2014) and military personnel who are deployed outside the United States or juveniles in residential treatment centers. The Public Notice tentatively concluded that deployments "are typically short in duration, and the deployed personnel will be returning to their usual residence ...after their temporary deployment ends."<sup>9</sup> A similar finding was made with respect to "people in residential treatment centers for juveniles."<sup>10</sup> Both situations are identical to inmates that (i) are held in jails, (ii) will be released after their short period of incarceration, and (iii) will return to their usual residence after their temporary detention ends.

Finally, incorporated by reference are the arguments previously presented in my July 2015 comments, which are separate justifications for modifying the census criteria.<sup>11</sup> In addition to the fundamental problems with the Census Bureau's proposed definition of inmates discussed herein, there are significant public policy arguments that must be taken into consideration. Adoption of the proposed criteria would provide a perverse incentive for the construction of prisons and jails in rural areas, which will significantly enhance the relative power of that area in the determination of voting districts. Such actions will further exacerbate the very high recidivism rate among inmates, which will significantly impact our society.

In light of all of these factors, the Census Bureau has a rare opportunity to contribute to the growing movement to reform the criminal justice system, and encourage successful reentry of inmates into their local communities by counting these inmates at their legal address, voting residence or where they prefer to be counted.

Thank you this opportunity to provide comments on this very important criminal justice matter.

<sup>7</sup> *Prisoners in 2014*, pg. 29.

<sup>8</sup> *See Exhibit B, Jail Inmates at Midyear 2014*, pg. 8.

<sup>9</sup> *Public Notice*, 81 Fed. Reg. 42,579.

<sup>10</sup> *Id.*

<sup>11</sup> A copy is attached hereto as Exhibit D.

Respectfully submitted,

By: 

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**EXHIBIT A**



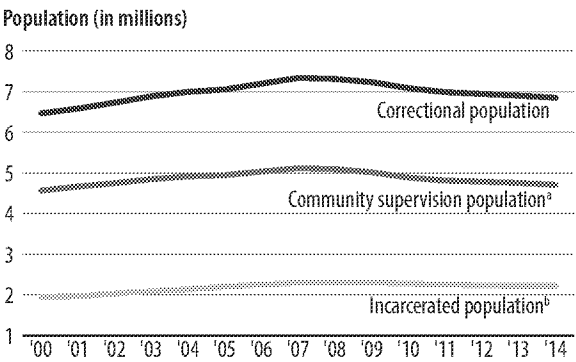
# Correctional Populations in the United States, 2014

Danielle Kaeble, Lauren Glaze, Anastasios Tsoutis, and Todd Minton, *BJS Statisticians*

At yearend 2014, an estimated 6,851,000 persons were under the supervision of U.S. adult correctional systems, a decline of about 52,200 from 6,903,200 at yearend 2013 (figure 1). After peaking at 7,339,600 in 2007, the correctional population decreased each year by an average of 1.0%. By yearend 2014, the population declined by 0.8% to the lowest level observed in more than a decade (6,886,800 in 2003). About 1 in 36 adults in the United States was under some form of correctional supervision at yearend 2014. This was the lowest rate observed since 1996 (5,531,300) when about 1.3 million fewer offenders were under correctional supervision (not shown).

This report summarizes data from several Bureau of Justice Statistics (BJS) correctional data collections to provide statistics on the total population supervised by adult correctional systems in the United States. (See Methodology for sources.) These systems include offenders living in the community while supervised by probation or parole agencies and those under the jurisdiction of state or federal prisons or held in local jails. (See *Terms and definitions* for more information.)

**FIGURE 1**  
Estimated total population under the supervision of U.S. adult correctional systems, by correctional status, 2000–2014



Note: Estimates were rounded to the nearest 100. Estimates may not be comparable to previously published BJS reports because of updated information or rounding. Includes estimates for nonresponding jurisdictions. Detail may not sum to total due to adjustments to account for offenders with multiple correctional statuses. See *Methodology*.

<sup>a</sup>Includes persons living in the community while supervised on probation or parole.

<sup>b</sup>Includes inmates under the jurisdiction of state or federal prisons or held in local jails.

Sources: Bureau of Justice Statistics, Annual Probation Survey, Annual Parole Survey, Annual Survey of Jails, Census of Jail Inmates, and National Prisoner Statistics program, 2000–2014.

## HIGHLIGHTS

- Adult correctional systems supervised an estimated 6,851,000 persons at yearend 2014, about 52,200 fewer offenders than at yearend 2013.
- About 1 in 36 adults (or 2.8% of adults in the United States) was under some form of correctional supervision at yearend 2014, the lowest rate since 1996.
- The correctional population has declined by an annual average of 1.0% since 2007.
- The community supervision population (down 1.0%) continued to decline during 2014, accounting for all of the decrease in the correctional population.
- The incarcerated population (up 1,900) slightly increased during 2014.
- Between 2007 and 2014, about 88% of the decrease in the correctional population (down 488,600 offenders) was attributed to the decline in the probation population.
- Seven jurisdictions accounted for almost half (48%) of the U.S. correctional population at yearend 2014.
- Nearly all (47) jurisdictions had a larger proportion of their correctional population supervised in the community at yearend 2014 than incarcerated in prison or local jail.

**The community supervision population declined during 2014, accounting for all of the decrease in the correctional population**

From 2013 (6,903,200) to 2014 (6,851,000), the total correctional population declined by 0.8% (table 1). (See appendix tables 1, 2, and 3 for correctional population estimates by jurisdiction and sex.) About 7 in 10 persons under correctional supervision at yearend 2014 were supervised in the community either on probation (3,864,100) or parole (856,900).<sup>1</sup> In comparison, about 3 in 10 offenders (2,224,400) under correctional supervision were under the jurisdiction of state or federal prisons (1,561,500) or held in local jails (744,600).

The 52,200 decrease in the number of persons under correctional supervision during 2014 was attributed to a decline in the community supervision population (down 1.0%), as the change in the incarcerated population during the

year was small (up 0.1%). All of the decrease in the community supervision population during 2014 was accounted for by the decline in the probation population (down 46,500), as the parole population increased slightly during the year (up 1,700).

After reaching a high of 5,119,000 persons in 2007, the community supervision population declined by annual average of 1.2%. The downward trend in the probation population over the past 7 years was consistent with that of the community supervision population. Since 2007, the probation population declined by an annual average of 1.5%, the largest rate of decline across all correctional populations. In comparison, the parole population grew by an annual average of 0.5% since 2007.

During 2014, the number of inmates incarcerated in state or federal prisons or local jails increased slightly (up 1,900), reversing a 5-year decline since 2008. While the jail population grew by 1.8% during 2014, the U.S. prison population dropped by 1.0%. The decrease in the U.S. prison population resulted from a decline in the state (down 10,100) and federal (down 5,300) prison populations. This was the second consecutive decline in the federal prison population after peaking in 2012 (217,800).

<sup>1</sup>The total correctional population, total community supervision population, and total incarcerated population exclude offenders with multiple correctional statuses to avoid double counting. For this reason, the sum of the community supervision and incarcerated populations, and the change in the populations, will not equal the total correctional population. See table 6 and *Methodology*.

**TABLE 1**  
**Estimated number of persons supervised by U.S. adult correctional systems, by correctional status, 2000, 2005–2010, and 2013–2014**

Year	Total correctional population <sup>a</sup>	Community supervision			Incarcerated <sup>b</sup>		
		Total <sup>a,c</sup>	Probation	Parole	Total <sup>a,d</sup>	Local jail	Prison
2000	6,467,800	4,564,900	3,839,400	725,500	1,945,400	621,100	1,394,200
2005	7,055,600	4,946,600	4,162,300	784,400	2,200,400	747,500	1,525,900
2006	7,199,700	5,035,000	4,236,800	798,200	2,256,600	765,800	1,568,700
2007	7,339,600	5,119,000	4,293,000	826,100	2,296,400	780,200	1,596,800
2008	7,313,600	5,094,400	4,270,100	828,200	2,310,300	785,500	1,608,300
2009	7,235,200	5,015,900	4,196,200	824,100	2,297,700	767,400	1,615,500
2010	7,086,500	4,886,000	4,053,600	840,700	2,279,100	748,700	1,613,800
2013	6,903,200	4,753,400	3,910,600	855,200	2,222,500	731,200	1,577,000
2014	6,851,000	4,708,100	3,864,100	856,900	2,224,400	744,600	1,561,500
Average annual percent change, 2007–2014	-1.0%	-1.2%	-1.5%	0.5%	-0.5%	-0.7%	-0.3%
Percent change, 2013–2014	-0.8%	-1.0%	-1.2%	0.2%	0.1%	1.8%	-1.0%

Note: Estimates were rounded to the nearest 100 and may not be comparable to previously published BJS reports due to updated information or rounding. Counts include estimates for nonresponding jurisdictions. All probation, parole, and prison counts are for December 31; jail counts are for the last weekday in June. Detail may not sum to total due to rounding and adjustments made to account for offenders with multiple correctional statuses. See *Methodology*.

<sup>a</sup>Total was adjusted to account for offenders with multiple correctional statuses. See *Methodology*.

<sup>b</sup>Includes inmates under the jurisdiction of state or federal prisons or held in local jails.

<sup>c</sup>Includes some offenders held in a prison or local jail but who remained under the jurisdiction of a probation or parole agency.

<sup>d</sup>May differ from estimates reported elsewhere in this report. See *Terms and definitions*.

Sources: Bureau of Justice Statistics, Annual Probation Survey, Annual Parole Survey, Annual Survey of Jails, Census of Jail Inmates, and National Prisoner Statistics program, 2000, 2005–2010, and 2013–2014.

During 2014, the correctional supervision rate fell for the seventh consecutive year

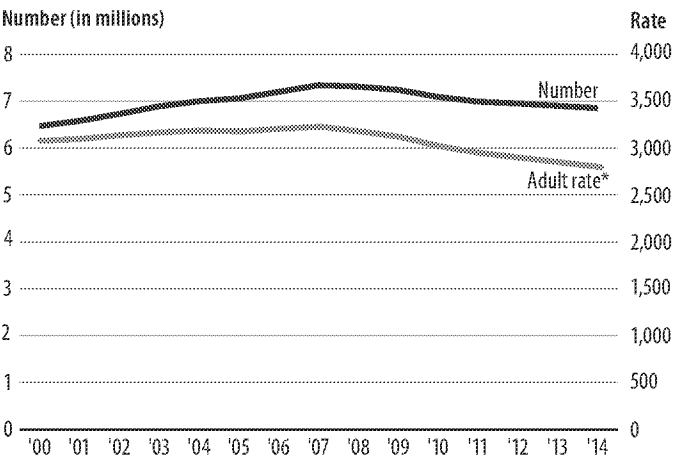
By yearend 2014, about 2,780 offenders per 100,000 U.S. adult residents were under some form of correctional supervision, down from 2,830 per 100,000 adults at yearend 2013 (figure 2). More than half (56%) of the decline in the correctional supervision rate was attributed to the increase in the size of the U.S. adult resident population during the year, while a smaller share of the decline (44%) resulted from the decrease in the correctional population. (See *Methodology*.)

After peaking at 3,210 per 100,000 U.S. adult residents in 2007, the correctional supervision rate fell steadily each year. Since 2007, the trend in the correctional supervision rate diverged from the trend in the number of persons under correctional supervision. The number of persons supervised by adult correctional systems decreased by an annual average of 1.0% from yearend 2007 to 2014. In comparison, the average annual decline in the correctional supervision rate (down 2.1%) was twice as fast during the same period. However, more than half (52%) of the decrease in the correctional supervision rate resulted from the increase in the U.S. adult resident population since 2007, compared to 48% of the decline attributed to the decrease in the number of offenders under correctional supervision.

From 2013 to 2014, the rate of offenders under community supervision declined from 1,950 to 1,910 per 100,000 adults, continuing a downward trend since 2007 (table 2). The decrease in the community supervision rate over the past 7 years accounted for about three-quarters of the decline

in the correctional supervision rate during the period. The incarceration rate also dropped slightly by yearend 2014, from 910 per 100,000 at yearend 2013 to 900 per 100,000. The incarceration rate has declined steadily each year since 2008.

**FIGURE 2**  
Estimated number and rate of persons supervised by U.S. adult correctional systems, 2000–2014



Note: Counts were rounded to the nearest 100, and rates were rounded to the nearest 10. Estimates may not be comparable to previously published BJS reports due to updated information or rounding. Counts include estimates for nonresponding jurisdictions. See *Methodology*.  
\*Rates were computed using estimates of the U.S. resident population for persons age 18 or older.  
Sources: Bureau of Justice Statistics, Annual Probation Survey, Annual Parole Survey, Annual Survey of Jails, Census of Jail Inmates, and National Prisoner Statistics program, 2000–2014; and U.S. Census Bureau, postcensal estimated resident population for January 1 of the following year, 2001–2015.

**TABLE 2**  
Estimated rate of persons supervised by U.S. adult correctional systems, by correctional status, 2000 and 2005–2014

Year	Total correctional population <sup>a</sup>			Community supervision population		Incarcerated population <sup>b</sup>	
	Number supervised per 100,000 U.S. residents age 18 or older <sup>c</sup>	U.S. adult residents under correctional supervision <sup>c</sup>	Number supervised per 100,000 U.S. residents of all ages <sup>d</sup>	Number on probation or parole per 100,000 U.S. residents age 18 or older <sup>c</sup>	Number on probation or parole per 100,000 U.S. residents of all ages <sup>d</sup>	Number in prison or local jail per 100,000 U.S. residents age 18 or older <sup>c</sup>	Number in prison or local jail per 100,000 U.S. residents of all ages <sup>d</sup>
2000	3,060	1 in 33	2,280	2,160	1,610	920	690
2005	3,160	1 in 32	2,370	2,210	1,660	990	740
2006	3,190	1 in 31	2,400	2,230	1,680	1,000	750
2007	3,210	1 in 31	2,420	2,240	1,690	1,000	760
2008	3,160	1 in 32	2,390	2,200	1,670	1,000	760
2009	3,100	1 in 32	2,350	2,150	1,630	980	750
2010	3,000	1 in 33	2,280	2,070	1,570	960	730
2011	2,930	1 in 34	2,230	2,010	1,540	940	720
2012	2,880	1 in 35	2,200	1,980	1,520	920	710
2013	2,830	1 in 35	2,170	1,950	1,500	910	700
2014	2,780	1 in 36	2,140	1,910	1,470	900	690

Note: Rates were estimated to the nearest 10. Estimates may not be comparable to previously published BJS reports due to updated information or rounding.  
<sup>a</sup>Includes offenders in the community under the jurisdiction of probation or parole agencies, under the jurisdiction of state or federal prisons, or held in local jails.  
<sup>b</sup>Includes inmates under the jurisdiction of state or federal prisons or held in local jails.  
<sup>c</sup>Rates were computed using estimates of the U.S. resident population for persons age 18 or older.  
<sup>d</sup>Rates were computed using estimates of the U.S. resident population for persons of all ages.

Sources: Bureau of Justice Statistics, Annual Probation Survey, Annual Parole Survey, Annual Survey of Jails, Census of Jail Inmates, and National Prisoner Statistics program, 2000, 2005–2014; and U.S. Census Bureau, postcensal estimated resident population for January 1 of the following year, 2001, and 2006–2015.

The difference between measures of the incarceration rate and the imprisonment rate

The incarceration rate and the imprisonment rate are two different statistics that BJS reports, depending on the correctional population of interest. The incarceration rate describes the incarcerated population that consists of inmates under the jurisdiction of state or federal prisons and inmates held in local jails. In comparison, the imprisonment rate describes the prison population under the jurisdiction of state or federal prisons and sentenced to more than 1 year. The imprisonment rate excludes prisoners who are unsentenced, those with sentences of less than 1 year, and all local jail inmates. Given these differences, the incarceration rate will always be higher than the imprisonment rate because the imprisonment rate

includes only a subset of the population accounted for in the incarceration rate (table 3).

This report focuses on the total correctional population, which consists of the community supervision (i.e., probation and parole) and incarcerated (i.e., prison and local jail) populations. Therefore, except for table 3, rates presented in this report are incarceration rates because they describe the total incarcerated population. BJS reports on the imprisonment rates in its annual report on the prison population. For more information on imprisonment rates, see *Prisoners in 2014* (NCJ 248955, BJS web, September 2015).

TABLE 3  
Incarceration rate of inmates under the jurisdiction of state or federal prisons or held in local jails and imprisonment rate of sentenced prisoners under the jurisdiction of state or federal prisons, 2004–2014

Year	Rate per 100,000 U.S. residents age 18 or older <sup>a</sup>		Rate per 100,000 U.S. residents of all ages <sup>b</sup>	
	Incarceration rate <sup>c</sup>	Imprisonment rate <sup>d</sup>	Incarceration rate <sup>c</sup>	Imprisonment rate <sup>d</sup>
2004	970	650	730	490
2005	990	660	740	490
2006	1,000	670	750	500
2007	1,000	670	760	510
2008	1,000	670	760	510
2009	980	660	750	500
2010	960	660	730	500
2011	940	640	720	490
2012	920	630	710	480
2013	910	620	700	480
2014	900	610	690	470

Note: Rates were rounded to the nearest 10 and include estimates for nonresponding jurisdictions. See *Methodology*.

<sup>a</sup>Rates were computed using estimates of the U.S. resident population for persons age 18 or older.

<sup>b</sup>Rates were computed using estimates of the U.S. resident population for persons of all ages.

<sup>c</sup>Includes inmates under the jurisdiction or legal authority of state or federal prisons or held in local jails.

<sup>d</sup>Includes prisoners sentenced to more than 1 year who were under the jurisdiction or legal authority of state or federal prisons. The imprisonment rate excludes unsentenced prisoners, prisoners with sentences of less than 1 year, and all inmates held in local jails.

Sources: Bureau of Justice Statistics, National Prisoner Statistics program, Census of Jail Inmates, and Annual Survey of Jails, 2004–2014; and U.S. Census Bureau, postcensal estimated resident population for January 1 of the following year, 2005–2015.

Since 2007, compositional changes in the correctional population were small despite the decrease of 488,900 offenders

Despite the overall decline in the correctional population over the past 7 years (down 488,900 offenders), the changes in the composition of the population were small. Probationers continued to account for the majority (56%) of offenders under correctional supervision at yearend 2014 (table 4). In 2014, probationers accounted for a slightly smaller portion of the correctional population compared to 2007 (58%), as the number of probationers decreased each year during the period.

Prison and parole populations grew slightly as a share of the total correctional population between 2007 and 2014. Prisoners accounted for 23% of offenders under correctional supervision at yearend 2014, up slightly from 22% in 2007. The parole population accounted for 13% of the correctional population at the end of 2014, up slightly from 11% in 2007. Inmates incarcerated in local jails represented the smallest shares of the correctional population in 2007 and 2014 (11% each).

The decline in the probation population from 2007 to 2014 accounted for 88% of the decrease in the correctional population

Probationers represented the majority of offenders under correctional supervision from 2007 to 2014, and the decline in this population contributed significantly to the decrease in the correctional population. From 2007 to 2014, the number of probationers decreased by 428,800, representing about 88% of the total decline in the correctional population since 2007—the largest decline among all correctional populations (table 5).

The prison and local jail populations also declined between 2007 and 2014. However, they accounted for a significantly smaller portion of the decrease in the correctional population compared to probationers. From 2007 to 2014, the number of

inmates in prison declined by 35,300 offenders and the number in local jails fell by 35,600, accounting for equal shares of the decline in the correctional population (down 7% each).

The parole population was the only correctional population to increase from 2007 to 2014. About 30,800 more parolees were supervised in the community in 2014 compared to 2007, partially offsetting the overall decline in the correctional population during the 7-year period.

TABLE 4  
Estimated number of persons supervised by U.S. adult correctional systems, by correctional status, 2007 and 2014

Correctional populations	2007		2014	
	Population	Percent of total population	Population	Percent of total population
Total <sup>a</sup>	7,339,600	100%	6,851,000	100%
Probation <sup>b</sup>	4,293,000	58.5	3,864,100	56.4
Prison <sup>b</sup>	1,596,800	21.8	1,561,500	22.8
Parole <sup>b</sup>	826,100	11.3	856,900	12.5
Local jail <sup>c</sup>	780,200	10.6	744,600	10.9
Offenders with multiple correctional statuses <sup>d</sup>	156,400	:	176,100	:

Note: Counts were rounded to the nearest 100 and include estimates for nonresponding jurisdictions. Detail may not sum to total due to rounding and because offenders with multiple correctional statuses were excluded from the total correctional population. See *Methodology*.

:Not calculated.

<sup>a</sup>Adjusted to exclude offenders with multiple correctional statuses to avoid double counting. See *Methodology*.

<sup>b</sup>Population as of December 31.

<sup>c</sup>Population as of the last weekday in June.

<sup>d</sup>Some probationers and parolees on December 31 were held in a prison or local jail but still remained under the jurisdiction of a probation or parole agency, and some parolees were also on probation. In addition, some prisoners were held in a local jail on December 31. They were excluded from the total correctional population to avoid double counting. See table 6 and *Methodology*.

Sources: Bureau of Justice Statistics, Annual Probation Survey, Annual Parole Survey, Annual Survey of Jails, and National Prisoner Statistics program, 2007 and 2014.

TABLE 5  
Change in the estimated number of persons supervised by U.S. adult correctional systems, 2000–2007 and 2007–2014

Correctional populations	2000–2007		2007–2014	
	Change in population <sup>a</sup>	Percent of total change <sup>a</sup>	Change in population <sup>a</sup>	Percent of total change <sup>a</sup>
Total change <sup>b</sup>	871,900	100%	-488,600	100%
Probation	453,600	52.0	-428,800	87.8
Prison	202,600	23.2	-35,300	7.2
Local jail	159,000	18.2	-35,600	7.3
Parole	100,600	11.5	30,800	-6.3
Offenders with multiple correctional statuses <sup>c</sup>	43,900	:	19,700	:

Note: Estimates were rounded to the nearest 100 and include adjustments for nonresponding jurisdictions. See *Methodology*.

:Not calculated.

<sup>a</sup>Detail may not sum to total due to adjustments to exclude offenders with multiple correctional statuses from the total to avoid double counting. See table 6 and *Methodology*.

<sup>b</sup>Includes the change in the number of offenders with multiple correctional statuses. See table 6 and *Methodology*.

<sup>c</sup>Some probationers and parolees on December 31 were held in a prison or local jail but still remained under the jurisdiction of a probation or parole agency, and some parolees were also on probation. Some prisoners were held in a local jail on December 31. These offenders were excluded from the total correctional population prior to calculating change to avoid double counting. See table 6 and *Methodology*.

Sources: Bureau of Justice Statistics, Annual Probation Survey, Annual Parole Survey, Annual Survey of Jails, and National Prisoner Statistics program, 2000–2014.



**Seven jurisdictions accounted for almost half of the U.S. correctional population at yearend 2014**

At yearend 2014, the size of the correctional population by jurisdiction varied, from a low of 8,400 offenders to a high of 699,300 (figure 3). Including the federal system but excluding the District of Columbia, the average number of offenders under the supervision of adult correctional systems by jurisdiction was about 133,400. Seven jurisdictions had correctional populations of 300,000 or more offenders, including Texas (699,300), California (589,600), Georgia (579,600), Florida (382,600), Pennsylvania (360,800), the federal system (338,000), and Ohio (326,300). These seven jurisdictions made up almost half (48%) of the U.S. correctional population at the end of 2014.

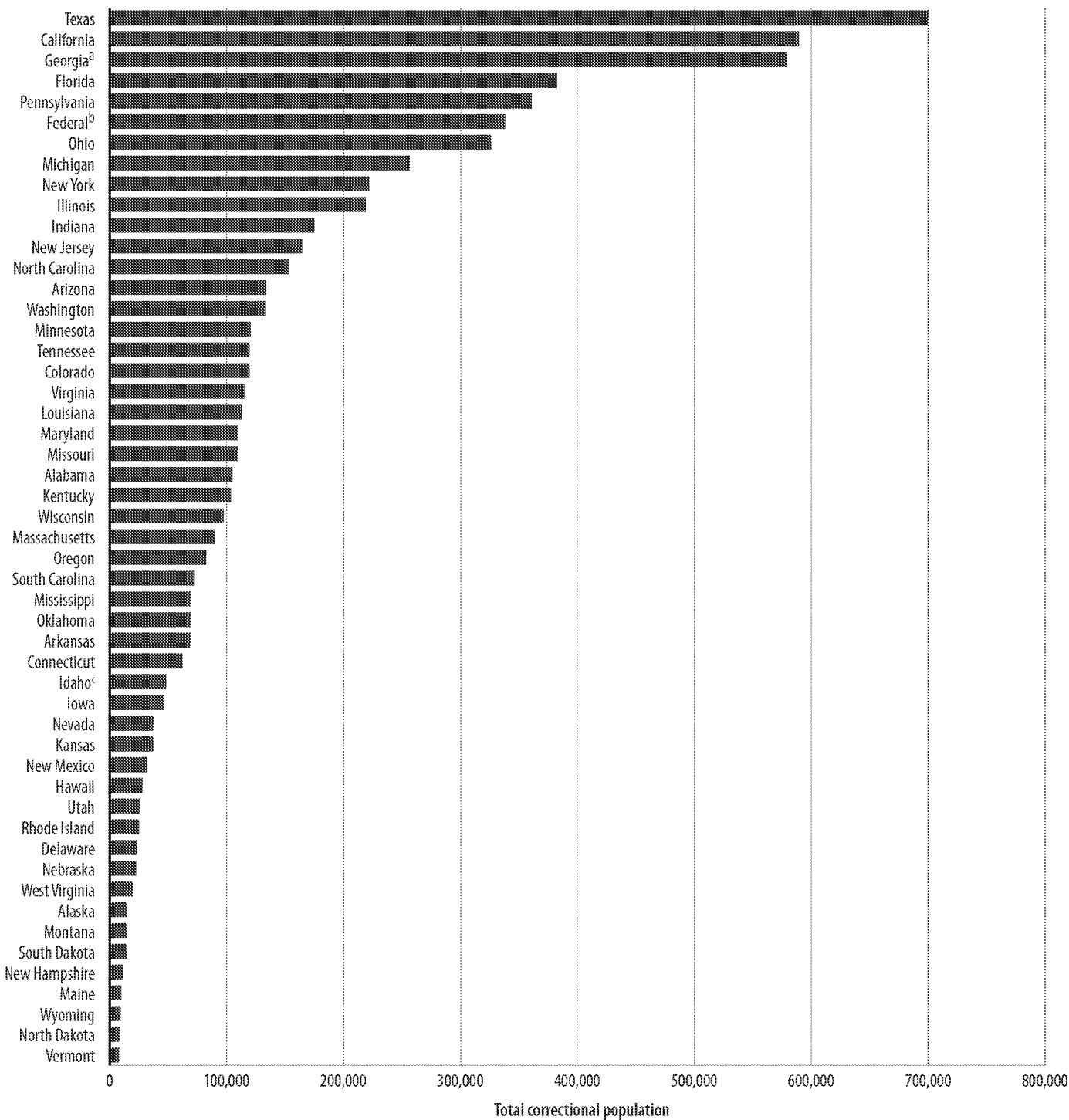
Excluding the federal system, four of the same six jurisdictions had more than 3,000 per 100,000 U.S. adult residents under some form of correctional supervision at yearend 2014 (figure 4). The other two states, Florida (2,390 per 100,000 U.S. adult residents) and California (1,980 per 100,000), had correctional supervision rates that were less than 2,500 per 100,000.

**At yearend 2014, almost all jurisdictions had a larger portion of their correctional population supervised in the community than incarcerated**

While the distribution of the correctional population varied by jurisdiction, almost all (47) jurisdictions had more than half of their correctional population supervised in the community on probation or parole at the end of 2014. Including the federal system but excluding the District of Columbia, jurisdictions ranged from a low of 38% of their correctional population supervised in the community at yearend 2014 to a high of 88%, with a national average of about 66% (figure 5). The proportion of the correctional population incarcerated in state or federal prisons or local jails ranged from a low of 12% to a high of 62%, with a national average of about 34%.

Of the seven jurisdictions that constituted almost half of the U.S. correctional population at yearend 2014, six had at least 60% of their correctional population supervised in the community rather than incarcerated. These included Georgia (84% of total correctional population in the community), Ohio (78%), Pennsylvania (77%), Texas (69%), California (65%), and Florida (60%). One of the seven jurisdictions, the federal system (62%), had more than 60% of its correctional population incarcerated rather than supervised in the community at the end of the year.

**FIGURE 3**  
**Estimated total population supervised by U.S. adult correctional systems, by jurisdiction, 2014**



Note: Excludes the District of Columbia. Estimates were rounded to the nearest 100. Counts include adjustments for nonresponding jurisdictions and exclude offenders with multiple correctional statuses to avoid double counting. See appendix table 1 for estimates. See *Methodology*.

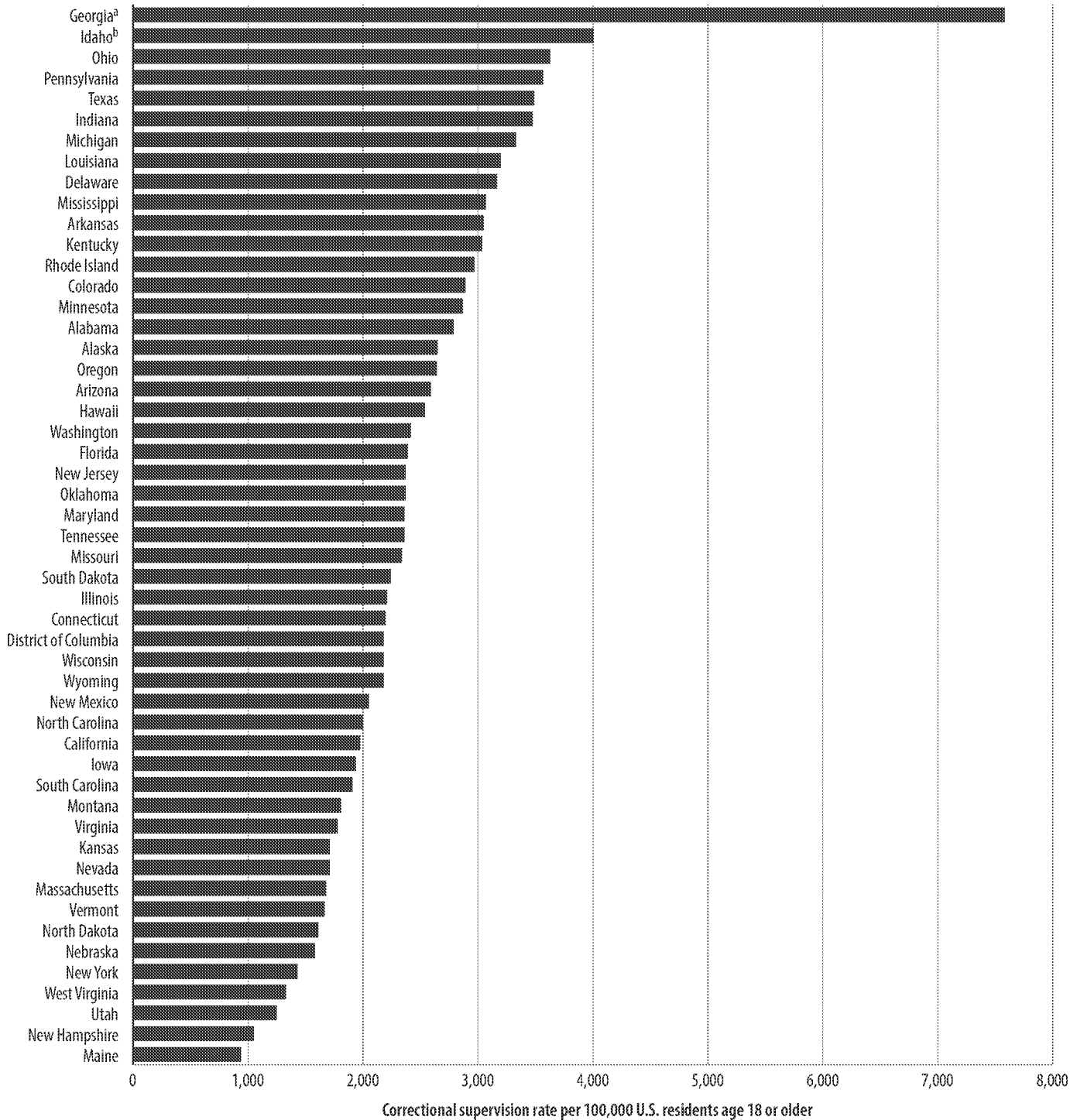
<sup>a</sup>Includes misdemeanor probation cases, not individuals, supervised by private companies and may overstate the number of offenders under supervision.

<sup>b</sup>Excludes about 11,900 inmates who were not held in locally operated jails but in facilities that were operated by the Federal Bureau of Prisons and functioned as jails.

<sup>c</sup>Includes estimates of probationers supervised for a misdemeanor based on admissions and may overstate the number of offenders under supervision.

Sources: Bureau of Justice Statistics, Annual Probation Survey, Annual Parole Survey, Deaths in Custody Reporting Program, and National Prisoner Statistics program, 2014.

**FIGURE 4**  
**Estimated adult correctional supervision rate, by jurisdiction, 2014**



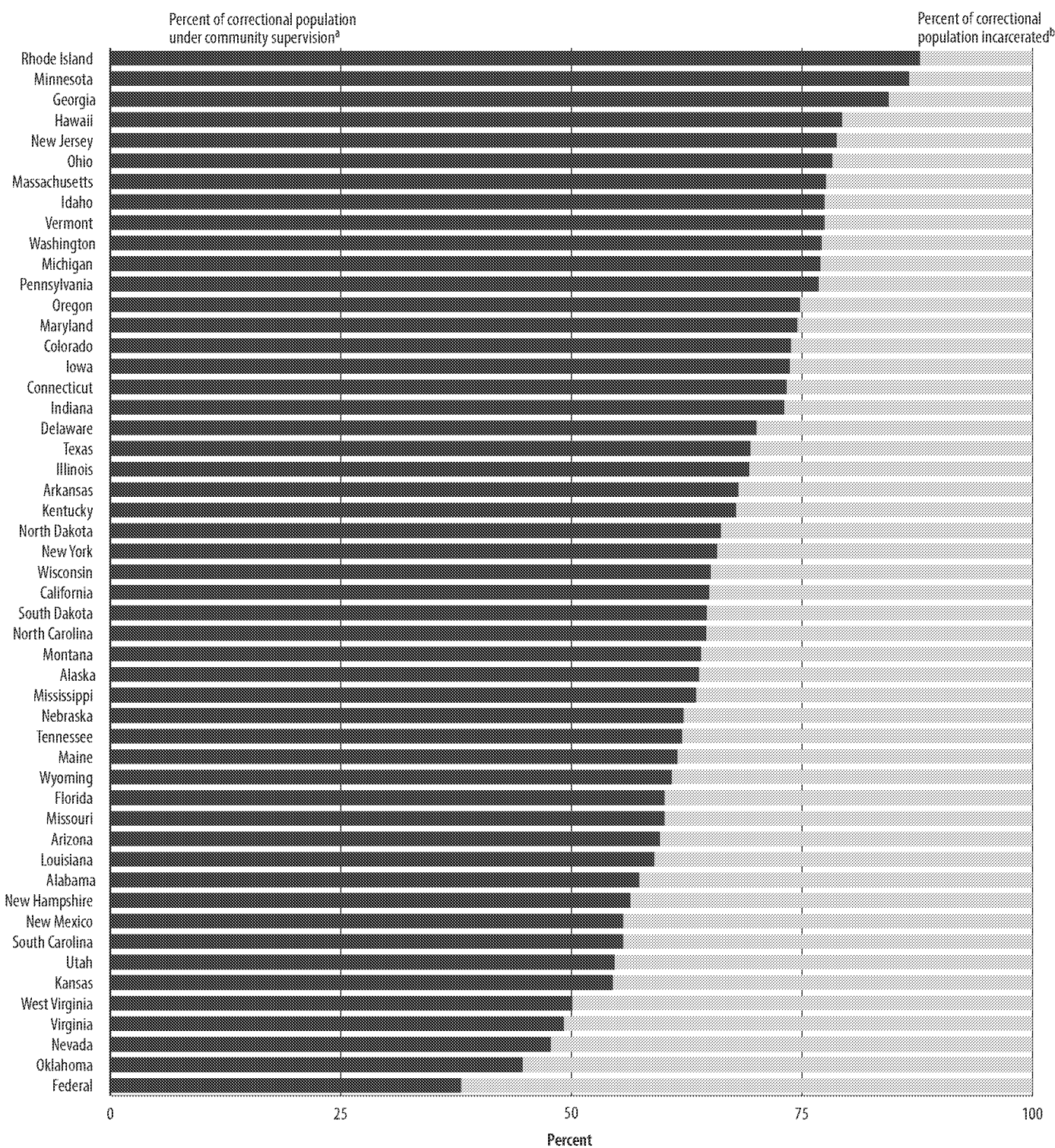
Note: Excludes the federal system and the District of Columbia. Rates were rounded to the nearest 10. Rates include estimates for nonresponding jurisdictions and exclude offenders with multiple correctional statuses to avoid double counting. See appendix table 1 for estimates. See *Methodology*.

<sup>a</sup>Includes misdemeanor probation cases, not individuals, supervised by private companies and may overstate the number of offenders under supervision. For this reason, the adult correctional supervision rate may not be comparable to other jurisdictions.

<sup>b</sup>Includes estimates of probationers supervised for a misdemeanor based on admissions and may overstate the number of offenders under supervision. For this reason, the adult correctional supervision rate may not be comparable to other jurisdictions.

Sources: Bureau of Justice Statistics, Annual Probation Survey, Annual Parole Survey, Deaths in Custody Reporting Program, and National Prisoners Statistics program, 2014; and U.S. Census Bureau, unpublished U.S. resident population estimates within jurisdiction on January 1, 2015.

**FIGURE 5**  
**Distribution of correctional population, by correctional status and jurisdiction, 2014**



Note: Excludes the District of Columbia. Estimates are based on counts that include adjustments for nonresponding jurisdictions. Estimates of the total correctional population used to calculate the percentages presented are based on the sum of the community supervision and incarcerated populations within each jurisdiction. That total may include probationers or parolees held in state or federal prisons or local jails. See *Methodology*.

<sup>a</sup>Includes persons living in the community while supervised on probation or parole.

<sup>b</sup>Includes inmates under the jurisdiction of state or federal prisons or held in local jails.

Sources: Bureau of Justice Statistics, Annual Probation Survey, Annual Parole Survey, Deaths in Custody Reporting Program, and National Prisoner Statistics program, 2014.

## Terms and definitions

**Adult**—persons subject to the jurisdiction of an adult criminal court or correctional agency. Adults are age 18 or older in most jurisdictions. Persons age 17 or younger who were prosecuted in criminal court as if they were adults are considered adults, but persons age 17 or younger who were under the jurisdiction of a juvenile court or agency are excluded. (See *Methodology* for more information on prison and local jail inmates age 17 or younger.)

**Annual change**—change in a population between two consecutive years.

**Average annual change**—average (mean) annual change in a population across a specific time period.

**Community supervision population**—estimated number of persons living in the community while supervised on probation or parole.

**Community supervision rate**—estimated number of persons supervised in the community on probation or parole per 100,000 U.S. residents of all ages (i.e., total community supervision rate) or U.S. residents age 18 or older (i.e., adult community supervision rate).

**Correctional population**—estimated number of persons living in the community while supervised on probation or parole and inmates under the jurisdiction of state or federal prisons or held in local jails.

**Correctional supervision rate**—estimated number of persons supervised in the community on probation or parole and inmates under the jurisdiction of state or federal prisons or held in local jails per 100,000 U.S. residents of all ages (i.e., total correctional supervision rate) or U.S. residents age 18 or older (i.e., adult correctional supervision rate).

**Imprisonment rate**—estimated number of prisoners under state or federal jurisdiction sentenced to more than 1 year per 100,000 U.S. residents of all ages (i.e., total imprisonment rate) or U.S. residents age 18 or older (i.e., adult imprisonment rate). (The imprisonment rate is presented and discussed in *The difference between measures of the incarceration rate and imprisonment rate* text box.)

**Incarcerated population**—estimated number of inmates under the jurisdiction of state or federal prisons or held in local jails.

**Incarceration rate**—estimated number of inmates under the jurisdiction of state or federal prisons or held in local jails per 100,000 U.S. residents of all ages (i.e., total incarceration rate) or U.S. residents age 18 or older (i.e., adult incarceration rate).

**Indian country jail population**—estimated number of inmates held in correctional facilities operated by tribal authorities or the Bureau of Indian Affairs (BIA), U.S. Department of the Interior. These facilities include confinement facilities, detention centers, jails, and other facilities operated by tribal authorities or the BIA. (This estimate is presented in appendix table 4.)

**Local jail population**—estimated number of inmates held in a confinement facility usually administered by a local law enforcement agency that is intended for adults, but sometimes holds juveniles, for confinement before and after adjudication. These facilities include jails and city or county correctional centers; special jail facilities, such as medical treatment or release centers; halfway houses; work farms; and temporary holding or lockup facilities that are part of the jail's combined function. Inmates sentenced to jail facilities usually have a sentence of 1 year or less.

**Military prison population**—estimated number of service personnel incarcerated under the jurisdiction of U.S. military correctional authorities. (This estimate is presented in appendix table 4.)

**Parole population**—estimated number of persons who are on conditional release in the community following a prison term while under the control, supervision, or care of a correctional agency. Violations of the conditions of supervision during this period may result in a new sentence to confinement or a return to confinement for a technical violation. This population includes parolees released through discretionary (i.e., parole board decision) or mandatory (i.e., provisions of a statute) supervised release from prison, those released through other types of post-custody conditional supervision, and those sentenced to a term of supervised release.

**Prison population**—estimated number of inmates incarcerated in a long-term confinement facility, run by a state or the federal government, that typically holds felons and offenders with sentences of more than 1 year, although sentence length may vary by jurisdiction.

*Prison jurisdiction population*—estimated number of prisoners under the jurisdiction or legal authority of state or federal correctional officials, regardless of where the prisoner is held. This population represents BJS's official measure of the prison population and includes prisoners held in prisons, penitentiaries, correctional facilities, halfway houses, boot camps, farms, training or treatment centers, and hospitals. Counts also include prisoners who were temporarily absent (less than 30 days), in court, or on work release; housed in privately operated facilities, local jails, or other state or federal facilities; and serving concurrent sentences for more than one correctional authority.

*Prison custody population*—estimated number of prisoners held in the physical custody of state or federal prisons regardless of sentence length or the authority having jurisdiction. This population includes prisoners housed for other correctional facilities but excludes those in the custody of local jails, inmates held in other jurisdictions, inmates out to court, and those in transit from one jurisdiction of legal authority to the custody of a confinement facility outside that jurisdiction. (This estimate is presented in appendix table 5.)

**Probation population**—estimated number of persons who are on a court-ordered period of supervision in the community while under the control, supervision, or care of a correctional agency. The probation conditions form a contract with the

court by which the person must abide in order to remain in the community, generally in lieu of incarceration. In some cases, probation can be a combined sentence of incarceration followed by a period of community supervision.

Often, probation entails monitoring or surveillance by a correctional agency. In some instances, probation may not involve any reporting requirements.

**Territorial prison population**—estimated number of prisoners in the custody of correctional facilities operated by departments of corrections in U.S. territories (American Samoa, Guam, and the U.S. Virgin Islands) and U.S. commonwealths (Northern Mariana Islands and Puerto Rico). (This estimate is presented in appendix table 4.)

## Methodology

### Data sources

The statistics presented in this report include data from various Bureau of Justice Statistics (BJS) data collections, each relying on the voluntary participation of federal, state, and local respondents. For more information about any of the following data collections, see the Data Collections webpage at [www.bjs.gov](http://www.bjs.gov).

**Annual Surveys of Probation and Parole.** The Annual Surveys of Probation and Parole (ASPP) began in 1980. The reference date for the surveys is December 31, and they collect data from probation and parole agencies in the United States that supervise adults. Both surveys cover the 50 states, the District of Columbia, and the federal system.

In these data, adults are persons who are subject to the jurisdiction of an adult criminal court or correctional agency. Persons age 17 or younger who were prosecuted in criminal court as if they were adults are considered adults, but persons age 17 or younger who were under the jurisdiction of a juvenile court or agency are excluded.

**Annual Survey of Jails.** The Annual Survey of Jails (ASJ) has collected data from a nationally representative sample of local jails each year since 1982, except in 1983, 1988, 1993, 1999, and 2005, when a complete census of U.S. local jails was conducted. Jails are confinement facilities, usually administered by a local law enforcement agency, that are intended to hold adults, but they may also hold youth age 17 or younger before or after they are adjudicated. The ASJ data used in this report include inmates age 17 or younger who were held either before or after they were adjudicated (about 4,200 persons in 2014).

To maintain the jail series in this report, all tables and figures that include national estimates of the local jail population as of the last weekday in June were provided through the ASJ, except in 1999 and 2005 when a jail census was completed (see Census of Jails). Because the ASJ is designed to produce only national estimates, tables and figures in this report that include jurisdiction-level counts of the incarcerated population and the total correctional population were based on jail data collected through two other BJS sources, specifically the Census of Jails and the Deaths in Custody Reporting Program. (See Census of Jails and Deaths in Custody Reporting Program.)

**Census of Jails.** The Census of Jails began in 1970 and was conducted in 1972, 1978, 1983, 1988, 1993, 1999, 2005, and 2006. In 2013, BJS expanded the 2013 Deaths in Custody Reporting Program—Annual Summary on Inmates under Jail Jurisdiction to act as the 2013 Census of Jails. (See Deaths in Custody Reporting Program.) The census is designed to produce a complete enumeration of jail facilities in the United States. It is part of a series of data collection efforts, including the Census of Jail Inmates and the Census of Jail Facilities, aimed at studying the nation's jails and their inmate populations. The reference date of the 2013 census was

December 31, while the reference date for prior iterations was the last weekday in June within the reference year.

BJS relied on local jail counts provided through the census in 1999, 2005, and 2013 to generate jurisdiction-level estimates of the total incarcerated population and total correctional population that appear in appendix tables 2 and 3. Because they include the 2013 local jail estimates as of December 31, the national totals of the correctional and incarcerated populations reported in appendix tables 2 and 3 are not consistent with the national totals of the populations reported in the other tables and figures of this report, which include BJS's official estimates of the total correctional and incarcerated populations.

**Deaths in Custody Reporting Program.** The Deaths in Custody Reporting Program (DCRP) is an annual collection that provides national, state, and incident-level data on persons who died while in the physical custody of the 50 state departments of corrections or the approximately 2,900 local adult jail jurisdictions nationwide. To reduce respondent burden for the 2013 iteration, BJS combined the 2013 DCRP collection with the 2013 Census of Jails. For more information, see *Census of Jails and Census of Jails: Population Changes, 1999–2013*, NCJ 248627, BJS web, December 2015.

The DCRP began in 2000 under the Death in Custody Reporting Act of 2000 (P.L. 106–297), and it is the only national statistical collection to obtain comprehensive information about deaths in adult correctional facilities. In addition to the death count, BJS requests that jails provide summary statistics about their population and admissions. All jails, including those with no deaths to report (which includes about 80% of jails in any given year), are asked to complete the annual summary survey form.

BJS relied on the local jail counts provided through the DCRP in 2014 to generate jurisdiction-level estimates of the total incarcerated population and total correctional population that appear in figures 2, 3, and 4 and appendix tables 1 and 2. Because they include the 2014 local jail estimates as of December 31, the national totals of the correctional and incarcerated populations reported in appendix tables 1 and 2 are not consistent with the national totals of the populations reported in the other tables and figures of this report, which include BJS's official estimates of the total correctional and incarcerated populations.

**National Prisoner Statistics program.** The National Prisoner Statistics (NPS) program began in 1926 under a mandate from Congress and has been conducted annually. It collects data from the nation's state departments of corrections and the Federal Bureau of Prisons (BOP).

The NPS distinguishes between inmates in custody and prisoners under the jurisdiction of correctional authorities. To have custody of a prisoner, a state or the BOP must hold that inmate in one of its facilities. To have jurisdiction over a prisoner, the state or BOP must have legal authority over that

prisoner, regardless of where the prisoner is incarcerated or supervised. Some states were unable to provide counts that distinguish between custody and jurisdiction. See *Jurisdiction notes in Prisoners in 2014* (NCJ 248955, BJS web, September 2015) to determine which states did not distinguish between custody and jurisdiction counts.

With the exception of appendix table 5, the NPS prisoner counts in all tables and figures of this report are consistent with the jurisdiction counts and findings reported in *Prisoners in 2014*. The jurisdiction counts represent BJS's official measure of the prison population.

The NPS prisoner custody counts are presented in appendix table 5 and include all inmates age 17 or younger who were serving time in a state or federal correctional facility after being sentenced in criminal court as if they were adults (about 1,000 persons in 2014), and inmates in the six states in which prisons and jails form one integrated system, including inmates age 17 or younger who may have been held before or after adjudication.

Through the annual NPS collection, BJS has obtained yearend counts of prisoners in the custody of U.S. military authorities from the Department of Defense Corrections Council since 1999. In 1994, the council, comprising representatives from each branch of military service, adopted a standardized report (DD Form 2720) that obtains data on persons held in U.S. military confinement facilities inside and outside of the continental United States. These data are presented in appendix table 4 of this report. See *Prisoners in 2014* for more statistics and information.

Since 1995, through the annual NPS collection, BJS has collected yearend counts of inmates from the departments of corrections in U.S. territories (American Samoa, Guam, and the U.S. Virgin Islands) and U.S. commonwealths (Northern Mariana Islands and Puerto Rico). These data are presented in appendix table 4 of this report and represent all inmates in the custody of prison facilities in U.S. territories or commonwealths. See *Prisoners in 2014* for more information, including nonresponse.

**Survey of Jails in Indian Country.** The Annual Survey of Jails in Indian Country (SJIC) has been conducted annually since 1998 with the exception of 2005 and 2006. The SJIC collects detailed information on all adult and juvenile confinement facilities, detention centers, jails, and other facilities operated by tribal authorities or the U.S. Department of the Interior's Bureau of Indian Affairs. The SJIC data in this report includes inmates age 17 or younger who are in the custody of Indian

country jails (about 200 persons in 2014). These data are presented in appendix table 4. See *Jails in Indian Country, 2014* (NCJ 248974, BJS web, October 2015) for more information.

**Counts adjusted for offenders with multiple correctional statuses**

Offenders under correctional supervision may have multiple correctional statuses for several reasons. For example, probation and parole agencies may not always be notified immediately of new arrests, jail admissions, or prison admissions; absconders included in a probation or parole agency's population in one jurisdiction may actually be incarcerated in another jurisdiction; persons may be admitted to jail or prison before formal revocation hearings and potential discharge by a probation or parole agency; and persons may be serving separate probation and parole sentences concurrently. In addition, state and federal prisons may hold inmates in county facilities or local jails to reduce crowding in their prisons.

Through the ASPP, BJS began collecting data on the number of probationers and parolees with multiple correctional statuses in 1998 and has since expanded on the information collected. Through the NPS, BJS began collecting data in 1999 on the number of prisoners under the jurisdiction of state or federal prisons who were held in county facilities or local jails. Table 6 includes adjustments that were made to the total correctional population, total community supervision population, and total incarcerated population estimates presented in this report to exclude offenders with multiple correctional statuses to avoid double counting offenders.

The estimates from the ASPP are based on data reported by the probation and parole agencies that were able to provide the information within the specific reporting year. Because some probation and parole agencies did not provide these data each year, the numbers may underestimate the total number of offenders who had multiple correctional statuses between 2000 and 2014.

Due to these adjustments, the sum of correctional statuses in tables 1, 2, 4, and 5; figure 1; and appendix tables 1, 2, and 3 will not equal the total correctional population. In addition, the sum of the probation and parole populations for 2008 through 2014 will not yield the total community supervision population because the total was adjusted for parolees who were also on probation. Also, the sum of the prison and local jail populations for 2000 through 2014 will not equal the total incarcerated population because prisoners held in local jails were excluded from the total.



**TABLE 6****Estimated number of offenders with multiple correctional statuses at yearend, by correctional status, 2000–2014**

Year	Total	Prisoners held in local jail	Probationers in—		Parolees in—		On probation
			Local jail	State or federal prison	Local jail	State or federal prison	
2000	112,500	70,000	20,400	22,100	:	:	:
2001	116,100	72,500	23,400	20,200	:	:	:
2002	122,800	72,600	29,300	20,900	:	:	:
2003	120,400	73,400	25,500	21,500	:	:	:
2004	130,400	74,400	34,400	21,600	:	:	:
2005	164,500	73,100	32,600	22,100	18,300	18,400	:
2006	169,900	77,900	33,900	21,700	20,700	15,700	:
2007	156,400	80,600	19,300	23,100	18,800	14,600	:
2008	178,500	83,500	23,800	32,400	19,300	15,600	3,900
2009	168,100	85,200	21,400	23,100	19,100	14,300	5,000
2010	170,300	83,400	21,300	21,500	21,400	14,400	8,300
2011	169,300	82,100	21,100	22,300	18,000	14,900	11,000
2012	168,400	83,600	21,200	21,700	18,500	10,700	12,700
2013	170,800	85,700	22,400	16,700	21,800	11,800	12,500
2014	176,100	81,700	23,500	24,600	21,800	11,600	12,900

Note: Estimates were rounded to the nearest 100 and may not be comparable to previously published BJS reports due to updated information. Detail may not sum to total due to rounding.

:Not collected or excluded from total correctional population.

Sources: Bureau of Justice Statistics, Annual Probation Survey, Annual Parole Survey, and National Prisoner Statistics program, 2000–2014.

### Decomposing the decline in the correctional supervision rate

To decompose the decline in the correctional supervision rate, the following formula was used:

$$\begin{aligned}\Delta R &= [P1 * (1/GP1)] - [P0 * (1/GP0)] \\ &= [P1 * ((1/GP1) - (1/GP0))] + [(1/GP0) * (P1 - P0)] \\ &= [(1/GP1) * (P1 - P0)] + [P0 * ((1/GP1) - (1/GP0))]\end{aligned}$$

In this formula,  $\Delta R$  is the change in the correctional supervision rate,  $P1$  is the total correctional population for the most recent year,  $P0$  is the total correctional population for the earlier year,  $GP1$  is the U.S. adult resident population for the most recent year, and  $GP0$  is the U.S. adult resident population for the earlier year. The components  $[(1/GP0) * (P1 - P0)]$  and  $[(1/GP1) * (P1 - P0)]$  provide the change in the correctional supervision rate due to the change in the total correctional population. These two components were summed, and the average was used to estimate the amount of change in the correctional supervision rate attributed to the change in the total correctional population during that period.

The components  $[P1 * ((1/GP1) - (1/GP0))]$  and  $[P0 * ((1/GP1) - (1/GP0))]$  provide the change due to the U.S. adult resident population. These two components were summed, and the average was used to estimate the amount of change in the correctional supervision rate attributed to the change in the U.S. adult resident population during the period.

### Nonresponse adjustments to estimate population counts

#### Probation, parole, jail, and prison populations

Probation, parole, jail, and prison population counts were adjusted to account for nonresponse across the data collections. The methods varied and depended on the type of collection, type of respondent, and availability of information. For more information on the nonresponse adjustments implemented to generate national and jurisdiction-level estimates of the probation, parole, and prison populations, see *Prisoners in 2014* (NCJ 248955, BJS web, September 2015) and *Probation and Parole in the United States, 2014* (NCJ 249057, BJS web, November 2015). For more information on the nonresponse adjustments implemented to generate national counts of the jail population that are included in the tables and figures of this report that include only national estimates, see *Jail Inmates at Midyear 2014* (NCJ 248629, BJS web, June 2015).

#### Jail population—jurisdiction-level estimates

The response rate to the 1999 Census of Jails was 99.8%. Six jail jurisdictions did not respond to the census. Data for critical items, including the population count on the last weekday in June, were imputed based on previous survey and census reports. For more information, see *Census of Jails, 1999* (NCJ 186633, BJS web, August 2001). Considering that the response rate to the 2005 Census of Jail Inmates was 100%, no nonresponse adjustments were implemented. For more information, see *Prison and Jail Inmates at Midyear 2005* (NCJ 213133, BJS web, May 2006).

Nonresponse in the 2013 Census of Jails and 2014 DCRP was minimal. The unit response rate to the 2013 Census of Jails was 92.4% and the 2014 DCRP was 95.8% at the time of this report. The item response rate for the December 31 confined jail population total was 99.3% in the 2013 Census of Jails and 99.0% in the 2014 DCRP.

For jails that did not participate in the 2013 Census of Jails or 2014 DCRP or were not able to provide the yearend confined population count, a sequential hot-deck imputation procedure was used to impute values. This procedure used respondent (donor) data as a substitute for missing values. The donor for each nonrespondent was randomly selected from within a set of similar jails, which was sorted by the previous-year population value. The resulting imputed values are generally similar to previous-year reported values, but are not identical due to differences between each donor and nonrespondent pair and the year-to-year fluctuation in donor population values.

Because the 2013 Census of Jails and 2014 DCRP data collections used a census design (no sampling), each jail was initially self-representing and had a design weight of 1. To reduce nonresponse bias, responding jails had their weight adjusted via post-stratification to allow their responses to represent jails that did not respond. The description of the weighting used in the 2014 DCRP is described next. The method used for the 2013 Census of Jails was similar. For more information, see *Census of Jails: Population Changes, 1999–2013* (NCJ 248627, BJS web, November 2015).

Control totals for the 2014 confined jail population from the DCRP were estimated at the state level as follows:

- The year-to-year change in confined jail population among respondents to both the 2013 and 2014 DCRP was computed within the state.
- Plausible values for the 2013 confined population were imputed for jails that did not report to the DCRP in 2013 using a hot-deck procedure that randomly selected a donor for each nonrespondent from within a set of jails that reported similar confined jail populations in the prior year.
- Estimated 2014 values were calculated by multiplying the yearly change rate and the 2013 DCRP estimate of confined population for jails that did not respond to the 2014 DCRP.
- The sum of reported, item-imputed, and DCRP-estimated values for the 2014 confined jail population for each state served as the control totals for the post-stratification procedure. The post-stratification weight adjustment factor was identical for all jails within a state and was computed as

the ratio of the control total for state *i* to the sum of the reported and item-imputed 2014 DCRP confined jail population values for state *i*:

$$PSAdj_i = \frac{Control\ total_i}{\sum_{j=1}^{n_i} Reported\ confined_j + Item\ imputed\ confined_j}$$

The final analysis weight is the product of the design weight and the post-stratification adjustment factor. Because the design weight was 1 for all jails, the analysis weight is equal to the adjustment factor.

**Nonresponse adjustments to estimate males and females under correctional supervision**

The number of males and the number of females on probation or parole in 2013 and 2014 were adjusted to account for nonresponse using a ratio adjustment method. For jurisdictions that did not provide data on sex for a single year, the sex distribution reported the prior or subsequent year was used. For jurisdictions that did not provide data on sex for a portion of their population, the sex distribution of the known portion of the population was used to impute for the unknown portion because it was assumed that the distributions were the same. For jurisdictions that were unable to provide any data on sex for more than 1 year, the state national average was used to impute the number of males and females supervised in those states. Adjusted jurisdiction totals were then aggregated to produce national estimates of the number of males and females on probation and parole.

The counts of prisoners by sex in 2013 and 2014 were adjusted to account for nonresponse using either external sources or a ratio adjustment method. When possible, BJS used information available on state department of corrections’ websites to impute the number of males and females under the jurisdiction of that state’s prison system within the reference year. Otherwise, the sex distribution reported by the state in a recent, prior year was used to impute the number of males and females in the reference year. For more information, see *Prisoners in 2014* (NCJ 248955, BJS web, September 2015).

For jails that were unable to report the number of males and females confined at yearend 2013 or 2014, the same sequential hot-deck imputation procedure described in *Jail population—jurisdiction-level estimates* to impute for the confined jail population was also used to impute for the number of males and females confined in jail. Control totals for the 2014 confined jail population by sex were estimated at the state level as described in the section about weighting under the

heading *Jail population—jurisdiction-level estimates*. A similar method was used to estimate 2013 control totals by sex. More information can be found in *Census of Jails: Population Changes, 1999–2013* (NCJ 248627, BJS web, November 2015).

To generate estimates of the total correctional population in 2013 and 2014 by sex and jurisdiction, ratio estimation was used to account for male and female offenders with multiple correctional statuses in each jurisdiction. These adjustments were made by correctional status and were based on reported counts, by jurisdiction, of the number of offenders by sex and the number of offenders with multiple correctional statuses:

- To estimate the number of male and female prisoners held in local jails, the distribution of the prison population by sex within the reference year was applied to the number of prisoners in local jails by jurisdiction. The estimated number of male prisoners held in local jails was then subtracted from the total number of males under correctional supervision by jurisdiction. This same method was used to adjust the number of females under correctional supervision by jurisdiction.
- The correctional population estimates in each jurisdiction were also adjusted to account for the number of males and females on probation who were held in prisons or local jails. The distribution of the local jail population by sex was applied to the number of probationers in local jails by jurisdiction within the reference year to estimate the number of males and females with both correctional statuses. In addition, the distribution of the prison population by sex was applied to the total number of probationers in prison within the reference year to estimate the number of males and females with both correctional statuses. The estimated number of male probationers in prisons and local jails was then subtracted from the number of males under correctional supervision within the reference year by jurisdiction, and this same method was used to adjust the number of females under correctional supervision by jurisdiction. This method was also employed to account for parolees held in prisons or local jails and the totals, by sex, were excluded from the number of males and females under correctional supervision in each jurisdiction.

- To estimate the number of males and females on parole who were also on probation in 2013 and 2014, the distribution of the parole population by sex within the reference year was applied to the number of parolees on probation in each jurisdiction. The estimated number of males with dual community supervision statuses was then subtracted from the number of males under correctional supervision by jurisdiction. This same method was used to adjust the number of females under correctional supervision.

**Comparability of jurisdiction-level estimates over time**

All jurisdiction-level estimates included in this report are based on data reported within the reference year. Some jurisdictions update their population counts for different reasons after submitting their data to BJS. Updated population counts usually include data that were not entered into the information system before the survey was submitted or data that were not fully processed by yearend.

Also, some jurisdictions have experienced reporting changes for one or more correctional population collections over time. These changes may result because of administrative changes, such as consolidating databases or implementing new information systems, resulting in data review and cleanup; reconciling offender records; reclassifying offenders, including those on probation to parole and offenders on dual community supervision statuses; and including certain subpopulations that were not previously reported.

For these reasons, comparisons between jurisdictions and comparisons between years for the same jurisdiction over time may not be valid. More detailed information about updates and reporting changes that impact the ability to make jurisdiction-level comparisons over time can be found in the source reports for each of the four correctional populations, such as the *Probation and Parole in the United States* series or *Prisoners* series, within the particular reference year.

**APPENDIX TABLE 1****Estimated number and rate of persons supervised by U.S. adult correctional systems, by correctional status and jurisdiction, 2014**

Jurisdiction	Total correctional population		Community supervision		Incarcerated	
	Number under correctional supervision, 12/31/2014 <sup>a</sup>	Correctional supervision rate per 100,000 U.S. residents age 18 or older <sup>b</sup>	Number on probation or parole, 12/31/2014 <sup>c</sup>	Community supervision rate per 100,000 U.S. residents age 18 or older <sup>b</sup>	Number in prison or local jail, 12/31/2014 <sup>d</sup>	Incarceration rate per 100,000 U.S. residents age 18 or older <sup>b</sup>
U.S. total <sup>e</sup>	6,814,600	2,760	4,708,100	1,910	2,188,000	890
Federal <sup>f</sup>	338,000	140	128,400	50	209,600	90
State	6,476,600	2,630	4,579,700	1,860	1,978,300	800
Alabama	104,900	2,790	61,400	1,640	45,800	1,220
Alaska	14,600	2,650	9,300	1,690	5,300	960
Arizona	133,600	2,590	80,700	1,570	54,800	1,060
Arkansas	69,100	3,050	49,300	2,170	23,100	1,020
California	589,600	1,980	382,600	1,280	207,100	690
Colorado	119,800	2,890	89,100	2,150	31,500	760
Connecticut	62,300	2,200	45,600	1,610	16,600	590
Delaware	23,300	3,170	16,300	2,220	7,000	950
District of Columbia <sup>g</sup>	11,900	2,180	11,400	2,070	1,600	300
Florida	382,600	2,390	231,600	1,450	153,600	960
Georgia <sup>h</sup>	579,600	7,580	491,800	6,430	91,000	1,190
Hawaii	28,300	2,540	22,500	2,010	5,900	530
Idaho <sup>i</sup>	48,600	4,010	37,700	3,110	11,000	910
Illinois	219,000	2,210	151,800	1,530	67,200	680
Indiana	175,200	3,480	128,100	2,540	47,100	940
Iowa	46,500	1,940	35,500	1,490	12,700	530
Kansas	37,400	1,710	20,400	930	17,000	780
Kentucky	103,600	3,040	70,800	2,080	33,500	980
Louisiana	113,600	3,200	70,600	1,990	49,100	1,380
Maine	10,100	940	6,600	610	4,100	380
Maryland	109,700	2,360	91,100	1,960	31,100	670
Massachusetts	90,300	1,680	70,200	1,310	20,300	380
Michigan	256,700	3,330	199,000	2,580	59,400	770
Minnesota	120,500	2,870	104,300	2,490	16,200	390
Mississippi	69,700	3,070	44,300	1,950	25,400	1,120
Missouri	109,500	2,340	65,800	1,400	43,700	930
Montana	14,500	1,810	9,700	1,210	5,500	680
Nebraska	22,500	1,580	14,000	990	8,500	600
Nevada	37,500	1,710	18,000	820	19,600	890
New Hampshire	11,200	1,050	6,300	590	4,900	460
New Jersey	164,500	2,370	130,800	1,880	35,200	510
New Mexico	32,500	2,050	18,100	1,140	14,400	910
New York	222,100	1,430	149,100	960	77,500	500
North Carolina	153,600	2,000	99,300	1,290	54,300	710
North Dakota	9,300	1,610	6,200	1,070	3,200	550
Ohio	326,300	3,630	256,200	2,850	71,200	790
Oklahoma	69,600	2,370	31,100	1,060	38,400	1,310
Oregon	82,700	2,640	61,900	1,980	20,900	670
Pennsylvania	360,800	3,570	281,400	2,780	85,200	840
Rhode Island	25,100	2,970	24,100	2,850	3,400	400
South Carolina	71,900	1,910	40,000	1,060	31,900	850
South Dakota	14,500	2,240	9,400	1,460	5,100	800
Tennessee	119,900	2,360	76,400	1,500	46,900	920
Texas	699,300	3,490	496,900	2,480	219,100	1,090
Utah	25,700	1,250	15,300	740	12,600	620
Vermont	8,400	1,670	6,800	1,340	2,000	390
Virginia	115,300	1,780	56,700	880	58,600	900

*Continued on next page*

**APPENDIX TABLE 1 (continued)**  
**Estimated number and rate of persons supervised by U.S. adult correctional systems, by correctional status and jurisdiction, 2014**

Jurisdiction	Total correctional population		Community supervision		Incarcerated	
	Number under correctional supervision, 12/31/2014 <sup>a</sup>	Correctional supervision rate per 100,000 U.S. residents age 18 or older <sup>b</sup>	Number on probation or parole, 12/31/2014 <sup>c</sup>	Community supervision rate per 100,000 U.S. residents age 18 or older <sup>b</sup>	Number in prison or local jail, 12/31/2014 <sup>d</sup>	Incarceration rate per 100,000 U.S. residents age 18 or older <sup>b</sup>
Washington	133,000	2,420	104,000	1,890	30,900	560
West Virginia	19,600	1,330	9,900	680	9,900	670
Wisconsin	97,300	2,180	64,500	1,440	34,600	770
Wyoming	9,700	2,180	5,900	1,330	3,800	850

Note: Counts were rounded to the nearest 100, and rates were rounded to the nearest 10. Detail may not sum to total due to rounding and because offenders with multiple correctional statuses were excluded from totals. Counts include estimates for nonresponding jurisdictions. See *Methodology*.

<sup>a</sup>Excludes an estimated 81,700 prisoners held in local jails; 23,500 probationers in prisons; 24,600 probationers in local jails; 21,800 parolees in local jails; 11,600 parolees in prisons; and 12,900 parolees on probation. See table 6.

<sup>b</sup>Rates were computed using estimates of the U.S. resident population of persons age 18 or older within jurisdiction.

<sup>c</sup>Excludes an estimated 12,900 parolees on probation. See table 6.

<sup>d</sup>Excludes an estimated 81,700 prisoners held in local jails. See table 6.

<sup>e</sup>Total correctional population and total number in prison or local jail include local jail counts that are based on December 31, 2014, in order to produce jurisdiction-level estimates. For this reason, with the exception of appendix table 2, the totals in this table differ from the national estimates presented in other tables and figures in this report. See *Methodology*.

<sup>f</sup>Excludes about 11,900 inmates who were not held in locally operated jails but in facilities that were operated by the Federal Bureau of Prisons and functioned as jails.

<sup>g</sup>After 2001, responsibility for sentenced prisoners was transferred to the Federal Bureau of Prisons. Therefore, the 2005 and 2013 incarcerated populations represent inmates held in local jails.

<sup>h</sup>Total correctional population and community supervision population estimates include misdemeanor probation cases, not individuals, supervised by private companies and may overstate the number of offenders under supervision.

<sup>i</sup>Total correctional population and community supervision population include estimates of probationers supervised for a misdemeanor based on admissions and may overstate the number of offenders under supervision.

Sources: Bureau of Justice Statistics, Annual Probation Survey, Annual Parole Survey, Deaths in Custody Reporting Program, and National Prisoner Statistics program, 2014; and U.S. Census Bureau, unpublished U.S. resident population estimates within jurisdiction on January 1, 2015.

**APPENDIX TABLE 2****Estimated number and rate of persons supervised by U.S. adult correctional systems, by sex and jurisdiction, 2013 and 2014**

Jurisdiction	Total correctional population, 12/31/2013					Total correctional population, 12/31/2014				
	Number			Rate per 100,000 U.S. residents of all ages <sup>a</sup>		Number			Rate per 100,000 U.S. residents of all ages <sup>a</sup>	
	Total <sup>b</sup>	Male	Female	Male	Female	Total <sup>b</sup>	Male	Female	Male	Female
U.S. total <sup>c</sup>	6,903,600	5,647,300	1,256,300	3,610	780	6,814,600	5,563,100	1,251,600	3,530	770
Federal <sup>d</sup>	347,000	308,600	38,400	200	20	338,000	300,600	37,400	190	20
State	6,556,600	5,338,700	1,217,900	3,410	750	6,476,600	5,262,500	1,214,100	3,340	750
Alabama <sup>d</sup>	115,500	98,500	17,100	4,200	690	104,900	87,400	17,500	3,710	700
Alaska	14,600	12,200	2,500	3,150	710	14,600	12,100	2,400	3,130	690
Arizona	132,300	111,100	21,200	3,350	630	133,600	111,900	21,700	3,330	640
Arkansas	70,100	56,400	13,700	3,870	910	69,100	55,500	13,500	3,800	890
California	601,800	506,800	95,000	2,640	490	589,600	495,500	94,100	2,560	480
Colorado	120,500	95,000	25,500	3,560	960	119,800	94,000	25,800	3,470	960
Connecticut	62,900	52,700	10,200	3,000	550	62,300	51,500	10,700	2,930	580
Delaware	23,700	19,100	4,600	4,240	960	23,300	18,800	4,500	4,130	930
District of Columbia <sup>e</sup>	13,700	11,700	2,000	3,770	580	11,900	10,200	1,800	3,230	520
Florida	389,200	314,400	74,800	3,260	740	382,600	308,800	73,700	3,150	720
Georgia <sup>f</sup>	623,500	496,600	126,800	10,120	2,470	579,600	463,800	115,800	9,370	2,230
Hawaii	28,900	22,800	6,200	3,190	890	28,300	22,300	6,000	3,100	850
Idaho <sup>g</sup>	46,200	35,900	10,300	4,410	1,270	48,600	37,700	10,900	4,580	1,330
Illinois	222,700	183,500	39,200	2,900	600	219,000	181,000	38,000	2,860	580
Indiana	179,100	142,200	36,900	4,380	1,100	175,200	139,300	35,900	4,280	1,070
Iowa	45,900	36,300	9,600	2,360	610	46,500	36,600	9,900	2,360	630
Kansas	37,100	30,900	6,200	2,140	430	37,400	31,200	6,200	2,150	420
Kentucky <sup>d</sup>	97,500	73,500	24,000	3,390	1,070	103,600	77,900	25,700	3,580	1,150
Louisiana	115,300	97,700	17,700	4,300	750	113,600	96,300	17,400	4,220	730
Maine	10,500	8,900	1,700	1,370	250	10,100	8,400	1,700	1,290	250
Maryland <sup>d</sup>	74,900	67,200	7,700	2,330	250	109,700	92,100	17,700	3,170	570
Massachusetts	90,700	76,100	14,600	2,330	420	90,300	75,900	14,400	2,310	410
Michigan <sup>d</sup>	253,500	203,300	50,200	4,180	1,000	256,700	203,200	53,400	4,170	1,060
Minnesota	123,500	97,400	26,100	3,600	950	120,500	95,500	25,000	3,510	910
Mississippi	67,600	52,400	15,200	3,600	990	69,700	58,200	11,500	4,000	750
Missouri	113,400	93,000	20,400	3,130	660	109,500	89,400	20,100	3,000	650
Montana	14,800	12,100	2,700	2,360	530	14,500	11,700	2,800	2,270	550
Nebraska	23,200	18,500	4,600	1,980	490	22,500	17,800	4,700	1,890	500
Nevada	37,200	31,000	6,300	2,190	450	37,500	31,400	6,100	2,190	430
New Hampshire	11,100	9,300	1,800	1,420	270	11,200	9,300	1,900	1,420	280
New Jersey	164,100	137,900	26,300	3,170	580	164,500	137,300	27,200	3,140	590
New Mexico	34,500	27,700	6,900	2,680	650	32,500	26,000	6,500	2,520	620
New York	227,200	197,500	29,700	2,060	290	222,100	192,300	29,800	2,000	290
North Carolina	156,100	126,500	29,600	2,620	580	153,600	124,100	29,500	2,550	580
North Dakota	8,300	6,500	1,800	1,730	500	9,300	7,300	2,000	1,900	550
Ohio	335,600	255,800	79,900	4,510	1,350	326,300	251,000	75,300	4,410	1,270
Oklahoma	67,600	55,900	11,700	2,920	600	69,600	57,700	11,900	2,990	610
Oregon	82,300	68,200	14,100	3,490	710	82,700	68,200	14,500	3,460	720
Pennsylvania	357,400	286,700	70,700	4,590	1,080	360,800	284,700	76,100	4,540	1,160
Rhode Island	24,600	20,900	3,700	4,090	680	25,100	21,300	3,800	4,160	700
South Carolina	73,500	62,700	10,800	2,680	440	71,900	61,000	10,800	2,580	430
South Dakota	14,800	11,900	2,900	2,790	690	14,500	11,600	2,800	2,690	660
Tennessee	121,700	97,600	24,200	3,070	720	119,900	95,900	24,000	2,990	710
Texas	712,000	574,200	137,800	4,330	1,020	699,300	564,200	135,100	4,180	990
Utah	25,300	20,500	4,800	1,390	330	25,700	20,600	5,100	1,380	350
Vermont	8,600	6,900	1,800	2,230	570	8,400	6,700	1,700	2,170	540
Virginia	114,500	95,900	18,600	2,350	440	115,300	95,900	19,400	2,330	460
Washington <sup>d</sup>	139,400	112,600	26,900	3,210	770	133,000	106,600	26,500	3,000	750
West Virginia <sup>d</sup>	20,500	16,000	4,500	1,750	480	19,600	15,500	4,100	1,700	440
Wisconsin	97,900	83,000	14,900	2,910	510	97,300	82,300	15,000	2,870	520
Wyoming	9,700	7,700	2,000	2,590	700	9,700	7,700	2,000	2,580	700

Note: Counts were rounded to the nearest 100, and rates were rounded to the nearest 10. Detail may not sum to total due to rounding and because offenders with multiple correctional statuses were excluded from totals. Counts include estimates for nonresponding jurisdictions. See *Methodology*.

<sup>a</sup>Rates were computed using estimates of the resident population of persons of all ages within jurisdiction, by sex. U.S. resident population estimates of persons age 18 or older were not available by sex. For this reason, jurisdiction-level rates in other tables of this report may not be comparable to the rates in this table.

<sup>b</sup>Excludes, by jurisdiction, an estimated 154,100 males and 16,700 females in 2013 and 157,900 males and 18,200 females with multiple correctional statuses. See *Methodology*.

<sup>c</sup>Total correctional population includes local jail counts that are based on December 31 in order to produce jurisdiction-level estimates. For this reason, with the exception of appendix tables 1 and 3, the estimates in this table differ from other estimates in this report. See *Methodology*.

<sup>d</sup>Estimates may not be comparable between years due to updated information or changes in reporting. See *Methodology*.

<sup>e</sup>After 2001, responsibility for sentenced prisoners was transferred to the Federal Bureau of Prisons. Therefore, the 2005 and 2013 incarcerated populations represent inmates held in local jails.

<sup>f</sup>Estimates include misdemeanor probation cases, not individuals, supervised by private companies and may overstate the number of offenders under supervision.

<sup>g</sup>Includes estimates of probationers supervised for a misdemeanor based on admissions and may overstate the number of offenders under supervision.

Sources: Bureau of Justice Statistics, Annual Probation Survey, Annual Parole Survey, Deaths in Custody Reporting Program, Deaths in Custody Reporting Program—Annual Summary on Inmates under Jail Jurisdiction, and National Prisoner Statistics program, 2013–2014; and U.S. Census Bureau, unpublished U.S. resident population estimates within jurisdiction, by sex, for January 1 of the following year.

001654

**APPENDIX TABLE 3****Estimated number of persons supervised by U.S. adult correctional systems, by correctional status and jurisdiction, 1999, 2005, and 2013**

Jurisdiction	1999			2005			2013		
	Total correctional population	Community supervision population <sup>a</sup>	Incarcerated population <sup>b</sup>	Total correctional population	Community supervision population <sup>a</sup>	Incarcerated population <sup>b</sup>	Total correctional population	Community supervision population <sup>a</sup>	Incarcerated population <sup>b</sup>
<b>U.S. total</b>	6,349,000	4,485,300	1,910,400	7,055,600	4,946,600	2,200,400	6,907,800	4,753,400	2,222,900
<b>Federal</b>	239,100	103,800	135,200	304,500	117,900	186,600	347,000	131,900	215,100
<b>State</b>	6,109,900	4,381,500	1,775,100	6,751,100	4,828,700	2,013,800	6,560,800	4,621,500	2,007,800
Alabama <sup>c</sup>	80,500	46,800	34,700	84,800	46,200	40,800	115,500	70,800	45,900
Alaska <sup>c</sup>	9,000	5,000	4,000	11,500	6,700	4,900	14,600	9,500	5,100
Arizona	97,100	60,800	36,300	126,000	77,200	48,800	132,300	79,200	55,100
Arkansas	52,900	38,100	15,500	63,200	46,800	18,600	70,100	50,200	22,900
California	683,800	446,500	237,400	750,300	500,000	250,300	601,800	383,600	218,200
Colorado <sup>c</sup>	69,200	50,600	22,000	94,300	64,800	34,700	120,500	89,700	31,800
Connecticut	75,200	56,600	18,600	78,000	58,600	19,400	62,900	45,400	17,600
Delaware	28,600	21,600	7,000	26,000	19,100	6,900	23,700	16,700	7,000
District of Columbia <sup>c,d</sup>	27,500	17,200	10,300	14,800	12,700	3,600	13,700	12,600	2,400
Florida	418,700	298,800	120,700	431,900	282,600	153,300	389,200	237,800	154,300
Georgia <sup>c,e</sup>	397,500	329,700	71,200	531,600	445,700	88,800	623,500	536,200	90,900
Hawaii	22,900	18,000	4,900	24,400	18,900	6,100	28,900	23,300	5,600
Idaho <sup>c,f</sup>	45,000	37,700	7,200	56,200	46,200	10,000	46,200	35,200	10,900
Illinois <sup>c</sup>	226,300	164,800	61,500	242,700	177,700	65,000	222,700	153,400	69,300
Indiana	141,300	110,400	30,900	168,600	128,300	40,300	179,100	134,000	45,100
Iowa <sup>c</sup>	32,400	22,200	10,200	39,300	27,000	12,400	45,900	34,700	12,700
Kansas	36,600	23,700	12,900	35,600	19,700	16,000	37,100	20,500	16,600
Kentucky	46,300	23,900	22,500	72,900	44,800	30,700	97,500	65,900	32,000
Louisiana	101,800	57,000	44,800	108,700	62,400	51,800	115,300	70,700	49,700
Maine	10,400	7,600	2,800	11,100	8,200	3,600	10,500	6,700	3,900
Maryland <sup>c</sup>	119,200	96,300	33,900	115,400	89,900	35,000	74,900	46,300	32,700
Massachusetts <sup>c</sup>	72,300	50,600	21,700	192,100	168,900	23,100	90,700	70,000	21,000
Michigan <sup>c</sup>	247,800	186,500	62,000	265,500	198,600	67,600	253,500	195,200	60,100
Minnesota	118,600	107,800	10,800	136,700	121,000	15,600	123,500	107,800	15,700
Mississippi	36,800	13,800	23,800	53,300	25,800	27,500	67,600	38,600	29,000
Missouri	97,000	63,900	33,100	113,300	72,000	41,300	113,400	70,400	43,000
Montana <sup>c</sup>	10,400	6,500	3,900	14,100	9,100	5,100	14,800	9,500	6,000
Nebraska <sup>c</sup>	27,000	21,100	5,900	26,700	19,100	7,600	23,200	14,800	8,500
Nevada	29,900	15,700	14,200	33,600	16,900	18,700	37,200	17,600	19,600
New Hampshire	8,100	4,300	3,800	10,300	6,000	4,200	11,100	6,300	4,800
New Jersey	185,600	141,600	44,000	196,200	153,000	43,200	164,100	128,100	37,600
New Mexico <sup>c</sup>	23,500	13,200	10,200	36,500	21,600	15,000	34,500	18,700	15,800
New York <sup>c</sup>	346,500	241,600	104,900	260,500	172,600	92,300	227,200	151,400	80,500
North Carolina	150,800	109,500	44,300	168,300	114,700	53,500	156,100	100,600	55,400
North Dakota	4,400	2,900	1,500	6,500	4,200	2,300	8,300	5,500	2,800
Ohio	262,900	200,600	63,500	322,200	258,500	65,700	335,600	267,400	69,900
Oklahoma	57,200	29,500	28,100	65,400	32,900	32,600	67,600	"	37,800
Oregon	79,300	63,400	16,100	86,100	66,400	19,900	82,300	61,100	21,100
Pennsylvania <sup>c</sup>	265,400	202,300	63,500	313,300	243,200	76,800	357,400	275,800	87,300
Rhode Island	25,200	22,200	3,000	26,500	26,000	3,700	24,600	23,400	3,400
South Carolina <sup>c</sup>	79,200	48,900	30,300	77,500	42,500	35,000	73,500	40,900	32,600
South Dakota	8,400	4,800	3,600	12,500	7,800	4,800	14,800	9,500	5,300
Tennessee	83,400	47,400	36,400	99,300	58,000	43,500	121,700	77,900	47,400
Texas	756,600	556,400	214,000	733,800	532,200	225,000	712,000	508,000	222,000
Utah	20,000	12,800	8,500	23,100	13,400	11,900	25,300	14,500	12,600
Vermont	12,600	11,300	1,500	11,500	10,000	2,100	8,600	6,900	2,100
Virginia <sup>c</sup>	86,000	38,000	48,000	107,200	50,100	57,100	114,500	55,800	58,700

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**APPENDIX TABLE 3 (continued)**  
**Estimated number of persons supervised by U.S. adult correctional systems, by correctional status and jurisdiction, 1999, 2005, and 2013**

Jurisdiction	1999			2005			2013		
	Total correctional population	Community supervision population <sup>a</sup>	Incarcerated population <sup>b</sup>	Total correctional population	Community supervision population <sup>a</sup>	Incarcerated population <sup>b</sup>	Total correctional population	Community supervision population <sup>a</sup>	Incarcerated population <sup>b</sup>
Washington <sup>c</sup>	179,300	157,800	25,100	139,600	115,900	29,700	139,400	111,100	30,000
West Virginia <sup>c</sup>	12,400	7,000	5,400	16,000	8,900	8,100	20,500	11,000	9,700
Wisconsin	94,600	62,700	31,900	107,100	70,700	36,400	97,900	65,300	34,600
Wyoming <sup>c</sup>	7,000	4,300	2,700	9,000	5,400	3,600	9,700	6,000	3,800

Note: Estimates are rounded to the nearest 100 and may not be comparable to previously published BJS reports due to updated information or changes in methods. Detail may not sum to total due to rounding and because adjustments were made to exclude offenders with multiple correctional statuses. See table 6. Counts include estimates for nonresponding jurisdictions. All probation, parole, and prison counts are for December 31. The 1999 and 2005 jail counts are for the last weekday in June while the 2013 counts are for December 31. See *Methodology*.

<sup>a</sup>Not known.

<sup>a</sup>Includes persons living in the community while supervised on probation or parole.

<sup>b</sup>Includes inmates under the jurisdiction of the state or federal prisons or held in local jails.

<sup>c</sup>Estimates may not be comparable between years due to updated information or changes in reporting. See *Methodology*.

<sup>d</sup>After 2001, responsibility for sentenced prisoners was transferred to the Federal Bureau of Prisons. Therefore, the 2005 and 2013 incarcerated populations represent inmates held in local jails.

<sup>e</sup>The 2005 and 2013 total correctional and community supervision population estimates include misdemeanor probation cases, not individuals, supervised by private companies and may overstate the number of offenders under supervision.

<sup>f</sup>Includes estimates of probationers supervised for a misdemeanor based on admissions and may overstate the number of offenders under supervision.

Sources: Bureau of Justice Statistics, Annual Probation Survey, Annual Parole Survey, Census of Jail Inmates, Deaths in Custody Reporting Program—Annual Summary on Inmates under Jail Jurisdiction, and National Prisoner Statistics program, 1999, 2005, and 2013.



**APPENDIX TABLE 4****Number of inmates incarcerated by other adult correctional systems, 2000, 2005, and 2013–2014**

Other adult correctional systems	Number of inmates				Average annual percent change, 2000–2013	Percent change, 2013–2014
	2000	2005	2013	2014		
Total	20,400	19,800	17,600	17,800	-1.1%	1.1%
Territorial prisons <sup>a</sup>	16,200	15,800	13,900	14,000	-1.1	0.9
Military facilities <sup>b</sup>	2,400	2,300	1,400	1,400	-4.1	-0.8
Jails in Indian country <sup>c</sup>	1,800	1,700	2,300	2,400	1.9	4.1

Note: Estimates were rounded to the nearest 100. Total excludes inmates held in local jails, under the jurisdiction of state or federal prisons, in U.S. Immigration and Customs Enforcement facilities, or in juvenile facilities.

<sup>a</sup>Population counts are for December 31. The 2013–2014 totals include population counts that were estimated for some territories due to nonresponse. See *Prisoners in 2014* (NCJ 248955, BJS web, September 2015).

<sup>b</sup>Population counts are for December 31. See *Prisoners in 2014* (NCJ 248955, BJS web, September 2015).

<sup>c</sup>Population counts are for the last weekday in June. The 2005 population was estimated as the 2004 population because the Survey of Jails in Indian Country was not conducted in 2005 or 2006. See *Jails in Indian Country, 2014* (NCJ 248974, BJS web, October 2015).

Sources: Bureau of Justice Statistics, National Prisoner Statistics program and Survey of Jails in Indian Country, 2000, 2005, and 2013–2014.

**APPENDIX TABLE 5****Inmates held in custody in state or federal prisons or local jails, 2000 and 2013–2014**

Inmates in custody	Number of inmates			Average annual percent change, 2000–2013	Percent change, 2013–2014
	2000	2013	2014		
Total	1,938,500	2,211,400	2,217,900	1.0%	0.3%
Federal prisoners <sup>a</sup>	140,100	215,000	209,600	3.3%	-2.5%
Prisons	133,900	205,700	200,100	3.3	-2.7
Federal facilities	124,500	173,800	169,500	2.6	-2.5
Privately operated facilities	9,400	31,900	30,500	9.4	-4.4
Community corrections centers <sup>b</sup>	6,100	9,300	9,500	3.2	2.2
State prisoners	1,177,200	1,265,200	1,263,800	0.6%	-0.1%
State facilities <sup>c</sup>	1,101,200	1,173,000	1,172,600	0.5	0.0
Privately operated facilities	76,100	92,200	91,200	1.5	-1.1
Local jails	621,100	731,200	744,600	1.3%	1.8%
Incarceration rate <sup>d</sup>	690	700	690	0.1%	-1.4%
Adult incarceration rate <sup>e</sup>	920	910	900	-0.1	-1.1

Note: Estimates may not be comparable to previously published BJS reports due to updated information. Counts were rounded to the nearest 100 and include estimates for nonresponding jurisdictions. See *Methodology*. Rates were rounded to the nearest 10. Detail may not sum to total due to rounding. Prison counts are for December 31; jail counts are for the last weekday in June. Total includes all inmates held in local jails, state or federal prisons, or privately operated facilities. It does not include inmates held in U.S. territories (appendix table 4), military facilities (appendix table 4), U.S. Immigration and Customs Enforcement facilities, in jails in Indian country (appendix table 4), or juvenile facilities. See *Methodology* for sources of incarceration data and *Terms and definitions* for an explanation of the differences between the custody prison population reported in this table and the jurisdiction prison population reported in all other tables and figures.

<sup>a</sup>After 2001, responsibility for sentenced prisoners from the District of Columbia was transferred to the Federal Bureau of Prisons.

<sup>b</sup>Nonsecure, privately operated community corrections centers.

<sup>c</sup>Excludes prisoners held in local jails in Georgia for 2013 and 2014 to avoid double counting.

<sup>d</sup>The total number in the custody of local jails, state or federal prisons, or privately operated facilities per 100,000 U.S. residents of all ages.

<sup>e</sup>The total number in custody per 100,000 U.S. residents age 18 or older.

Sources: Bureau of Justice Statistics, Annual Survey of Jails, and National Prisoner Statistics program, 2000 and 2013–2014; and U.S. Census Bureau, postcensal estimated resident populations for January 1 of the following year, 2001, 2014, and 2015.

**APPENDIX TABLE 6**  
**Estimated standard errors for local jail inmates, 2000 and 2005–2014**

Year	Total	Standard error
2000	621,100	2,500
2005	747,500	~
2006	765,800	3,550
2007	780,200	3,720
2008	785,500	4,020
2009	767,400	4,230
2010	748,700	5,430
2011	735,600	6,010
2012	744,500	7,680
2013	731,200	8,040
2014	744,600	8,380

Note: Population estimates were rounded to the nearest 100. Standard errors were rounded to the nearest 10.  
~Not applicable. Data represent a complete enumeration based on the 2005 Census of Jail Inmates.  
Sources: Bureau of Justice Statistics, Annual Survey of Jails, Census of Jail Inmates, 2000 and 2005–2014.



The Bureau of Justice Statistics of the U.S. Department of Justice is the principal federal agency responsible for measuring crime, criminal victimization, criminal offenders, victims of crime, correlates of crime, and the operation of criminal and civil justice systems at the federal, state, tribal, and local levels. BJS collects, analyzes, and disseminates reliable and valid statistics on crime and justice systems in the United States, supports improvements to state and local criminal justice information systems, and participates with national and international organizations to develop and recommend national standards for justice statistics. William J. Sabol is director.

This report was written by Danielle Kaeble, Lauren Glaze, Anastasios Tsoutis, and Todd Minton. Lauren Glaze, E. Ann Carson, and Todd Minton verified the report.

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**EXHIBIT B**



# Jail Inmates at Midyear 2014

Todd D. Minton and Zhen Zeng, Ph.D., *BJS Statisticians*

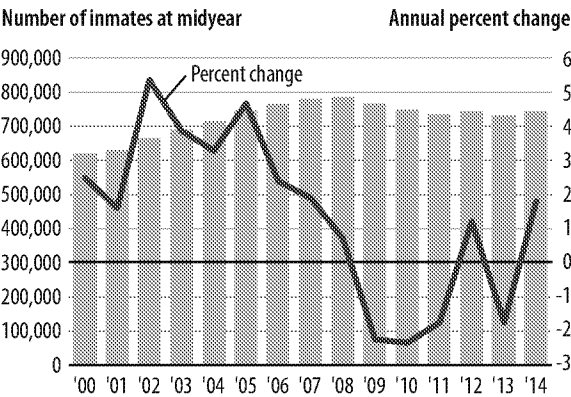
The number of inmates confined in county and city jails was an estimated 744,600 at midyear 2014 (figure 1, table 1). The jail population remained steady at the 2012 level and was significantly lower than the peak of an estimated 785,500 at midyear 2008. Since 2000, the jail inmate population increased about 1% each year.

The jail incarceration rate—the confined jail population per 100,000 U.S. residents—decreased steadily from a peak of 259 inmates per 100,000 at midyear 2007 to 234 per 100,000 at midyear 2014. The adult only jail incarceration rate has also declined from a high of 340 inmates per 100,000 at midyear 2007 to 302 per 100,000 at midyear 2014.

This report summarizes data from the Annual Survey of Jails (ASJ) which is conducted in years between the complete census of local jails. ASJ uses a stratified probability sample of jail jurisdictions to estimate the number and characteristics of local inmates nationwide. The 2014 ASJ sample consisted of 891 jail jurisdictions, represented by 942 jail facilities (referred to as reporting units). This sample

represents about 2,750 jail jurisdictions nationwide. Local jail jurisdictions include counties (parishes in Louisiana) or municipal governments that administer one or more local jails.

**FIGURE 1**  
Inmates confined in local jails at midyear and percent change in the jail population, 2000–2014



Sources: Bureau of Justice Statistics, Annual Survey of Jails, midyear 2000–2004 and midyear 2006–2014; and Census of Jail Inmates, midyear 2005.

## HIGHLIGHTS

- The number of inmates confined in county and city jails was an estimated 744,600 at midyear 2014, which was significantly lower than the peak of 785,500 inmates at midyear 2008.
- Since 2000, the jail inmate population increased about 1% each year.
- The jail incarceration rate decreased from a peak of 259 per 100,000 in 2007 to 234 per 100,000 at midyear 2014.
- The female inmate population increased 18.1% between midyear 2010 and 2014, while the male population declined 3.2%.
- White inmates accounted for 47% of the total jail population, blacks represented 35%, and Hispanics represented 15%.
- About 4,200 juveniles age 17 or younger were held in local jails at midyear 2014. They accounted for 0.6% of the confined population, down from 1.2% at midyear 2000.
- Nearly 90% or 3,700 juvenile inmates were tried or awaiting trial in adult court. The number of juveniles not charged as an adult declined by 74% between midyear 2010 and 2014.
- Since 2000, 95% of the growth in the overall jail inmate population (123,500) was due to the increase in the unconvicted population (117,700 inmates).
- Local jails admitted about 11.4 million persons during the 12-month period ending June 30, 2014, which was down from a peak of 13.6 million in 2008.

**TABLE 1**  
**Inmates confined in local jails at midyear, average daily population, and incarceration rates, 2000–2014**

Year	Inmates confined at midyear <sup>a</sup>			Average daily population <sup>b</sup>			Jail incarceration rate <sup>c</sup>	
	Total	Year-to-year change		Total	Year-to-year change		Adults and juveniles <sup>d</sup>	Adults only
		Number	Percent		Number	Percent		
2000	621,149**	15,206	2.5%	618,319**	10,341	1.7%	220	292
2001	631,240**	10,091	1.6	625,966**	7,647	1.2	222	294
2002	665,475**	34,235	5.4	652,082**	26,116	4.2	231	307
2003	691,301**	25,826	3.9	680,760**	28,678	4.4	238	315
2004	713,990**	22,689	3.3	706,242**	25,482	3.7	243	322
2005	747,529	33,539	4.7	733,442	27,200	3.9	252	334
2006	765,819**	18,290	2.4	755,320	21,878	3.0	256	338
2007	780,174**	14,355	1.9	773,138	17,818	2.4	259	340
2008	785,533**	5,359	0.7	776,573**	3,435	0.4	258	338
2009	767,434**	-18,099	-2.3	768,135**	-8,438	-1.1	250	327
2010	748,728	-18,706	-2.4	748,553	-19,582	-2.5	242	315
2011	735,601	-13,127	-1.8	735,565	-12,988	-1.7	236	307
2012	744,524	8,923	1.2	737,369	1,804	0.2	237	308
2013	731,208	-13,316	-1.8	731,352	-6,017	-0.8	231	299
2014*	744,592	13,384	1.8	738,975	7,623	1.0	234	302
Average annual change								
2000–2013			1.3%				1.3%	
2013–2014			1.8				1.0	

Note: Detail may not sum to total because of rounding. See appendix table 1 for standard errors.

\*Comparison year on confined inmates and average daily population.

\*\*Difference with comparison year is significant at the 95% confidence level. See *Methodology* for tests of significance.

<sup>a</sup>Number of inmates held on the last weekday in June.

<sup>b</sup>Sum of all inmates in jail each day for a year, divided by the number of days in the year.

<sup>c</sup>Number of inmates confined at midyear per 100,000 U.S. residents.

<sup>d</sup>Juveniles are persons age 17 or younger at midyear.

Sources: Bureau of Justice Statistics, Annual Survey of Jails, midyear 2000–2004 and midyear 2006–2014; and Census of Jail Inmates, midyear 2005.

Males have made up at least 85% of the jail population since 2000. The female inmate population increased 18.1% (up 16,700 inmates) between midyear 2010 and 2014, while the male population declined 3.2% (down 20,900 inmates) (table 2, table 3). The female jail population grew by an average of about 1.6% every year between 2005 and 2014. In comparison, the male jail population declined by 0.3% every year since 2005 (not shown).

White inmates accounted for 47% of the total jail population, blacks represented 35%, and Hispanics represented 15% at midyear 2014. From midyear 2010 to 2014, white inmates increased by 21,200, while black (19,400) and Hispanic (7,500) inmates declined.

**TABLE 2****Number of inmates in local jails, by characteristics, midyear 2000 and 2005–2014**

Characteristic	2000	2005	2006	2007	2008	2009	2010	2011 <sup>a</sup>	2012 <sup>a</sup>	2013 <sup>a</sup>	2014 <sup>a*</sup>
<b>Total<sup>b</sup></b>	621,149**	747,529	765,819**	780,174**	785,533**	767,434**	748,728	735,601	744,524	731,208	744,592
<b>Sex</b>											
Male	550,162**	652,958**	666,819**	679,654**	685,862**	673,728**	656,360**	642,300	645,900	628,900	635,500
Female	70,987**	94,571**	99,000**	100,520**	99,670**	93,706**	92,368**	93,300**	98,600**	102,400**	109,100
<b>Adult</b>	613,534**	740,770	759,717**	773,341**	777,829**	760,216**	741,168	729,700	739,100	726,600	740,400
Male	543,120**	646,807**	661,164**	673,346**	678,657**	667,039**	649,284**	636,900	640,900	624,700	631,600
Female	70,414**	93,963**	98,552**	99,995**	99,172**	93,176**	91,884**	92,800**	98,100**	101,900**	108,800
<b>Juvenile<sup>c</sup></b>	7,615**	6,759**	6,102**	6,833**	7,703**	7,218**	7,560**	5,900**	5,400**	4,600	4,200
Held as adult <sup>d</sup>	6,126**	5,750**	4,835**	5,649**	6,410**	5,846**	5,647**	4,600**	4,600**	3,500	3,700
Held as juvenile	1,489**	1,009	1,268	1,184	1,294	1,373	1,912**	1,400	900	1,100	500
<b>Race/Hispanic origin<sup>e</sup></b>											
White <sup>f</sup>	260,500**	331,000**	336,500**	338,200**	333,300**	326,400**	331,600**	329,400**	341,100	344,900	352,800
Black/African American <sup>f</sup>	256,300	290,500**	295,900**	301,700**	308,000**	300,500**	283,200**	276,400**	274,600	261,500	263,800
Hispanic/Latino	94,100**	111,900	119,200**	125,500**	128,500**	124,000**	118,100**	113,900	112,700	107,900	110,600
American Indian/ Alaska Native <sup>f,g</sup>	5,500**	7,600**	8,400	8,600	9,000	9,400	9,900	9,400	9,300	10,200	10,400
Asian/Native Hawaiian/ Other Pacific Islander <sup>f,g</sup>	4,700**	5,400**	5,100**	5,300**	5,500**	5,400**	5,100**	5,300**	5,400	5,100**	6,000
Two or more races <sup>f</sup>	...	1,000	700	800	1,300	1,800**	800	1,200	1,500**	1,600**	1,000
<b>Conviction status<sup>e,h</sup></b>											
Convicted	271,300	284,400	290,000**	296,700**	291,200**	290,100**	291,300**	289,600**	293,100**	278,000	277,100
Unconvicted	349,800**	463,200	475,800	483,500**	494,200**	477,300	457,400	446,000**	451,400**	453,200	467,500

Note: Detail may not sum to total because of rounding. See appendix table 2 for reported data and appendix table 3 for standard errors.

...Not collected.

\*Comparison year for each characteristic.

\*\*Difference with comparison year is significant at the 95% confidence level.

<sup>a</sup>Data for 2011–2014 are adjusted for nonresponse and rounded to the nearest 100.

<sup>b</sup>Midyear count is the number of inmates held on the last weekday in June.

<sup>c</sup>Persons age 17 or younger at midyear.

<sup>d</sup>Includes juveniles who were tried or awaiting trial as adults.

<sup>e</sup>Data adjusted for nonresponse and rounded to the nearest 100. See *Methodology*.

<sup>f</sup>Excludes persons of Hispanic or Latino origin.

<sup>g</sup>Previous reports combined American Indians and Alaska Natives and Asians, Native Hawaiians, and other Pacific Islanders into an Other race category.

<sup>h</sup>Includes juveniles who were tried or awaiting trial as adults.

Sources: Bureau of Justice Statistics, Annual Survey of Jails, midyear 2000 and midyear 2006–2014; and Census of Jail Inmates, midyear 2005.

About 4,200 juveniles age 17 or younger were held in local jails at midyear 2014. They accounted for 0.6% of the confined population, down from 1.2% at midyear 2000. Nearly 90% or 3,700 juvenile inmates were tried or awaiting trial in adult court. The number of juveniles not charged as an adult declined by 74% between midyear 2010 and 2014 (from 1,900 to 500 inmates).

At midyear 2014, about 6 in 10 inmates were not convicted, but were in jail awaiting court action on a current charge—a rate unchanged since 2005. About 4 in 10 inmates were sentenced

offenders or convicted offenders awaiting sentencing. From midyear 2013 to 2014, the number of unconvicted inmates and the number of convicted inmates remained statistically the same. Since 2000, 95% of the growth in the overall jail inmate population (up 123,500) was due to the increase in the unconvicted population (up 117,700 inmates) and 5% was due to the increase in the convicted population (up 5,800 inmates).

**TABLE 3**  
**Percent of inmates in local jails, by characteristics, midyear 2000 and 2005–2014**

Characteristic	2000	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
<b>Sex</b>											
Male	88.6%	87.3%	87.1%	87.1%	87.3%	87.8%	87.7%	87.3%	86.8%	86.0%	85.3%
Female	11.4	12.7	12.9	12.9	12.7	12.2	12.3	12.7	13.2	14.0	14.7
<b>Adult</b>	98.8%	99.1%	99.2%	99.1%	99.0%	99.1%	99.0%	99.2%	99.3%	99.4%	99.4%
Male	87.4	86.5	86.3	86.3	86.4	86.9	86.7	86.6	86.1	85.4	84.8
Female	11.3	12.6	12.9	12.8	12.6	12.1	12.3	12.6	13.2	13.9	14.6
<b>Juvenile<sup>a</sup></b>	1.2%	0.9%	0.8%	0.9%	1.0%	0.9%	1.0%	0.8%	0.7%	0.6%	0.6%
Held as adult <sup>b</sup>	1.0	0.8	0.6	0.7	0.8	0.8	0.8	0.6	0.6	0.5	0.5
Held as juvenile	0.2	0.1	0.2	0.2	0.2	0.2	0.3	0.2	0.1	0.1	0.1
<b>Race/Hispanic origin<sup>c</sup></b>											
White <sup>d</sup>	41.9%	44.3%	43.9%	43.3%	42.5%	42.5%	44.3%	44.8%	45.8%	47.2%	47.4%
Black/African American <sup>d</sup>	41.3	38.9	38.6	38.7	39.2	39.2	37.8	37.6	36.9	35.8	35.4
Hispanic/Latino	15.2	15	15.6	16.1	16.4	16.2	15.8	15.5	15.1	14.8	14.9
American Indian/ Alaska Native <sup>d,e</sup>	0.9	1.0	1.1	1.1	1.1	1.2	1.3	1.3	1.2	1.4	1.4
Asian/Native Hawaiian/ Other Pacific Islander <sup>d,e</sup>	0.8	0.7	0.7	0.7	0.7	0.7	0.7	0.7	0.7	0.7	0.8
Two or more races <sup>d</sup>	...	0.1	0.1	0.1	0.2	0.2	0.1	0.2	0.2	0.2	0.1
<b>Conviction status<sup>b,c</sup></b>											
Convicted	44.0%	38.0%	37.9%	38.0%	37.1%	37.8%	38.9%	39.4%	39.4%	38.0%	37.2%
Unconvicted	56.0	62.0	62.1	62.0	62.9	62.2	61.1	60.6	60.6	62.0	62.8

Note: Percentages are based on the total number of inmates held on the last weekday in June. Detail may not sum to total because of rounding. See table 2 for significance test. See appendix table 4 for standard error ratios.

...Not collected.

<sup>a</sup>Persons age 17 or younger at midyear.

<sup>b</sup>Includes juveniles who were tried or awaiting trial as adults.

<sup>c</sup>Data adjusted for nonresponse. See *Methodology*.

<sup>d</sup>Excludes persons of Hispanic or Latino origin.

<sup>e</sup>Previous reports combined American Indians and Alaska Natives and Asians, Native Hawaiians, and other Pacific Islanders into an Other race category.

Sources: Bureau of Justice Statistics, Annual Survey of Jails, midyear 2000 and midyear 2006–2014; and Census of Jail Inmates, midyear 2005.



Nearly half of jail inmates were held in less than 10% of jails

The largest jails (those with an average daily population (ADP) of 1,000 or more inmates) held 47% of the jail inmate population at midyear 2014, but accounted for 6% of all jail jurisdictions nationwide (table 4). In comparison, the smallest jail jurisdictions (those with an ADP of less than 50 inmates)

held 3% of the inmate population, but accounted for 38% of all jail jurisdictions. Jail jurisdictions with an ADP of 50 to 99 inmates and 100 to 249 inmates accounted for about 20% each of jail jurisdictions. Combined, these jail jurisdictions held 19% of all inmates. Jail jurisdictions with an ADP of 250 to 999 inmates accounted for 17% of all jail jurisdictions, but held 31% of all inmates at midyear 2014. Similar patterns were observed in 2013 for all categories.

TABLE 4  
Inmates confined in local jails at midyear, by size of jurisdiction, 2013–2014

Jurisdiction size <sup>b</sup>	Inmates confined at midyear <sup>a</sup>				Percent of all inmates	
	2013	2014	Difference	Percent change	2013	2014
Total	731,208	744,592	13,384	1.8%	100%	100%
49 or fewer	23,545	25,058	1,513	6.4	3.2	3.4
50–99	38,970	42,172	3,202	8.2	5.3	5.7
100–249	95,031	96,443	1,412	1.5	13.0	13.0
250–499	102,362	101,609	-753	-0.7	14.0	13.6
500–999	123,155	128,070	4,915	4.0	16.8	17.2
1,000 or more	348,145	351,239	3,094	0.9	47.6	47.2

Note: Detail may not sum to total because of rounding. All comparisons by jurisdiction size are not significant at the 95%-confidence level. See appendix table 5 for standard errors.

<sup>a</sup>Number of inmates held on the last weekday in June.

<sup>b</sup>Standardized on the average daily population (ADP) for the 12-month period ending June 30, 2006, the first year in the current Annual Survey of Jails sample. ADP is the sum of all inmates in jail each day for a year, divided by the number of days in the year.

Source: Bureau of Justice Statistics, Annual Survey of Jails, midyear 2013–2014.

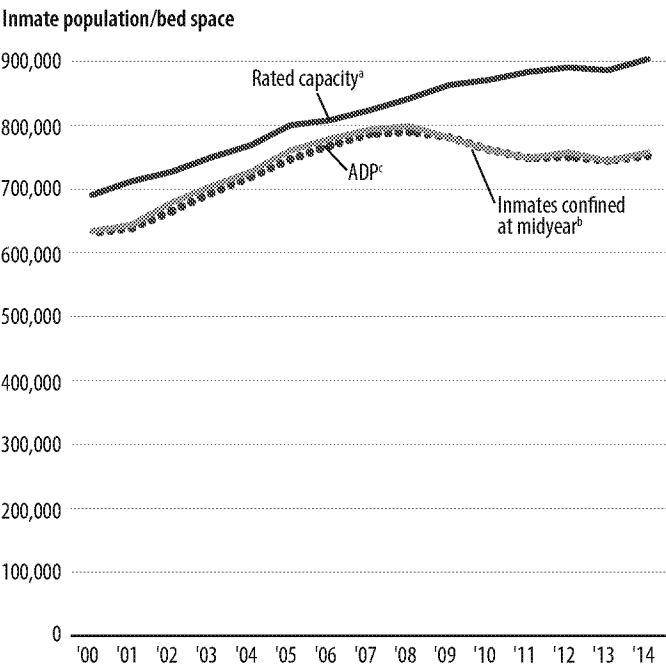
Increase in new bed space between 2013 and 2014 was similar to the average annual increase between 2000 and 2013

Rated capacity in jails reached an estimated 890,500 beds at midyear 2014, an increase of nearly 4% from 857,900 beds at midyear 2010 (figure 2, table 5). Rated capacity is the maximum number of beds or inmates allocated to each jail facility by a state or local rating official.

Since peaking in 2007 (96%), the percentage of rated capacity occupied at midyear 2014 (84%) was the lowest since 2000. At midyear 2014, jail jurisdictions holding 250 or more inmates reported a higher percentage of occupied bed space (85% to 87%) than smaller jail jurisdictions holding fewer than 250 inmates (67% to 79%) (table 6).

In addition to the ratio of midyear jail population to rated capacity, two additional measures can be used to measure jail crowding—the ratio of ADP in a year to rated capacity, and the ratio of the number of inmates on the most crowded day in June to rated capacity. Using these measures, the nation’s jails operated at about 83% of rated capacity on an average day and about 89% of rated capacity on their most crowded day in June 2014.

**FIGURE 2**  
**Midyear custody population, average daily population (ADP), and rated capacity in local jails, 2000–2014**



<sup>a</sup>Maximum number of beds or inmates assigned by a rating official to a facility, excluding separate temporary holding areas.  
<sup>b</sup>Number of inmates held on the last weekday in June.  
<sup>c</sup>Sum of all inmates in jail each day for a year, divided by the number of days in the year.  
Sources: Bureau of Justice Statistics, Annual Survey of Jails, midyear 2000–2004 and midyear 2006–2014; and Census of Jail Inmates, midyear 2005.

**TABLE 5**  
**Rated capacity of local jails and percent of capacity occupied, 2000 and 2005–2014**

Year	Rated capacity <sup>c</sup>	Year-to-year change in rated capacity <sup>a</sup>		Percent of capacity occupied <sup>b</sup>	
		Number	Percent	Midyear <sup>d</sup>	Average daily population <sup>e</sup>
2000	677,787**	25,466	3.9%	92.0%**	91.2%**
2005	786,954**	33,398	4.1	95.0**	93.2**
2006	794,984**	8,638	1.0	96.3**	95.0**
2007	810,543**	15,863	2.0	96.3**	95.4**
2008	828,714**	18,171	2.2	94.8**	93.7**
2009	849,895**	21,181	2.6	90.3**	90.4**
2010	857,918**	8,023	0.9	87.3**	87.3**
2011	870,422	12,504	1.5	84.5	84.5
2012	877,396	6,974	0.8	84.9	84.0
2013	872,943	-4,453	-0.5	83.8	83.8
2014*	890,486	17,543	2.0	83.6	83.0
Average annual change					
2000–2013	2.0%	17,199			
2013–2014	2.0	17,543			

Note: See appendix table 6 for standard errors.  
<sup>\*</sup>Comparison year on rated capacity and percent of capacity occupied.  
<sup>\*\*</sup>Difference with comparison year is significant at the 95% confidence level.  
<sup>a</sup>Increase or reduction in the number of beds during the 12 months ending midyear of each year. Number and percentage change for 2000 are calculated using the rated capacity of 652,321 for 1999.  
<sup>b</sup>Based on the confined inmate population divided by the rated capacity and multiplied by 100.  
<sup>c</sup>Maximum number of beds or inmates assigned by a rating official to a facility, excluding separate temporary holding areas.  
<sup>d</sup>Number of inmates held on the last weekday in June.  
<sup>e</sup>Sum of all inmates in jail each day for a year, divided by the number of days in the year.  
Sources: Bureau of Justice Statistics, Annual Survey of Jails, midyear 2000 and midyear 2006–2014; and Census of Jail Inmates, midyear 2005.

While the confined population and rated jail capacity both increased at roughly comparable rates from 2000 through 2008, the growth rates have diverged since 2008. The confined population declined by 0.9% on average per year, while rated capacity increased by 1.2% on average per year. The increase in capacity and decrease in confined population almost equally contributed to the decline in the percentage of capacity occupied, from 95% at midyear 2008 to 84% at midyear 2014.

**TABLE 6**  
**Percent of jail capacity occupied at midyear, by size of jurisdiction, 2013–2014**

Jurisdiction size	2013	2014*
Total	83.8%	83.6%
49 or fewer	64.4	67.0
50–99	69.4	74.2
100–249	77.9	78.7
250–499	87.3	86.7
500–999	84.9	85.0
1,000 or more	87.9**	86.5

Note: Number of inmates held on the last weekday in June divided by the rated capacity multiplied by 100. Jurisdiction size is standardized on the average daily population for the 12-month period ending June 30, 2006, the first year in the current Annual Survey of Jails sample. See appendix table 7 for standard errors.

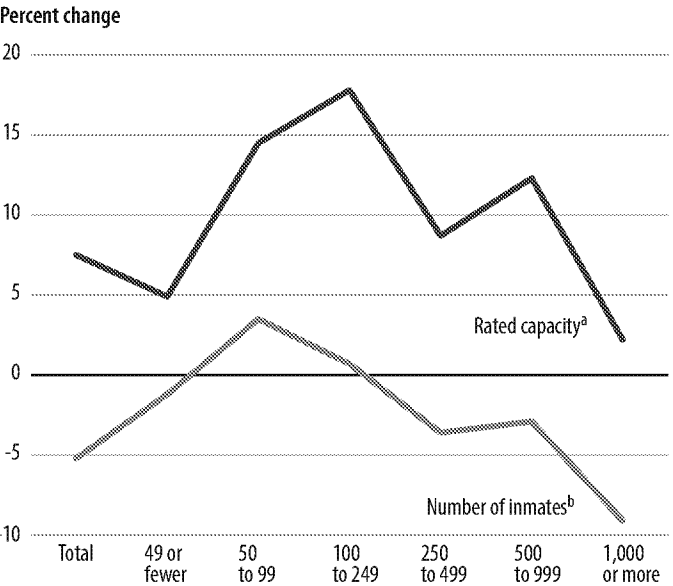
\*Comparison year on percent of capacity occupied at midyear.

\*\*Difference with comparison year is significant at the 95% confidence level.

Source: Bureau of Justice Statistics, Annual Survey of Jails, midyear 2013–2014.

From midyear 2008 to 2014, jail jurisdictions holding 100 to 249 inmates experienced the largest percentage increase in rated capacity relative to population change (figure 3). These jurisdictions reported an 18% increase in their rated capacity and a small increase (less than 1%) in their inmate population. The smallest jail jurisdictions, which held fewer than 50 inmates, reported the smallest percentage increase in rated capacity (up 4.9%) relative to population change (down 1.2%). Jails holding more than 250 inmates experienced a decline in their midyear jail population and an increase in their rated capacity.

**FIGURE 3**  
**Percent change in the midyear custody population and rated capacity between 2008 and 2014**



Note: Jail jurisdiction size is standardized to the average daily population (ADP) for the 12-month period ending June 30, 2006, the first year in the current Annual Survey of Jails sample. ADP is the sum of all inmates in jail each day for a year, divided by the number of days in the year.

<sup>a</sup>Maximum number of beds or inmates assigned by a rating official to a facility, excluding separate temporary holding areas.

<sup>b</sup>Number of inmates held on the last weekday in June.

Source: Bureau of Justice Statistics, Annual Survey of Jails, 2008 and 2014.

Local jails admitted 11.4 million persons during the 12-month period ending midyear 2014

Local jails admitted an estimated 11.4 million persons during the 12-month period ending June 30, 2014, a stable estimate since 2011 (11.8 million), but down from a peak of 13.6 million admissions in 2008. The number of persons admitted in 2014 was 15 times the size of the ADP (an estimated 739,000) during the 12-month period ending June 30, 2014. (See *Methodology* for methods used to estimate admissions.)

Nearly 4 in 10 admissions to jail during the last week of June 2014 were to the largest jail jurisdictions (table 7). In comparison, jail jurisdictions holding fewer than 50 inmates accounted for 6% of all jail admissions. For these jurisdictions, the number of inmates admitted was 28 times the size of the ADP between midyear 2013 and 2014. These small jail jurisdictions also experienced the highest turnover rate (104%), measured as the change in admissions and releases by the ADP. (See *Methodology* for detail.) The turnover rate was the smallest in large jail jurisdictions (49%). Higher turnover rates mean larger numbers of admissions and releases relative to the size of the ADP.

**TABLE 7**  
**Average daily jail population, admissions, and turnover rate, by size of jurisdiction, week ending June 30, 2013 and 2014**

Jurisdiction size <sup>c</sup>	Average daily population <sup>a</sup>			Estimated number of admissions during the last week in June		Weekly turnover rate <sup>b</sup>	
	2013	2014	Difference	2013	2014*	2013	2014*
Total	731,352	738,975	7,623	224,536	218,924	60.2%	58.1%
49 or fewer	23,301	23,490	189	15,296	12,610	121.1	104.2
50–99	38,721	40,554	1,833	16,315	18,763	83.6	87.2
100–249	93,653	96,200	2,547	32,470	32,087	67.9	65.5
250–499	102,045	99,889	-2,156	35,003	33,527	66.3	65.0
500–999	123,220	125,954	2,734	46,806	35,430	75.5	56.1
1,000 or more	350,412	352,888	2,476	78,645**	86,507	44.3**	48.5

Note: Detail may not sum to total because of rounding. See *Methodology* for more detail on estimation procedures. All comparisons by average daily population are not significant at the 95%-confidence level. See appendix table 8 for standard errors.

\*Comparison year on admissions and weekly turnover rate.

\*\*Difference with comparison year is significant at the 95% confidence level.

<sup>a</sup>Sum of all inmates in jail each day for a year.

<sup>b</sup>Calculated by adding weekly admissions and releases, dividing by the average daily population (ADP), and multiplying by 100.

<sup>c</sup>Standardized on the ADP for the 12-month period ending June 30, 2006, the first year in the current Annual Survey of Jails sample.

Source: Bureau of Justice Statistics, Annual Survey of Jails, midyear 2013–2014.

## Other selected data from ASJ

**TABLE 8**

**Inmate population in jail jurisdictions reporting on confined persons being held for U.S. Immigration and Customs Enforcement (ICE), midyear 2002–2014**

Year	Jurisdictions reporting on holdings for ICE <sup>a</sup>	Inmates confined at midyear <sup>b</sup>	Confined persons held for ICE at midyear	
			Number	Percent of all inmates
2002	2,961	626,870	12,501	2.0%
2003	2,940	637,631	13,337	2.1
2004	2,962	673,807	14,120	2.1
2005	2,824	703,084	11,919	1.7
2006	2,784	698,108	13,598	1.9
2007	2,713	683,640	15,063	2.2
2008	2,699	704,278	20,785	3.0
2009	2,643	685,500	24,278	3.5
2010	2,531	622,954	21,607	3.5
2011	2,758	672,643	22,049	3.3
2012	2,716	690,337	22,870	3.3
2013	2,685	673,707	17,241	2.6
2014	2,634	654,730	16,384	2.5

Note: Data are based on the reported data and were not estimated for survey item nonresponse. Comparisons were not tested due to changing coverage each year. See appendix table 9 for standard errors.

<sup>a</sup>Not all jurisdictions reported on holdings for ICE.

<sup>b</sup>Number of inmates held on the last weekday in June in jails reporting complete data or the number of inmates held for ICE.

Sources: Bureau of Justice Statistics, Annual Survey of Jails, midyear 2002–2004 and midyear 2006–2014; and Census of Jail Inmates, midyear 2005.

**TABLE 9**

**Persons under jail supervision, by confinement status and type of program, midyear 2000 and 2006–2014**

Confinement status and type of program	2000	2006	2007	2008	2009	2010	2011	2012	2013	2014*
Total	687,033**	826,041	848,419**	858,385**	837,647**	809,360	798,417	808,622	790,649	808,070
Held in jail <sup>a</sup>	621,149**	765,819**	780,174**	785,533**	767,434**	748,728	735,601	744,524	731,208	744,592
Supervised outside of a jail facility <sup>b</sup>	65,884	60,222	68,245	72,852**	70,213**	60,632	62,816	64,098	59,441	63,478
Weekend programs <sup>c</sup>	14,523**	11,421**	10,473	12,325**	11,212**	9,871	11,369**	10,351	10,950	9,698
Electronic monitoring	10,782**	10,999**	13,121	13,539	11,834**	12,319	11,950**	13,779	12,023**	14,223
Home detention <sup>d</sup>	332	807	512	498	738	736	809	2,129**	1,337**	646
Day reporting	3,969	4,841	6,163**	5,758**	6,492**	5,552**	5,200	3,890	3,683	4,413
Community service	13,592	14,667	15,327	18,475**	17,738**	14,646	11,680	14,761	13,877	14,331
Other pretrial supervision	6,279**	6,409**	11,148**	12,452**	12,439**	9,375	10,464	7,738	7,542	8,634
Other work programs <sup>e</sup>	8,011	8,319**	7,369	5,808	5,912	4,351**	7,165	7,137	5,341**	7,003
Treatment programs <sup>f</sup>	5,714**	1,486**	2,276	2,259	2,082	1,799	2,449	2,164	2,002	2,100
Other	2,682	1,273**	1,857**	1,739	1,766**	1,983**	1,731**	2,149	2,687	2,430

Note: See appendix table 10 for standard errors.

\*Comparison year by status and program.

\*\*Difference with comparison year is significant at the 95% confidence level.

<sup>a</sup>Number of inmates held on the last weekday in June.

<sup>b</sup>Number of persons under jail supervision but not confined on the last weekday in June. Excludes persons supervised by a probation or parole agency.

<sup>c</sup>Offenders serve their sentences of confinement on weekends only (i.e., Friday to Sunday).

<sup>d</sup>Includes only persons without electronic monitoring.

<sup>e</sup>Includes persons in work release programs, work gangs, and other alternative work programs.

<sup>f</sup>Includes persons in drug, alcohol, mental health, and other medical treatment.

Source: Bureau of Justice Statistics, Annual Survey of Jails, midyear 2000 and midyear 2006–2014.

Methodology

Annual Survey of Jails

In years between the complete census of local jails, the Bureau of Justice Statistics (BJS) conducts the Annual Survey of Jails (ASJ). ASJ uses a stratified probability sample of jail jurisdictions to estimate the number and characteristics of local inmates nationwide. The 2014 ASJ sample consisted of 891 jail jurisdictions, represented by 942 jail facilities (referred to as reporting units). This sample represents about 2,750 jail jurisdictions nationwide. Local jail jurisdictions include counties (parishes in Louisiana) or municipal governments that administer one or more local jails.

In the sampling design, the jail jurisdictions nationwide were grouped into 10 strata. The 10 strata were defined by the interaction of two variables: the jail jurisdiction average daily population (ADP) in 2005, and whether in 2005 the jurisdiction held at least one juvenile. For 8 of the 10 strata, a random sample of jail jurisdictions was selected. For the remaining two strata, all jurisdictions were included in the sample. One stratum consisted of all jails (70) that were operated jointly by two or more jurisdictions (referred to as multi-jurisdictional jails). The other stratum (referred to as certainty stratum) consisted of all jail jurisdictions (267) that—

- held juvenile inmates at the time of the 2005 Census of Jail Inmates and had an ADP of 500 or more inmates during the 12 months ending June 30, 2005.
- held only adult inmates and had an ADP of 750 or more.

The sampling design used for the 2014 ASJ is the same as the design used for the 2013 ASJ. The 2013 ASJ differed from the 2006–2012 ASJs in that it included in the sample, with a probability of one, all California jail jurisdictions in response to the two enacted laws—AB 109 and AB 117 by the California State Legislature and governor—to reduce the number of inmates housed in state prisons starting October 1, 2011. The inclusion of all California jail jurisdictions resulted in an additional 21 jail jurisdictions (for a total sample size of 891 jurisdictions). Since the enactment of the two laws in recent years, the California jail population has experienced changes in size that cannot be compared to the changes of any other state in the U.S. For this reason, the California jail jurisdictions were put in separate strata so that they could represent only California jurisdictions. The same sampling design was adopted for the California jurisdictions.

BJS obtained data from sampled jail jurisdictions by mailed and web-based survey questionnaires. After follow-up phone calls and facsimiles, the item response rate for jails that responded to the survey was nearly 100% for critical items, such as the number of inmates confined, ADP, and rated capacity. (See appendix tables 1 to 7 for standard errors associated with reported estimates from the 2014 ASJ.)

Response rate, nonresponse adjustment, and out-of-scope jail facilities

The 2014 ASJ sample initially comprised 942 reporting units. However, 12 units were out-of-scope for the 2014 data collection because they had closed either permanently or temporarily, which resulted in a sample of 930 active respondents. Ninety-three percent (or 878) of the 930 active individual reporting units responded to the 2014 data collection, and 52 active individual reporting units did not respond to the survey.

BJS implemented nonresponse weight adjustment procedures to account for unit nonresponse, as it did in 2011 to 2013.

Respondent indicators

The respondent reporting unit indicator  $JAILR_{hij}$  is set for each individual reporting unit  $j$  in jurisdiction  $i$  in stratum  $h$  on the file, based on the status of the individual reporting unit.

$$JAILR_{hij} = \begin{cases} 1 & \text{if respondent or using prior year data,} \\ 0 & \text{if nonrespondent, closed, or out-of-scope.} \end{cases}$$

The respondent jurisdiction indicator  $JURISR_{hi}$  is set for each jurisdiction  $i$  in stratum  $h$  on the file, based on the value of  $JAILR_{hij}$  for the reporting units within the jurisdiction.

$$JURISR_{hi} = \begin{cases} 1 & \text{if } \sum_{j=1}^{n_i} JAILR_{hij} \geq 1 \\ 0 & \text{otherwise.} \end{cases}$$

Active indicators

The active reporting unit indicator  $JAILA_{hij}$  is set for each individual reporting unit  $j$  in jurisdiction  $i$  in stratum  $h$  on the file, based on the status of the individual reporting unit.

$$JAILA_{hij} = \begin{cases} 1 & \text{if respondent, using prior year data, or nonrespondent} \\ 0 & \text{if closed or out-of-scope.} \end{cases}$$

The active jurisdiction indicator  $JURISA_{hi}$  is set for each jurisdiction  $i$  in stratum  $h$  on the file, based on the value of  $JAILA_{hij}$  for the reporting units within the jurisdiction.

$$JURISA_{hi} = \begin{cases} 1 & \text{if } \sum_{j=1}^{n_i} JAILA_{hij} \geq 1 \\ 0 & \text{otherwise.} \end{cases}$$

Nonresponse weighting adjustment factor

The nonresponse weighting adjustment factor is calculated within each stratum. BJS uses the sample weights in the nonresponse adjustment factor. The nonresponse weighting adjustment factor  $F_{2h}$  is calculated as

$$F_{2h} = \frac{\sum_{i=1}^{n_h} W_{hi} \times JURISA_{hi}}{\sum_{i=1}^{n_h} W_{hi} \times JURISR_{hi}}$$

where

$n_h$  = number of jurisdictions sampled in stratum  $h$ ,

$w_{hi}$  = sample weight for jurisdiction  $i$  in stratum  $h$ .

**Final weight**

The final weight  $FW_{hi}$  for each jail jurisdiction on the 2014 ASJ data file is calculated as

$$FW_{hi} = W_{hi} \times F_{2h} \times JURISR_{hi}$$

where

$w_{hi}$  = sample weight for jurisdiction  $i$  in stratum  $h$ .

$JAILR_{hi}$  is used to set the final weight to 0 for units that are closed, out-of-scope, or nonrespondents.

**Final weight post-stratification: California jail jurisdictions and the Public Safety Realignment**

Because of the California Public Safety Realignment, between midyear 2011 and midyear 2014, California jails experienced a significant increase in the number of inmates (about 13,900 inmates) that was not experienced by jails nationwide. To capture this jail population growth in California more accurately, all California jurisdictions were added to the ASJ sample in 2013. Accordingly, BJS computed new weights to ensure that the sampled California jail jurisdictions represent California jurisdictions only. Without computing these new weights, the estimated nationwide jail population would be erroneously inflated.

The post-stratification final weight adjustment is calculated for each stratum from which California jurisdictions were sampled. More specifically for each stratum, two new strata and set of weights were created: one for the California jurisdictions ( $PS_{CAh}$ ) and one for the non-California jurisdictions ( $PS_{\overline{CAh}}$ ). In 2013, all California jail jurisdictions were included in the sample; however, not all of them responded.

The weight adjustment for California jail jurisdictions is computed as

$$PS_{CAh} = \frac{N_{CAh}}{\sum_{i=1}^{n_{CAh}} JURISR_{CAhi}}$$

where

$N_{CAh}$  = number of active California jurisdictions in stratum  $h$ ,

$n_{CAh}$  = number of sampled California jurisdictions in stratum  $h$

In 2014, all 63 California jail jurisdictions responded, so their final weights post-stratification were 1.

The post-stratification adjustment for non-California jail jurisdictions is computed as

$$PS_{\overline{CAh}} = \frac{N_{\overline{CAh}}}{\sum_{i=1}^{n_{\overline{CAh}}} JURISR_{\overline{CAhi}}}$$

where

$N_{\overline{CAh}}$  = number of active non-California jail jurisdictions in stratum  $h$ , computed as

$$N_{\overline{CAh}} = W_h \times \sum_{i=1}^{n_{\overline{CAh}}} JURISR_{\overline{CAhi}}$$

$n_{\overline{CAh}}$  = number of sampled non-California jail jurisdictions in stratum  $h$ .

**Item nonresponse imputation**

**Critical items: Midyear inmate population, ADP, and rated capacity**

Based on the 2014 ASJ, about 99% of the 878 individual reporting units provided valid data on their midyear inmate population (872), ADP (864), and rated capacity (869). To calculate a national midyear inmate population, ADP, and rated capacity estimate, data were estimated for the reporting units that did not report specific data.

Estimates were calculated based on the following criteria:

- Data for 1 individual reporting unit included midyear inmate population data based on the 2014 ASJ.
- Data for 5 individual reporting units included midyear inmate population data based on estimates from the 2013 ASJ.
- Data for 9 individual reporting units included ADP data based on their confined population at midyear 2014.
- Data for 5 individual reporting units included ADP data based on estimates from the 2013 ASJ.
- Data for 9 individual reporting units included rated capacity data based on estimates from the 2013 ASJ.

**Inmate characteristics**

Based on the 2014 ASJ, 90% to 95% of the 878 individual reporting units provided valid data on sex, age, race/Hispanic origin, and inmate conviction status. To calculate a national rate for inmate characteristics, data were estimated based on the ratio of the reported characteristic population to the total midyear confined population.

**Weekly admission and release estimation procedures**

Based on the 2014 ASJ, 841 of the 878 individual reporting units (96%) provided valid data on weekly admissions or releases. To calculate an overall weekly estimate, data on offender flows through local jails were estimated for the 37 reporting units that did not report specific data on admissions and releases. Release data were estimated for 5 reporting units that reported data on admissions, but not on releases. Nonresponse weight adjustments account for the survey nonrespondents.

Estimates were calculated based on the following criteria:

- Data for 3 individual reporting units included admission and release data based on estimates from the 2012 ASJ.
- Data for 29 individual reporting units included admission and release data based on estimates from the 2013 ASJ.
- Release data for 5 individual reporting units were based on admission data reported in 2014.

**Calculating annual admissions**

The ASJ collects data on weekly admissions. BJS determined that the June admission data from the 2004 Survey of Large Jails (SLJ) were a reliable source to calculate a nationwide annual admission estimate. Although the number of admissions to jails fluctuated throughout the year, the SLJ tracked monthly movements from January 2003 to January 2004 and showed that the June 2003 count (339,500) closely matched the annual average number of admissions (342,956). The number of annual admissions was calculated by multiplying the weekly admissions by 365 days and dividing by 7 days.

**Calculating weekly turnover rates**

Weekly jail turnover rates were modeled after the Bureau of Labor Statistics' Job Openings and Labor Turnover Survey. Additional information on turnover rates is available at <http://www.bls.gov/jlt/>. Jail turnover rates were calculated by adding admissions and releases, and then dividing by the ADP. The turnover rate takes into account jail admissions and releases and gives an indication of the fluctuation of the jail population.

**Jurisdiction size categories**

For the 2011 through 2014 reports, BJS categorized jurisdiction sizes based on the ADP during the 12 months ending midyear 2006 (the first year in the current ASJ series). For the 2010 report, comparisons of size categories from midyear 2009 to midyear 2010 were based on the ADP during the 12 months ending midyear 2009. In previous reports (2007 through 2009),

the size category comparisons were based on the 12 months ending midyear of the specific collection year. As a result, not all data in previous reports are comparable with data in this report.

**Standard errors and tests of significance**

As with any survey, the ASJ estimates are subject to error arising from sampling rather than using a complete enumeration of the jail population. A common way to express this sampling variability is to construct a 95% confidence interval around each survey estimate. Typically, multiplying the standard error by 1.96 and then adding or subtracting the result from the estimate produces the confidence interval. This interval expresses the range of values that could result among 95% of the different samples that could be drawn.

**Jail functions**

Jails in the ASJ include confinement facilities—usually administered by a local law enforcement agency—that are intended for adults but may hold juveniles before or after they are adjudicated. Facilities include jails and city or county correctional centers; special jail facilities, such as medical or treatment release centers, halfway houses, and work farms; and temporary holding or lockup facilities that are part of the jail's combined function. Inmates sentenced to jail facilities usually have a sentence of 1 year or less.

Within the ASJ, jails—

- receive individuals pending arraignment and hold them awaiting trial, conviction, or sentencing
- re-admit probation, parole, and bail bond violators and absconders
- temporarily detain juveniles pending their transfer to juvenile authorities
- hold mentally ill persons pending their movement to appropriate mental health facilities
- hold individuals for the military, for protective custody, for contempt, and for the courts as witnesses
- release convicted inmates to the community upon completion of sentence
- transfer inmates to federal, state, or other authorities
- house inmates for federal, state, or other authorities because of crowding of their facilities
- sometimes operate community-based programs as alternatives to incarceration.



**Terms and definitions**

**Admissions**—Persons who are officially booked and housed in jails by formal legal document and the authority of the courts or some other official agency. Jail admissions include persons sentenced to weekend programs and those who are booked into the facility for the first time. Excluded from jail admissions are inmates re-entering the facility after an escape, work release, medical appointment or treatment facility appointment, and bail and court appearances. BJS collects jail admissions for the last 7 days in June.

**Average daily population (ADP)**—The average is derived by the sum of inmates in jail each day for a year, divided by the number of days in the year (i.e., between July 1, 2013, and June 30, 2014).

**Average annual change**—The mean average change across a 12-month time period.

**Calculating annual admissions**—BJS collects the number of jail admissions during the last 7 days in June. Annual jail admissions are calculated by multiplying weekly admissions by the sum of 365 days divided by 7 days.

**Calculating weekly jail turnover rate**—This rate is calculated by adding admissions and releases and dividing by the average daily population. See *Calculating weekly turnover rates* for additional information.

**Inmates confined at midyear**—The number of inmates held in custody on the last weekday in June.

**Jail incarceration rate**—The number of inmates held in the custody of local jails, per 100,000 U.S. residents.

**Percent of capacity occupied**—This percentage is calculated by taking the number of inmates (midyear or average daily population), dividing by the rated capacity, and multiplying by 100.

**Rated capacity**—The number of beds or inmates assigned by a rating official to a facility, excluding separate temporary holding areas.

**Releases**—Persons released after a period of confinement (e.g., sentence completion, bail or bond releases, other pretrial releases, transfers to other jurisdictions, and deaths). Releases include those persons who have completed their weekend program and who are leaving the facility for the last time. Excluded from jail releases are temporary discharges including work release, medical appointment or treatment center, court appearance, furlough, day reporting, and transfers to other facilities within the jail’s jurisdiction.

**Under jail supervision but not confined**—This classification includes all persons in community-based programs operated by a jail facility. These programs include electronic monitoring, house arrest, community service, day reporting, and work programs. The classification excludes persons on pretrial release and who are not in a community-based program run by the jail, as well as persons under supervision of probation, parole, or other agencies; inmates on weekend programs; and inmates who participate in work release programs and return to the jail at night.

**Weekend programs**—Offenders in these programs are allowed to serve their sentences of confinement only on weekends (i.e., Friday to Sunday).

**APPENDIX TABLE 1****Standard errors for table 1: Inmates confined in local jails at midyear, average daily population, and incarceration rates, 2000–2014**

Year	Inmates confined at midyear	Average daily population
2000	2,504	2,265
2001	2,721	2,648
2002	3,213	2,980
2003	3,572	3,448
2004	3,919	3,748
2005	~	~
2006	3,552	3,230
2007	3,720	3,549
2008	4,016	3,883
2009	4,231	4,109
2010	5,430	5,359
2011	6,009	5,879
2012	7,684	7,769
2013	8,042	7,943
2014	8,382	8,430

~Not applicable. Data represent a complete enumeration based on the 2005 Census of Jail Inmates.

Sources: Bureau of Justice Statistics, Annual Survey of Jails, midyear 2000–2004 and midyear 2006–2014; and Census of Jail Inmates, midyear 2005.

**APPENDIX TABLE 2****Reported data for table 2: Number of inmates in local jails, by characteristics, midyear 2000 and 2005–2014**

Characteristic	2000	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
<b>Sex</b>											
Male	547,624	652,958	666,819	679,654	685,862	673,728	650,341	633,171	636,708	602,193	617,842
Female	70,659	94,571	99,000	100,520	99,670	93,706	91,521	91,923	97,190	98,015	106,081
<b>Adult</b>	610,703	740,770	759,717	773,341	777,829	760,216	734,372	719,253	728,547	695,817	719,857
Male	540,614	646,807	661,164	673,346	678,657	667,039	643,331	627,777	631,802	598,228	614,102
Female	70,089	93,963	98,552	99,995	99,172	93,176	91,042	91,476	96,745	97,589	105,754
<b>Juvenile</b>	7,580	6,759	6,102	6,833	7,703	7,218	7,490	5,840	5,351	4,391	4,067
Held as adult	6,126	5,750	4,835	5,649	6,410	5,846	5,596	4,490	4,489	3,366	3,581
Held as juvenile	1,454	1,009	1,268	1,184	1,294	1,373	1,895	1,350	862	1,025	485
<b>Race/Hispanic origin</b>											
White	236,969	315,598	323,474	327,864	320,111	289,606	274,907	298,663	304,762	297,745	314,846
Black/African American	233,078	276,959	284,412	292,457	295,747	266,638	234,738	250,577	245,376	225,751	235,436
Hispanic/Latino	85,612	106,707	114,564	121,660	123,376	109,998	97,869	103,274	100,682	93,133	98,714
American Indian/Alaska Native	4,974	7,270	8,052	8,347	8,638	8,328	8,223	8,527	8,292	8,793	9,285
Asian/Native Hawaiian/ Other Pacific Islander	4,304	5,130	4,940	5,181	5,267	4,785	4,225	4,776	4,826	4,386	5,388
Two or more races	...	975	633	754	1,237	1,563	689	1,070	1,320	1,419	906
<b>Conviction status</b>											
Convicted	245,698	270,712	280,914	289,098	272,291	250,920	234,566	250,464	248,800	234,134	240,944
Unconvicted	316,728	440,873	460,837	470,960	462,052	412,914	368,411	385,631	383,152	381,588	406,565

Note: See appendix table 3 for standard errors.

...Not collected.

Sources: Bureau of Justice Statistics, Annual Survey of Jails, midyear 2000 and midyear 2006–2014; and Census of Jail Inmates, midyear 2005.

**APPENDIX TABLE 3****Standard errors for table 2: Number of inmates in local jails, by characteristics, midyear 2000 and 2005–2014**

Characteristic	2000	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
<b>Sex</b>											
Male	2,235	~	3,146	3,298	3,570	3,729	4,832	5,278	6,776	7,088	7,015
Female	548	~	979	950	1,125	912	999	1,179	1,404	1,469	1,532
<b>Adult</b>	2,492	~	3,554	3,697	4,012	4,190	5,400	6,004	7,655	8,049	8,004
Male	2,223	~	3,144	3,276	3,568	3,692	4,794	5,241	6,685	7,025	6,961
Female	542	~	978	948	1,123	909	994	1,177	1,398	1,467	1,531
<b>Juvenile</b>	211	~	148	166	170	195	263	172	241	199	164
Held as adult	181	~	152	157	149	167	246	151	230	143	158
Held as juvenile	132	~	144	147	88	107	255	77	84	139	46
<b>Race/Hispanic origin</b>											
White	2,676	~	3,031	3,220	3,115	3,255	3,589	3,764	4,370	4,574	4,605
Black/African American	1,853	~	2,752	2,751	2,995	2,945	3,194	3,418	4,608	4,860	4,712
Hispanic/Latino	1,075	~	1,749	1,748	1,878	1,927	2,131	2,617	2,958	2,580	2,719
American Indian/Alaska Native	363	~	651	700	730	756	1,031	933	866	932	926
Asian/Native Hawaiian/ Other Pacific Islander	112	~	78	103	123	120	130	188	239	125	196
Two or more races	...	~	72	115	41	142	153	149	161	212	180
<b>Conviction status</b>											
Convicted	2,258	~	2,749	2,892	2,978	3,122	3,292	3,521	3,750	3,619	4,156
Unconvicted	2,256	~	3,321	3,392	3,552	3,710	4,515	4,819	5,918	6,740	5,691

Note: Standard errors are based on the reported data in appendix table 2 and were not estimated for survey item nonresponse.

...Not collected.

~Not applicable. Data represent a complete enumeration based on the 2005 Census of Jail Inmates.

Sources: Bureau of Justice Statistics, Annual Survey of Jails, midyear 2000 and midyear 2006–2014; and Census of Jail Inmates, midyear 2005.

**APPENDIX TABLE 4****Standard error ratios for table 3: Percent of inmates in local jails, by characteristics, midyear 2000 and 2005–2014**

Characteristic	2000	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
<b>Sex</b>											
Male	0.1%	~	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.2%
Female	0.1	~	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.2
<b>Adult</b>	--	~	--	--	--	--	--	--	--	--	--
Male	0.1%	~	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%
Female	0.1	~	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.2
<b>Juvenile</b>	--	~	--	--	--	--	--	--	--	--	--
Held as adult	--	~	--	--	--	--	--	--	--	--	--
Held as juvenile	--	~	--	--	--	--	--	--	--	--	--
<b>Race/Hispanic origin</b>											
White	0.3%	~	0.3%	0.3%	0.3%	0.3%	0.4%	0.4%	0.5%	0.5%	0.5%
Black/African American	0.3	~	0.3	0.3	0.3	0.3	0.4	0.4	0.5	0.5	0.5
Hispanic/Latino	0.2	~	0.2	0.2	0.2	0.3	0.3	0.3	0.4	0.3	0.3
American Indian/Alaska Native	0.1	~	0.1	0.1	0.1	0.1	0.2	0.1	0.1	0.1	0.1
Asian/Native Hawaiian/ Other Pacific Islander	--	~	--	--	--	--	--	--	--	--	--
Two or more races	...	~	--	--	--	--	--	--	--	--	--
<b>Conviction status</b>											
Convicted	0.3%	~	0.3%	0.3%	0.3%	0.4%	0.4%	0.4%	0.5%	0.5%	0.5%
Unconvicted	0.3	~	0.3	0.3	0.3	0.4	0.4	0.4	0.5	0.5	0.5

Note: Detail may not sum to total because of rounding.

--Less than 0.05%.

...Not collected.

~Not applicable. Data represent a complete enumeration based on the 2005 Census of Jail Inmates.

Sources: Bureau of Justice Statistics, Annual Survey of Jails, midyear 2000 and midyear 2006–2014; and Census of Jail Inmates, midyear 2005.

**APPENDIX TABLE 5****Standard errors for table 4: Inmates confined in local jails at midyear, by size of jurisdiction, 2013–2014**

Jurisdiction size	Number		Percent	
	2013	2014	2013	2014
49 or fewer	2,589	2,719	0.3%	0.4%
50–99	3,185	3,218	0.4	0.4
100–249	4,313	4,398	0.6	0.6
250–499	5,092	4,988	0.7	0.6
500–999	4,109	4,166	0.6	0.6
1,000 or more	6,901	7,248	0.7	0.7

Source: Bureau of Justice Statistics, Annual Survey of Jails, midyear 2013–2014.

**APPENDIX TABLE 7****Standard errors for table 6: Percent of jail capacity occupied at midyear, by size of jurisdiction, 2013–2014**

Jurisdiction size	2013	2014
Total	0.5%	0.4%
49 or fewer	3.1	3.4
50–99	3.0	2.4
100–249	2.2	1.8
250–499	1.4	1.5
500–999	0.6	0.6
1,000 or more	0.4	0.4

Source: Bureau of Justice Statistics, Annual Survey of Jails, midyear 2013–2014.

**APPENDIX TABLE 6****Standard errors for table 5: Rated capacity of local jails and percent of capacity occupied, 2000 and 2005–2014**

Year	Rated capacity	Percent of capacity occupied	
		Midyear	Average daily population
2000	3,425	0.4%	0.4%
2005	~	~	~
2006	4,741	0.4	0.4
2007	5,056	0.4	0.4
2008	5,063	0.4	0.4
2009	6,460	0.5	0.5
2010	11,013	0.9	0.9
2011	11,776	0.9	0.9
2012	10,217	0.5	0.5
2013	13,198	0.5	0.5
2014	11,082	0.4	0.4

~Not applicable. Data represent a complete enumeration based on the 2005 Census of Jail Inmates.

Sources: Bureau of Justice Statistics, Annual Survey of Jails, midyear 2000 and midyear 2006–2014, and Census of Jail Inmates, midyear 2005.

**APPENDIX TABLE 8****Standard errors for table 7: Average daily jail population, admissions, and turnover rate, by size of jurisdiction, week ending June 30, 2013 and 2014**

Jurisdiction size	Average daily population		Estimated number of admissions during the—			
			Last week in June		Weekly turnover rate	
	2013	2014	2013	2014	2013	2014
Total	7,943	8,430	13,198	3,937	11.1%	0.9%
49 or fewer	2,422	2,471	1,785	1,526	12.8	12.8
50–99	3,119	3,110	2,173	2,109	9.1	7.7
100–249	4,165	4,397	2,446	2,210	3.7	3.5
250–499	4,956	4,835	2,391	2,327	3.7	3.6
500–999	4,128	4,093	13,009	1,312	20.5	1.1
1,000 or more	6,974	7,455	1,584	1,825	0.5	0.5

Source: Bureau of Justice Statistics, Annual Survey of Jails, midyear 2013–2014.

**APPENDIX TABLE 9****Standard errors for table 8: Inmate population in jail jurisdictions reporting on confined persons being held for U.S. Immigration and Customs Enforcement (ICE), midyear 2002–2014**

Year	Confined persons held for ICE at midyear
2002	804
2003	935
2004	976
2005	~
2006	959
2007	740
2008	729
2009	851
2010	977
2011	1,533
2012	1,670
2013	2,136
2014	2,157

Note: The standard errors are based on the reported data and were not estimated for survey item nonresponse.

~Not applicable. Data represent a complete enumeration based on the 2005 Census of Jail Inmates.

Sources: Bureau of Justice Statistics, Annual Survey of Jails, midyear 2002–2004 and midyear 2006–2014; and Census of Jail Inmates, midyear 2005.

**APPENDIX TABLE 10****Standard errors for table 9: Persons under jail supervision, by confinement status and type of program, midyear 2000 and 2006–2014**

Confinement status and type of program	2000	2006	2007	2008	2009	2010	2011	2012	2013	2014
Total	2,728	3,783	4,041	4,732	4,548	5,897	6,446	8,438	8,692	9,248
Held in jail	2,504	3,552	3,720	4,016	4,231	5,430	6,009	7,684	8,042	8,382
Supervised outside of a jail facility	996	1,151	1,267	2,327	1,535	1,960	1,832	2,418	2,351	2,707
Weekend programs	457	381	347	477	350	296	514	369	508	399
Electronic monitoring	320	352	519	469	328	574	581	747	624	788
Home detention	17	184	512	41	41	74	89	386	232	188
Day reporting	70	336	475	340	300	360	301	396	348	429
Community service	286	547	587	796	1,152	1,319	845	1,089	1,133	1,262
Other pretrial supervision	350	131	183	392	300	411	708	909	698	845
Other work programs	440	382	257	572	446	428	497	334	390	491
Treatment programs	66	59	104	122	67	153	153	261	230	270
Other	47	147	99	619	71	114	151	196	512	179

Source: Bureau of Justice Statistics, Annual Survey of Jails, midyear 2000 and midyear 2006–2014.



The Bureau of Justice Statistics of the U.S. Department of Justice is the principal federal agency responsible for measuring crime, criminal victimization, criminal offenders, victims of crime, correlates of crime, and the operation of criminal and civil justice systems at the federal, state, tribal, and local levels. BJS collects, analyzes, and disseminates reliable and valid statistics on crime and justice systems in the United States, supports improvements to state and local criminal justice information systems, and participates with national and international organizations to develop and recommend national standards for justice statistics. William J. Sabol is director.

This report was written by Todd D. Minton and Zhen Zeng, Ph.D. Tracy L. Snell provided statistical review and verified the report.

Leslie Miller carried out the data collection and processing under the supervision of Nicole Adolph and Crecilla Scott, Economic Reimbursable Surveys Division, Census Bureau, U.S. Department of Commerce. Suzanne Dorinski and Rekha Kudlur provided statistical and technical assistance.

Irene Cooperman and Jill Thomas edited the report. Barbara Quinn produced the report.

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**EXHIBIT C**



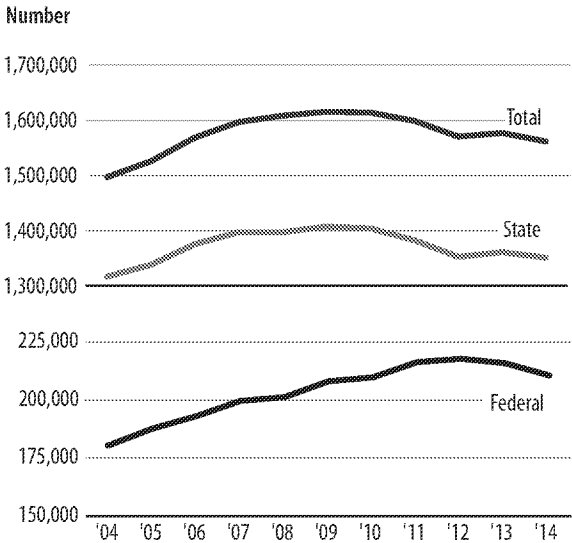
# Prisoners in 2014

E. Ann Carson, Ph.D., *BJS Statistician*

At yearend 2014, the United States held an estimated 1,561,500 prisoners in state and federal correctional facilities, a decrease of approximately 15,400 prisoners (down 1%) from December 31, 2013. A third (34%) of the decrease was due to fewer prisoners under the jurisdiction of the Federal Bureau of Prisons (BOP), which declined for the second consecutive year (figure 1). Prisoners sentenced to more than 1 year in state or federal prison declined by almost 1% (down 11,800 prison inmates) from yearend 2013 (1,520,400) to yearend 2014 (1,508,600). The number of prisoners housed in private facilities in the United States decreased by almost 2% in 2014 to 131,300 prison inmates.

The statistics in this report are based on the Bureau of Justice Statistics' (BJS) National Prisoner Statistics (NPS) program, which collects annual data from state DOCs and the BOP on prisoner counts, prisoner characteristics, admissions, releases, and prison capacity. The 2014 NPS collection is number 90 in a series that began in 1926. Forty-nine states and the BOP reported NPS data for 2014, while data for Alaska were obtained from other sources or imputed. (See *Methodology*.)

**FIGURE 1**  
Total, state, and federal U.S. prison population,  
2004–2014



Note: Counts based on all prisoners under the jurisdiction of state and federal correctional authorities.

Source: Bureau of Justice Statistics, National Prisoner Statistics, 2004–2014.

## HIGHLIGHTS

- The number of prisoners held by state and federal correctional authorities on December 31, 2014 (1,561,500) decreased by 15,400 (down 1%) from yearend 2013.
- The federal prison population decreased by 5,300 inmates (down 2.5%) from 2013 to 2014, the second consecutive year of decline.
- On December 31, 2014, state and federal correctional authorities held 1,508,600 individuals sentenced to more than 1 year in prison, 11,800 fewer inmates than at yearend 2013.
- The number of women in prison who were sentenced to more than 1 year increased by 1,900 offenders (up 2%) in 2014 from 104,300 in 2013 to 106,200 in 2014.
- The decline in the BOP population in 2014 was explained by 5% fewer admissions (down 2,800) than in 2013.
- The imprisonment rate declined from 621 prisoners per 100,000 U.S. residents age 18 or older in 2013 to 612 per 100,000 in 2014.
- In 2014, 6% of all black males ages 30 to 39 were in prison, compared to 2% of Hispanic and 1% of white males in the same age group.
- Violent offenders made up 54% of the state male prison population at yearend 2013, the most recent year for which data were available.
- The BOP housed 40,000 prisoners in private secure and nonsecure facilities at yearend 2014, which represents 19% of the total federal prison population.
- Half of males (50%) and more than half of females (59%) in federal prison were serving time for drug offenses on September 30, 2014.



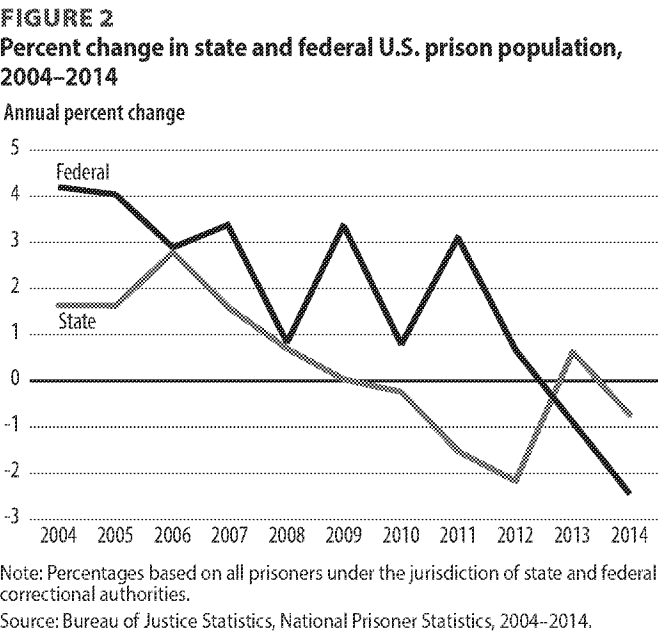
The U.S. prison population decreased by 1% in 2014

The total number of persons held under the jurisdiction of state and federal correctional authorities on December 31, 2014, decreased 1% (15,400 prisoners) from the count at yearend 2013 (table 1). The estimated 1,561,500 prisoners at yearend 2014 represent the smallest total prison population since 2005, and reverse the 0.4% increase that occurred from 2012 to 2013. Several states updated their 2013 counts, which resulted in an even larger increase than originally reported. The total prison population on December 31, 2013, was 1,577,000, an increase of 6,600 prisoners from 2012 (1,570,400).

The decrease observed in 2014 was the second largest decline in the number of prisoners in more than 35 years. The decline of 28,600 prisoners from 2011 to 2012 coincided with the enactment of California’s Public Safety Realignment policy, which diverted newly sentenced nonviolent, nonserious, nonsex offenders from state prison to serve time in local jails and under community supervision.

More than a third of the total decline in the number of prison inmates (34% or 5,300 prisoners) occurred in the federal prison population. This was the second straight year of decline in the federal system, which is the nation’s largest

prison jurisdiction followed by Texas and California (table 2, figure 2). The federal system held 13% of all prison inmates at yearend 2014. States held 10,100 fewer prisoners at yearend 2014 than in 2013.



**TABLE 1**  
Prisoners under the jurisdiction of state or federal correctional authorities, December 31, 2004–2014

Year	Total	Federal <sup>a</sup>	State	Male	Female
2004	1,497,100	180,328	1,316,772	1,392,278	104,822
2005	1,525,910	187,618	1,338,292	1,418,392	107,518
2006	1,568,674	193,046	1,375,628	1,456,366	112,308
2007	1,596,835	199,618	1,397,217	1,482,524	114,311
2008	1,608,282	201,280	1,407,002	1,493,670	114,612
2009	1,615,487	208,118	1,407,369	1,502,002	113,485
2010	1,613,803	209,771	1,404,032	1,500,936	112,867
2011	1,598,968	216,362	1,382,606	1,487,561	111,407
2012	1,570,397	217,815	1,352,582	1,461,625	108,772
2013 <sup>b</sup>	1,576,950	215,866	1,361,084	1,465,592	111,358
2014 <sup>c</sup>	1,561,525	210,567	1,350,958	1,448,564	112,961
Percent change					
Average annual, 2004–2013	0.5%	1.8%	0.3%	0.5%	0.6%
2013–2014	-1.0	-2.5	-0.7	-1.2	1.4

Note: Jurisdiction refers to the legal authority of state or federal correctional officials over a prisoner, regardless of where the prisoner is held.  
<sup>a</sup>Includes inmates held in nonsecure privately operated community corrections facilities and juveniles held in contract facilities.  
<sup>b</sup>Nevada did not submit 2013 National Prisoner Statistics (NPS) data, and Alaska did not submit sex-specific jurisdiction counts to NPS in 2013, so data for these states were imputed. See *Methodology*.  
<sup>c</sup>Total and state estimates include imputed counts for Alaska, which did not submit 2014 NPS data. See *Methodology*.  
Source: Bureau of Justice Statistics, National Prisoner Statistics, 2004–2014.

**TABLE 2****Prisoners under jurisdiction of state or federal correctional authorities, by sex, December 31, 2013 and 2014**

Jurisdiction	2013			2014			Percent change, 2013–2014		
	Total	Male	Female	Total	Male	Female	Total	Male	Female
U.S. total <sup>a</sup>	1,576,950	1,465,592	111,358	1,561,525	1,448,564	112,961	-1.0%	-1.2%	1.4%
Federal <sup>b</sup>	215,866	201,697	14,169	210,567	196,568	13,999	-2.5%	-2.5%	-1.2%
State <sup>a</sup>	1,361,084	1,263,895	97,189	1,350,958	1,251,996	98,962	-0.7%	-0.9%	1.8%
Alabama <sup>c</sup>	32,381	29,660	2,721	31,771	29,182	2,589	-1.9	-1.6	-4.9
Alaska <sup>d,e,f</sup>	5,081	4,450	631	5,216	4,568	648	:	:	:
Arizona <sup>c</sup>	41,177	37,402	3,775	42,259	38,295	3,964	2.6	2.4	5.0
Arkansas	17,235	15,904	1,331	17,874	16,476	1,398	3.7	3.6	5.0
California	135,981	129,684	6,297	136,088	129,706	6,382	0.1	0.0	1.3
Colorado	20,371	18,556	1,815	20,646	18,738	1,908	1.3	1.0	5.1
Connecticut <sup>f,g</sup>	17,563	16,328	1,235	16,636	15,510	1,126	:	:	:
Delaware <sup>f</sup>	7,004	6,405	599	6,955	6,361	594	-0.7	-0.7	-0.8
Florida	103,028	95,757	7,271	102,870	95,567	7,303	-0.2	-0.2	0.4
Georgia	54,004	50,445	3,559	52,949	49,438	3,511	-2.0	-2.0	-1.3
Hawaii <sup>f</sup>	5,632	4,972	660	5,866	5,198	668	4.2	4.5	1.2
Idaho <sup>c</sup>	8,242	7,176	1,066	8,117	7,080	1,037	-1.5	-1.3	-2.7
Illinois	48,653	45,737	2,916	48,278	45,390	2,888	-0.8	-0.8	-1.0
Indiana	29,913	27,078	2,835	29,271	26,396	2,875	-2.1	-2.5	1.4
Iowa	8,697	7,983	714	8,838	8,086	752	1.6	1.3	5.3
Kansas <sup>c,g</sup>	9,763	9,026	737	9,663	8,881	782	:	:	:
Kentucky	21,030	18,717	2,313	21,657	19,084	2,573	3.0	2.0	11.2
Louisiana	39,299	37,071	2,228	38,030	35,955	2,075	-3.2	-3.0	-6.9
Maine	2,173	2,013	160	2,242	2,063	179	3.2	2.5	11.9
Maryland	21,335	20,410	925	21,011	20,100	911	-1.5	-1.5	-1.5
Massachusetts	10,950	10,143	807	10,713	9,985	728	-2.2	-1.6	-9.8
Michigan	43,759	41,700	2,059	43,390	41,267	2,123	-0.8	-1.0	3.1
Minnesota	10,289	9,566	723	10,637	9,901	736	3.4	3.5	1.8
Mississippi	21,969	20,352	1,617	18,793	17,448	1,345	-14.5	-14.3	-16.8
Missouri	31,537	28,755	2,782	31,942	28,836	3,106	1.3	0.3	11.6
Montana	3,642	3,230	412	3,699	3,311	388	1.6	2.5	-5.8
Nebraska	5,026	4,656	370	5,441	5,001	440	8.3	7.4	18.9
Nevada <sup>h</sup>	/	/	/	12,537	11,452	1,085	:	:	:
New Hampshire	3,018	2,781	237	2,963	2,715	248	-1.8	-2.4	4.6
New Jersey	22,452	21,427	1,025	21,590	20,571	1,019	-3.8	-4.0	-0.6
New Mexico	6,931	6,276	655	7,021	6,348	673	1.3	1.1	2.7
New York	53,550	51,193	2,357	52,518	50,192	2,326	-1.9	-2.0	-1.3
North Carolina	36,922	34,430	2,492	37,096	34,455	2,641	0.5	0.1	6.0
North Dakota <sup>c</sup>	1,576	1,419	157	1,718	1,514	204	9.0	6.7	29.9
Ohio	51,729	47,579	4,150	51,519	47,311	4,208	-0.4	-0.6	1.4
Oklahoma	27,547	24,769	2,778	27,650	24,799	2,851	0.4	0.1	2.6
Oregon	15,517	14,212	1,305	15,075	13,799	1,276	-2.8	-2.9	-2.2
Pennsylvania <sup>c</sup>	51,422	48,760	2,662	50,694	47,936	2,758	-1.4	-1.7	3.6
Rhode Island <sup>f</sup>	3,361	3,169	192	3,359	3,201	158	-0.1	1.0	-17.7
South Carolina	22,060	20,669	1,391	21,401	20,032	1,369	-3.0	-3.1	-1.6
South Dakota <sup>c</sup>	3,682	3,240	442	3,608	3,199	409	-2.0	-1.3	-7.5
Tennessee	28,521	26,069	2,452	28,769	26,160	2,609	0.9	0.3	6.4
Texas	168,280	154,450	13,830	166,043	151,717	14,326	-1.3	-1.8	3.6
Utah <sup>c</sup>	7,077	6,415	662	7,026	6,364	662	-0.7	-0.8	0.0
Vermont <sup>f</sup>	2,078	1,924	154	1,979	1,823	156	-4.8	-5.2	1.3
Virginia	36,982	34,133	2,849	37,544	34,529	3,015	1.5	1.2	5.8
Washington	17,984	16,535	1,449	18,120	16,666	1,454	0.8	0.8	0.3
West Virginia	6,824	6,016	808	6,896	6,065	831	1.1	0.8	2.8
Wisconsin <sup>g</sup>	22,471	21,232	1,239	22,597	21,219	1,378	:	:	:
Wyoming	2,310	2,050	260	2,383	2,106	277	3.2	2.7	6.5

Note: Jurisdiction refers to the legal authority of state or federal correctional officials over a prisoner, regardless of where the prisoner is held.

/Not reported. Estimated count added into state and U.S. jurisdictional totals. See *Methodology*.

: Not calculated.

<sup>a</sup>Includes imputed counts for Alaska, which did not submit 2014 National Prisoner Statistics (NPS) Program data in time to be included in this report. See *Methodology*.

<sup>b</sup>Includes inmates held in nonsecure privately operated community corrections facilities and juveniles held in contract facilities.

<sup>c</sup>State has updated 2013 population counts.

<sup>d</sup>Alaska did not submit sex-specific jurisdiction counts in NPS in 2013. See *Methodology*.

<sup>e</sup>Alaska did not submit 2014 NPS data in time for this report, but jurisdiction totals were obtained from a report to the state legislature. See *Methodology* for details on imputation of 2014 data.

<sup>f</sup>Prisons and jails form one integrated system. Data include total jail and prison populations.

<sup>g</sup>State has changed reporting methodology, so 2014 counts are not comparable to those published for earlier years. See *Jurisdiction notes*.

<sup>h</sup>Nevada did not submit 2013 NPS data in time for this report. See *Methodology* for details on imputation of 2013 data that were used in state and U.S. totals.

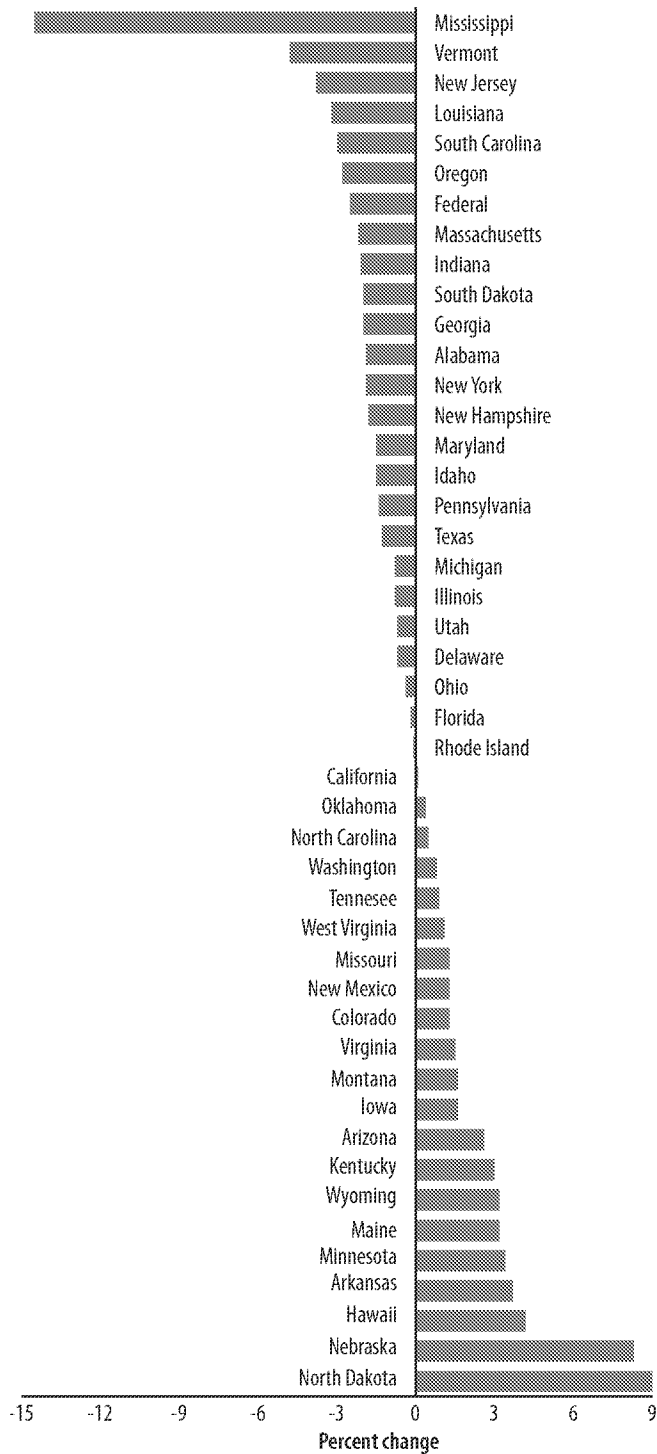
Source: Bureau of Justice Statistics, National Prisoner Statistics, 2013–2014.

Twenty-four states and the federal BOP showed decreases in total prison populations between yearend 2013 and 2014 (figure 3). Mississippi held 3,200 fewer prison inmates at yearend 2014 (down 15% from 2013), which resulted from new policies that encourage supervision of nonviolent offenders in the community instead of in prison. The Texas prison population, the second largest in the United States with 166,000 inmates at yearend 2014, declined by 2,200 prisoners (down 1%) from yearend 2013 (168,300). Louisiana, Georgia, and New York also had modest declines that amounted to between 1,000 and 1,300 fewer prisoners for each jurisdiction in 2014 than in 2013.

Most states that observed growth in their prison populations had smaller prison systems, including North Dakota, which increased its yearend 2013 population by 140 (up 9%) to 1,700 on December 31, 2014. Nebraska experienced an 8% increase in its prison population, from 5,000 prisoners in 2013 to 5,400 in 2014.

While females have represented approximately 7% of the total prison population over the past decade, the number of females under state or federal correctional jurisdiction increased by 1,600 inmates (up more than 1%) to 113,000 in 2014, the largest number of female prisoners since 2009. Sixteen states and the BOP observed decreases among their female prison populations, compared to 23 states and the BOP for males. Much of the growth took place in states with smaller prison systems so that modest increases in the number of imprisoned females caused large state-specific percent changes between 2013 and 2014. Missouri held 300 more women at yearend 2014 than in 2013 (up 12%), and Kentucky had an additional 260 female prisoners (up 11%). In comparison, from yearend 2013 to 2014, Texas held 500 additional women, an increase of almost 4%.

**FIGURE 3**  
Percent change decline or increase in prisoners under the jurisdiction of state or federal correctional authorities, by state, 2013–2014



Note: Jurisdiction refers to the legal authority of state or federal correctional officials over a prisoner, regardless of where the prisoner is held. Counts based on all prisoners under the jurisdiction of state and federal correctional authorities. Alaska, Connecticut, Kansas, Nevada, and Wisconsin could not be calculated. See table 2 for detail.  
Source: Bureau of Justice Statistics, National Prisoner Statistics, 2013–2014.

97% of prisoners under the jurisdiction of state and federal authorities were sentenced to more than 1 year in prison

From yearend 2013 to 2014, the number of persons in state or federal prison who were sentenced to more than 1 year declined by 11,800 (down slightly less than 1%) to 1,509,000 prisoners (table 3). Prisoners sentenced to more than 1 year made up 97% of the total prison population, while unsentenced inmates and those with terms of 1 year or less accounted for the remaining 3% (53,000 prisoners). The decreasing number of sentenced prisoners accounted for 76% of the change in the total jurisdictional population. State prisons housed 8,000 fewer sentenced inmates on December 31, 2014, for a total of 1,317,300 prisoners. The BOP had 191,400 sentenced prisoners at yearend 2014, 2% fewer than in 2013 (195,100).

The number of females in state or federal prison who were sentenced to more than 1 year increased by 1,900 prisoners (up nearly 2%) from 2013 (104,300 female prisoners) to 2014 (106,200). Sentenced female prisoners reached their

highest count in 2014 since 2008, when states and the BOP imprisoned 106,400 females sentenced to at least 1 year under correctional authority.

Twenty-two states and the BOP saw a decline in the number of prison inmates who had been sentenced to more than 1 year under correctional authority (table 4). The BOP (down 3,700 prisoners), Mississippi (down 2,900 prisoners), Texas (down 1,700), and Louisiana (down 1,300) had the largest decreases in the number of these prisoners in 2014. Among states with an increase in prison populations, Arizona imprisoned 40,200 sentenced inmates at yearend 2014, an increase of 1,100 prisoners from 2013. No other jurisdictions had increases of more than 1,000 sentenced prisoners during 2014.

As with the total jurisdiction population, 17 states and the BOP showed declines among sentenced female prisoners. Among states with an increase in sentenced female prisoners, Texas (up 700 females), Missouri (up 300), and Kentucky and North Carolina (up 200 each) made up 75% of the total change in the number of sentenced females from yearend 2013 to 2014.

TABLE 3  
Sentenced prisoners under the jurisdiction of state or federal correctional authorities, December 31, 2004–2014

Year	Total	Federal <sup>a</sup>	State	Male	Female
2004	1,433,728	159,137	1,274,591	1,337,730	95,998
2005	1,462,866	166,173	1,296,693	1,364,178	98,688
2006	1,504,598	173,533	1,331,065	1,401,261	103,337
2007	1,532,851	179,204	1,353,647	1,427,088	105,763
2008	1,547,742	182,333	1,365,409	1,441,384	106,358
2009	1,553,574	187,886	1,365,688	1,448,239	105,335
2010	1,552,669	190,641	1,362,028	1,447,766	104,903
2011	1,538,847	197,050	1,341,797	1,435,141	103,706
2012	1,512,430	196,574	1,315,856	1,411,076	101,354
2013 <sup>b</sup>	1,520,403	195,098	1,325,305	1,416,102	104,301
2014 <sup>c</sup>	1,508,636	191,374	1,317,262	1,402,404	106,232
Percent change					
Average annual, 2004–2013	0.6%	2.0%	0.4%	0.6%	0.8%
2013–2014	-0.8	-1.9	-0.6	-1.0	1.9

Note: Jurisdiction refers to the legal authority of state or federal correctional officials over a prisoner, regardless of where the prisoner is held. Counts are based on prisoners with sentences of more than 1 year under the jurisdiction of state or federal correctional officials.

<sup>a</sup>Includes inmates held in nonsecure privately operated community corrections facilities and juveniles held in contract facilities.

<sup>b</sup>Nevada did not submit 2013 National Prisoner Statistics (NPS) data, and Alaska did not submit sex-specific jurisdiction counts to NPS in 2013, so data for these states were imputed. See *Methodology* for imputation strategy.

<sup>c</sup>Total and state estimates include imputed counts for Alaska, which did not submit 2014 NPS data. See *Methodology* for imputation strategy.

Source: Bureau of Justice Statistics, National Prisoner Statistics, 2004–2014.

**TABLE 4****Sentenced prisoners under jurisdiction of state or federal correctional authorities, by sex, December 31, 2013 and 2014**

Jurisdiction	2013			2014			Percent change, 2013–2014		
	Total	Male	Female	Total	Male	Female	Total	Male	Female
U.S. total <sup>a</sup>	1,520,403	1,416,102	104,301	1,508,636	1,402,404	106,232	-0.8%	-1.0%	1.9%
Federal <sup>b</sup>	195,098	182,378	12,720	191,374	178,814	12,560	-1.9%	-2.0%	-1.3%
State <sup>a</sup>	1,325,305	1,233,724	91,581	1,317,262	1,223,590	93,672	-0.6%	-0.8%	2.3%
Alabama <sup>c</sup>	31,354	28,787	2,567	30,766	28,324	2,442	-1.9	-1.6	-4.9
Alaska <sup>d,e,f</sup>	2,682	2,426	256	2,754	2,491	263	:	:	:
Arizona <sup>c</sup>	39,062	35,675	3,387	40,175	36,625	3,550	2.8	2.7	4.8
Arkansas	17,159	15,840	1,319	17,819	16,426	1,393	3.8	3.7	5.6
California	135,981	129,684	6,297	136,088	129,706	6,382	0.1	0.0	1.3
Colorado	20,371	18,556	1,815	20,646	18,738	1,908	1.3	1.0	5.1
Connecticut <sup>f,g</sup>	12,162	11,494	668	11,735	11,098	637	:	:	:
Delaware <sup>f</sup>	4,112	3,879	233	4,141	3,927	214	0.7	1.2	-8.2
Florida	103,028	95,757	7,271	102,870	95,567	7,303	-0.2	-0.2	0.4
Georgia	53,478	49,953	3,525	52,485	49,010	3,475	-1.9	-1.9	-1.4
Hawaii <sup>f</sup>	3,618	3,271	347	3,663	3,354	309	1.2	2.5	-11.0
Idaho <sup>c</sup>	8,242	7,176	1,066	8,039	7,013	1,026	-2.5	-2.3	-3.8
Illinois	48,653	45,737	2,916	48,278	45,390	2,888	-0.8	-0.8	-1.0
Indiana	29,905	27,070	2,835	29,261	26,386	2,875	-2.2	-2.5	1.4
Iowa	8,654	7,951	703	8,798	8,058	740	1.7	1.3	5.3
Kansas <sup>c,g</sup>	9,506	8,815	691	9,365	8,644	721	:	:	:
Kentucky	20,330	18,147	2,183	20,969	18,549	2,420	3.1	2.2	10.9
Louisiana	39,298	37,070	2,228	38,022	35,947	2,075	-3.2	-3.0	-6.9
Maine	1,972	1,836	136	2,030	1,888	142	2.9	2.8	4.4
Maryland	20,988	20,101	887	20,733	19,843	890	-1.2	-1.3	0.3
Massachusetts	9,643	9,200	443	9,486	9,060	426	-1.6	-1.5	-3.8
Michigan	43,704	41,645	2,059	43,359	41,236	2,123	-0.8	-1.0	3.1
Minnesota	10,289	9,566	723	10,637	9,901	736	3.4	3.5	1.8
Mississippi	20,742	19,337	1,405	17,876	16,679	1,197	-13.8	-13.7	-14.8
Missouri	31,537	28,755	2,782	31,938	28,832	3,106	1.3	0.3	11.6
Montana	3,642	3,230	412	3,699	3,311	388	1.6	2.5	-5.8
Nebraska	4,929	4,569	360	5,347	4,919	428	8.5	7.7	18.9
Nevada <sup>h</sup>	/	/	/	12,415	11,330	1,085	:	:	:
New Hampshire	2,848	2,636	212	2,915	2,671	244	2.4	1.3	15.1
New Jersey	22,452	21,427	1,025	21,590	20,571	1,019	-3.8	-4.0	-0.6
New Mexico	6,687	6,047	640	6,860	6,201	659	2.6	2.5	3.0
New York	53,428	51,091	2,337	52,399	50,091	2,308	-1.9	-2.0	-1.2
North Carolina	35,181	32,942	2,239	35,769	33,325	2,444	1.7	1.2	9.2
North Dakota <sup>c</sup>	1,507	1,358	149	1,603	1,416	187	6.4	4.3	25.5
Ohio	51,729	47,579	4,150	51,519	47,311	4,208	-0.4	-0.6	1.4
Oklahoma	27,173	24,431	2,742	27,261	24,460	2,801	0.3	0.1	2.2
Oregon	15,180	13,895	1,285	15,060	13,784	1,276	-0.8	-0.8	-0.7
Pennsylvania <sup>c</sup>	51,211	48,556	2,655	50,423	47,730	2,693	-1.5	-1.7	1.4
Rhode Island <sup>f</sup>	2,039	1,960	79	1,880	1,812	68	-7.8	-7.6	-13.9
South Carolina	21,443	20,147	1,296	20,830	19,545	1,285	-2.9	-3.0	-0.8
South Dakota <sup>c</sup>	3,672	3,231	441	3,605	3,197	408	-1.8	-1.1	-7.5
Tennessee	28,521	26,069	2,452	28,769	26,160	2,609	0.9	0.3	6.4
Texas	160,295	148,294	12,001	158,589	145,899	12,690	-1.1	-1.6	5.7
Utah <sup>c</sup>	7,072	6,410	662	7,024	6,362	662	-0.7	-0.7	0.0
Vermont <sup>f</sup>	1,575	1,479	96	1,508	1,403	105	-4.3	-5.1	9.4
Virginia	36,982	34,133	2,849	37,544	34,529	3,015	1.5	1.2	5.8
Washington	17,947	16,505	1,442	18,052	16,613	1,439	0.6	0.7	-0.2
West Virginia	6,812	6,011	801	6,881	6,053	828	1.0	0.7	3.4
Wisconsin <sup>g</sup>	21,285	20,116	1,169	21,404	20,099	1,305	:	:	:
Wyoming	2,310	2,050	260	2,383	2,106	277	3.2	2.7	6.5

Note: Jurisdiction refers to the legal authority of state or federal correctional officials over a prisoner, regardless of where the prisoner is held.

/Not reported. Estimated count added into state and U.S. jurisdictional totals. See *Methodology*.

: Not calculated.

<sup>a</sup>Includes imputed counts for Alaska, which did not submit 2014 National Prisoner Statistics (NPS) data. See *Methodology*.

<sup>b</sup>Includes inmates held in nonsecure privately operated community corrections facilities and juveniles held in contract facilities.

<sup>c</sup>State updated 2013 population counts.

<sup>d</sup>Alaska did not submit sex-specific jurisdiction counts in NPS in 2013. See *Methodology*.

<sup>e</sup>Alaska did not submit 2014 NPS data, but jurisdiction totals were obtained from a report to the state legislature. See *Methodology*.

<sup>f</sup>Prisons and jails form one integrated system. Data include total jail and prison populations.

<sup>g</sup>State has changed reporting methodology, so 2014 counts are not comparable to those published for earlier years. See *Jurisdiction notes*.

<sup>h</sup>Nevada did not submit 2013 NPS data. See *Methodology* for details on imputation of 2013 data that were included in state and U.S. totals.

Source: Bureau of Justice Statistics, National Prisoner Statistics, 2013–2014.

The imprisonment rate in the United States continued to decline in 2014

At yearend 2014, the United States imprisoned 471 persons per 100,000 residents of all ages and 612 persons per 100,000 residents age 18 or older (table 5). Both statistics represent the lowest rate of imprisonment in more than a decade, and continue decreases that began in 2007 and 2008. More than 1% of adult U.S. males were in state or federal prison on December 31, 2014. The male imprisonment rate in 2014 (1,169 per 100,000 adult males) was lower than in 2013 (1,189 per 100,000). While the imprisonment rate for females was lower (65 per 100,000 female residents of all ages and 84 per 100,000 adult females), the rates for women increased from 2013.

Louisiana had the highest imprisonment rate for persons of all ages (816 per 100,000 state residents) and adults (1,072 inmates per 100,000 state residents age 18 or older) (table 6).

Oklahoma (928 per 100,000), Alabama (820 per 100,000), Texas (792 per 100,000), and Mississippi (788 per 100,000) had the next highest rates of imprisonment among persons age 18 or older. Maine imprisoned the fewest state residents per capita at yearend 2014 (153 per 100,000 residents of all ages or 189 per 100,000 adults), followed by Massachusetts (188 per 100,000 residents of all ages or 237 per 100,000 adult residents).

Although Louisiana imprisoned males at a higher rate than any other state on December 31, 2014 (1,577 per 100,000 male state residents of all ages), its imprisonment rate for females (87 per 100,000 female residents of all ages) was low compared to all other states. Oklahoma (142 per 100,000), Idaho (125 per 100,000), and Kentucky (108 per 100,000) had the highest female imprisonment rates at yearend 2014.

**TABLE 5**  
**Imprisonment rate of sentenced prisoners under the jurisdiction of state or federal correctional authorities, December 31, 2004–2014**

Year	Per 100,000 U.S. residents of all ages					Per 100,000 adult U.S. residents		
	Total <sup>a</sup>	Federal <sup>a,b</sup>	State <sup>a</sup>	Male <sup>a</sup>	Female <sup>a</sup>	Total <sup>c</sup>	Male <sup>c</sup>	Female <sup>c</sup>
2004	487	54	433	923	64	649	1,248	84
2005	492	56	436	932	65	655	1,257	86
2006	501	58	443	948	68	666	1,275	89
2007	506	59	447	955	69	670	1,282	90
2008	506	60	447	956	69	669	1,279	90
2009	504	61	443	952	67	665	1,271	88
2010	500	61	439	948	66	656	1,260	86
2011	492	63	429	932	65	644	1,236	84
2012	480	62	417	909	63	626	1,201	82
2013 <sup>d</sup>	477	61	416	903	65	621	1,189	83
2014 <sup>e</sup>	471	60	412	890	65	612	1,169	84
Percent change								
Average annual, 2004–2013	-0.2%	1.3%	-0.4%	-0.2%	0.1%	-0.4%	-0.5%	-0.2%
2013–2014	-1.3	-2.6	-1.1	-1.5	1.3	-1.5	-1.7	1.1

Note: Jurisdiction refers to the legal authority of state or federal correctional officials over a prisoner, regardless of where the prisoner is held. Counts are based on prisoners with sentences of more than 1 year under the jurisdiction of state or federal correctional officials.

<sup>a</sup>Imprisonment rate per 100,000 U.S. residents of all ages.

<sup>b</sup>Includes inmates held in nonsecure privately operated community corrections facilities and juveniles held in contract facilities.

<sup>c</sup>Imprisonment rate per 100,000 U.S. residents age 18 or older.

<sup>d</sup>Nevada did not submit 2013 National Prisoner Statistics (NPS) data, and Alaska did not submit sex-specific jurisdiction counts to NPS in 2013, so data for these states were imputed. See *Methodology*.

<sup>e</sup>Total and state estimates include imputed counts for Alaska, which did not submit 2014 NPS data. See *Methodology*.

Sources: Bureau of Justice Statistics, National Prisoner Statistics, 2004–2014; U.S. Census Bureau, postcensal resident population estimates for January 1 of the following calendar year.

**TABLE 6****Imprisonment rates for sentenced prisoners under jurisdiction of state or federal correctional authorities per 100,000 U.S. residents, by sex, December 31, 2013 and 2014**

Jurisdiction	2013				2014			
	Total <sup>a</sup>	Male <sup>a</sup>	Female <sup>a</sup>	Total adult <sup>b</sup>	Total <sup>a</sup>	Male <sup>a</sup>	Female <sup>a</sup>	Total adult <sup>b</sup>
U.S. total <sup>c</sup>	477	903	65	621	471	890	65	612
Federal <sup>d</sup>	61	117	8	80	60	113	8	78
State <sup>e</sup>	416	787	57	541	412	777	58	534
Alabama <sup>e</sup>	647	1,226	103	840	633	1,203	97	820
Alaska <sup>f,g,h</sup>	364	626	73	488	374	644	75	501
Arizona <sup>e</sup>	584	1,074	101	771	593	1,089	104	780
Arkansas	579	1,088	87	761	599	1,125	92	786
California	352	676	32	462	349	670	33	456
Colorado	383	695	69	500	383	691	71	499
Connecticut <sup>h,i</sup>	338	655	36	432	326	632	35	415
Delaware <sup>h</sup>	442	861	49	566	440	863	44	563
Florida	522	992	72	656	513	976	71	644
Georgia	532	1,018	69	708	517	991	67	686
Hawaii <sup>h</sup>	256	457	50	327	257	466	44	328
Idaho <sup>e</sup>	507	882	131	690	489	852	125	663
Illinois	377	723	44	492	375	718	44	487
Indiana	454	835	85	598	442	810	86	581
Iowa	279	517	45	364	282	520	47	368
Kansas <sup>e,i</sup>	328	610	47	437	322	596	49	428
Kentucky	461	836	98	599	474	852	108	615
Louisiana	847	1,633	94	1,114	816	1,577	87	1,072
Maine	148	282	20	184	153	290	21	189
Maryland	352	696	29	455	346	683	29	447
Massachusetts	192	380	15	242	188	373	15	237
Michigan	441	856	41	570	437	846	42	563
Minnesota	189	354	26	247	194	364	27	254
Mississippi	693	1,329	91	918	597	1,146	78	788
Missouri	521	968	90	677	526	967	100	682
Montana	357	631	81	458	360	641	76	461
Nebraska	263	489	38	350	283	523	45	376
Nevada <sup>j</sup>	459	835	77	599	434	789	76	566
New Hampshire	215	403	32	270	219	407	36	274
New Jersey	252	492	22	325	241	470	22	311
New Mexico	320	585	61	423	329	601	63	433
New York	271	534	23	345	265	522	23	337
North Carolina	355	683	44	462	358	685	48	465
North Dakota <sup>e</sup>	206	362	42	266	214	369	51	278
Ohio	446	839	70	579	444	832	71	574
Oklahoma	703	1,276	140	932	700	1,269	142	928
Oregon	384	711	64	491	378	698	63	481
Pennsylvania <sup>e</sup>	400	777	41	508	394	762	41	499
Rhode Island <sup>h</sup>	193	384	15	243	178	354	12	223
South Carolina	446	863	53	576	429	828	51	552
South Dakota <sup>e</sup>	432	756	104	574	421	741	96	558
Tennessee	437	820	73	567	437	816	77	566
Texas	600	1,117	89	816	584	1,081	93	792
Utah <sup>e</sup>	242	436	46	350	237	427	45	342
Vermont <sup>h</sup>	251	479	30	312	241	454	33	298
Virginia	446	836	68	575	449	840	71	579
Washington	256	471	41	331	254	468	41	329
West Virginia	368	657	85	463	372	662	88	468
Wisconsin <sup>i</sup>	370	704	40	479	371	702	45	479
Wyoming	396	688	91	518	408	706	97	534

Note: Jurisdiction refers to the legal authority of state or federal correctional officials over a prisoner, regardless of where the prisoner is held.

<sup>a</sup> Imprisonment rate per 100,000 U.S. residents of all ages.

<sup>b</sup> Imprisonment rate per 100,000 U.S. residents age 18 or older.

<sup>c</sup> Includes imputed counts for Alaska, which did not submit 2014 National Prisoner Statistics (NPS) data. See *Methodology*.

<sup>d</sup> Includes inmates held in nonsecure privately operated community corrections facilities and juveniles held in contract facilities.

<sup>e</sup> State has updated 2013 population counts.

<sup>f</sup> Alaska did not submit sex-specific jurisdiction counts in NPS in 2013. See *Methodology*.

<sup>g</sup> Alaska did not submit 2014 NPS data, but jurisdiction totals were obtained from a report to the state legislature. See *Methodology*.

<sup>h</sup> Prisons and jails form one integrated system. Data include total jail and prison populations.

<sup>i</sup> State has changed reporting methodology, so 2014 rates are not comparable to those published for earlier years. See *Jurisdiction notes*.

<sup>j</sup> Nevada did not submit 2013 NPS data in time for this report. See *Methodology* for details on imputation of 2013 data that were used in state and U.S. totals.

Source: Bureau of Justice Statistics, National Prisoner Statistics, 2013–2014; U.S. Census Bureau, postcensal resident population estimates for January 1 of the following calendar year.

A decline in admissions during 2014 led to the smaller federal prison population

The decrease in the federal prison population from yearend 2013 to yearend 2014 was driven by declining admissions rather than an increase in releases. The BOP admitted 2,800 fewer prisoners in 2014, a 5% decrease from admissions during 2013. During the same period, the number of releases from the BOP was nearly stable, with 300 fewer released prisoners in 2014 compared to 2013 (table 7). In comparison, state prisons admitted 500 fewer persons in 2014 than in 2013, but released 12,600 more prisoners (up 2%). In total, state and federal prisons admitted 626,600 persons during 2014, including 449,000 entries for newly convicted offenders. They released 636,300 inmates overall (figure 4, figure 5).

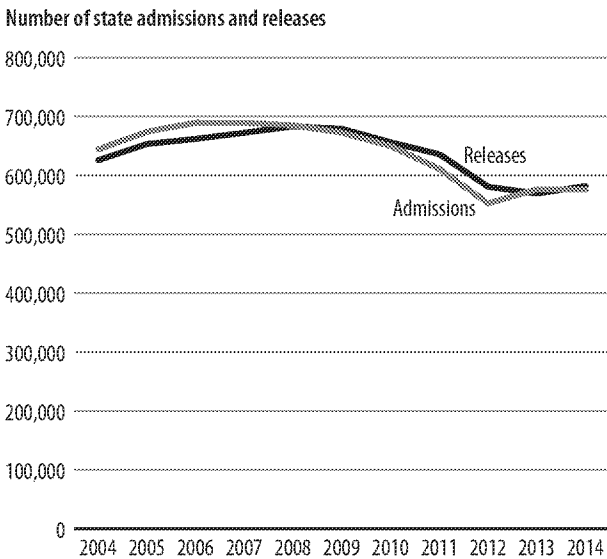
Admissions increased in 18 states, including a 34% rise in Hawaii, 26% in Oklahoma, 16% in Kentucky, and 14% in North Carolina. With the exception of Hawaii, these states also saw smaller increases in the number of persons released during 2014. After the BOP, Indiana had the largest decline in admissions during 2014, admitting 1,800 fewer inmates than in 2013 (down 10%). Mississippi admitted 19% fewer prisoners in 2014, a decline of 1,500 prison admissions from the previous year.

In 2014, new court commitments accounted for 91% of the BOP's total admissions, compared to 70% for state prisons. Parole violation admissions, which include all conditional release violators, made up the majority of the remaining admissions. Of states with the largest prison populations, Texas admitted 66% (50,000) of its inmates in 2014 on new court commitments, compared to 86% (33,500) for California and 97% (31,000) in Florida. Vermont, Washington, Idaho, and Arkansas admitted more than 50% of prisoners during 2014 on violations of post-custody supervision programs.

Twenty-one states increased the number of prison releases from 2013 to 2014, led by Texas (up 4%), Arkansas (up 35%), and California (up 6%). These three leading states accounted for 61% of the total increase in state prison releases. Seventy percent of all prison inmates released from state prisons in 2014 had post-custody community supervision conditions to fulfill. Maine, Massachusetts, Florida, Rhode Island, and New Jersey placed no post-custody supervision conditions on the majority of prisoners they released during 2014.\*

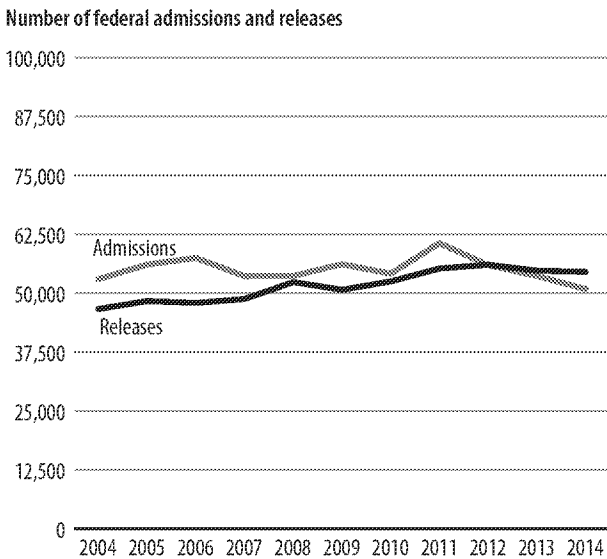
\*The majority of releases from the federal prison population are reported as unconditional. Under the Sentencing Reform Act of 1984, the federal parole system was eliminated, but federal courts were allowed to impose a term of supervised release after imprisonment as part of an inmate's sentence. Because this supervised release term is not implemented under the jurisdiction of the federal prison system, the BOP reports prison releases as unconditional even though inmates may serve post-custody community supervision.

FIGURE 4  
Admissions to and releases from state prison, 2004–2014



Note: Counts based on prisoners with a sentence of more than 1 year. Excludes transfers, escapes, and those absent without leave (AWOL), and includes other conditional release violators, returns from appeal or bond, and other admissions. See *Methodology*. See appendix table 1 for counts.  
Source: Bureau of Justice Statistics, National Prisoner Statistics, 2004–2014.

FIGURE 5  
Admissions to and releases from federal prison, 2004–2014



Note: Counts based on prisoners with a sentence of more than 1 year. Excludes transfers, escapes, and those absent without leave (AWOL), and includes other conditional release violators, returns from appeal or bond, and other admissions. See *Methodology*. See appendix table 2 for counts.  
Source: Bureau of Justice Statistics, National Prisoner Statistics, 2004–2014.



**TABLE 7****Admissions and releases of sentenced prisoners, 2013 and 2014**

Jurisdiction	Admissions <sup>a</sup>					Releases <sup>b</sup>				
	2013 Total	2014 Total	Percent change, 2013–2014	2014 New court commitments <sup>c</sup>	2014 Parole violations <sup>c,d</sup>	2013 Total	2014 Total	Percent change, 2013–2014	2014 Unconditional <sup>e,f</sup>	2014 Conditional <sup>e,g</sup>
U.S. total <sup>h</sup>	629,962	626,644	-0.5%	448,993	164,225	623,990	636,346	2.0%	177,967	405,924
Federal <sup>h</sup>	53,664	50,865	-5.2%	46,145	4,719	54,785	54,529	-0.5%	53,245	431
State	576,298	575,779	-0.1%	402,848	159,506	569,205	581,817	2.2%	124,722	405,493
Alabama	11,265	10,912	-3.1	8,827	1,137	11,488	11,585	0.8	4,002	7,428
Alaska <sup>c,j,k</sup>	3,906	3,846	-1.5	/	/	3,774	3,774	:	2,004	1,744
Arizona	13,538	14,439	6.7	11,989	2,449	12,931	13,513	4.5	2,229	10,300
Arkansas <sup>l</sup>	8,987	9,435	5.0	4,218	5,217	6,541	8,812	34.7	597	8,156
California <sup>e</sup>	38,295	38,765	1.2	33,497	5,268	36,353	38,559	6.1	/	/
Colorado	10,137	10,144	0.1	5,275	4,867	10,220	9,869	-3.4	1,585	8,152
Connecticut <sup>i,k</sup>	5,492	5,487	:	4,532	879	5,177	5,968	:	2,936	3,017
Delaware <sup>l</sup>	3,142	3,349	6.6	2,711	610	4,251	4,222	-0.7	282	3,866
Florida	33,613	32,014	-4.8	30,984	114	32,855	32,754	-0.3	20,699	11,673
Georgia	19,478	18,455	-5.3	16,614	1,838	18,226	17,124	-6.0	7,157	9,847
Hawaii <sup>l</sup>	1,380	1,845	33.7	1,116	729	1,615	1,242	-23.1	306	635
Idaho <sup>l</sup>	3,719	4,597	:	1,570	3,012	3,761	4,501	19.7	513	3,962
Illinois	30,959	29,678	-4.1	20,769	8,835	31,370	30,055	-4.2	4,406	25,517
Indiana	18,881	17,086	-9.5	14,442	2,347	17,959	17,866	-0.5	2,351	15,445
Iowa	5,159	5,153	-0.1	3,711	1,423	5,202	5,005	-3.8	1,121	3,835
Kansas	5,220	5,683	8.9	4,278	1,338	5,133	5,554	8.2	1,707	3,826
Kentucky	15,834	18,385	16.1	10,613	7,657	16,871	17,731	5.1	3,282	14,337
Louisiana	16,770	16,376	-2.3	11,639	4,737	17,646	17,882	1.3	1,267	16,472
Maine	929	774	-16.7	586	188	971	1,031	6.2	620	409
Maryland <sup>m</sup>	9,223	9,223	:	5,579	3,640	9,504	9,466	:	1,306	8,075
Massachusetts	2,567	2,526	-1.6	2,268	224	2,855	2,654	-7.0	1,885	727
Michigan	14,417	13,834	-4.0	7,702	3,472	14,307	14,177	-0.9	873	11,155
Minnesota	7,687	7,866	2.3	5,095	2,771	7,808	7,642	-2.1	916	6,702
Mississippi	8,105	6,570	-18.9	5,075	1,367	8,201	9,442	15.1	1,173	8,162
Missouri	18,983	19,000	0.1	10,080	8,914	18,790	18,767	-0.1	1,525	17,115
Montana	2,382	2,448	2.8	1,888	560	2,347	2,387	1.7	272	2,099
Nebraska	2,922	2,705	-7.4	2,130	495	2,583	2,284	-11.6	793	1,475
Nevada <sup>n</sup>	/	5,876	:	4,488	925	/	5,838	:	2,107	3,330
New Hampshire	1,659	1,611	-2.9	658	770	1,633	1,562	-4.3	68	1,489
New Jersey	9,802	9,257	-5.6	6,827	2,430	10,766	10,275	-4.6	6,095	3,931
New Mexico	3,567	3,798	6.5	2,500	1,298	3,345	3,515	5.1	918	2,573
New York	22,740	21,572	-5.1	13,054	8,427	23,382	22,927	-1.9	2,435	20,206
North Carolina	14,077	16,016	13.8	13,671	2,345	13,829	15,264	10.4	4,406	10,771
North Dakota	1,222	1,142	-6.5	953	189	1,173	1,046	-10.8	139	901
Ohio	21,998	22,189	0.9	18,301	3,868	21,235	22,399	5.5	10,062	12,209
Oklahoma	8,019	10,095	25.9	6,943	3,152	7,374	8,654	17.4	4,195	4,349
Oregon	5,532	5,330	-3.7	3,701	1,461	5,048	5,432	7.6	13	5,240
Pennsylvania	20,455	20,084	-1.8	10,252	9,074	19,632	20,555	4.7	3,268	17,138
Rhode Island <sup>l</sup>	810	821	1.4	699	122	885	867	-2.0	638	224
South Carolina	6,431	6,283	-2.3	5,049	1,224	6,716	6,897	2.7	2,524	4,295
South Dakota <sup>k</sup>	1,842	2,266	:	1,073	539	1,820	2,413	:	303	1,648
Tennessee	13,803	14,987	8.6	8,911	6,055	16,348	15,556	-4.8	4,974	10,500
Texas	76,488	75,571	-1.2	49,825	24,482	74,093	77,277	4.3	10,661	61,933
Utah	3,094	2,922	-5.6	1,596	1,326	2,988	2,979	-0.3	988	1,967
Vermont <sup>l</sup>	1,858	1,715	-7.7	601	1,114	1,752	1,740	-0.7	274	1,459
Virginia	11,636	12,237	5.2	12,150	87	11,880	12,094	1.8	1,094	10,898
Washington	21,426	20,797	-2.9	7,642	13,153	20,861	20,898	0.2	2,233	18,609

*Continued on the next page*

**TABLE 7 (continued)**  
**Admissions and releases of sentenced prisoners, by jurisdiction, 2013 and 2014**

Jurisdiction	Admissions <sup>a</sup>					Releases <sup>b</sup>				
	2013 Total	2014 Total	Percent change, 2013–2014	2014 New court commitments <sup>c</sup>	2014 Parole violations <sup>c,d</sup>	2013 Total	2014 Total	Percent change, 2013–2014	2014 Unconditional <sup>e,f</sup>	2014 Conditional <sup>e,g</sup>
West Virginia	3,573	3,544	-0.8%	1,885	1,217	3,780	3,468	-8.3%	1,004	2,001
Wisconsin <sup>k</sup>	7,343	6,134	:	4,129	1,975	5,475	5,433	:	252	5,105
Wyoming	1,004	937	-6.7	752	185	895	862	-3.7	264	586

Note: Counts based on prisoners with a sentence of more than 1 year.

/Not reported.

:Not calculated.

<sup>a</sup>Excludes transfers, escapes, and those absent without leave (AWOL), and includes other conditional release violators, returns from appeal or bond, and other admissions. See *Methodology*.

<sup>b</sup>Excludes transfers, escapes, and those AWOL, and includes deaths, releases to appeal or bond, and other releases. See *Methodology*.

<sup>c</sup>U.S. and state totals by type of admission exclude counts for Alaska. See *Jurisdiction notes*.

<sup>d</sup>Includes all conditional release violators returned to prison for either violations of conditions of release or for new crimes.

<sup>e</sup>U.S. and state totals by type of release exclude counts for California because the state was unable to report detailed information on releases. See *Jurisdiction notes*.

<sup>f</sup>Includes expirations of sentence, commutations, and other unconditional releases.

<sup>g</sup>Includes releases to probation, supervised mandatory releases, and other unspecified conditional releases.

<sup>h</sup>The Sentencing Reform Act of 1984 eliminated the federal parole system but allowed courts to impose a term of supervised release after imprisonment as part of an inmate's sentence. Some persons with unconditional releases from the Bureau of Prisons may be released to community supervision.

<sup>i</sup>Prisons and jails form one integrated system. Data include total jail and prison populations.

<sup>j</sup>Alaska did not submit 2014 National Prisoner Statistics (NPS) admission or release data. Release-type data for 2014 were obtained from data submitted by Alaska to the National Corrections Reporting Program.

<sup>k</sup>Counts for 2014 admissions and releases are not comparable to earlier years due to a change in reporting methodology.

<sup>l</sup>Counts for 2014 admissions are not comparable to earlier years due to a change in reporting methodology.

<sup>m</sup>State did not submit admissions or release data in 2014 to NPS. See *Methodology*.

<sup>n</sup>State did not submit 2013 NPS data. See *Methodology* for details on imputation of 2013 data.

Source: Bureau of Justice Statistics, National Prisoner Statistics, 2013–2014.

**Nineteen jurisdictions were operating their prison facilities at more than 100% maximum capacity in 2014**

The yearend 2014 custody populations of the BOP and 18 states exceeded the maximum measure of their prison facilities' capacity. The BOP and 28 states had more prisoners in custody than their minimum number of beds (table 8). BJS reports three different measures of capacity: the operational capacity, which is based on the ability of the staff, programs, and services to accommodate a certain size population; the rated capacity, which measures the number of beds assigned by a rating official to each facility; and the design capacity, which is the number of beds that the facility was originally designed to hold. Although many jurisdictions cannot report all three

types of capacity, most provide at least two types. Based on these data, BJS calculates the percent capacity of facilities based on the custody population for the largest (maximum) and smallest (minimum) capacity measures.

Prison facilities in Illinois held 48,300 inmates at yearend 2014, 150% of the rated capacity of 32,100 (maximum), and 171% of the design capacity of 28,200 (minimum). BOP facilities were officially rated to house 132,700 inmates, but 170,000 prisoners were in custody at yearend 2014, which was 128% of the maximum capacity reported. Other jurisdictions with more inmates housed than the maximum number of beds for which their facilities were designed, rated, or intended include Ohio (132%), Massachusetts (130%), and Nebraska (128%).

**TABLE 8****Prison facility capacity, custody population, and percent capacity, December 31, 2014**

Jurisdiction	Type of capacity measure			Custody population	Custody population as a percent of—	
	Rated	Operational	Design		Lowest capacity <sup>a</sup>	Highest capacity <sup>a</sup>
Federal <sup>b</sup>	132,731	...	...	169,840	128.0%	128.0%
State						
Alabama <sup>c</sup>	...	26,145	13,318	25,664	192.7	98.2
Alaska <sup>d</sup>	...	5,352	...	5,188	96.9	96.9
Arizona	37,681	42,961	37,681	35,181	93.4	81.9
Arkansas	15,450	15,429	15,529	15,250	98.8	98.2
California <sup>c</sup>	...	127,594	87,187	119,071	136.6	93.3
Colorado	...	14,502	14,502	16,687	115.1	115.1
Connecticut	/	/	/	16,167	/	/
Delaware <sup>c</sup>	5,649	5,210	4,161	6,730	161.7	119.1
Florida <sup>e</sup>	...	109,191	...	100,873	92.4	92.4
Georgia <sup>e</sup>	59,566	53,418	...	52,719	98.7	88.5
Hawaii	...	3,527	2,491	3,965	159.2	112.4
Idaho <sup>c,e</sup>	7,010	6,858	6,858	7,497	109.3	106.9
Illinois	32,095	32,095	28,212	48,278	171.1	150.4
Indiana	...	30,517	...	28,073	92.0	92.0
Iowa <sup>f</sup>	7,276	7,276	7,276	8,209	112.8	112.8
Kansas	9,180	9,233	9,164	9,539	104.1	103.3
Kentucky	12,164	11,590	11,925	12,114	104.5	99.6
Louisiana <sup>e</sup>	18,121	15,686	16,764	18,710	119.3	103.3
Maine	2,339	2,133	2,339	2,199	103.1	94.0
Maryland <sup>g</sup>	...	23,465	...	21,236	90.5	90.5
Massachusetts	...	...	8,029	10,447	130.1	130.1
Michigan <sup>c,h</sup>	44,919	43,939	...	43,359	98.7	96.5
Minnesota	...	9,454	...	9,576	101.3	101.3
Mississippi <sup>i</sup>	...	26,008	...	13,069	50.2	50.2
Missouri <sup>c</sup>	...	31,673	...	31,903	100.7	100.7
Montana	1,679	...	...	1,687	100.5	100.5
Nebraska <sup>c</sup>	...	4,094	3,275	5,228	159.6	127.7
Nevada	/	/	/	12,693	/	/
New Hampshire <sup>c</sup>	...	2,723	2,190	2,723	124.3	100.0
New Jersey	18,584	19,958	23,108	18,633	100.3	80.6
New Mexico	6,840	7,708	7,708	3,876	56.7	50.3
New York	51,480	51,868	50,960	52,362	102.8	101.0
North Carolina	...	43,815	37,503	37,348	99.6	85.2
North Dakota	1,479	1,479	1,479	1,325	89.6	89.6
Ohio	34,986	...	...	46,151	131.9	131.9
Oklahoma	16,529	18,638	16,529	19,126	115.7	102.6
Oregon	...	...	14,997	14,492	96.6	96.6
Pennsylvania	47,945	47,945	47,945	48,538	101.2	101.2
Rhode Island	3,989	3,774	3,973	3,133	83.0	78.5
South Carolina	...	23,269	...	20,948	90.0	90.0
South Dakota <sup>c</sup>	...	3,622	...	3,497	96.5	96.5
Tennessee	16,844	16,403	...	15,699	95.7	93.2
Texas <sup>c</sup>	159,583	153,331	159,583	139,879	91.2	87.7
Utah	...	7,191	7,431	5,307	73.8	71.4
Vermont	1,681	1,681	1,322	1,548	117.1	92.1
Virginia <sup>i</sup>	...	30,514	24,219	28,480	117.6	93.3
Washington <sup>i</sup>	...	16,744	...	17,180	102.6	102.6
West Virginia	4,647	5,923	5,097	5,867	126.3	99.1
Wisconsin <sup>c</sup>	...	22,918	17,181	22,572	131.4	98.5
Wyoming	2,288	2,288	2,407	2,114	92.4	87.8

...Not available. Specific type of capacity is not measured by state.

/Not reported.

<sup>a</sup>Population counts are based on the number of inmates held in custody of facilities operated by the jurisdiction. Excludes inmates held in local jails, other states, or private facilities unless noted.<sup>b</sup>Due to differences in the dates when data were extracted, the federal custody count reported for the calculation of capacity excludes 3,990 inmates compared to the yearend custody data reported in the National Prisoner Statistics (NPS).<sup>c</sup>State defines capacity in a way that differs from BJS's definition. See *Jurisdiction notes*.<sup>d</sup>Alaska did not report 2014 capacity or custody population data to NPS. Estimates derived from a report to the state legislature. See *Methodology*.<sup>e</sup>Private facilities included in capacity and custody counts.<sup>f</sup>Both capacity and custody counts exclude inmates in community-based work release facilities.<sup>g</sup>State did not report 2014 capacity counts to NPS. Data are from 2013.<sup>h</sup>Capacity counts include institution and camp net operating capacities and the population of community programs on December 31 because these programs do not have a fixed capacity.<sup>i</sup>State has changed reporting methodology, so 2014 capacity counts are not comparable to those published for earlier years. See *Jurisdiction notes*.

Source: Bureau of Justice Statistics, National Prisoner Statistics, 2014.

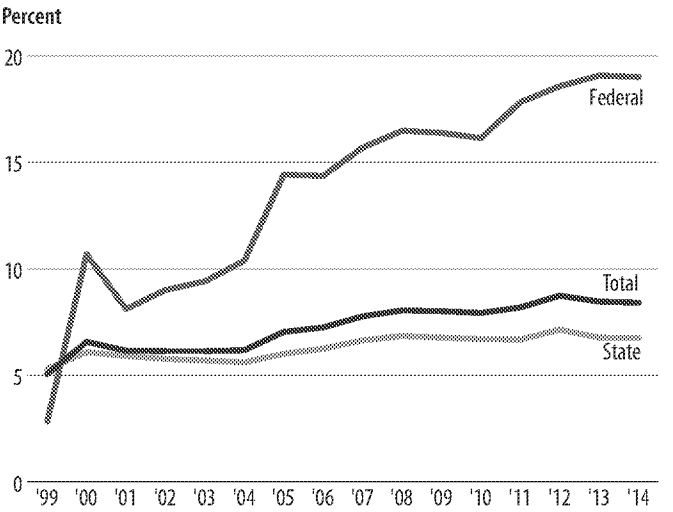
**The number of prisoners held in private facilities declined in 2014**

Of states with prison facilities operating at more than 100% maximum capacity, both Ohio and the BOP decreased the number of inmates held in private facilities. Illinois, Nebraska, and Massachusetts do not house any prisoners in private facilities. In 2014, 131,300 inmates were held in private prison facilities under the jurisdiction of 30 states and the BOP, a decrease of 2,100 prisoners from yearend 2013 (table 9). The federal prison system held 1,100 fewer prisoners in private prisons (down 3%), for a total of 40,000 or 19% of the BOP population. Idaho had the largest decline (down 77%) in private prisoners during 2014, as operations at a prison facility formerly run by a private entity were taken over by the state DOC.

Seven states housed at least 20% of their inmate population in private facilities at yearend 2014, including New Mexico (44% of the total state prison population), Montana (39%), Oklahoma (26%), and Hawaii (24%). Since 1999, when BJS began tracking the number of prisoners in private facilities at yearend on an annual basis through the National Prisoner Statistics (NPS), the size of this population has grown 90%, from 69,000 prisoners at yearend 1999 to 131,300 in 2014. The use of private prisons was at a maximum in 2012, when 137,200 (almost 9%) of the total U.S. prison population were housed in private facilities (figure 6).

Between 5% and 7% of state prison inmates were held in private facilities each year, while the BOP increasingly relied on facilities not managed by a state, federal, or local government to house inmates in recent years, including both secure and nonsecure facilities, and home confinement. In 1999, almost 3% of federal prison inmates were held in secure private facilities. This grew to more than 13% in 2012 and 2013, before declining in 2014 to slightly less than 13%. In 2014, 13,000 (32%) of the BOP's 40,000 privately supervised inmates were in nonsecure community corrections facilities or on home confinement, up from 6,100 in 2000, the first year the BOP reported this population to BJS (not shown).

**FIGURE 6**  
**Percent of total prisoners under state or federal jurisdiction in the custody of private prison facilities, December 31, 1999–2014**



Note: Counts of private prisoners in the federal prison system include inmates held in nonsecure privately operated facilities, and prisoners on home confinement.  
Source: Bureau of Justice Statistics, National Prisoner Statistics, 1999–2014.

**In 2014, states held 4,100 fewer prisoners in local jails than in 2013**

At yearend 2014, almost 82,000 prisoners were held in the custody of local jails for 35 states and the BOP. This represented a 5% decline (down 3,900) from the 85,700 prisoners held in jail facilities in 2013. Fourteen states and the BOP increased the number of prisoners housed in local jails during 2014, while Oklahoma, Louisiana, and Texas held at least 1,000 fewer prison inmates in jail facilities than in 2013. Louisiana housed the most prisoners in local facilities, with 19,300 (51%) of the state's yearend 2014 prison population residing in jails.

**TABLE 9****Prisoners held in the custody of private prisons and local jails, December 31, 2013 and 2014**

Jurisdiction	Inmates held in private prisons <sup>a</sup>				Inmates held in local jails			
	2013	2014	Percent change 2013–2014	Percent of total jurisdiction, 2014	2013	2014	Percent change 2013–2014	Percent of total jurisdiction, 2014
U.S. total <sup>b</sup>	133,363	131,261	-1.6%	8.4%	85,662	81,738	-4.6%	5.2%
Federal <sup>b</sup>	41,159	40,017	-2.8%	19.0%	788	939	19.2%	0.4%
State <sup>a</sup>	92,204	91,244	-1.0%	6.8%	84,874	80,799	-4.8%	6.0%
Alabama	554	481	-13.2	1.5	2,090	1,702	-18.6	5.4
Alaska <sup>c,d</sup>	27	28	3.7	~	0	0	~	~
Arizona	6,405	6,955	8.6	16.5	0	0	~	~
Arkansas	0	0	~	~	2,916	2,600	-10.8	14.5
California	2,026	2,376	17.3	1.7	0	0	~	~
Colorado	3,898	3,782	-3.0	18.3	187	176	-5.9	0.9
Connecticut <sup>c</sup>	725	647	-10.8	3.9	0	0	~	~
Delaware <sup>c</sup>	0	0	~	~	0	0	~	~
Florida	11,801	12,395	5.0	12.0	1,175	1,104	-6.0	1.1
Georgia	7,900	7,901	0.0	14.9	4,887	4,946	1.2	9.3
Hawaii <sup>c</sup>	1,421	1,425	0.3	24.3	0	0	~	~
Idaho	2,745	639	-76.7	7.9	662	620	-6.3	7.6
Illinois	0	0	~	~	0	0	~	~
Indiana	4,438	4,420	-0.4	15.1	1,418	1,198	-15.5	4.1
Iowa	0	0	~	~	0	0	~	~
Kansas	95	105	10.5	1.1	3	90	2,900.0	0.9
Kentucky	0	0	~	~	8,213	8,966	9.2	41.4
Louisiana	3,158	3,142	-0.5	8.3	20,505	19,320	-5.8	50.8
Maine	0	0	~	~	65	26	-60.0	1.2
Maryland	29	30	3.4	0.1	130	95	-26.9	0.5
Massachusetts	0	0	~	~	329	279	-15.2	2.6
Michigan	0	0	~	~	55	31	-43.6	0.1
Minnesota	0	0	~	~	963	997	3.5	9.4
Mississippi	4,394	4,114	-6.4	21.9	6,378	5,568	-12.7	29.6
Missouri	0	0	~	~	0	0	~	~
Montana	1,459	1,432	-1.9	38.7	497	515	3.6	13.9
Nebraska	0	0	~	~	47	212	351.1	3.9
Nevada <sup>e</sup>	/	0	~	~	/	97	~	0.8
New Hampshire	0	0	~	~	41	69	68.3	2.3
New Jersey	2,735	2,761	1.0	12.8	119	110	-7.6	0.5
New Mexico	2,984	3,072	2.9	43.8	0	0	~	~
New York	0	0	~	~	10	8	-20.0	0.0
North Carolina	30	30	0.0	0.1	0	0	~	~
North Dakota	319	371	16.3	21.6	9	12	33.3	0.7
Ohio	5,487	5,370	-2.1	10.4	0	0	~	~
Oklahoma	7,051	7,367	4.5	26.3	2,406	1,079	-55.2	3.8
Oregon	0	0	~	~	5	0	-100.0	0.0
Pennsylvania	546	636	16.5	1.3	857	894	4.3	1.8
Rhode Island <sup>c</sup>	0	0	~	~	0	0	~	~
South Carolina	15	15	0.0	0.1	364	298	-18.1	1.4
South Dakota	16	10	-37.5	0.3	53	76	43.4	2.1
Tennessee	5,103	5,116	0.3	17.8	7,790	7,987	2.5	27.8
Texas	14,538	14,368	-1.2	8.7	12,527	11,395	-9.0	6.9
Utah	0	0	~	~	1,626	1,668	2.6	23.7
Vermont <sup>c</sup>	499	431	-13.6	21.8	0	0	~	~
Virginia	1,554	1,570	1.0	4.2	6,974	7,449	6.8	19.8
Washington	0	0	~	~	163	167	2.5	0.9
West Virginia	0	0	~	~	1,116	1,029	-7.8	14.9
Wisconsin	0	0	~	~	11	7	-36.4	0.0
Wyoming	252	255	1.2%	10.7%	16	9	-43.8	0.4

~Not calculated.

~Not applicable.

/Not reported.

<sup>a</sup>Includes prisoners held in the jurisdiction's own private facilities, as well as private facilities in another state.<sup>b</sup>Includes federal prisoners held in nonsecure privately operated facilities (9,480), as well as prisoners on home confinement (3,473).<sup>c</sup>Prisons and jails form one integrated system. Data include total jail and prison populations.<sup>d</sup>State did not submit 2014 National Prisoner Statistics (NPS) data. See *Methodology*.<sup>e</sup>State did not submit 2013 NPS data. See *Methodology*.

Source: Bureau of Justice Statistics, National Prisoner Statistics, 2013–2014.

2.7% of black males and 1.1% of Hispanic males were sentenced to more than 1 year in state or federal prison at yearend 2014

An estimated 516,900 black males were in state or federal prison at yearend 2014, accounting for 37% of the male prison population (table 10, appendix table 3). White males made up 32% of the male prison population (453,500 prison inmates), followed by Hispanics (308,700 inmates or 22%). White females (53,100 prisoners) in state or federal prison at yearend 2014 outnumbered both black (22,600) and Hispanic (17,800) females.

As a percentage of residents of all ages at yearend 2014, 2.7% of black males (or 2,724 per 100,000 black male residents) and 1.1% of Hispanic males (1,090 per 100,000 Hispanic males) were serving sentences of at least 1 year in prison, compared to less than 0.5% of white males (465 per 100,000 white male residents). On December 31, 2014, black males had higher imprisonment rates than prisoners of other races or Hispanic origin within every age group. Imprisonment rates for black males were 3.8 to 10.5 times greater at each age group than

white males and 1.4 to 3.1 times greater than rates for Hispanic males. The largest disparity between white and black male prisoners occurred among inmates ages 18 to 19. Black males (1,072 prisoners per 100,000 black male residents ages 18 to 19) were more than 10 times more likely to be in state or federal prison than whites (102 per 100,000).

Imprisonment rates by race and Hispanic origin were highest for males ages 30 to 34 (6,412 per 100,000 black males, 2,457 per 100,000 Hispanic males, and 1,111 per 100,000 white males). More than 1% of white male residents ages 30 to 39 were in state or federal prison at yearend 2014. Black males exceeded 6% of their total U.S. population in prison for persons ages 30 to 39.

Female prisoners ages 30 to 34 had the highest imprisonment rates among black (264 per 100,000 black females of the same age), white (163 per 100,000), and Hispanic inmates (174 per 100,000). Black females were between 1.6 and 4.1 times more likely to be imprisoned than white females of any age group.

TABLE 10  
Imprisonment rate of sentenced state and federal prisoners per 100,000 U.S. residents, by demographic characteristics, December 31, 2014

Age group	Total <sup>a</sup>	Male					Female				
		All male <sup>a</sup>	White <sup>b</sup>	Black <sup>b</sup>	Hispanic	Other <sup>b</sup>	All female <sup>a</sup>	White <sup>b</sup>	Black <sup>b</sup>	Hispanic	Other <sup>b</sup>
Total <sup>c</sup>	471	890	465	2,724	1,091	968	65	53	109	64	93
18-19	169	317	102	1,072	349	542	14	8	32	17	12
20-24	746	1,365	584	3,868	1,521	1,755	96	72	152	94	109
25-29	1,055	1,912	958	5,434	2,245	2,022	170	150	244	165	208
30-34	1,161	2,129	1,111	6,412	2,457	2,193	185	163	264	174	225
35-39	1,067	1,982	1,029	6,122	2,272	1,878	155	138	229	137	189
40-44	904	1,689	942	5,105	1,933	1,619	132	119	213	107	174
45-49	758	1,417	815	4,352	1,602	1,444	111	90	203	94	161
50-54	567	1,081	633	3,331	1,320	1,112	72	57	128	67	124
55-59	358	698	400	2,178	978	832	37	27	72	42	63
60-64	212	422	252	1,265	680	483	20	15	37	25	37
65 or older	72	158	109	418	299	208	5	4	8	7	12
Number of sentenced prisoners <sup>d</sup>	1,508,636	1,402,404	453,500	516,900	308,700	123,300	106,232	53,100	22,600	17,800	12,800

Note: Counts based on prisoners with sentences of more than 1 year under the jurisdiction of state or federal correctional authorities. Imprisonment rate is the number of prisoners under state or federal jurisdiction with a sentence of more than 1 year per 100,000 U.S. residents of corresponding sex, age, and race or Hispanic origin. Resident population estimates are from the U.S. Census Bureau for January 1, 2015. Alaska did not submit 2014 data to the National Prisoner Statistics (NPS), so totals include imputed counts for this state. See *Methodology*.

<sup>a</sup>Includes American Indians and Alaska Natives; Asians, Native Hawaiians, and other Pacific Islanders; and persons of two or more races.

<sup>b</sup>Excludes persons of Hispanic or Latino origin.

<sup>c</sup>Includes persons age 17 or younger.

<sup>d</sup>Race totals are rounded to the nearest 100 to accommodate differences in data collection techniques between jurisdictions.

Sources: Bureau of Justice Statistics, National Prisoner Statistics, 2014; Federal Justice Statistics Program, 2014; National Corrections Reporting Program, 2013; Survey of Inmates in State and Federal Correctional Facilities, 2004; and U.S. Census Bureau, postcensal resident population estimates for January 1, 2015.

### Compared to violent and property offenders, inmates serving time for drug offenses in state prisons showed little racial disparity

More than half of all state prisoners on December 31, 2013 (the most recent date for which offense data are available) were serving sentences of at least 1 year for violent offenses on their current term of imprisonment (704,800 prisoners or 53%), including 165,600 persons for murder or nonnegligent manslaughter and 166,200 for rape or sexual assault (table 11, appendix table 4). A smaller percentage of females were sentenced for violent offenses (37%) than males (54%), although the proportion of those sentenced for murder was similar for males (13%) and females (11%) in state prisons. Almost 16% of state prisoners were convicted drug offenders (208,000 inmates), including 24% of all females in state prison (22,000 inmates) and 15% of all males in state prison (186,000 inmates).

The percentage of white (15%), black (16%), and Hispanic (15%) state prisoners sentenced for drug offenses were similar, but a smaller percentage of whites were in prison for violent offenses (48%) than blacks (57%) and Hispanics (59%). The number of whites (78,500 prisoners) serving time for rape or another sexual offense at yearend 2013 was more than the total of both blacks (39,700 prisoners) and Hispanics (37,300 prisoners) in state prison for these crimes. Twenty-five percent of all white prisoners under state jurisdiction were serving time for property offenses, compared to 16% of black prisoners and 14% of Hispanic prisoners. Almost half (48% or 24,400 prisoners) of blacks imprisoned in state facilities for public order offenses were sentenced for weapons crimes, which include carrying, exhibiting, firing, possessing, or selling a weapon. State prisons held an additional 13,900 Hispanic and 11,200 white prisoners sentenced for weapons crimes.

**TABLE 11**  
**Estimated percent of sentenced prisoners under state jurisdiction, by offense, sex, race, and Hispanic origin, December 31, 2013**

Most serious offense	All inmates <sup>a</sup>	Male	Female	White <sup>b</sup>	Black <sup>b</sup>	Hispanic
<b>Total</b>	100%	100%	100%	100%	100%	100%
<b>Violent</b>	53.2%	54.4%	37.1%	47.8%	56.8%	59.2%
Murder <sup>c</sup>	12.5	12.6	11.2	9.6	13.7	14.2
Manslaughter	1.4	1.3	2.5	1.5	0.8	1.1
Rape/sexual assault	12.5	13.3	2.4	16.7	8.0	13.6
Robbery	13.7	14.0	8.8	8.0	19.9	13.5
Aggravated/simple assault	10.0	10.1	8.5	8.8	10.9	13.0
Other	3.1	3.1	3.7	3.2	3.5	3.7
<b>Property</b>	19.3%	18.6%	28.4%	25.1%	16.4%	13.5%
Burglary	10.5	10.7	7.6	12.4	9.7	8.3
Larceny-theft	3.8	3.4	9.0	5.7	3.5	2.1
Motor vehicle theft	0.8	0.8	0.8	1.1	0.5	1.0
Fraud	2.1	1.6	8.0	3.1	1.5	0.9
Other	2.1	2.0	3.0	2.9	1.3	1.2
<b>Drug</b>	15.7%	15.1%	24.0%	14.5%	16.1%	14.5%
Drug possession	3.6	3.4	6.2	3.8	3.8	4.2
Other <sup>d</sup>	12.1	11.7	17.8	10.7	12.3	10.4
<b>Public order</b>	11.0%	11.2%	9.2%	11.9%	10.3%	12.2%
Weapons	3.8	4.0	1.7	2.4	4.9	5.1
Driving under the influence	1.9	1.9	2.4	2.9	0.7	2.4
Other <sup>e</sup>	5.3	5.3	5.1	6.7	4.7	4.7
<b>Other/unspecified<sup>f</sup></b>	0.8%	0.8%	1.3%	0.7%	0.4%	0.5%
<b>Total number of sentenced inmates<sup>g</sup></b>	1,325,305	1,233,724	91,581	468,600	497,000	274,200

Note: Estimates are based on state prisoners with a sentence of more than 1 year under the jurisdiction of state correctional officials. Detail may not sum to total due to rounding and missing offense data. See *Methodology*.

<sup>a</sup>Includes American Indians and Alaska Natives; Asians, Native Hawaiians, and other Pacific Islanders; and persons of two or more races.

<sup>b</sup>Excludes persons of Hispanic or Latino origin and persons of two or more races.

<sup>c</sup>Includes nonnegligent manslaughter.

<sup>d</sup>Includes trafficking and other drug offenses.

<sup>e</sup>Includes court offenses; commercialized vice, morals, and decency offenses; and liquor law violations and other public-order offenses.

<sup>f</sup>Includes juvenile offenses and other unspecified offense categories.

<sup>g</sup>Race totals are rounded to the nearest 100 to accommodate differences in data collection techniques between jurisdictions.

Sources: Bureau of Justice Statistics, National Prisoner Statistics, 2013; National Corrections Reporting Program, 2013; and Survey of Inmates in State Correctional Facilities, 2004.

59% of females in federal prison were serving time for drug crimes

Fifty percent (95,800) of sentenced inmates in federal prison on September 30, 2014 (the most recent date for which federal offense data are available) were serving time for drug offenses (table 12, appendix table 5). In comparison to the 53% in state prisons, violent offenders represented 7% of the federal prison population (14,000 prisoners). Among female federal prisoners, 4% were convicted of violent

crimes in 2014. Public order offenders made up 36% of the BOP population, and 9% of federal prisoners (17,000) were serving time for immigration offenses. Among Hispanics in federal prisons, 26% were sentenced for immigration offenses (16,100 inmates), and 57% were sentenced for drug crimes (36,000 inmates). Fifty-three percent of black federal prisoners were convicted drug offenders in 2014, and 25% served sentences for weapons offenses.

**TABLE 12**  
**Estimated percent of sentenced prisoners under federal correctional authority, by most serious offense, sex, race, and Hispanic origin, September 30, 2014**

Most serious offense	All inmates <sup>a</sup>	Male	Female	White <sup>b</sup>	Black <sup>b</sup>	Hispanic
<b>Violent</b>	7.3%	7.5%	4.4%	7.1%	9.9%	2.0%
Homicide <sup>c</sup>	1.5	1.5	1.3	0.7	2.4	0.3
Robbery	3.8	3.9	1.7	5.0	5.6	0.9
Other violent	2.1	2.2	1.4	1.5	2.0	0.8
<b>Property</b>	6.0%	5.2%	18.3%	10.0%	5.9%	2.7%
Burglary	0.2	0.2	0.2	0.2	0.4	0.0
Fraud	4.7	3.9	15.5	7.8	4.4	2.3
Other property	1.1	1.0	2.7	2.0	1.1	0.4
<b>Drug<sup>d</sup></b>	50.1%	49.5%	58.8%	40.3%	52.5%	56.9%
<b>Public order</b>	35.9%	37.1%	17.9%	41.2%	31.2%	38.0%
Immigration	8.9	9.3	3.7	1.2	0.4	25.5
Weapons	15.8	16.6	4.3	14.8	24.8	7.1
Other	11.1	11.2	9.8	25.3	6.1	5.4
<b>Other/unspecified<sup>e</sup></b>	0.7%	0.7%	0.6%	1.4%	0.5%	0.4%
<b>Total number of sentenced inmates<sup>f</sup></b>	192,663	180,140	12,523	51,600	71,300	63,700

Note: Counts are based on sentenced prisoners under federal jurisdiction, regardless of sentence length. Detail may not sum to total due to rounding and missing offense data. See *Methodology*.

<sup>a</sup>Includes American Indians and Alaska Natives; Asians, Native Hawaiians, and other Pacific Islanders; and persons of two or more races.

<sup>b</sup>Excludes persons of Hispanic or Latino origin and persons of two or more races.

<sup>c</sup>Includes murder, negligent, and nonnegligent manslaughter.

<sup>d</sup>Includes trafficking, possession, and other drug offenses.

<sup>e</sup>Includes offenses not classified.

<sup>f</sup>Includes sentenced inmates under federal jurisdiction, regardless of sentence length.

Source: Bureau of Justice Statistics, Federal Justice Statistics Program, 2014.



**More than 40% of personnel held under military jurisdiction had committed violent offenses**

The U.S. military held 1,100 persons sentenced to at least 1 year or 1,400 persons of all sentence lengths under the jurisdiction of military correctional authorities at yearend 2014 (table 13). The sentenced population increased by slightly more than 1% from 2013. More than half (54% or 580) of the

prisoners had served in the U.S. Army before imprisonment. U.S. Air Force personnel made up an additional 18% of the sentenced military confined population (200 persons). The Army had custody of 67% of all military personnel sentenced to more than 1 year on December 31, 2014, with an additional 32% held in the custody of the U.S. Navy.

**TABLE 13**  
**Prisoners under military jurisdiction, by branch of service, December 31, 2013 and 2014**

	Total population <sup>a</sup>			Sentenced population <sup>b</sup>		
	2013	2014	Percent change, 2013–2014	2013	2014	Percent change, 2013–2014
Total number of prisoners	1,421	1,409	-0.8%	1,056	1,070	1.3%
Military branch of service						
Air Force	287	246	-14.3%	215	194	-9.8%
Army	685	692	1.0	552	576	4.3
Marine Corps	241	230	-4.6	139	134	-3.6
Navy	195	218	11.8	145	152	4.8
Coast Guard	13	23	76.9	5	14	:
In custody of—						
Air Force	37	34	-8.1%	4	5	:
Army	817	825	1.0	690	714	3.5%
Marine Corps	65	78	20.0	2	13	:
Navy	502	472	-6.0	360	338	-6.1

: Not calculated.

<sup>a</sup>Includes all prisoners under military jurisdiction, regardless of conviction status or sentence length.

<sup>b</sup>Includes prisoners sentenced to more than 1 year under military jurisdiction.

Source: Bureau of Justice Statistics, based on data from the Office of the Under Secretary for Defense for Personnel and Readiness, U.S. Department of Defense, 2013–2014.

Of military personnel with known offense data sentenced to any term of imprisonment under military jurisdiction, 43% had committed violent offenses, including 24% for violent sexual offenses and 8% each for murder and assault (table 14). An additional 37% had committed nonviolent sexual offenses, including sexual misconduct. The Navy had

the highest percentage of violent offenders (including violent sexual offenders), making up 47% of all its convicted and imprisoned personnel, compared to 45% for the Army, 39% for the Air Force, and 31% for U.S. Marine personnel. More than 75% of convicted naval personnel were serving time for sexual offenses, including 34% for rape or sexual assault.

**TABLE 14**  
**Percent of prisoners under military correctional authority with sentences of any length, by most serious offense and military branch of service, December 31, 2014**

Most serious offense	Total <sup>a</sup>	Air Force	Army	Marine Corps	Navy
Total	100%	100%	100%	100%	100%
Sexual	61.7%	68.6%	56.7%	55.5%	75.8%
Violent	24.4	27.1	22.0	18.9	33.5
Nonviolent <sup>b</sup>	37.2	41.5	34.6	36.6	42.3
Other violent	18.2%	12.3%	23.4%	12.2%	13.2%
Murder <sup>c</sup>	7.8	3.8	10.2	6.7	6.0
Manslaughter	0.6	0.4	0.6	0.6	1.1
Robbery	0.3	0.0	0.6	0.0	0.0
Aggravated/simple assault	8.0	7.6	9.9	4.3	4.9
Other violent	1.4	0.4	2.1	0.6	1.1
Property	5.0%	2.5%	4.9%	14.0%	0.5%
Burglary	0.6	0.4	0.9	0.0	0.0
Larceny-theft	3.1	1.7	2.8	8.5	0.5
Motor vehicle theft	0.0	0.0	0.0	0.0	0.0
Fraud	0.2	0.0	0.4	0.0	0.0
Other property	1.2	0.4	0.7	5.5	0.0
Drug <sup>d</sup>	6.5%	13.6%	4.2%	11.0%	1.6%
Public order	0.2%	0.0%	0.3%	0.0%	0.0%
Military offenses	2.8%	0.4%	2.4%	3.7%	6.0%
Other/unspecified	5.6%	2.5%	8.1%	3.7%	2.7%
Total number of prisoners	1,268	236	667	164	182

Note: Counts based on prisoners sentenced to any length of time under military correctional authority. Does not include pretrial detainees. Coast Guard offense distribution not shown due to too few cases.

<sup>a</sup>Includes prisoners who served in the Coast Guard (not shown separately).

<sup>b</sup>Includes sexual harrassment, indecent exposure and other acts, prostitution, stalking, and other nonviolent sexual misconduct.

<sup>c</sup>Includes nonnegligent manslaughter.

<sup>d</sup>Includes possession, use, trafficking, and other drug crimes.

Source: Bureau of Justice Statistics, based on data from the Office of the Under Secretary for Defense for Personnel and Readiness, U.S. Department of Defense, 2014.

## National Prisoner Statistics (NPS) Program jurisdiction notes

**Alabama**—Prisons have not been rated recently for official capacity, but the majority of Alabama prisons are operating in a state of overcrowding. Currently, 26,145 beds are in operation. This number represents the physical capacity for inmates but is not based on staffing, programs, and services. Operational capacity differs from the Bureau of Justice Statistics (BJS) definition.

**Alaska**—Alaska did not submit 2014 NPS data. BJS based 2014 jurisdiction and custody counts on a state report, *2015 Recidivism Reduction Plan: Cost-Effective Solutions to Slow Prison Population Growth and Reduce Recidivism* ([http://www.legis.state.ak.us/basis/get\\_documents.asp?session=29&docid=1372](http://www.legis.state.ak.us/basis/get_documents.asp?session=29&docid=1372)), which indicated that the prison population on January 23, 2015, was 5,216 prisoners, which was 2.65% higher than the reported 2013 NPS total jurisdiction population.

Alaska submitted total custody and jurisdiction counts and total admissions and releases for 2013 NPS data. None of the 2013 counts were broken down by sex, so the sex distribution from the 2012 NPS data submitted by Alaska was used in 2013. BJS assumed that the distribution of inmates under custody and jurisdiction across sentence lengths (e.g., more than 1 year, 1 year or less, or unsentenced) was the same in 2014 as in 2013. BJS assumed that the percentage of inmates in privately operated facilities, local facilities, federal facilities, and out-of-state facilities was the same in 2014 as in 2013. BJS applied the racial distribution of offenders from the 2013 National Corrections Reporting Program (NCRP) custody records submitted by Alaska to 2014 counts to obtain the 2014 offender racial distribution. BJS assumed that the increase in the 2014 jurisdiction counts was due to an increase in admissions and that there was no change in the number of releases from 2013 to 2014.

No information was available on the distribution by admission type, so BJS categorized all admissions as *Other admissions*. BJS assumed that the distribution by release type in 2014 was the same distribution that Alaska reported in the 2013 NCRP release records. BJS based 2014 operational capacity on the same 2015 state report, which indicated that the Department of Corrections (DOC) has 5,352 beds. BJS assumed that the percentage of beds for males and females in 2014 was the same as previously reported in the 2012 NPS survey. BJS also assumed that the percentages of offenders age 17 or younger and those who were not U.S. citizens were the same in 2014 as in 2013.

**Arizona**—Jurisdiction counts are based on custody data and inmates in contracted beds, but do not include inmates held in other jurisdictions because Arizona receives an equal number of inmates to house from other jurisdictions. In 2014, Arizona classified persons returned to prison from deportation as transfer admissions. In 2013, these persons had been included in the *Other admissions* category. Other admissions include the return of an inmate erroneously released. Other unconditional

releases include inmates released by the court. Other conditional releases include releases onto other community supervision programs. Other releases include persons released to deportation.

**Arkansas**—Other conditional releases include those made to boot camps.

**California**—Due to a high-level data conversion project by the California Department of Corrections and Rehabilitation (CDCR), the movement data used to report detailed counts of admissions and releases were not available for this report's publication. CDCR was able to differentiate between new court commitment and parole violation admissions, but was not able to provide any other detailed breakdown of other admission types or any release types. Custody counts include California out-of-state correctional facility contracted beds (COCF), community correctional facility (CCF) private contract beds, and private work furlough inmates. Jurisdiction counts for inmates with maximum sentences of more than 1 year include felons who are temporarily absent, such as in court, in jail, or in a hospital. The majority of temporarily absent inmates are absent for fewer than 30 days. Jurisdiction counts for unsentenced inmates include civil addicts who are enrolled for treatment and are not serving a criminal conviction sentence, but are under the jurisdiction of CDCR. California is unable to differentiate between inmates held in federal facilities and those held in other states' facilities. The sum of offenders by race reported by California in 2014 does not match the total jurisdiction count because of differences in the data systems from which the data were extracted. Changes in design capacity are based on information from an annual facilities planning and management report.

**Colorado**—Jurisdiction and custody counts include a small, undetermined number of inmates with a maximum sentence of 1 year or less, as well as 225 males and 8 females who are part of the Youthful Offender System. Admission and release data for inmates who are absent without leave (AWOL) or who have escaped are estimated. Other admissions include returns from the Colorado State Hospital. Other releases include discharges from both the probation and youthful offender systems. Design and operational capacities do not include the privately run facilities in Colorado.

**Connecticut**—Prisons and jails form one integrated system. All NPS data include jail and prison populations. Connecticut changed the way it reports inmates under jurisdiction in 2014, excluding parolees who were counted in previous NPS data and including Connecticut inmates in the custody of another state. Jurisdiction, admission, and release counts from earlier years are not comparable to 2014 data. New court commitment admissions include inmates admitted on accused status, but who received a sentence later in 2014. Counts of other types of admissions and releases include persons with legitimate types of prison entries and exits that do not match BJS categories. Legislation in July 1995 abolished the capacity

law, making a facility's capacity a fluid number based on the needs of the department. The needs are dictated by security issues, populations, court decrees, legal mandates, staffing, and physical plant areas of facilities that serve other purposes or have been decommissioned. The actual capacity of a facility is subject to change.

**Delaware**—Prisons and jails form one integrated system. All NPS data include jail and prison populations. Capacity counts include the halfway houses under the DOC.

**Federal Bureau of Prisons (BOP)**—Data reflect inmates under BOP jurisdiction on December 27, 2014. Jurisdiction counts include inmates housed in secure private facilities where the BOP had a direct contract with a private operator, and inmates housed in secure facilities where there was a subcontract with a private provider at a local government facility. Jurisdiction counts also include inmates housed in jail or short-term detention and others held in state-operated or other nonfederal secure facilities.

Counts include 9,480 inmates (8,181 males and 1,299 females) held in nonsecure privately operated community corrections centers or halfway houses and 3,473 offenders on home confinement (3,006 males and 467 females). A total of 63 male and 4 female juveniles were held in contract facilities; these inmates were included in the jurisdiction totals but excluded from the counts of private, locally operated, or federally operated facilities. Some of these juveniles are under the jurisdiction of U.S. probation but are being housed in the custody of the BOP in contract facilities. Due to information system configuration, Asians and Native Hawaiians or other Pacific Islanders are combined, and inmates of Hispanic origin are included in the race categories. On December 27, 2014, the BOP held 68,128 male and 4,363 female inmates of Hispanic origin. Other admissions include hospitalization and treatment. Parole violation counts combine those with and without a new sentence. Expirations of sentence include good-conduct releases that usually have a separate and distinct term of supervision, and releases from the residential drug abuse treatment program. Other releases include court-ordered terminations, compassionate release, and releases based on the amount of time served. The BOP population on December 31, 2014, was 169,840 inmates (excluding contracted and private facilities), and the rated capacity on that date was 132,731. The crowding rate was 28%.

**Florida**—In 2014, three inmates received other unconditional releases through vacated sentences. Other conditional releases include provisional release supervision, conditional medical release, program supervision, mandatory conditional, and parole reinstatement. Other releases include exits due to fraudulent court orders. Because the count of noncitizen inmates is based on citizenship status, as opposed to the method employed prior to 2013 which made the determination based on country of birth, 2014 statistics are comparable only to 2013.

**Georgia**—Females are not housed in privately operated correctional facilities in Georgia. Subtotals of race, sex, sentence length for jurisdiction, and custody counts were adjusted by the Georgia DOC using interpolation to match the overall totals. Counts of admissions and releases were adjusted using interpolation to balance the jurisdictional populations on January 1, 2014, and December 31, 2014.

**Hawaii**—Prisons and jails form one integrated system. All NPS data include jail and prison populations. In custody and jurisdiction counts, sentenced felon probationers and probation violators are included with the counts of prisoners with a total maximum sentence of 1 year or less. Jurisdiction counts include dual-jurisdiction (state of Hawaii or federal) inmates currently housed in federal facilities and in contracted federal detention center beds. Hawaii does not have a rated capacity for its integrated prison and jail system. Information on foreign nationals held in correctional facilities was based on self-reports by inmates.

**Idaho**—Due to improvements in data extraction methods, Idaho shows substantial changes in the counts of new court commitment, parole violation, and other conditional release violation admissions from previous years. Idaho defines rated capacity as 100% of maximum capacity. In 2014, the Idaho DOC took over operation of a prison that had previously been operated by a private corporation.

**Illinois**—All population counts are based on jurisdiction. Jurisdiction and custody population and admission and release counts for inmates with maximum sentences of more than 1 year include an undetermined number of inmates with a 1-year sentence. Counts of escape admissions and releases include one escape from a minimum security facility, with the remaining escapes occurring at adult transition centers. Other admission and release types include an undetermined number of transfers to other jurisdictions, and the net difference between long-term admissions and release movements not reported in other categories but required to balance yearend populations.

**Indiana**—Other types of admissions include inmates on active supervision or who were admitted for prior charges. Indiana reported changes to its 2013 admissions counts during 2014. See the CSAT-Prisoners web tool (<http://www.bjs.gov/index.cfm?ty=nps>) for updated information.

**Iowa**—In 2009, the Iowa DOC began including offenders on work release, the operating while intoxicated population, and Iowa inmates housed in out-of-state prisons in its jurisdiction counts. Iowa data included in BJS reports prior to 2009 were custody counts only. The admission and release data quality and methodology were updated in 2013; therefore, changes from previous years' counts may reflect these updates. Counts of AWOL admissions and releases are of the work release and operating while intoxicated populations. Escape admissions and releases are of the prison population only. Transfer admissions include those entering from other jurisdictions with an Iowa prison sentence. Other conditional releases include sex offenders released to special sentences.

**Kansas**—Custody and jurisdiction counts reported for 2014 are not comparable to previous years' counts. Prior to 2014, actual time of incarceration, instead of sentence length, was used to differentiate persons sentenced to 1 year or less from those sentenced to serve more than 1 year. The number of conditional releases will fluctuate from year to year. Kansas DOC considers releases to be any time an individual leaves a facility to return to the community, enter another program, or make a court appearance.

**Kentucky**—Other types of admissions include special admissions. Other types of conditional prison releases include exits to home incarceration.

**Louisiana**—Jurisdiction and capacity counts are correct as of December 30, 2014. Other types of unconditional releases include court orders and releases for good time with no supervision. Other conditional release types include reinstatement to probation. Other types of release include supervised and compassionate releases.

**Maine**—Counts of inmates age 17 or younger reflect only those held in adult correctional facilities.

**Maryland**—Due to an information systems upgrade, Maryland was able to provide only custody, jurisdiction, private prison, and local facility counts to BJS in 2014. BJS assumed that the percentage of offenders in federal facilities and in other states' facilities was the same in 2014 as in 2013. Likewise, BJS assumed that the offender distribution by race, prison capacity, percentage of offenders age 17 or younger, and the percentage of non-U.S. citizens were the same in 2014 as in 2013. Because the system used to report Maryland data in 2013 did not capture Hispanic origin, BJS could not impute the number of Hispanics under state jurisdiction. Based on the decrease in the jurisdiction population from 2013 to 2014, BJS assumed that the total number of admissions was the same in 2014 as in 2013 and adjusted the number of releases for 2014 to balance the population size change. The distribution of admission and release types were assumed to be the same in 2014 as in 2013. Because the system used to report Maryland data in 2013 did not distinguish between AWOL and escape releases, BJS could only impute the total of AWOL and escape releases for 2014.

**Massachusetts**—By law, offenders in Massachusetts may be sentenced to terms of up to 2.5 years in locally operated jails and correctional institutions. This population is excluded from the state count but is included in published population counts and rates for local jails and correctional institutions. Jurisdiction counts exclude approximately 2,630 inmates (2,511 males and 119 females) in the county system (local jails and houses of correction) who are serving a sentence of more than 1 year, but these inmates are included in imprisonment rate calculations at the request of the Massachusetts DOC. Jurisdiction and custody counts may include a small but undetermined number of inmates who were remanded to court; transferred to the custody of another state, federal, or

locally operated system; or subsequently released. In 2014, there was a continued increase in inmates transferred to local jails prior to their release from prison as part of a step-down initiative for reentry. Other types of admissions include returns from court release. Other unconditional releases include court releases.

**Michigan**—Due to an information systems upgrade, the Michigan DOC had to modify its statistical techniques to obtain much of the data reported in this survey. The numbers reported are solidly in line with previous trends which have remained stable over several years, but some detailed measures, including type of admission and race, were estimated based on previous trends. Michigan's database system treats Hispanic as an ethnicity rather than a race. Because this is currently an optional field, the numbers for Hispanics are significantly underreported, and the state included them in the white race category. Releases to appeal or bond, and admissions of inmates returning from appeal or bond, are not disaggregated by length of time out to court. These counts represent the net difference between all movements to and from court. Operational capacity is institutional net capacity.

**Minnesota**—Jurisdiction counts include inmates temporarily housed in local jails, on work release, or on community work crew programs. The count of inmates under the jurisdiction of the Minnesota DOC in the custody of federal and other states' facilities increased from 2013 to 2014 due to database upgrades. Admissions and releases due to AWOL or escape, returns from or releases to appeal or bond, and releases because of transfer are not included in Minnesota's database file. Minnesota measures only operational capacity.

**Mississippi**—Mississippi's prison population decreased in 2014 because the state parole board released more nonviolent offenders and placed some on house arrest. These actions demonstrate that the Mississippi DOC is moving more toward community-based supervision rather than imprisonment. Jurisdiction counts of local facilities include both local county jails and county regional facilities. Violators of parole and conditional release are not distinguished by their sentence status in the Mississippi file. Other types of admission and release data include corrections to data because of a lag in processing. Total operational capacity on December 31, 2014, was 26,008.

**Missouri**—Offenders reported to have a total maximum sentence of 1 year or less have a sentence of exactly 1 year. Other types of unconditional releases include resentenced completions, court-ordered discharges, and compensation. Other types of conditional releases include parole board holdover returns. The Missouri DOC does not have the design capacity of its older prisons, nor does it update design capacity for prison extensions or improvements. Missouri does not use a rated capacity. The state defines operational capacity as the number of beds available, including those temporarily offline. Noncitizen data are based on self-reported place of birth.

**Nebraska**—By statute, inmates are housed where they are sentenced by the judge and are not housed in local jails or by another state to ease prison crowding. Other admissions and other conditional releases reflect movements in the population of the reentry furlough program. Nebraska defines operational capacity as its stress capacity, which is 125% of design capacity for designated facilities. The total design and operational capacities for institutions that house females include one female multicustody facility. The department operates two coed facilities that represent a design capacity of 290 and are counted in the male design and operational capacities.

**Nevada**—Other admission types in 2014 included safekeepers and inmates located out of state serving concurrent sentences for Nevada and another state. Nevada did not submit NPS data in 2013. See *Methodology in Prisoners in 2013* (BJS web, September 2014, NCJ 247282) for a description of the 2013 data imputation procedure.

**New Hampshire**—Other admission types include admissions from probation. Other conditional releases include releases to home confinement. New Hampshire's operating capacity is defined as the inmate population on any given day.

**New Jersey**—Population counts for inmates with a maximum sentence of more than 1 year include inmates with sentences of a year. The New Jersey DOC has no jurisdiction over inmates with sentences of less than 1 year or over unsentenced inmates. Reporting of other conditional releases includes those to an intensive supervision program, while other types of unconditional releases include vacated and amended sentences ordered by the courts. New Jersey data for escapes do not differentiate between inmates disappeared from confined walls and those who disappear while out of institutions. Other releases include inmates brought too soon from the county jails into the state prison system then released back to the county jails, and other transfers.

**New Mexico**—New Mexico does not include its inmates housed in other states under the interstate compact agreement in its total jurisdiction count. According to BJS definitions, these inmates should be included in the total state jurisdiction and were in this report. The count of noncitizens includes inmates in both state-run and private facilities.

**New York**—Other admissions include the return to prison of persons erroneously discharged.

**North Carolina**—As of December 1, 2011, North Carolina prisons no longer house misdemeanor offenders with sentences of less than 180 days. Captured escapees are not considered a prison admission type in North Carolina, and escape is not considered a type of prison release. Supervised mandatory releases are post-release offenders. Post-release supervision is defined as a reintegration program for serious offenders who have served extensive prison terms. This form of supervision was created by the Structured Sentencing Act of 1993. Rated capacity is not available.

**North Dakota**—In 2013, North Dakota erroneously added females housed in private facilities into their custody count. Data presented in this report have been updated.

**Ohio**—Population counts for inmates with a maximum sentence of more than 1 year include an undetermined number of inmates with a sentence of 1 year or less. Admissions of parole violators without a new sentence include only formally revoked violators. Other unconditional releases include vacated sentences. Escapes include nonconfinement escapes. Returns and conditional releases involving transitional-control inmates are reported only after movement from confinement to a terminal release status occurs. The count of noncitizens excludes inmates housed in privately operated facilities.

**Oklahoma**—In March 2014, an initiative was made to relieve county jail backups and to house the offenders in DOC facilities, which has resulted in increases to the number of admissions and releases and to the prison population. Jurisdiction counts include offenders in a DOC jail program, those in court, escapees in the custody of local jails, and those sentenced to the DOC but not yet in custody. Prior to 2013, those not yet in custody were not included in the counts. Most inmates with sentences of less than 1 year were part of the Oklahoma Delayed Sentencing Program for Young Adults. Offenders in the custody of other states are mostly escapees. Only DOC facilities are included in the capacity counts. Noncitizen status is determined by country of birth.

**Oregon**—Most offenders with a maximum sentence of less than 1 year remain under the custody of local counties rather than the Oregon DOC. Oregon does not recognize rated capacity.

**Pennsylvania**—Other types of unconditional releases include vacated sentences and convictions. Other releases include releases to the state hospital.

**Rhode Island**—Prisons and jails form one integrated system. All NPS data include jail and prison populations. Jurisdiction counts include inmates who have dual jurisdiction, or those serving Rhode Island sentences out of state while also serving that state's sentence. The Rhode Island data system records Hispanic origin as a race rather than an ethnicity and does not capture Native Hawaiian and Other Pacific Islanders or persons identifying as two or more races, including those who may identify themselves as Hispanic second to another race. Prison admissions classified as escape returns include admissions under home confinement, serving out of state, and minimum-security facilities. Rhode Island DOC's data system cannot differentiate between parole violation admissions with and without new sentences. Other types of unconditional releases consist of court-ordered discharges, while other types of conditional releases include discharge to the Institute for Mental Health.

**South Carolina**—The December 31, 2014, custody count of unsentenced individuals includes Interstate Compact Commission inmates. As of July 1, 2003, the South Carolina Department of Corrections (SCDC) began releasing inmates due for release and housed in SCDC institutions on the first day of each month. Since January 1, 2015, was a holiday, inmates eligible for release on January 1 were released on December 31, 2014. Therefore, the inmate count was at its lowest point for the month on December 31, 2014. All inmates in private facilities in South Carolina were housed in private medical facilities. The local facilities holding inmates on December 31, 2014, included designated facilities and persons AWOL to county or local facilities. South Carolina does not have a specific race code to designate persons identifying as two or more races. These individuals are included in other specific race groups or labeled as other race. Other types of unconditional releases consist of remands. Conditional release counts include inmates released under community supervision after serving 85% of their sentence under truth in sentencing. Other release types include persons who are resentenced. There are two paroling authorities within the adult correctional system in South Carolina. The Intensive Supervision Administrative Release Authority of SCDC assumed Youthful Offender Act (YOA) Parole Board duties on February 1, 2013; prior to that, the Youthful Offender Branch of SCDC handled YOA paroles. SCDC paroled 1,098 offenders sentenced under the YOA, and the South Carolina Department of Probation, Parole, and Pardon Services paroled 628 non-YOA sentenced offenders. South Carolina uses the operational capacity concept in its management reports and other requested surveys.

**South Dakota**—Custody and jurisdiction counts of inmates serving a maximum sentence of 1 year or less include those under the sentence of probation who, as a condition of probation, must serve up to 180 days in state prison. In 2014, South Dakota updated its 2013 jurisdiction counts to include offenders serving concurrent sentences elsewhere. South Dakota does not separate discretionary and presumptive parole releases. Parole detainees are now included in the counts of other admission and other release types. Prior to 2014, these persons had not been included. The operational capacity reported is planned capacity. South Dakota does not have rated or design capacities. The reporting system for the South Dakota DOC does not have a category for inmates of two or more races. These inmates are included in the counts of other race prisoners.

**Texas**—Offenders in custody were all offenders serving time in a facility owned and operated by the Texas Department of Criminal Justice at the time of data collection. Jurisdiction counts include offenders in custody and those held in privately operated prisons, intermediate-sanction facilities, substance abuse felony punishment facilities, and halfway houses; offenders temporarily released to a county for less than 30 days; and offenders awaiting paperwork for transfer to state-funded custody. Capacities exclude county jail beds because they do not have a minimum or maximum number of beds available for paper-ready and bench-warrant inmates.

Admissions and releases include offenders received into an intermediate-sanction facility, which is a sanction in lieu of revocation. These offenders were counted in the parole violator category, although these were not revocations. Other conditional releases include discretionary mandatory releases. Other admission and other release types include transfers between divisions and adjustments. Executions are included in other releases.

**Utah**—Other types of unconditional release include discharges of cases or inmate holds.

**Vermont**—Prisons and jails form one integrated system. All NPS data include jail and prison populations. Vermont does not have the ability to record persons identifying as two or more races. Other types of conditional releases include furlough reintegration. Other releases include vacated sentences.

**Virginia**—Jurisdiction counts were for December 31, 2014. As of September 1, 1998, the state is responsible for inmates with a sentence of 1 year or more, or a sentence of 12 months plus 1 day. Prior to September 1, 1998, the state had been responsible for a 1-year sentence, while local authorities were responsible for sentences of 12 months or less. Prior to 2013, the count of inmates housed in local facilities was taken from Compensation Board reports. Starting in 2013, these counts were obtained from DOC data. Pacific Islanders are included in the Asian race category. Admissions and releases are preliminary fiscal year 2014 figures. Other types of conditional releases include conditional pardons or clemency, conditional release of a sexually violent predator, and geriatric parole. Other releases include authorized temporary and court-ordered releases. In prior years, the Virginia DOC reported capacity under its definition of authorized capacity, which included aspects of both the BJS definition of rated capacity and took into account the number of inmates that could be accommodated based on staff, programs, services, and design. In 2014, the agency reviewed how it was reporting capacity and determined that for this survey, it would report capacity under the definitions of operational and design to be consistent with capacity figures reported in other documents. The figures do not include 35 beds assigned to institutional hospitals that cannot be designated as only male or only female and does not include Detention and Diversion Centers.

**Washington**—The counting rule for offenders under Washington DOC custody changed in 2014 with the addition of several different facility codes that had previously been excluded, including those in violator facilities and work release programs. Jurisdiction counting methods did not change. Offenders sentenced to 1 year or less and unsentenced offenders generally reside in county jails, but revisions to law allow certain inmates with sentences of less than 1 year to be housed in prison. These inmates are included in the total jurisdiction counts. Native Hawaiians and Pacific Islanders are included in the Asian race category. Admissions and releases increased due to the implementation of swift and certain sanctions for violation behavior, where an offender is arrested

on the spot for violations and is sanctioned to 1 to 3 days of confinement. Other unconditional releases include vacated sentences.

**West Virginia**—Other types of admissions and releases included those to and from the Anthony Center for Young Adults and Diagnostics. Other types of unconditional releases included court-ordered releases.

**Wisconsin**—Custody measures include inmates without Wisconsin sentences who were physically housed in a Wisconsin prison. Jurisdiction measures include inmates with Wisconsin sentences, regardless of where they are physically located. Counts for 2014 were calculated using the same methodology as in 2013, but because the data were extracted in January 2015 (compared to April 2014 for the 2013 data), the values are not comparable because there were more inmates with unknown sentence lengths earlier in the year. Sentence length for custody and jurisdiction counts was determined by calculating the time between an inmate's admission date and the inmate's maximum discharge date. If the maximum discharge date was not recorded, the inmate's mandatory release date was used. This may not accurately reflect whether the inmate was initially sentenced to 1 year

or less or more than 1 year. Unsented inmates were those who had not yet had data entered reflecting their mandatory release date and maximum discharge date. Some of these unsented inmates may have been sentenced, but the DOC was unable to determine the sentence length at the time they responded to NPS. This mainly affected probation offenders in the Milwaukee facility on temporary hold. Sentence length for admissions was calculated as the time between an inmate's admission date and the inmate's maximum discharge date, or mandatory release date if the maximum discharge date was not available. Other admissions include temporary holds, alternatives to revocation, persons admitted under the corrections compact, and erroneous releases. Sentence length for prison releases was calculated as the time between an inmate's admission date and the actual release date, so this may not accurately reflect whether the inmate was sentenced to more than 1 year. As with the custody and jurisdiction counts, the early extraction of the 2014 data compared to the 2013 data resulted in fewer inmates admitted and released with known sentence lengths; therefore, the numbers are not comparable between years. Other releases include temporary holds and release after erroneous admissions. Native Hawaiian and Pacific Islander inmates are included in the Asian category.



## Terms and definitions

**Adult imprisonment rate**—The number of prisoners under state or federal jurisdiction sentenced to more than 1 year per 100,000 U.S. residents age 18 or older.

**Average annual change**—Average (mean) annual change across a specific period.

**Capacity, design**—The number of inmates that planners or architects intended for a facility.

**Capacity, highest**—The maximum number of beds reported across the three capacity measures: design capacity, operational capacity, and rated capacity.

**Capacity, lowest**—The minimum number of beds across the three capacity measures: design capacity, operational capacity, and rated capacity.

**Capacity, operational**—The number of inmates that can be accommodated based on a facility's staff, existing programs, and services.

**Capacity, rated**—The number of beds or inmates assigned by a rating official to institutions within a jurisdiction.

**Conditional releases**—Includes discretionary parole, mandatory parole, post-custody probation, and other unspecified conditional releases.

**Conditional release violators**—Re-admission to prison of persons released to discretionary parole, mandatory parole, post-custody probation, and other unspecified conditional releases.

**Custody**—Prisoners held in the physical custody of state or federal prisons or local jails, regardless of sentence length or the authority having jurisdiction.

**Imprisonment rate**—The number of prisoners under state or federal jurisdiction sentenced to more than 1 year per 100,000 U.S. residents of all ages.

**Inmate**—A person incarcerated in a local jail, state prison, federal prison, or a private facility under contract to federal, state, or local authorities.

**Jail**—A confinement facility usually administered by a local law enforcement agency that is intended for adults, but sometimes holds juveniles, for confinement before and after adjudication. Such facilities include jails and city or county correctional centers; special jail facilities, such as medical treatment or release centers; halfway houses; work farms; and temporary holding or lockup facilities that are part of the jail's combined function. Inmates sentenced to jail facilities usually have a sentence of 1 year or less. Alaska, Connecticut, Delaware, Hawaii, Rhode Island, and Vermont operate integrated systems, which combine prisons and jails.

**Jurisdiction**—The legal authority of state or federal correctional officials over a prisoner, regardless of where the prisoner is held.

**New court commitments**—Admissions into prison of offenders convicted and sentenced by a court, usually to a term of more than 1 year, including probation violators and persons with a split sentence to incarceration followed by court-ordered probation or parole.

**Parole violators**—All conditional release violators returned to prison for either violating conditions of release or for new crimes.

**Prison**—A long-term confinement facility, run by a state or the federal government, that typically holds felons and offenders with sentences of more than 1 year. However, sentence length may vary by state. Alaska, Connecticut, Delaware, Hawaii, Rhode Island, and Vermont operate integrated systems, which combine prisons and jails.

**Prisoner**—An individual confined in a correctional facility under the legal authority (jurisdiction) of state or federal correctional officials.

**Sentenced prisoner**—A prisoner sentenced to more than 1 year. This excludes persons sentenced to 1 year or less and unsentenced inmates.

**Supervised mandatory releases**—Conditional release with post-custody supervision generally occurring in jurisdictions using determinate sentencing statutes.

**Unconditional releases**—Expirations of sentences, commutations, and other unspecified unconditional releases.

## Methodology

Started in 1926 under a mandate from Congress, the National Prisoner Statistics (NPS) Program collects annual data on prisoners at yearend. The Bureau of Justice Statistics (BJS) sponsors the survey, and the U.S. Census Bureau serves as the data collection agent. BJS depends entirely on voluntary participation by state departments of corrections (DOC) and the Federal Bureau of Prisons (BOP) for NPS data.

The NPS distinguishes between inmates in custody and prisoners under jurisdiction. To have custody of a prisoner, a state or the BOP must hold that inmate in one of its facilities. To have jurisdiction over a prisoner, the state or BOP must have legal authority over that prisoner, regardless of where the prisoner is incarcerated or supervised. Some states were unable to provide counts that distinguish between custody and jurisdiction. (See *Jurisdiction notes* to determine which states did not distinguish between custody and jurisdiction counts.)

The NPS jurisdiction counts include persons held in prisons, penitentiaries, correctional facilities, halfway houses, boot camps, farms, training or treatment centers, and hospitals. Counts also include prisoners who were temporarily absent (less than 30 days), in court, or on work release; housed in privately operated facilities, local jails, or other state or federal facilities; and serving concurrent sentences for more than one correctional authority.

The NPS custody counts include all inmates held within a respondent's facilities, including inmates housed for other correctional facilities. The custody counts exclude inmates held in local jails and in other jurisdictions. With a few exceptions, the NPS custody counts exclude inmates held in privately operated facilities.

Respondents to NPS surveys are permitted to update prior counts of prisoners held in custody and under jurisdiction. Some statistics on jurisdiction and sentenced prison populations for prior years have been updated in this report. All tables showing data based on jurisdiction counts, including tables of imprisonment rates, were based on the updated and most recently available data that respondents provided.

Admissions include new court commitments, parole violator returns, and other conditional release violator returns; transfers from other jurisdictions; returns of prisoners who were absent without leave (AWOL), with or without a new sentence; escape returns, with or without a new sentence; returns from appeal or bond, and other admissions. For reporting purposes, BJS admission counts exclude transfers from other jurisdictions, AWOL returns, and escape returns.

Releases include unconditional releases (e.g., expirations of sentence or commutations), conditional releases (e.g., probations, supervised mandatory releases, or discretionary paroles), deaths, AWOLs, escapes from confinement, transfers to other jurisdictions, releases to appeal or bond, and other releases. For reporting purposes, BJS release counts exclude AWOLs, escapes, and transfers to other jurisdictions.

The NPS has historically included counts of inmates in the combined jail and prison systems in Alaska, Connecticut, Delaware, Hawaii, Rhode Island, and Vermont. The District of Columbia has not operated a prison system since yearend 2001. Felons sentenced under the District of Columbia criminal code are housed in federal facilities. Jail inmates in the District of Columbia are included in the Annual Survey of Jails. Some previously published prisoner counts and the percentage change in population include jail inmates in the District of Columbia for 2001, the last year of collection. Additional information about the NPS, including the data collection instrument, is available on the BJS website.

Data on prisoners under the jurisdiction of U.S. territorial correctional authorities is collected separately from the state and federal NPS data, and U.S. totals in this report do not include territorial counts. Two territories, American Samoa and the U.S. Virgin Islands, did not provide 2014 data for NPS, so older years' data are shown in appendix table 7.

### Nonreporting states

The Alaska state DOC did not respond to the 2014 NPS survey. BJS based 2014 jurisdiction and custody counts on a state report—*2015 Recidivism Reduction Plan: Cost-Effective Solutions to Slow Prison Population Growth and Reduce Recidivism* ([http://www.legis.state.ak.us/basis/get\\_documents.asp?session=29&docid=1372](http://www.legis.state.ak.us/basis/get_documents.asp?session=29&docid=1372))—that indicated that the January 23, 2015, prison population was 5,216 prisoners. BJS assumed that the increase in the 2014 jurisdiction counts was due to an increase in admissions and that there was no change in the number of releases from 2013 to 2014. For more details, see *Jurisdiction notes*.

### Military correctional data

BJS obtains an annual aggregate count of service personnel under military jurisdiction from the Office of the Under Secretary of Defense for Personnel and Readiness, along with limited demographic and offense data. The Department of Defense disaggregates these data by the branch in which inmates served, the branch having physical custody of the inmate, and whether the inmate was an officer or enlisted.

### Estimating yearend counts of prison population by age, sex, and race or Hispanic origin

National-level estimates of the number of persons by race under the jurisdiction of state prisons on December 31, 2014, were based on an adjustment of NPS counts to comply with Office of Management and Budget (OMB) definitions of race and Hispanic origin. OMB defines persons of Hispanic or Latino origin as a separate category. Race categories are defined exclusive of Hispanic origin. OMB adopted guidelines for collecting these data in 1997, requiring the collection of data on Hispanic origin in addition to data on race.

Not all NPS providers' information systems categorize race and Hispanic origin in this way. In 1991, the earliest time point in the analysis, only a few states were able to report information on Hispanic origin separately from race. BJS adjusted the NPS data on race and Hispanic origin by the ratio of the relative distribution of prisoners by race and Hispanic origin in self-report inmate surveys that use OMB categories for race to the relative distribution of prisoners by race and Hispanic origin in the NPS data. For this report, the 2004 Survey of Inmates in State Correctional Facilities was used to calculate the ratio used for statistics on racial distributions in 2014. The ratio obtained by comparing the within-year relative distributions by race and Hispanic origin was then multiplied by the NPS distribution in a year to generate the estimate of persons by race and Hispanic origin.

Estimates of the total number of sentenced prisoners by age, sex, race, and Hispanic origin on December 31, 2014, were generated by creating separate totals for federal and state prisons. For the federal estimates, each sex and race count that BOP reported to the NPS was multiplied by the ratio of the age category count within the sex and race combination in the Federal Justice Statistics Program (FJSP) to the FJSP total count within the sex and race combination (e.g., FJSP white males ages 18 to 19 divided by FJSP white males). The resulting product yielded the FJSP-adjusted NPS counts for each sex and race combination by age group (e.g., white male prisoners ages 18 to 19 in the federal prison system). State prison age distributions for the NPS use a similar sex and race ratio adjustment based on individual-level data from the National Corrections Reporting Program (NCRP). State and federal estimates were added together to obtain national estimates for yearend prison populations.

**Estimating imprisonment rates by age, sex, and race or Hispanic origin**

BJS calculated age-specific imprisonment rates for each age and sex and race group by dividing the estimated number of sentenced prisoners within each age group under jurisdiction on December 31, 2014, by the estimated number of U.S. residents in each age group on January 1, 2015. BJS multiplied the result by 100,000 and rounded to the nearest whole number. Totals by sex include all prisoners and U.S. residents, regardless of race or Hispanic origin.

**Estimating offense distribution in the state and federal prison populations by age, sex, and race or Hispanic origin**

BJS employed a ratio adjustment method to weight the individual-level race and Hispanic origin or sex-specific offense data from the NCRP to the state prison control totals

for sex and the estimated race or Hispanic origin from the NPS, which yielded a national offense distribution for state prisoners. Inmates missing offense data were excluded from the analysis prior to the weighting. Because data submission for the NCRP typically lags behind that of the NPS, state offense distribution estimates are published for the previous calendar year.

Data presented in table 12 and appendix table 5 are drawn from FJSP and are limited to inmates sentenced to more than 1 year in federal custody. The data are further limited to inmates sentenced on U.S. district court commitments, District of Columbia superior court commitments, and those returned to federal custody following violations of probation (both federal and District of Columbia), parole, supervised release, or mandatory release. Due to these methodological differences, the estimates in table 12 and appendix table 5 will differ from previously published federal offense distributions presented in the FJSP web tool (<http://www.bjs.gov/fjsrc/>) or *Federal Justice Statistics* bulletins and statistical tables (<http://www.bjs.gov/index.cfm?ty=tp&tid=6>). Since FJSP is a custody collection, the total count of prisoners in table 12 and appendix table 5 will differ from the jurisdiction count of prisoners reported to NPS.

**Prison capacities**

State and federal correctional authorities provide three measures of their facilities' capacity: design capacity, operational capacity, and rated capacity. Estimates of the prison populations as a percentage of capacity are based on a state or federal custody population. In general, state capacity and custody counts exclude inmates held in private facilities, although five states include prisoners held in private facilities as part of the capacity of their prison systems: Florida, Georgia, Idaho, Louisiana, and Mississippi. For these states, prison population as a percentage of capacity includes inmates held in the states' private facilities.

**Noncitizen inmates**

BJS asks state DOCs and the BOP to report the number of persons in their custody who were not citizens of the United States on December 31. While the intention is for jurisdictions to report based on inmates' current citizenship status, a number of jurisdictions cannot provide that information, and instead report country of birth to NPS. These states are noted in appendix table 6. As this is a custody count, noncitizens held in private prison facilities or local jails under the jurisdiction of state or federal correctional authorities are not included.

**APPENDIX TABLE 1****Admissions to and releases from state prison, 2004-2014**

Year	Admissions	Releases
2004	644,084	625,578
2005	674,084	653,309
2006	689,536	661,954
2007	689,257	672,397
2008	684,987	683,303
2009	672,533	679,029
2010	649,677	656,190
2011	610,917	635,833
2012	552,504	580,679
2013	576,298	569,205
2014	575,779	581,817

Note: Counts based on prisoners with a sentence of more than 1 year. Excludes transfers, escapes, and those absent without leave (AWOL), and includes other conditional release violators, returns from appeal or bond, and other admissions. See *Methodology*.

Source: Bureau of Justice Statistics, National Prisoner Statistics, 2014–2014.

**APPENDIX TABLE 2****Admissions to and releases from federal prison, 2004-2014**

Year	Admissions	Releases
2004	52,982	46,624
2005	56,057	48,323
2006	57,495	47,920
2007	53,618	48,764
2008	53,662	52,348
2009	56,153	50,720
2010	54,121	52,487
2011	60,634	55,239
2012	55,938	56,037
2013	53,664	54,785
2014	50,865	54,529

Note: Counts based on prisoners with a sentence of more than 1 year. Excludes transfers, escapes, and those absent without leave (AWOL), and includes other conditional release violators, returns from appeal or bond, and other admissions. See *Methodology*.

Source: Bureau of Justice Statistics, National Prisoner Statistics, 2014–2014.

**APPENDIX TABLE 3****Percent of sentenced prisoners under jurisdiction of state or federal correctional authorities, by age, sex, race, and Hispanic origin, December 31, 2014**

Age group	Total <sup>a</sup>	Male					Female				
		All male <sup>a</sup>	White <sup>b</sup>	Black <sup>b</sup>	Hispanic	Other <sup>b</sup>	All female <sup>a</sup>	White <sup>b</sup>	Black <sup>b</sup>	Hispanic	Other <sup>b</sup>
Total <sup>c</sup>	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
18–19	1.0%	1.0%	0.5%	1.3%	1.1%	1.7%	0.6%	0.4%	0.9%	1.1%	0.0%
20–24	11.3	11.4	8.3	13.0	12.3	14.8	10.0	8.3	11.5	12.4	8.6
25–29	15.5	15.4	13.5	15.8	17.2	16.9	17.5	17.3	16.8	19.7	18.0
30–34	16.6	16.5	15.2	16.4	18.5	17.4	18.6	18.8	16.8	20.8	18.8
35–39	14.2	14.2	13.1	14.4	15.8	13.5	14.7	14.7	13.7	15.7	14.8
40–44	12.2	12.2	12.6	11.9	12.4	11.4	12.8	13.4	12.8	11.2	13.3
45–49	10.5	10.4	11.8	10.3	9.1	9.1	10.9	11.1	12.4	9.0	10.9
50–54	8.5	8.5	10.5	8.2	6.4	6.7	7.7	8.1	8.4	5.6	7.8
55–59	5.1	5.2	6.6	4.9	3.7	4.4	3.9	4.0	4.4	2.8	3.9
60–64	2.7	2.7	3.7	2.2	1.9	2.1	1.8	2.1	1.8	1.1	1.6
65 or older	2.3	2.3	3.9	1.3	1.5	1.9	1.2	1.5	0.9	0.6	1.6
Number of sentenced prisoners <sup>d</sup>	1,508,636	1,402,404	453,500	516,900	308,700	123,300	106,232	53,100	22,600	17,800	12,800

Note: Counts based on prisoners with sentences of more than 1 year under the jurisdiction of state or federal correctional officials. Alaska did not submit 2014 data to the National Prisoner Statistics (NPS), so totals include imputed counts for this state. See *Methodology*.

<sup>a</sup>Includes American Indians and Alaska Natives; Asians, Native Hawaiians, and other Pacific Islanders; and persons of two or more races.

<sup>b</sup>Excludes persons of Hispanic or Latino origin.

<sup>c</sup>Includes persons age 17 or younger.

<sup>d</sup>Race totals are rounded to the nearest 100 to accommodate differences in data collection techniques between jurisdictions.

Sources: Bureau of Justice Statistics, National Prisoner Statistics, 2014; Federal Justice Statistics Program, 2014; National Corrections Reporting Program, 2013; and Survey of Inmates in State and Federal Correctional Facilities, 2004.

**APPENDIX TABLE 4****Estimated number of sentenced prisoners under state jurisdiction, by offense, sex, race, and Hispanic origin, December 31, 2013**

Most serious offense	All inmates <sup>a</sup>	Male	Female	White <sup>b</sup>	Black <sup>b</sup>	Hispanic
<b>Total<sup>c</sup></b>	1,325,305	1,233,724	91,581	468,600	497,000	274,200
<b>Violent</b>	704,800	670,900	34,000	223,900	282,100	162,300
Murder <sup>d</sup>	165,600	155,300	10,300	45,100	68,300	39,000
Manslaughter	18,000	15,700	2,300	6,800	3,800	3,100
Rape/sexual assault	166,200	164,100	2,200	78,500	39,700	37,300
Robbery	181,100	173,100	8,100	37,500	98,800	37,100
Aggravated or simple assault	132,400	124,600	7,800	41,100	54,300	35,700
Other violent	41,400	38,000	3,400	14,800	17,200	10,000
<b>Property</b>	255,600	229,500	26,000	117,700	81,700	37,100
Burglary	139,500	132,500	7,000	58,100	48,000	22,700
Larceny-theft	50,200	41,900	8,200	26,500	17,400	5,900
Motor vehicle theft	10,700	10,000	700	4,900	2,500	2,600
Fraud	27,300	19,900	7,300	14,400	7,600	2,500
Other property	28,000	25,200	2,800	13,800	6,300	3,400
<b>Drug</b>	208,000	186,000	22,000	67,800	79,900	39,900
Drug possession	47,400	41,700	5,700	17,700	18,800	11,400
Other drug <sup>e</sup>	160,500	144,300	16,300	50,000	61,100	28,400
<b>Public order</b>	146,300	137,900	8,400	56,000	51,100	33,400
Weapons	51,000	49,400	1,600	11,200	24,400	13,900
Driving under the influence	25,500	23,300	2,200	13,500	3,400	6,700
Other public order <sup>f</sup>	69,900	65,200	4,600	31,300	23,300	12,900
<b>Other/unspecified<sup>g</sup></b>	10,600	9,400	1,200	3,300	2,100	1,400

Note: Estimates are based on state prisoners with a sentence of more than 1 year under the jurisdiction of state correctional officials. Detail may not sum to total due to rounding and missing offense data. See *Methodology*.

<sup>a</sup>Includes American Indians and Alaska Natives; Asians, Native Hawaiians, and other Pacific Islanders; and persons of two or more races.

<sup>b</sup>Excludes persons of Hispanic or Latino origin.

<sup>c</sup>Race totals are rounded to the nearest 100 to accommodate differences in data collection techniques between jurisdictions.

<sup>d</sup>Includes nonnegligent manslaughter.

<sup>e</sup>Includes trafficking and other drug offenses.

<sup>f</sup>Includes court offenses; commercialized vice, morals, and decency offenses; and liquor law violations and other public-order offenses.

<sup>g</sup>Includes juvenile offenses and other unspecified offense categories.

Sources: Bureau of Justice Statistics, National Prisoner Statistics, 2014; National Corrections Reporting Program, 2013; and Survey of Inmates in State Correctional Facilities, 2004.

**APPENDIX TABLE 5****Estimated sentenced prisoners under federal correctional authority, by most serious offense, sex, and race, September 30, 2014**

Most serious offense	All inmates <sup>a</sup>	Male	Female	White <sup>b</sup>	Black <sup>b</sup>	Hispanic
<b>Total<sup>c,d</sup></b>	192,663	180,140	12,523	51,600	71,300	63,700
<b>Violent</b>	14,100	13,600	600	3,700	7,100	1,300
Homicide <sup>e</sup>	2,800	2,600	200	400	1,700	200
Robbery	7,300	7,100	200	2,600	4,000	600
Other violent	4,000	3,900	200	800	1,400	500
<b>Property</b>	11,600	9,300	2,300	5,100	4,200	1,700
Burglary	400	400	0	100	300	0
Fraud	9,000	7,100	1,900	4,000	3,100	1,500
Other property	2,200	1,800	300	1,000	800	300
<b>Drug<sup>f</sup></b>	96,500	89,100	7,400	20,800	37,400	36,300
<b>Public order</b>	69,100	66,800	2,200	21,300	22,200	24,200
Immigration	17,200	16,700	500	600	300	16,300
Weapons	30,500	30,000	500	7,600	17,700	4,500
Other	21,400	20,200	1,200	13,000	4,300	3,400
<b>Other/unspecified<sup>g</sup></b>	1,400	1,300	100	700	300	200

Note: Counts are based on sentenced prisoners under federal jurisdiction regardless of sentence length. Detail may not sum to total due to rounding and missing data. See *Methodology*.

<sup>a</sup>Includes American Indians and Alaska Natives; Asians; Native Hawaiians and other Pacific Islanders; and persons of two or more races.

<sup>b</sup>Excludes persons of Hispanic or Latino origin and persons of two or more races.

<sup>c</sup>Includes all sentenced inmates under federal jurisdiction regardless of sentence length.

<sup>d</sup>Race totals are rounded to the nearest 100 to accommodate differences in data collection techniques between jurisdictions.

<sup>e</sup>Includes murder, negligent, and nonnegligent manslaughter.

<sup>f</sup>Includes trafficking, possession, and other drug offenses.

<sup>g</sup>Includes offenses not classified.

Source: Bureau of Justice Statistics, Federal Justice Statistics Program, 2014.

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**APPENDIX TABLE 6****Reported state and federal noncitizen inmates and inmates age 17 or younger, by jurisdiction, December 31, 2014**

Jurisdiction	Noncitizen inmates <sup>a</sup>			Inmates age 17 or younger		
	Total	Male	Female	Total	Male	Female
U.S. total <sup>b</sup>	67,837	64,565	3,272	1,035	1,005	30
Federal <sup>c</sup>	23,532	21,667	1,865	0	0	0
State <sup>b</sup>	44,305	42,898	1,407	1,035	1,005	30
Alabama	80	77	3	0	0	0
Alaska <sup>d,e</sup>	/	/	/	/	/	/
Arizona	4,743	4,609	134	56	55	1
Arkansas	118	114	4	11	11	0
California	/	/	/	0	0	0
Colorado <sup>f</sup>	1,525	1,473	52	3	3	0
Connecticut <sup>d</sup>	523	511	12	84	83	1
Delaware <sup>d</sup>	330	312	18	3	3	0
Florida	7,199	6,937	262	126	122	4
Georgia	2,450	2,335	115	96	94	2
Hawaii <sup>d,g</sup>	145	140	5	0	0	0
Idaho	216	210	6	0	0	0
Illinois	1,813	1,767	46	18	17	1
Indiana	633	623	10	42	40	2
Iowa	152	150	2	5	4	1
Kansas	337	331	6	1	1	0
Kentucky	255	237	18	0	0	0
Louisiana	149	143	6	18	18	0
Maine	0	0	0	0	0	0
Maryland <sup>f,h</sup>	623	600	23	22	18	4
Massachusetts <sup>g</sup>	699	672	27	0	0	0
Michigan	490	485	5	90	89	1
Minnesota	634	599	35	10	10	0
Mississippi	37	29	8	19	19	0
Missouri <sup>f,g</sup>	510	475	35	12	11	1
Montana	18	18	0	1	1	0
Nebraska	220	219	1	22	22	0
Nevada	0	0	0	9	9	0
New Hampshire	96	90	6	0	0	0
New Jersey	1,335	1,307	28	7	7	0
New Mexico	142	136	6	0	0	0
New York <sup>f</sup>	4,142	4,022	120	97	94	3
North Carolina	1,370	1,342	28	85	82	3
North Dakota	18	15	3	0	0	0
Ohio	495	480	15	24	23	1
Oklahoma <sup>f</sup>	0	0	0	7	7	0
Oregon	0	0	0	0	0	0
Pennsylvania	1,051	1,025	26	29	29	0
Rhode Island <sup>d</sup>	65	64	1	2	2	0
South Carolina	484	465	19	24	23	1
South Dakota	80	77	3	0	0	0
Tennessee <sup>f</sup>	274	263	11	13	13	0
Texas	8,682	8,423	259	69	66	3
Utah	202	200	2	1	1	0
Vermont <sup>d</sup>	18	17	1	0	0	0
Virginia	601	582	19	9	9	0
Washington	775	760	15	1	1	0
West Virginia	23	22	1	0	0	0
Wisconsin	500	490	10	18	17	1
Wyoming	53	52	1	1	1	0

Note: The definition of non-U.S. citizen varies across jurisdictions. Use caution when interpreting these statistics. See *Methodology*.

/Not reported.

<sup>a</sup>Unless otherwise noted, BJS assumes that noncitizens are identified by individual jurisdictions as persons with citizenship of a country other than the United States as of December 31, 2014.

<sup>b</sup>Total U.S. and state counts of noncitizen inmates for 2014 will be lower than expected due to the exclusion of California data. California was unable to report the number of noncitizen inmates in 2013 or 2014.

<sup>c</sup>The count of noncitizens for the federal Bureau of Prisons excludes noncitizen inmates housed in private contract facilities. The federal Bureau of Prisons holds inmates age 17 or younger in private contract facilities; 67 such inmates were housed in contract facilities in 2014.

<sup>d</sup>Prisons and jails form one integrated system. Data include total jail and prison populations.

<sup>e</sup>State did not submit 2014 National Prisoner Statistics (NPS) data. Counts could not be imputed because state did not submit data for these measures to NPS in 2013.

<sup>f</sup>Non-U.S. citizens are defined as foreign-born.

<sup>g</sup>Citizenship based on inmate self-report.

<sup>h</sup>State did not submit 2014 NPS data for these measures. Counts imputed based on percentage of noncitizen inmates and inmates age 17 or younger in 2013. See *Methodology*.

Source: Bureau of Justice Statistics, National Prisoner Statistics, 2014.

**APPENDIX TABLE 7**  
**Prisoners under the jurisdiction or in the custody of U.S. territories and commonwealths and prison facility capacity,**  
**December 31, 2014**

Jurisdiction	Jurisdiction population		Custody population	Capacity		
	Total <sup>a</sup>	Sentenced to more than 1 year <sup>a</sup>		Rated	Operational	Design
Total	12,257	10,634	14,045			
American Samoa <sup>b</sup>	/	/	212	/	/	/
Guam	721	316	754	443	...	443
Commonwealth of the Northern Mariana Islands	175	143	175	559	272	559
Commonwealth of Puerto Rico	10,692	9,797	12,327	13,832	13,832	14,632
U.S. Virgin Islands <sup>c</sup>	669	378	577	468	355	550

Note: Jurisdiction refers to the legal authority of state or federal correctional officials over a prisoner, regardless of where the prisoner is held. Custody refers to the physical location where the prisoner is held.

...Not available. Specific type of capacity is not measured by territory.

/Not reported.

<sup>a</sup>Does not include counts for American Samoa.

<sup>b</sup>American Samoa has not submitted National Prisoner Statistics (NPS) data since 2011. The data presented here were located in the *2013 American Samoa Statistical Yearbook* (<http://doc.as.gov/wp-content/uploads/2011/06/2013-Statistical-Yearbook-Final-Draft.pdf>) and represent the number of persons in custody as of December 2013.

<sup>c</sup>The U.S. Virgin Islands did not submit 2014 NPS data and had inconsistent 2013 data. Data used are from 2012.

Source: Bureau of Justice Statistics, National Prisoner Statistics, 2014.



The Bureau of Justice Statistics of the U.S. Department of Justice is the principal federal agency responsible for measuring crime, criminal victimization, criminal offenders, victims of crime, correlates of crime, and the operation of criminal and civil justice systems at the federal, state, tribal, and local levels. BJS collects, analyzes, and disseminates reliable and valid statistics on crime and justice systems in the United States, supports improvements to state and local criminal justice information systems, and participates with national and international organizations to develop and recommend national standards for justice statistics. William J. Sabol is director.

This report was written by E. Ann Carson. Todd Minton, Danielle Kaeble, Zhen Zeng, and Jennifer Bronson verified the report.

Lynne McConnell and Jill Thomas edited the report. Tina Dorsey produced the report.

September 2015, NCJ 248955



Office of Justice Programs  
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**EXHIBIT D**

July 20, 2015

**By Email Correspondence**

Karen Humes, Chief  
Population Division  
U.S. Census Bureau, Room 5H174  
Department of Commerce  
Washington, D.C. 20233

RE: 2020 Decennial Census Residence Rule and Residence Situations  
Docket Number 150409353-5353-01

Dear Ms. Humes:

These comments are submitted in response to the Public Notice, dated May 20, 2015, regarding proposed changes to the Residence Rule and Residence Situations for the upcoming 2020 Census.<sup>1</sup> The Public Notice sought comment on the Residence Rule, and the undersigned seeks to provide comment on the Residence Rule as it relates to those who are incarcerated (Rule 13) and those in Juvenile Facilities (Rule 16) (collectively, the “Detainees”).

I have served as the *pro bono* counsel for the family members of those who have been incarcerated in a proceeding before the Federal Communications Commission since 2010. The proceeding relates to the telephone rates and other charges that are imposed on families to remain in contact with Detainees, and I have actively advocated before the FCC, Congress, and the US District Court for the establishment of rate caps and elimination of excessive fees. The telephone is uniquely important to the families I represent *because correctional facilities tend to be located very far away from their homes*. In this context, I have become uniquely aware of the economic and personal impact of the difficulties of family members to remain in contact with Detainees, especially with the 1.7 million children with at least one family member who are Detainees.

Rule 13 and Rule 16 count Detainees as being a resident at the facility, rather than their residence before being detained, i.e., their permanent residence. Not only is this determination different than many states’ laws which specifically do not change Detainees’ permanent residences, and actually permit Detainees to vote for candidates at their permanent residence. Thus, the rules are in conflict with state law, and do not reflect the reality of how states treat Detainees in connection with their right to vote.

Moreover, this rule incentivizes the construction of detention facilities at distant locations far away from the Detainees’ permanent residences. In particular, because Census figures are used to determine state legislative districts, these rules skew the population of districts by adding additional people to districts that do not actually have the ability to vote for candidates in those very same congressional districts.


<sup>1</sup> See *Notice and Request for Comment*, 80 Fed. Reg. 28950 (rel. May 20, 2015) (the “Public Notice”).

Because the current Census rules count Detainees as residents at the facility location, there is a strong incentive for communities to volunteer to construct detention facilities in order to increase their population without permitting the Detainees to vote in local elections. Studies have shown that more than 60% of those incarcerated are at facilities more than 100 miles from their permanent residence, and 10% of those incarcerated are located at facilities more than 500 miles from their permanent residence.<sup>2</sup>

The more reasonable approach would be for the Census Bureau to count Detainees at their permanent residence. This would lead to the accurate determination of the number of eligible voting residents for that particular district. Moreover, it would eliminate the perverse incentive to site detention facilities far distances from Detainees' permanent residences. If detention facilities are more easily accessible, then the recidivism rate will be reduced by increase contact between families and friends and Detainees, which will reduce the prison and jail costs.

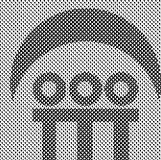
Thank you this opportunity to provide comments on this very important criminal justice matter.

Respectfully submitted,

By: 

Lee G. Petro  
3000 Connecticut Avenue, N.W.  
Washington, DC 20008  
(703) 798-2001

<sup>2</sup> *Incarcerated Parents and Their Children*, Bureau of Justice Statistics (Aug. 2000) ([www.bjs.gov/content/pub/pdf/iptc.pdf](http://www.bjs.gov/content/pub/pdf/iptc.pdf)).



North Lawndale Employment Network

## Drugs, Crime, and Consequences

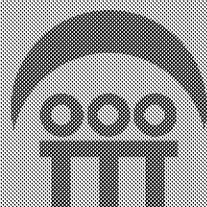
### Arrests and Incarceration in North Lawndale

*Written by  
Lise McKean and Jody Raphael  
Center for Impact Research*

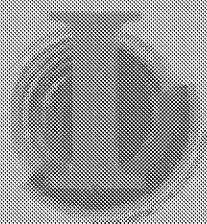
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*The North Lawndale Employment Network and the Center for Impact Research would like to thank the Woods Fund of Chicago for providing the support to make this research project and report possible. The North Lawndale Employment Network would also like to thank the Annie E. Casey Foundation for providing program support for the Ex-offender Employment Service Network.*



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TABLE OF CONTENTS

The Alternatives to Incarceration Project .....2

Executive Summary .....3

Drugs, Crime, and Consequences .....5

Number of North Lawndale Adults  
Involved in the Criminal Justice System Each Year .....5

    Arrests

    Convictions

    Department of Corrections

    Probation

    Parole

    Data Summary

Interviews with Ex-Offenders and Service Providers .....8

    Arrests and Incarceration

    Background of EESN Participants

    Participants' Children

    Housing and Homelessness

    Educational and Literacy Levels

    Employment Experience

    Substance Abuse, Addiction, and Treatment

    Other Mental Health Issues

    Service Needs of Ex-Offenders

    Prevention

    Follow-up with Participants

Conclusion .....23

### **The Alternatives to Incarceration Project**

The North Lawndale Employment Network (NLEN) and the Center for Impact Research (CIR) are partnering on the Alternatives to Incarceration Project. This project conducted research to document the high rates of involvement in the criminal justice system of North Lawndale adults as there is no single data set that provides this information. To provide a context for the figures, CIR interviewed participants and staff of NLEN's Ex-offender Employment Services Network (EESN) to better understand the circumstances related to criminal activity. The project's second phase will entail research, including working with community advocates as court watchers to determine the extent to which sentencing alternatives are available to and used by low-income, minority offenders. The research process will provide information for planning an advocacy campaign and will build the capacity of community leadership to promote alternatives to incarceration for non-violent drug-related offenses.

**North Lawndale Employment Network (NLEN)** is a partnership of community-based organizations, economic development agencies, and businesses working together to meet the workforce development needs of North Lawndale residents and employers. As an intermediary, NLEN works with over 100 committed organizations to address the range of employment and economic development issues through a collaborative approach. NLEN seeks to enable North Lawndale residents to secure jobs that pay family-supporting wages and offer opportunities for advancement, help employers within and outside of North Lawndale to recruit and retain qualified employees from among North Lawndale residents, build the capacity of and cooperation among organizations that provide employment and training services to North Lawndale residents and employers, and advocate for public policies and employer practices that expand employment opportunities for North Lawndale residents and foster economic development of the community.

NLEN programs include the EESN, a health care career initiative, an out-of-school youth job readiness and skills training program, an Individual Development Account (IDA) collaborative, employer partnerships for client placements, business and employer attraction and retention, AmeriCorps program coordination for other local agencies, a community resource job center that is under development, and partner agency capacity building activities. In addition to coordinating and providing services, NLEN advocates for public policy that supports effective workforce development activities, especially in the area of ex-offender reentry.

NLEN's Ex-offender Employment Service Network (EESN) is a partnership of local organizations that, together, offer

support services, training, and job placement for ex-offenders in North Lawndale and surrounding communities. EESN offers clients a broad range of services, including anger management training, basic skills training, case management, childcare, clothing/food, drug testing, substance abuse treatment, family reunification, financial education and credit counseling, job placement, legal services, mental health treatment, occupational skills training, post-placement and retention support, resources and identification cards, and peer counseling. In the three years since it began, the EESN has served more than 600 returning offenders.

**Center for Impact Research (CIR)** is an independent nonprofit policy research center at the forefront in the fight against poverty. Its mission is to improve the social and economic conditions of the poor through grass-roots research aimed at identifying innovative policy strategies that address the needs of low-income women, men, and children. CIR projects result in new poverty solutions crafted in collaboration with low-income persons, community-based organizations, and governmental agencies.

CIR undertakes its mission through two key activities: applied research and innovative practice.

CIR conducts research and demonstration projects and provides technical assistance and training at the grass-roots level to promote public policies that more accurately reflect the needs/interests of low-income people.

CIR brings together researchers and practitioners, community activists and organizers, policy makers, public service workers, and funders to inform the field and to develop new approaches to address systemic issues of poverty.

CIR's focus on key poverty issues and action-oriented research changes attitudes, policies, and lives. CIR's research led directly to the adoption of the Family Violence Option in the 1996 federal welfare reform legislation, to the Illinois State Board of Education's improvements to the Chicago GED testing system, to the creation of the U.S. Department of Labor's Chicago Sweatshop Task Force, and to the establishment of the Prostitution Alternatives Roundtable. CIR's Teen Project led to the establishment of on-site domestic violence services at two Illinois Department of Human Services Teen Parent Services sites and to the appointment and training of teen specialists in each local welfare office.

CIR focuses its efforts in three policy centers: the working poor, violence and poverty, and teen girls.

EXECUTIVE SUMMARY

The North Lawndale Employment Network (NLEN) commissioned the Center for Impact Research (CIR) to prepare this report. NLEN is made up of a coalition of groups and agencies in the North Lawndale community and works to reduce poverty through the full employment of North Lawndale residents.

City, county, and state governmental entities provided the data on arrests, sentencing, parole, and probation that are presented in this report. To complement the data on arrests and sentencing and learn about the specific situations of ex-offenders in Chicago's North Lawndale community, CIR interviewed staff, consultants, and participants in the Ex-Offender Employment Service Network (EESN) program of NLEN. These interviews provide a contextual framework for the North Lawndale data, particularly about how drug addiction is implicated in crime.

NLEN will use the information in this report to advocate for community-based services that individuals need to successfully negotiate re-entry to the community from incarceration, and to advocate for alternatives to incarceration.

SERVICE NEEDS OF EX-OFFENDERS

The interviews with EESN staff and participants reveal that before and after arrest and incarceration, this population of ex-offenders struggles with drug addiction, poverty, low levels of education, unemployment, unstable housing, and homelessness. However, intensive case management and substance abuse treatment programs combined with job readiness training can break the cycle of addiction, crime, and incarceration and lead to positive results for ex-offenders. All of the staff agreed that the current level of resources are inadequate for meeting the needs of ex-offenders for stable housing, adequate nutrition, employment, substance abuse treatment, and family reunification. Staff members said that there is a need for more community corrections programs and adult transition centers, and better case management for those on parole and probation.

Both EESN staff and participants spoke at great length about the destructive impact of substance abuse on individuals and the community and how drug sales and use are implicated in much of the criminal activity in North Lawndale. One staff

person said, "this is a drug habituated environment. People become desensitized by constant exposure to the drug users and drug related crime. Drugs are a major cause of the downward spiral of individuals and communities." Staff and participants emphasized that more resources must be directed toward services for at-risk children. Speaking from their own experience, participants also spoke of the need for parents to be actively involved in the daily lives of their children and the negative consequences of the lack of parental or adult attention and guidance.

NORTH LAWDALE ADULTS IN THE  
CRIMINAL JUSTICE SYSTEM

New Involvement in Criminal Justice System in 2001

Sentenced to the Department of Corrections	2,442
Sentenced to Probation	3,857
Total	6,299
Percentage of total North Lawndale population 2000	up to 24%

Total Adults Involved in the Criminal Justice System in 2001

Sentenced to Department of Corrections	2,442
Sentenced to Probation	3,857
On Parole	2,487
Still Serving Time at DOC (approximately)	9,893
Still on Probation	3,458

Total North Lawndale individuals in criminal justice system*	22,137
Percentage of all North Lawndale adults in criminal justice system	up to 57%

\* The data provided are not unduplicated. The total may be an overstatement in that there might be duplication in an undetermined number of cases.



## RECOMMENDATIONS

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It has been widely recognized that low-income communities have high rates of involvement in the criminal justice system. The magnitude of this involvement is clearly delineated by the data in this report: nearly one-quarter of North Lawndale's adult population became involved in the criminal justice system in 2001, and nearly three-fifths of all North Lawndale adults in 2001 were on probation, parole, sentenced to prison, or incarcerated. In order to address this issue through policy changes on sentencing and by increasing the resources and services for ex-offenders, NLEN plans to continue and expand its efforts directed at:

- Increasing public awareness about the interconnected problems of substance abuse, crime, unemployment, and poverty.
- Increasing awareness among government and community agencies of the need for pre- and post-release services.
- Advocating for basic reforms within the Illinois Department of Corrections in order to improve the employment prospects of ex-offenders.
- Advocating for increasing transitional services for the incarcerated and post-incarcerated.
- Advocating for wider implementation and ongoing improvements in community-based employment services for ex-offenders, with continued participation of NLEN in the Best Practices subcommittee of the State Workforce Board's Taskforce on Ex-offender Employability.
- Advocating for alternatives to incarceration for non-violent, drug-related crimes.

Further research needs to be conducted to assess the complex consequences of so many adults being involved in the criminal justice system and of the large numbers of ex-offenders returning to the community from prison. Effective advocacy for alternatives to incarceration for non-violent offenses requires accurate information not only on the need for alternatives, but also on the forms these alternatives might take, and the resources necessary to support them.

Authorization of sentencing alternatives is the first step; however implementation requires allocation of adequate resources. For example, Illinois HB 1961 provides Cook County judges with the authority to sentence women detained in Cook County Jail for certain nonviolent felony offenses to a pilot Residential Treatment and Transition Center rather than

state prison. As yet, no funds have been allocated to support the pilot Center. NLEN is planning to work with the police, courts, the Department of Corrections, legislators, community organizations, and funders to build support for a demonstration project in North Lawndale that offers an alternative to incarceration for non-violent offenses.

DRUGS, CRIME, AND CONSEQUENCES:  
ARRESTS AND INCARCERATION IN NORTH LAWDALE

The North Lawndale Employment Network (NLEN) commissioned the Center for Impact Research (CIR) to prepare this report.<sup>1</sup> NLEN is made up of a coalition of groups and agencies in the North Lawndale community and works to reduce poverty through the full employment of North Lawndale residents. City, county, and state governmental entities provided the data on arrests, sentencing, parole, and probation that are presented in this report. They all had to undertake special data runs to produce the information specific to the North Lawndale community, and ultimately did so without cost to NLEN. To complement the data on arrests and sentencing and to learn about the specific situations of ex-offenders in Chicago's North Lawndale community, CIR interviewed staff, consultants, and participants in the Ex-Offender Employment Service Network (EESN) program of NLEN. These interviews provide a contextual framework for the North Lawndale data, particularly about how drug addiction is implicated in crime. NLEN will use the information in this report to advocate for community-based services that individuals need to successfully negotiate re-entry to the community from incarceration, and to develop new strategies and to advocate for alternatives to incarceration.

NUMBER OF NORTH LAWDALE ADULTS  
INVOLVED IN THE CRIMINAL JUSTICE  
SYSTEM EACH YEAR

According to the 2000 Census, there were 25,819 persons in the North Lawndale community 18 years of age and older. Of these, 41% were men and 59% were women. However, this is not a true picture of the number of adults in the North Lawndale community because the Census does not count those individuals who are incarcerated and out of the community at the time of the survey. When we factor in the approximate number of adults from the North Lawndale community incarcerated at the time of the Census, the total adult population rises to 38,819.

North Lawndale residents, 18 years of age and older, are involved in the criminal justice system in one of five major ways:

- Arrest
- Incarceration with the Department of Corrections
- Parole after discharge from confinement
- Return to the Department of Corrections due to parole violations
- Probation through the Circuit Court of Cook County

Arrests

We gathered information from the Chicago Police Department about the number of arrests in North Lawndale for 1999 and 2000. North Lawndale straddles two police districts, District 10 and District 11. The community is part of nine police beats, 1011, 1013, 1021, 1023, 1131, 1132, 1133, 1134, and 1135. The department was able to provide us with information on the number of arrests in the nine beats.

This arrest information covers all arrests made in the police beats comprising the North Lawndale community — that is, anyone arrested in the neighborhood is included, regardless of whether he or she lives in the neighborhood. The department is not able to sort arrests by home address. Nor do the arrest figures provide an unduplicated number of individuals arrested in the community, but rather they tally the total number of arrests within a given year.

**Number of arrests** According to the Chicago Police Department, there were 17,059 arrests made in the North Lawndale community in 1999, and 15,927 in 2000 of men and women over 18 years old.

**Type of crime** Table 1 on the following page shows the five major crime categories making up 75% of all arrests in North Lawndale.

**Narcotics** Narcotics-related arrests represented the most frequently occurring arrests, with 31% in 1999 and 27% in 2000. Within the narcotics category, possession of a controlled

<sup>1</sup> This research report was made possible with the support of a grant from the Woods Fund of Chicago.

TABLE 1  
NORTH LAWNDALE ARREST CRIME CATEGORIES<sup>1</sup>

Crime	1999	% of arrests	2000	% of arrests
Narcotics	5,258	30.8%	4,357	27.4%
Battery	3,345	19.6%	3,193	20.0%
Theft	2,075	12.2%	2,037	12.8%
Criminal damage	1,261	7.4%	1,353	8.5%
Assault	928	5.4%	1,012	6.4%
Other	4,228	24.6%	3,975	24.9%

substance was the most common arrest, accounting for 76% of all narcotics arrests in 1999 and 79.6% in 2000. The substances most commonly seen in all narcotics-related arrests were crack cocaine (34.5% of all narcotics arrests in 1999 and 34.3% in 2000), and heroin (26.7% of all narcotics arrests in 1999 and 26.2% in 2000).

**Gender and age** The Chicago Police Department provided data on gender and age for 11,163 arrests in 2000 (traffic offenses were excluded). Seventeen percent of individuals 18 years of age and older who were arrested were women, and 83% were men. Almost 47% of adults arrested were between the ages of 25 and 44, and 29% were between the ages of 18 and 25, with the remaining 24% over the age of 44.

**Convictions**

In 2000, 6,559 persons 18 years of age and older residing in North Lawndale were convicted of crime and remanded in some way to one aspect of the criminal justice system; in 2001 the figure was 6,299. (Smaller numbers only paid fines and these cases are not included here.) As there were 25,819 persons 18 years of age and older in North Lawndale at the time of the 2000 Census, approximately 24% of North Lawndale adults were convicted in 2001 in the criminal justice system for cases carrying higher sentences than fines. Convicted persons in Cook County are sentenced to the Department of Corrections or given two different forms of probation, one served at the Department of Adult Probation, and the other at the Department of Social Services. After serving time in a Department of Correction institution for the original conviction, persons are discharged to the community but remain on parole. Large percentages of those on parole violate

the conditions of parole and are returned to the Department of Corrections. This section of the report reviews data for each of these dispositions.

It is important to note that there could be some duplication in the figures presented below. For example, a North Lawndale resident already on probation for

one offense may be sentenced and remanded to the Department of Corrections for another crime in the same year. Although the number of times this occurs within a given year may be low, given the different management information systems of each entity, it was not possible to cheaply and easily ascertain any duplications. We caution, therefore, that the numbers and percentages provided may be overstating to some extent an unknown number of unduplicated individuals involved in the criminal justice system during any given year.

**Department of Corrections**

Table 2 below provides details on the number of North Lawndale residents who are committed to the Department of Corrections, the type of offense, and the average length of the sentence for each of the preceding four years. The Department of Corrections divides the crimes committed into three main categories: offenses against persons, such as assault and battery; drug crimes; and those involving property, such as theft.

The 2,442 individuals from North Lawndale sentenced to the Department of Corrections in 2001 represented about 12% of the Department's yearly intake of new prisoners for the entire state. This was about 8% of North Lawndale's adult population sentenced to the Department of Corrections in 2001, with an average sentence length of between 3.6 and 4.3 years.

Large percentages of North Lawndale residents released from the Department of Corrections to parole then violate parole conditions and are returned to the Department of

<sup>1</sup> Battery is defined as intentionally or knowingly causing bodily harm to another; assault is conduct which places another in reasonable apprehension of receiving a battery; and criminal damage is knowingly damaging any property of another without consent. Narcotics-related offenses include possession and sale.

**TABLE 2**  
**ILLINOIS DEPARTMENT OF CORRECTIONS**  
**NORTH LAWDALE COMMUNITY\***  
**OFFENSE TYPE AND AVERAGE SENTENCE LENGTH**  
 1998-2002 (through March)

	1998		1999		2000		2001		2002	
	Number	Avg. Sentence(years)	Number	Avg. Sentence(years)	Number	Avg. Sentence(years)	Number	Avg. Sentence(years)	Number	Avg. Sentence(years)
Person	458	7.1	402	7.9	286	6.0	243	6.8	39	6.9
Property	670	3.8	596	4.0	504	3.5	458	3.5	95	3.7
Drug	1,981	3.7	1,909	3.3	1,675	3.0	1,672	3.1	287	3.1
Sex	33	10.8	53	3.9	57	3.8	56	5.0	21	3.5
Other	14	2.6	19	2.9	15	2.6	13	2.4	18	2.5
Total	3,156	4.3	2,979	4.1	2,537	3.5	2,442	3.6	460	3.5

\* North Lawndale community includes zip codes 60609, 60612, 60644, and 60650.

Corrections. Data about parole violations will be discussed below under "Parole."

As demonstrated by Table 2, drug offenses represent the large majority of all sentences to the Department of Correction. The data over a four-year period between 1998 and 2001 show that the percentage of drug-related incarcerations has steadily risen, from 62% in 1998 to a high of 68% in 2001.

### Probation

Cases on probation are referred to two different departments of the Circuit Court. According to the Adult Probation Department of the Circuit Court of Cook County, 2,752 individuals from North Lawndale were sentenced to probation in 2000 and 2,818 in 2001. Typically, 95% of all the probation cases were felonies. The Social Service Department of the Circuit Court also reports that 1,270 persons from North Lawndale in 2000 and 1,039 in 2001 were referred to the Social Service Department. That department primarily supervises misdemeanor and traffic offenders, with the bulk of cases involving driving under the influence and domestic violence.

In all, 4,022 North Lawndale residents were sentenced to probation in 2000 and 3,857 in 2001.

About 65% of the persons on probation remain on probation for 13 to 24 months, and another 21% for 25 to 36 months.

### Parole

The Department of Corrections informed us that in August 2001 there were 2,487 parolees 18 years of age or older in the North Lawndale community. Sixty-four percent had served time for drug-related crimes and 86% were male. According to the Department of Corrections, approximately 45% of all those on parole fail to meet the conditions of parole and are returned to prison to serve the remaining time of their sentence.

### Data Summary: North Lawndale Adults in the Criminal Justice System in 2001

In this final section we summarize the data that we have presented. We break the data down into the number of individuals who entered the criminal justice system in 2001, and then we present a chart adding new arrivals to those already involved in the system. We caution again that these numbers might be overstatements since there might be duplication in an undetermined number of cases.

The fact that the Census shows that 60% of the persons over age 18 are female may reflect the fact that almost 10,000 adults, mostly males, were absent from the community as they were incarcerated at the time of the Census. In the 1990 Census, the breakdown of the total population was 46.4% male and 53.6% female, perhaps reflecting the fact that fewer males were incarcerated than are the case today.

NORTH LAWDALE ADULTS IN THE CRIMINAL JUSTICE SYSTEM	
New Involvement in Criminal Justice System in 2001	
Sentenced to the Department of Corrections .....	2,442
Sentenced to Probation .....	3,857
Total .....	6,299
Percentage of total North Lawndale population 2000 .....	up to 24%
Total Adults Involved in the Criminal Justice System in 2001	
Sentenced to Department of Corrections .....	2,442
Sentenced to Probation .....	3,857
On Parole .....	2,487
Still Serving Time at DOC (approximately) .....	9,893
Still on Probation .....	3,458
Total North Lawndale individuals in criminal justice system*	22,137
Percentage of all North Lawndale adults in criminal justice system*	up to 57%
* The data provided are not unduplicated. The total may be an overstatement in that there might be duplication in an undetermined number of cases.	

**INTERVIEWS WITH EX-OFFENDERS AND  
SERVICE PROVIDERS**

To complement the data on arrests and sentencing and learn about the specific situations of ex-offenders in Chicago's North Lawndale community, CIR interviewed staff, consultants, and participants in the Ex-Offender Employment Service Network (EESN) program of the North Lawndale Employment Network (NLEN). These interviews provide a contextual framework for the North Lawndale data, particularly about how drug addiction is implicated in crime. They also provide information necessary for developing further research to assess the need for alternatives to incarceration for nonviolent offenders who need mental health and substance abuse treatment. The interviews reveal that before and after arrest and incarceration, this population struggles with drug addiction, poverty, low levels of education, unemployment, unstable housing, and homelessness. However, intensive case management and substance abuse treatment programs combined with job readiness training can break the cycle of addiction, crime, and incarceration and lead to positive results for ex-offenders.

CIR interviewed three EESN program staff who themselves are ex-offenders and two consultant instructors, both of whom are mental health professionals; of the five, four are men and one is a woman.<sup>4</sup> They spoke about the goals and content of the twenty-two day EESN course and their general observations on participants and the program's impact on them. They were also asked more specific questions such as the extent to which drug use and sales are involved in non-violent and violent arrests and convictions and the range of criminal activities related to drug use. EESN staff commented on

the role of gang activities as well as their assessment of issues related to drug use and mental health, literacy and educational levels, and housing and homelessness. They also discussed measures to prevent members of this community from becoming involved in drugs and crime and to assist ex-offenders in rebuilding their lives after incarceration.

After obtaining an overview of the program and participant population from the interviews with EESN staff, CIR interviewed eight EESN participants. These participants were selected with the assistance of the EESN program manager to represent a range of ages and situations. In pre-interview conversations, potential interviewees were told that the interviews would be confidential and they would be remunerated \$20. CIR explained that we were working with NLEN to provide information that could be used to advocate for treatment options and alternatives to incarceration for non-violent offenders.

About 75% of EESN participants are male and the majority are African-American. Five of the participants interviewed are men and three are women; seven are African-American and one is Puerto Rican. The age range of 31 to 44-years-

<sup>4</sup> The figure is computed by dividing the number of individuals in the criminal justice system by the number of persons over 18 in North Lawndale. For the latter figure, the denominator, we added to the Census figure the number of individuals already serving time at the Department of Corrections who were not included in the Census count.  
<sup>5</sup> In the discussion of the interviews, "EESN staff" includes the program manager, EESN instructors, and consultant instructors.

old is also representative of EESN participants. Two interviewees had been recently released on parole and were currently enrolled in EESN classes. The other six had completed the EESN course within the past six months and were still accessing EESN support services. Three were working and two were looking for employment; three were still on parole. Participants were asked about their family background, current living arrangements, education and employment history, drug and alcohol use, involvement in activities that led to arrest, experience with the criminal justice system, service needs, and suggestions on preventative measures. The life experiences of all but one of the interviewees led them to talk at greatest length about their drug addiction and recovery and their arrest and incarceration history.

**Arrests and Incarceration**

Staff members were asked to comment on the North Lawndale statistics for arrests, sentencing, and types of crimes. Staff members said that for the most part property crimes such as burglary and theft were commonly motivated by addicts trying to get money to buy drugs. One staff person who lives in North Lawndale noted that selling drugs has become a top money-making activity for gangs and has driven up drug activity. Another staff member estimated that prior to their arrests, at least 40% of participants received their primary source of income from drug sales. Charges for drug possession are often made in conjunction with arrests for other crimes.

Like the majority of EESN participants, those who were interviewed were repeat offenders; some had more than 20 years of history with the criminal justice system. Three had been juvenile offenders and several had been involved with gangs. Most participants talked readily and at length about their offenses, the disposition of their cases, and their time on probation, in prison, and on parole. The only man who was reluctant to talk had been incarcerated when he was 18 and had served 12 years for his involvement in a gang murder. He gravely stated the circumstances of the offense

and added, "I was a young kid who made a wrong turn." The offenses of the other participants included drug possession and sales, retail theft, robbery, burglary, domestic violence, and weapons violations. The women said that they first had become involved in criminal activities—drug sales, possession, prostitution, retail theft—after they became addicted to heroin and cocaine.

One man said that he first got into trouble as a teenager when he joined a gang and dropped out of high school: "My turning point was when I was 13 or 14 and I started with a street gang. I was anxious to know about what goes on on the streets. I already knew what goes on at home." Another man talked about starting to smoke marijuana during his early teens and getting into trouble at school: "I worked on my rebellious image." But he also had a paper route "which really got my attention. The hustling and all. It gave me money for smoking and drinking." He spent time in foster care and juvenile homes throughout his youth. When his family moved to the Cabrini Green public housing project, he joined a gang and started getting in more serious trouble: "first I was sent to work camp but then they sent me behind the wall for threatening a prison officer." After his release, he continued with the gang and just before he turned 18, he was shot in both legs during a gang fight. He recovered from the gunshot wounds and over the next 16 years, he was in and out of prison for new offenses as well as for probation and parole violations. During one prison sentence, he started using heroin. He recalled "constantly getting into trouble" while in prison. It was only during his most recent incarceration that he resolved to change his life and he entered a drug treatment program.

One woman said that she started going to jail when she was selling drugs to support her addiction to heroin and cocaine. During this period she was also living in abandoned buildings. Her last conviction was three years ago and she was released on 30 months probation. After she had been in treatment, the length of her probation was reduced: "This was encouraging to me."

*... crimes such as burglary and theft were commonly motivated by addicts trying to get money to buy drugs.*

One man spent three years during his late thirties in housing projects on the south side. He was addicted to heroin. His arrests or "cases" involved retail theft and later narcotics possession. One day he was hit in the face by a rifle butt during an attack by an enemy gang and ended up unconscious in the hospital. After his most recent arrest a few years ago, he was brought to the Cook County Narcotics Court. The judge placed him on probation with mandated treatment and drug testing. He said that he is grateful that the judge encouraged him to go into treatment but he knows that the judge is strict; if he violates his probation and uses drugs, he will be sent to prison.

After recounting a lengthy history of juvenile offenses, another man said that his first adult offense was sexual assault of a prostitute, whom he attacked because "I wanted to rob her but she didn't have any money. There was no penetration but I know it's still wrong. It's something I really regret." He said that he was addicted to heroin and cocaine when he went into prison but was not offered drug treatment during his three years of incarceration. After his release he lived with his sister, who helped him find a job at a restaurant. He started using cocaine again as soon as he completed parole and later had several convictions for retail theft, using the money he made from selling the stolen goods to buy drugs. The most recent conviction was last year, when he was sentenced to six months in prison. He has since entered treatment.

One woman said that she had her first case at age twenty-one when she was arrested for selling drugs. Throughout her years of addiction to heroin in the decade since then, she has had many convictions for retail theft, selling what she stole for drug money. When she was sentenced to six months in prison for retail theft in 2000, she was on the waiting list for a substance abuse treatment program. She entered treatment after her release.

### Background of EESN Participants

Staff members estimated that 85% to 95% of participants are repeat offenders; participants who are first-time offenders are usually women. One of the staff members said that participants enroll in the program because they are

"sick and tired of being sick and tired." Participants are generally between 30 and 50 years old and the desire not to go to prison motivates them to enroll. "The older you get, the harder prison life becomes. Once you're 25 or 30, in prison other men start calling you 'pops.'"

EESN staff members had a variety of perspectives on the interrelationships among crime, poverty, drugs, family background, and the community setting. Staff members agreed that economic conditions on the West side contribute to the high arrest and incarceration rates in North Lawndale. One staff member noted that the scarcity of employment opportunities in this community "leads to hopelessness and crime." Another staff person stated that most ex-offenders committed desperate acts in specific situations because of a lapse of judgment. He added that many of these acts are related to the compulsions of drug addiction. Other desperate acts are related to loss of emotional control by people ill-equipped to handle anger and frustration in domestic and social situations. Environmental stresses compounded by a lack of communication skills contribute to this violence. He also said that the daily struggles of poverty are far removed from the daily life of the mainstream and many ex-offenders lack the social and personal living skills to be mainstream: "Daily life for many in this community consists of doing something wrong or illegal or not doing much at all." In his view, the omnipresence of crime in impoverished communities desensitizes people to criminal activities. For many ex-offenders, "it is not so much they try to break laws but the struggle for survival requires conformity to a non-mainstream system."

Accordingly, this staff member finds the concept of rehabilitation to be flawed because it presupposes "a return to the mainstream for many people who have never been in the mainstream." Furthermore, incarceration adds a larger burden to this process because "prison life reinforces everything subcultural." In his experience, programs for ex-offenders need to assist in "restructuring" them so that they are in better accord with mainstream society. These programs should also address ex-offenders' lack of direction and absence of positive role models, which can be

particularly acute at the time of release. Another staff person said that the EESN program is designed to "get people on a positive track" and to help them overcome the beliefs and negative behaviors they learned at home and in the community.

Seven of the EESN participants interviewed by CIR grew up in the Chicago area, including three who spent some of their childhood in public housing projects. One of the interviewees grew up in Puerto Rico and New Jersey and was 35 years old when he came to Chicago. Many of them recounted their childhood as being marked by disruptive changes of caregivers and residence, unavailable or absent parents, and early exposure to alcohol and drugs.

One participant, a 31-year-old woman, dated the start of her troubles to her junior year in high school when she moved from suburban Harvey to Chicago so that her mother could take care of her ill grandmother in North Lawndale. She said that before the move, "I loved school. I was always on the honor roll. My old school was a real school where you learned things. At the Chicago school people only hung out. I began to cut classes, which I never did at my old school. I met my children's father when I was 17. He was five years older than me. I became pregnant and didn't graduate high school."

About growing up on the West side, a 31-year-old man recounted: "We had a good family, my brother and I were honor roll students." When he was in eighth grade, he won a scholarship to the Joel Hall dance school: "I loved to dance and in grammar school I was in theater." He said that as he became older, "I had no place in my neighborhood to show my talent except at home. Later I showed it on the streets." When he was 18, he was sentenced to twelve years imprisonment for a gang-related crime.

Thinking back on his upbringing, a 44-year-old man began with the appraisal: "I'm from a dysfunctional family." He was born in Mississippi and moved to Chicago when he was eight

to live with his stepfather. Later he lived with his grandparents. He left high school during his junior year.

In another interview, a 37-year-old man talked about the anger he felt when he was nine and he had to move with his mother to the Cabrini Green public housing project. Prior to that he was being raised primarily by his great-aunt on Chicago's West side: "I had a lot of anger and resentment and animosity about leaving my great-aunt and all my friends. And there was a lot of negative activities going on in the projects." He recollected that his mother kept him involved in school activities and that she "was strict and enforced a lot of rules. Other kids could do things but not us." However, because she worked so much, his mother was "hardly ever home."

A 35-year-old woman said that when she was growing up on the West side of Chicago with her mother and older and younger brothers, she never had a relationship with her father. After her grandmother passed away when she was ten, "basically we were by ourselves. We had a lot of time to get in trouble. My mother wasn't a bad person. She worked the 3 to 11 shift and just wasn't around." When she was fifteen she had her first baby and left school after ninth grade "because I didn't have a babysitter." Her mother

moved the family to California but it didn't work out and they moved back to Chicago after one month.

A 43-year-old man said that his family moved to New Jersey from Puerto Rico when he was seven. His mother remarried when he was ten and he lived with her and his step-father. His father remained in Puerto Rico with

his girlfriend and their children. Two of his brothers stayed in Puerto Rico; their involvement with drugs and gangs resulted in the death of one and imprisonment of the other. Another brother living in New Jersey became addicted to heroin and died from AIDS. He noted that his father and uncles were "social drinkers" and not drug users. During high school, his girlfriend became pregnant and he dropped out and started working full-time. Until he became addicted

*"Basically we were by ourselves. We had a lot of time to get in trouble. My mother wasn't a bad person. She worked the 3 to 11 shift and just wasn't around."*



to heroin in his mid-thirties, he had steady employment as a delivery driver.

Born in Gary to a single mother from Little Rock, a 41-year-old man said that at the age of five he and his brother were placed in a foster home in Hammond. He recalled his foster parents as being strict and religious; his foster father worked and his foster mother was at home: "They made sure we went to school and gave us a good structure." Occasionally, his mother visited, bringing them presents. When he was 14, his mother regained custody of him and his brother and they went to Chicago to live with their mother and sister in the Cabrini Green housing project. About his move to the projects he said: "They're dangerous and there's too many people living there. The months I was there seemed like a lifetime." After about six months, they moved to Uptown, a low-income neighborhood on the North side. Living with his mother was very different from his earlier years with his foster parents: "My mother would leave us alone. She was into the club scene. She never had a husband or a steady boyfriend. After my foster father, I never had a father figure to guide me and my mother was never there. I took to the streets when I got lonely." He was suspended during his first year of high school. When he didn't return after his suspension, "my mother didn't try to keep me in school."

A 34-year-old woman spoke about her difficulties with her mother during her childhood in Chicago: "My mother never treated me like her other children. She didn't pay any attention to me and was harder on me. This made me become quiet and closed. I hardly talked to anyone." She lived with her mother, two half-brothers, and half-sister in the Hilliard Homes public housing project on the South side. She recalled that her father was very affectionate to her but she rarely saw him after her parents split up when she was nine. She finished high school and was seventeen when her first child was born. Later she lived with her children in Stateway Gardens, another South side housing project: "It was horrible and dangerous all the time. I'd take my kids to

the playground and have to run to cover them when the gang shootings started."

**Participants' Children**

With the exception of one man who was to become a father for the first time in a couple of months, all of the other participants are parents. Of the four men who are fathers, two of them live with their children and their children's mother. One man spoke with great pride about his son who is a college graduate and army officer; another was worried about his drug-dealer son.

The women all had given birth to their first child when they were teens. One has six children, another five, another three. These mothers lost custody of all of their children due to their drug addiction and incarceration.<sup>5</sup> In some instances they lost all parental rights and their children were adopted without their knowledge or consent. These women's children are in the custody of family members, typically maternal and paternal grandmothers and aunts. For some women, family disputes make the difficult process of regaining custody even harder. One woman noted that her maternal aunt, who has custody of two of her children, is resisting returning them to her because her mother and aunt are feuding. Disrupted relationships with their children and loss of custody are painful issues for all three mothers. All of them expressed determination to improve their lives so that they could be positive role models for their children.

One woman recalled: "When I was using, I just couldn't see that I wasn't taking care of my children. You think you're there taking care of them but you're not really there." Another woman described the circumstances of losing her young children after she became addicted to drugs: "Everything started going real bad. I was very unmanageable. The only thing I lived for was to get high. I tried to hide it but it was obvious because of the way I was carrying myself. I felt ashamed. I wasn't taking care of my kids properly." This woman has regained custody of one child and is attempting to reunite with two

*EESN participants who  
are mothers... are  
highly motivated to  
build positive  
relationships with  
their children.*

<sup>5</sup> In contrast to these three women, an EESN staff member noted that the majority of the women EESN participants do have custody of their children

others. The third woman who was interviewed also recounted with sadness her similar experience: "It was hardest when the children were removed from my custody. I couldn't shake the pain and started to use more."

An EESN staff person said that for ex-offenders, particularly those who are mothers, it is important to learn more about issues related to children and family relationships. Some parents may have lost custody of their children well before their incarceration. After release others become reunited with their children or attempt to regain custody. He observed that EESN participants who are mothers—regardless of whether they have custody—are highly motivated to build positive relationships with their children. "Bridging the gap" in these relationships is important to their self-esteem. He also commented that child care does not seem to be a substantial obstacle for participants who are custodial mothers, possibly because other family members already had been providing care during the woman's incarceration.

**Housing and Homelessness**

All of the EESN staff stated that ex-offenders face serious difficulties in finding and maintaining stable and safe housing, which results in their high risk and high rate of homelessness. One staff member estimated that at least one-third of participants have problems with their living arrangements. He also said that homelessness can be difficult to document and is likely to be more prevalent than it appears. Furthermore, even when EESN participants have a place to stay, their living arrangements can be "shaky." Many ex-offenders are "living with one foot in the house and one foot in the street." They also may face pressure to contribute money to the household where they are staying, money that they often do not have. Another staff member commented that participants want to hide their housing difficulties: "Some give a relative's address and won't tell you that they don't have a home. It's embarrassing for them."

EESN staff agreed that participants with good living arrangements are more likely to do well and complete the

program. One staff member emphasized: "Homelessness is a huge issue and housing is the first need. It's key for eating, hygiene, and stability. Participants need a stable environment to succeed." Another staff member illustrated that housing problems increase during the cold with the example that "they can't sleep on their sister's or aunt's back porch in winter." When participants become homeless and seek assistance, EESN staff members make referrals to shelters and transitional homes.

*... ex-offenders face serious difficulties in finding and maintaining stable and safe housing...*

One staff member noted that it is not uncommon for women to have more trouble than men in "getting back into the family" after release from incarceration: "Family members don't show the same good will to women."

He said mothers and grandmothers are happy to get sons and grandsons back and are hopeful for them. However, possibly because of issues around the custody and care of children, mothers and grandmothers are less welcoming to ex-offenders who are mothers: "Men are seen as a potential asset. It's good to have a man around the house. Women, especially if they have children are seen more as a liability."

The current living arrangements of the eight EESN participants who were interviewed include: one man and one woman with their mothers; one woman with her mother and one of her children; one man with his father; two men with their children and their children's mother; one woman with her fiancé; and one man in a transitional home. Those who were living back in their old neighborhoods expressed the need to be vigilant against associating with people from their past who are still involved with crime and drugs. One man said: "Right now my family is taking care of me. I'm living at my mom's house and I try to avoid my old contacts." One woman who was recently released said that except for coming to EESN class, she avoids going out because she doesn't know whom she might meet on the street.

One participant said he was saving money so he could move out of his father's home and rent a small apartment for himself. The man living in the transitional home with

fourteen other men spoke positively of the year that he has spent there: "We are like a family away from the family. There's no arguing—if you have a two-liter bottle of soda, you share it." His low monthly rent of \$130 has allowed him to save \$1,000 in past six months for his expenses when he moves out to a studio apartment in a couple of months.

Another man expressed concern about the stability of his living arrangements. He lives with his partner of twenty years and their three children: "Sometimes she throws me out." Two years ago he was sent by the court to a substance abuse treatment program after he was arrested for domestic violence. Thinking aloud about the possibility of being thrown out again, he said: "I don't know what I'd do. Maybe I'd have to go into some kind of transitional home. I'm forty-one-years old, I don't want to live with my mother and I can't live with my sister because she has her family and kids."

**Educational and Literacy Levels**

Although a small percentage of EESN participants have had some post-secondary education, the majority do not have a high school degree or GED. Commenting on the women in the program, one staff member said: "Many don't have their GED but they're smart and they read a lot." A staff member with extensive experience as a literacy volunteer said that most participants have adequate literacy levels for the class and are motivated to learn. He speculated that since the program is voluntary, those with low literacy levels are not likely to enroll because "they want to hide their secret." He added that with EESN's new contract with the Illinois Department of Corrections (IDOC), which expands enrollment, they may begin to see more participants with learning disabilities and low levels of literacy. In order to evaluate the educational level of participants and make appropriate referrals, EESN is planning to administer the TABE (Test Adult Basic Education) to all participants.

Staff members agreed that low educational levels and lack of job skills are barriers to employment for many participants. The lower their literacy and educational levels,

the more difficult it is for participants to advance within the program and find stable employment. Another staff member said that educational and literacy levels are becoming more of an issue among employers who want to be sure that employees can read well enough to understand posted materials such as safety guidelines and OSHA regulations. EESN refers participants to adult education and GED classes. But for participants who start at the fourth or fifth grade

level, it can take four or five years to pass the GED. Committing so much time to classes is difficult, especially with the pressure to earn money and meet family responsibilities.

Of the eight participants who were interviewed, only one had completed high school. Five had no high school degree or GED; one man completed his

GED and two Associates degrees during his twelve years in prison, where he also earned certificates in computer training, custodial work, and food services; one man studied for his GED while in prison but was released before he took the test. One woman, who had completed her GED while in prison and was recently released, beamed as she said: "I just got my GED certificate in the mail. I'm real smart."

Both staff and participants lamented the extent to which the Illinois Department of Corrections (IDOC) has reduced the availability of educational services to inmates. One staff member said that the trend over the past five years has been to limit access to education and give priority to younger prisoners and those with shorter sentences. With its focus on the GED, IDOC has eliminated many opportunities for post-secondary education. One participant who had dropped out of high school commented on trying for his GED in prison: "The way it's set up now is changed from the 1980s. Being a four-time loser, they put me on the bottom of the list. After a while I got into some ABE (adult basic education) and then pre-GED, but lost interest and then was released."

*"Many participants are completely unprepared for employment. They have no idea of the kind of behavior expected in the workplace."*

**Employment Experience**

The majority of EESN participants have limited employment experience. Some have never worked a regular job and have practically no employment history. One staff person said: "Many participants are completely unprepared for employment. They have no idea of the kind of behavior expected in the workplace. They're playing ping pong when corporate America plays live tackle football."

The participants who were interviewed had a range of past experience in low-wage employment such as housekeeping, fast food, retail, telemarketing, and hospital food service. Two of the men had worked steady jobs before being incarcerated, one as a forklift operator, the other driving a delivery truck. All of them expressed the desire and determination to either find a job or move to a better job. For example, one man said: "Everywhere I go I fill out applications." Several of the interviewed participants were placed in jobs after completing the EESN program. One man and woman were working on the assembly line at a North Lawndale factory, where they can become eligible for union membership and benefits after 90 days employment. One man working part-time at Walgreens can become eligible for benefits after 6 months and has asked to be scheduled for more hours. Another man was working a part-time job at a fast food restaurant without benefits, where his parole officer had referred him; he also applied to work a second job at a factory.

Two men were unemployed and actively looking for work. One had recently resigned from a position at a suburban warehouse, with a daily commute of nearly four hours: "I'm a certified forklift operator and worked in warehouses for many years. I've been a supervisor and foreman in the past. But now after 6 months in federal prison it's hard to find a job." Two women were enrolled in EESN class and were not yet employed.

Each of the participants expressed specific occupational interests. One woman who was enrolled in the program at the time of her interview said: "I like numbers. I'm very good at any kind of math. I would like to work in accounting

or bookkeeping if I can." The woman, who had completed high school and had taken some college courses, was hoping to enroll in classes "to learn more about computers." The man who had completed his GED and two Associates degrees while in prison and had found a job in factory said that he would like to work with youth: "I would like to give back. I would like to be a youth counselor and develop a program to help kids stay in school and stay away from drugs." He also recalled his childhood interest in theatre and said: "I'm still interested in drama but I have never told anyone else. You're the first one I've told. I'd like to be in a sitcom." Another participant also expressed an interest in working with youth as a drug counselor but said that he would need to first get his GED and then an Associates degree. A man in his forties who has worked delivering meals in hospitals wanted to get his GED and then attend a trade school for "something like computer repair. I want to find a career for the rest of my life."

**Substance Abuse, Addiction, and Treatment**

A large proportion of EESN participants have histories of substance abuse and addiction. One staff person estimated the figure to be 75%. Many participants have been through court-mandated or voluntary treatment programs. While they are enrolled in EESN classes, participants are tested for drugs. If they test positively, EESN will not place them in a job until they test negatively. EESN staff are also vigilant for indications of alcohol use, and one staff member said that he sees many signs of it among participants. Those with drug and alcohol problems are referred to treatment centers.

Both EESN staff and participants spoke at great length about the destructive impact of substance abuse on individuals and the community and how drug sales and use are implicated in so much of the criminal activity in North Lawndale. One staff person said: "This is a drug habituated environment. People become desensitized by constant exposure to the drug users and drug related crime. Drugs are a major cause of the downward spiral of individuals and communities." He stated that drugs motivate much of the

community's criminal activity: "In an overwhelming number of cases—at least 90%—drugs or alcohol are involved." And alcohol is frequently related to crimes involving violence. However, he noted that the role of drugs and alcohol is usually not cited in crime reports unless it is specifically a drug crime. Drug addiction leads to involvement in a range of criminal activities, including selling drugs, theft, burglary, and robbery.

Another staff member said that alcohol or drug use is implicated in 100% of the crimes in the 6 to 12 hour period before the crime: "Drugs are the engine that's driving all the crime." He also said that addicts take just about any risk to obtain money for drugs, including armed robbery, prostitution, and burglary. In referring to prostitution, women sometimes tell him: "You don't know all the things that I've done to get my drugs." A different staff member noted that women who are arrested for drug possession and for retail theft often say: "The desire for drugs pushes me into crimes I'd never commit if I was sober." According to another staff person: "Drug use is so common that it's become normal within the community." In these circumstances, women turn to selling drugs as "another way to get money for family expenses." Given the difficulties ex-offenders face in finding regular paid employment, one staff person said that some begin or return to selling drugs because it offers one of the few readily available avenues of making money.

One of the EESN mental health consultants said that participants report having started to use alcohol as young as eight or nine years old, with 13 to 15 the average age. Few participants admit to problems with alcohol or to being an alcoholic although some have been in treatment programs. He noted that participants refer to past alcohol abuse with comments such as "it may have been a problem but I slowed it down." He does not hear people say that they no longer drink because they had an alcohol problem in the past. Participants talk about having started drug use, typically smoking marijuana, between ages 13 and 17 years old. He noted that "marijuana is the drug of choice for the young. Many are already using alcohol. Later they start trying harder drugs, around the ages of 18 to 21. Rock

cocaine is the favorite followed by heroin—inhaling cocaine, inhaling heroin, then injecting."

EESN staff agree that among the ex-offender population, drug use primarily relates to emotional and psychological issues, with drugs being used as a form of self-medication for depression and anxiety. In the words of one staff member: "Drug use for self-medication is very common. People are going after a state of numbness." The depression and anxiety arise from the distress caused by difficult home and social environments, lack of education and job skills, and "negative self-assessment." As one of the EESN mental health consultants put it: "There are horrible childhood histories among this population and the reasons for depression and anxiety as adults are related to being mismanaged as a child." Such histories include physical, sexual, and emotional abuse as well as neglect and abandonment by parents and other caregivers. In these conditions, it is not uncommon for "youth to turn to the streets for support" and for those in pain to seek relief through "the soothing effects of drugs." In a similar vein, another of the EESN staff related drug use to social and economic conditions: "When all around you is despair, you look for something to give relief from hopelessness. And drugs are so easy to find. Someone around you will bring them to you. People will come under their influence when they are at their weakest, most vulnerable, and neediest."

All the participants who were interviewed—except the man who was incarcerated at age 18 for a long sentence—are recovering from long-term addiction to crack cocaine and heroin. All of them had their own particular constellation of circumstances leading to drug addiction: young women whose drug-addicted partners introduced them to heroin; a man who first started using heroin in prison; a man who worked a regular job and used cocaine on weekends; and a man who became addicted after first using heroin in his mid-30s. As their addictions took hold, they all became enmeshed in criminal activities.

One woman recounted the circumstances leading to her addiction: "I was so stressed from my husband I started using drugs. I never used any drugs or alcohol before. My

husband used heroin and got me started on it." She spoke about how her life spiraled out of control with her growing addiction: "When you're on drugs, eventually you do things you never thought you would. I even tried prostitution. But it was too scary. I was beat up three times and so many girls who do it are found dead. I began to sell drugs."

Another participant said that he started using heroin when he was in prison in the 1980s: "I got the drug habit in prison and when I was released it was plentiful on the streets." One man started using crack cocaine when he was thirty; he was a weekend user for thirteen years until he was arrested and imprisoned for fraud. When recalling how her mother and aunt often went out in the evenings and that they liked to drink and smoke marijuana, one woman recovering from heroin addiction commented: "I thought that growing up was about going out and having fun. I grew up around adults using drugs and became attracted to that lifestyle."

One man spoke at length about how desperate his life became when addiction to heroin took it over at age 37: "The drugs really messed me up. My friend told me not to try heroin, he knew it would be bad for me. I didn't know I would get a habit." When he later moved to Chicago, he first slept in alleys next to dumpsters and later rented a room in another heroin user's apartment in a housing project on the South side. For several years he worked in the projects as a lookout for drug dealers: "The big drug dealers are addicted to money, not drugs. They have big houses in the suburbs and drive Lincoln Navigators." During these years, he was involved in other criminal activities as well: "I started stealing, robbing, and doing what I need for my habit."

A man with a twenty-year history of addiction to cocaine and heroin said: "Drugs really destroy lives, not only in our neighborhood. Drugs do not discriminate. It doesn't matter if you're black or white. I lost all of my jobs because of my addiction." He started smoking marijuana when he was fifteen and later tried "acid and powder." He spoke of his youthful ignorance: "Being that age I didn't know what I was getting into. I got locked up because of drugs. I didn't

find out until I was locked up that the guys I was hanging with were Black Souls [gang members]. I didn't get involved with the gang until I was in prison but let the gang go after my release." He started using cocaine again as soon as he

completed parole. However, he never dealt or sold drugs: "I knew the consequences. I was just a user." In reflecting on what may have led to his drug use he said: "We turn to drugs because of our pain. Drugs are addictive and people who are hopeless and depressed use them. I know I'm not a bad person but the drugs make me do bad things."

Like other participants, one woman noted the toll that drug addiction has taken on other family members; her sister is also in recovery from addiction to heroin and her brother is still using it. She started using drugs when she was about 21, first trying marijuana and crack cocaine. Later because "my boyfriend used heroin, one day I tried it. You think you're having fun and then you're an addict." About her life as an addict she said: "When you're an addict, it's a nonstop process of getting, using, and getting more."

Staff agreed that treatment is key to supporting participants in overcoming and recovering from addiction, particularly given the physiological addiction that results from alcohol, cocaine, and heroin use, which makes cessation extremely difficult without treatment. For many in this population, the criminal justice system and prison are the most common places where they encounter treatment opportunities. Staff noted that motivations for treatment vary: some may enter treatment programs in prison thinking that they will have better conditions than the general prison population and it is a way to "lighten their sentence." Others enter because they want to "quit for good."

However, available openings for treatment programs both inside and outside prison do not meet the need. And the quality and comprehensiveness of available programs is uneven. Given the difficulty that many ex-offenders with histories of addiction face in sustaining sobriety, and the number of occasions they may need to return to treatment,

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readily available treatment opportunities and options are essential for supporting them in their recovery. Transitional homes for ex-offenders after their release also are important resources for this population and provide continuing support to those who were in treatment while in prison. A number of EESN participants are mandated to continue substance abuse counseling during their period of parole.

Just as each person who was interviewed has his or her own account of addiction, each has a particular story of treatment, relapses, and recovery. Some have been in recovery for a few weeks, others for several years. One man minced no words: "Fighting drug addiction is like a war." One woman said treatment taught her that "drugs are a slow suicide. When you're in recovery, you find out what's really going on. I was sexually abused and raped. Drugs themselves are not the problem."

About her experience with treatment, another woman said: "I had a problem and didn't know how to deal with it." She said that she never asked for treatment when she was in jail but as soon as she went to prison, she entered a treatment program. She participated in the program for nine months: "I found out a lot about myself. I had a lot of anger. I talked about the things I always held inside. I had bad things happen to me. I had my throat slashed, my husband abused me, my parents split up." She contrasted the first time she was released from prison with her most recent release, coming out after having been in treatment: "The first time I got out of prison, I didn't have any plans. Because of Gateway [treatment program], I knew I would need help when I got out. It was wonderful. At the time I didn't think of it as helping but I know it did."

One man talked about having been "pushed into treatment in the past by his mother and his fiancée." He went back to drugs and was incarcerated for 12 years: "This time was real different. I had got so tired. I got in touch with myself in county jail. I asked for help and I got in Gateway and involved myself wholeheartedly. I shared with the group and there I found God. I accepted Jesus Christ. As a kid I had heard about him but with things around me being the way they were, I didn't know he existed. Before I had so much

fear within about what someone else would think. I did a lot of fellowship and witnessing. I wasn't self-centered anymore. I was thinking for others." He continues to attend NA and AA meetings. He describes his sponsor as being "like a mentor. He's been clean 14 years and is working. And he's a landlord, father, and grandfather. If I have a problem outside of the meeting, I talk to him."

One woman said that she had been in and out of treatment programs for years. Most recently, at the end of parole she was convicted again and sent for treatment for six months. She spent three months in an in-patient program and three months in outpatient treatment for her heroin addiction: "This changed my life around. I was sick and tired of being in and out of jail and really tired of using drugs. I asked God to help me remove this obsession." She tries to go to meetings but it is more difficult now that she is working 2 p.m. to 10 p.m. She met her fiancé at an AA meeting: "he's made 12 years and I made 3 years on July 27."

One participant said that he was living on the East coast when his mother read about a treatment program in Chicago and put him on a bus to send him to the program. When he arrived, he did not go for treatment but instead spent the next five years on the streets as an addict. He never had any treatment during his numerous stays in Cook County Jail. Looking back on the ravages of his addiction, he said: "When I was caught by police in 1999, I was a dead man walking. I laugh now when I think about it." He now co-leads an NA meeting and lives in a transitional home, which requires that he attend at least 5 meetings per week. He also has a mentor from AA. He expressed delight in his new life in recovery and his involvement with his recovery groups: "In AA and NA groups people say, 'keep coming back, it works if it's working.' In group we become like psychologists. We can tell what others are feeling. We're like therapists."

Another man said that he had been a cocaine and heroin addict for 20 years before he first entered a treatment program. However, seven months after the program, "I went back to my old ways, being with the wrong people and started using again. I wanted to change but didn't know

how." After being arrested for a domestic violence offense, the court sent him to a 30-day in-patient program. Again he started using after being released from treatment. At the time he first enrolled in EESN he was still using and was referred to another treatment center, where "the program manager at that center is the guy I started shooting heroin with in the 1970s." In the past year, he went through that treatment program and then returned to the EESN program and completed it.

One woman said that she struggled with heroin addiction for over ten years. The first time she tried to stop using, she had a three-day detoxification treatment but no follow up and was soon back to using. She spoke about her current methadone treatment program, which she started two years ago: "I went into treatment because I was so tired. I was tired of living just to get a bag. My kids are getting older and I want to be a good role model." She feels this treatment is helping her change her life: "It keeps me from the desire for heroin. I'm down to a small dosage now. I go to meetings often—whenever I feel like I need it—to keep from using again." She lives with her fiancé, a recovering addict who has not used drugs for three years and is a deacon at his church: "He turned his life around too."

### **Other Mental Health Issues**

Staff members agreed that working with participants on mental health issues requires sensitivity to the relationship between perceptions that equate mental health problems with "being crazy" and widespread resistance to counseling in this community. One staff member said that the anger management component of the EESN curriculum is the "Trojan horse" that introduces participants to mental health issues and therapy. The instructor of this course, who also conducts mental health assessments of participants, said that the two most common psychological problems among these ex-offenders are depression and adjustment disorder with mood and anxiety symptoms. He noted that some also exhibit personality features related to anti-social conduct, which was the basis of their survival in the past on the streets and in prison. He also observed that although participants generally profess to be in good health, there is

some denial about alcoholism. Another staff member commented that participants often start the program feeling discouraged and have low self-esteem; he sees "young people who already feel disappointed with themselves"

The anger management instructor said the goals of the course are to educate participants about emotions with a focus on anger and to reorient participants to how they feel by introducing them to new thought processes. The class also provides an introduction to a group psychotherapy experience. By speaking and listening to others in a group setting, participants begin to dispel silence, isolation, and shame about painful experiences from their past, especially experiences of abuse. In this setting, participants also examine relationships with their parents, partners, and children. Over half of the participants express an interest in receiving counseling at the conclusion of the class. However, despite follow-up contacts, a small proportion of participants actually make use of these free counseling services. These services are also available to those participants who are mandated by the terms of their parole to continue to receive counseling or substance abuse treatment.

Many participants face issues related to domestic violence. Two men had been arrested for domestic violence offenses. One staff member estimated at least 80% of female ex-offenders are victims of domestic violence. Of the participants who were interviewed, three women spoke of being abused in the past. One participant said that she is currently trying to help her young niece who is a victim: "My niece now has a two-week-old baby and is abused by the baby's father. She has an order of protection. She's a CNA [certified nursing assistant] and is really stressed out. I try to help her and tell her about domestic violence and how it hurt me."

### **Service Needs of Ex-Offenders**

Staff and participants discussed features of the prison system that create barriers to receiving services that prepare ex-offenders for their release, particularly the scarcity of openings in educational and treatment programs. The lack of services is compounded by the constant movement of inmates within the prison system, which means that those



who are on a waiting list for classes or treatment programs are placed at the bottom of another waiting list when they are moved. Some participants said that when they finally started in a treatment or educational program, they were moved or released before completing it. According to the Department of Corrections, the movement of inmates is necessitated by changes in their security status; the Department attempts to ensure that inmates who are in treatment programs continue them after moving to a different facility, but inmates on waiting lists face even longer waits after they are moved. One staff member also expressed concern about the large number of young women who are medicated, which keeps them dependent on drugs and can disqualify them for work release.

The EESN offers job readiness and employment sector training to ex-offenders to attach them to the labor market quickly while providing them with the pre- and post-placement support and case management they need to keep a job and move forward on a career pathway. In their interviews, the participants uniformly spoke with enthusiasm and appreciation for the EESN program, the dedication of the staff, and the support of other participants. Several commented on how meaningful and inspiring it was to have ex-offenders on the EESN staff.

One of the participants said that at EESN, "people there were just like me. I didn't have a fear of rejection anymore. I didn't mind sitting in the room sharing. And the instructors were very helpful. I knew one of them from his reputation when he was in prison. To see him now inspired me." Speaking of another staff member, one participant said: "I heard of that gentleman when he was doing time. He really brightens me. He goes out of the way to help. He's really concerned." Another man said with a smile: "I'm glad I found this program. I was crazy when I was using drugs. Back in my madness, all around me were drugs and guns. The program has opened many doors for me. People really care. I have nothing but good to say about the program." Two other participants spoke about the program with similar

enthusiasm. One said: "I'm very grateful for the EESN program. It enlightened me on the things I'm using on the job." And the other commented: "I'm glad they're here, I need the support."

Several of the participants mentioned having been in other employment programs, but they found the EESN program more effective since it focuses on ex-offender issues. One man who had been to two other programs before enrolling in EESN said: "Of all of the programs, this is the one that really helped me. The staff are really inspiring. They understand and go deeper; they find out what's really going on. The program builds my level of confidence." He also commented that the curriculum's emphasis on communication skills and how to get along with people has especially helped him. Another man said that since taking the class he knows he must continue to "work on my thinking problem." Speaking about the class materials being developed and piloted by EESN that focus on the emotional and social issues of female ex-offenders, one woman said that it fits her circumstances: "It's really our lives in that book we use in class."

Participants said that the job placement phase was particularly useful because it prepares them well for interviews and because EESN refers them to employers who hire ex-offenders. One man said that before EESN, he did not know what to say in interviews. Now with training and practice, he felt ready for his interviews: "I can hold my head up high and I wasn't worried." Another man said that

the resume-writing class helped him make a resume that includes skills he gained from prison jobs.

One staff member said that to succeed in the EESN program, participants need a network of people who support and encourage them—family members,

friends, and church, recovery and self-help groups. He also felt that more information was needed about "the gap of loneliness" that ex-offenders face after their release from prison and the extent to which it may be a factor in the recidivism that results from taking up with former contacts. The staff member who developed the class

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materials for women said that they could benefit from mentors, particularly for guidance on issues related to their children and their fears about their children getting into trouble. Better information about community resources and referrals to services for food and clothing would also benefit participants. Staff also noted that the younger participants are generally "less ready" to change their lives than older ones: "The younger they are, the more willing they still are to do the crazy stuff." However, even for the younger ones, "a little of the class might sink in. It may be helpful for later."

In talking about the services that were helping them or other services they might need, participants concurred with staff that need was greatest for stable and safe housing, financial resources, family counseling, mentoring, and substance abuse treatment. One woman said: "My biggest problem is letting go of the anger against my kids' father. He hurt me and he hurt my kids. I have to forgive him." One man felt that people with past drug problems needed more help while they were going through the program. He said he stayed drug free throughout the EESN program but he was afraid that as soon as he started working and earning money, he would start using drugs again.

Another participant was burdened with serious financial problems. His family had to use his retirement money to pay bills while he was in prison and he was filing for bankruptcy because of his wife's medical bills from her pregnancy and the birth of their child. He also mentioned fighting with his wife over disciplining their children. One man said that his current problem was "dealing with women." Both were reminded of EESN's free counseling service. One woman said that she was staying in touch with some of her past treatment counselors and would like a mentor with whom she could discuss her problems. A woman who had talked at length about losing the custody of her children said that a support group for ex-offenders who are noncustodial

mothers might be useful: "Maybe it would help to talk with others like me. Children need their mother. We love them like no one else can."

The staff all stated that the current level of resources are inadequate for meeting the needs of ex-offenders for housing, adequate nutrition, employment, substance abuse treatment, and family reunification. They agreed that these needs are particularly great following release from prison. One staff member described this volatile period: "For ex-offenders, the transition from imprisonment is like the space shuttle coming in from outer space— it's hot on re-entry." Another staff member felt that not all ex-offenders are ready to

enter programs like EESN immediately after their release. He said that many of those who have just been released are "scared to death. Half have never had a regular job; many have no work skills and low verbal skills. They're struggling with fear and desperation and are content being cared for."

Staff members said that there is a need for more community corrections programs and adult transition centers, and better case management for those on parole and probation. These and other services would help to "build bridges for ex-offenders from prison back to the community." When discussing alternatives to incarceration, one staff member said that these programs needed more effective screening tools as well as more outcome and evaluation data. He added: "These alternatives are not for everyone. Some people need to serve time."

**Prevention**

All of the instructors agreed that more resources must be directed toward services for at-risk children. One staff person emphasized the need for more "positive programming early on to expose and motivate children to become involved in other lifestyles and to provide attractive alternatives to gangs, drugs, and violence. There must be more community support for the healthy social and educational development of children." He said that 10 to 13 is the typical age range when boys join gangs—"looking to

get in where I fit in." He added that by the time gang members are 25-years-old, they begin to regret being in the gang and most are completely out by age 35.

Speaking from their own experience, participants also agreed about the need for community-based programs to educate children and youth about drugs and gangs and their consequences and alternatives. They emphasized the need for parents and other caregivers to be actively involved in the daily lives of children and the negative consequences of the lack of such involvement. When asked about what she thought might have helped her in the past, one woman said: "I needed someone to counsel me about drugs and domestic violence. I needed to know how to deal with the pressure. I'm the only one in my family that used drugs. I didn't know about drugs. No one in my family knew about drugs." She added that she thought young people today were better informed about drugs than she was, but that they need interesting and fun programs to keep them off the streets and out of trouble.

In reflecting on what might have helped him as a teen, one man said: "When I was a kid, I didn't know I had another choice, a better choice. My mom told me but I thought she didn't know." In order to reach at-risk youth, he believes that "kids need to hear from people who have been there. You have to give it to them raw. Tell young people about the dangers and what you know based on your own experience. Tell them that friends aren't what they appear. You are going to pay. You need to be honest. They need to learn that for the wrong things you do, you're going to receive consequences."

One woman thought that she might have been helped if she were better informed about heroin and crack cocaine. She also considered the possibility that "it would have helped me if my mother had been there showing us, guiding us." She paused for a moment and then added: "But who's to say?" One of the men felt that the unavailability of parents and particularly fathers, increased the risk of drug use by children and teens: "They need someone to provide guidance

and tell them the consequences of using drugs. A lot of kids don't have support, there are no parents at home. Boys need father figures and mentors."

A third woman speculated: "Maybe kids are more educated now about drugs. I didn't know nothing. Prevention starts at home and needs to follow up at school. Programs should be required because the kids need to know what drugs do. If I knew what the drugs did to you and the toll they take, it might have stopped me." She emphasized:

"Parents need to talk to kids. My mother never talked to me about nothing. I talk to my kids about drugs. I have to—my 7-year-old thinks the gangbangers are cool." She thought that it might also be possible to warn children and teens about the dangers of drugs through "good films."

**Follow-up with Participants**

EESN continues to provide services to participants after they complete the program. However, as participants frequently move and may not have working telephones, it can be difficult for staff to maintain contact after they complete or leave the program. After completing the class and the initial job placement period, it is up to the participant to maintain the contact necessary for receiving additional services. Participants are eligible to continue to receive transportation passes during their first 90 days of employment, which also encourages them to maintain contact with project staff. Others contact the staff for advice about resolving on-the-job difficulties and for employment leads.

Two months after their interviews with CIR, two participants had completed the EESN class. Three were still employed at the same job, and two of them had completed 90 days. The two men who were unemployed had since found jobs; one as a night watchman in North Lawndale and the other as a factory worker at a plant on the South side.

One participant, who had never worked before in his life and was working part-time at the time of his interview, had since started a second job at a factory. However, he did not

*... more resources must be directed toward services for at-risk children.*

know about a past arrest warrant, which had been issued in another state before his incarceration in Illinois. As a result, on a recent visit to that state to see his children, he was arrested, put in jail, and has lost both of his jobs. An EESN staff member commented that this arrest for a past offense was particularly unfortunate since the participant was working so hard to turn his life around and was staying out of trouble. He also commented that more information is needed about the issue of unresolved past arrest warrants, speculating that they might contribute to the numbers of EESN participants who drop out during the class or suddenly discontinue with placement services.

## CONCLUSION

It has been widely recognized that low-income communities have high rates of involvement in the criminal justice system. The magnitude of this involvement is clearly delineated by the data in this report: nearly one-quarter of North Lawndale's adult population became involved in the criminal justice system in 2001, and nearly three-fifths of all North Lawndale adults in 2001 were on probation, parole, sentenced to prison, or incarcerated. In order to address this issue through policy changes on sentencing and by increasing the resources and services for ex-offenders, NLEN plans to continue and expand its efforts directed at:

- Increasing public awareness about the interconnected problems of substance abuse, crime, unemployment, and poverty.
- Increasing awareness among government and community agencies of the need for pre- and post-release services.
- Advocating for basic reforms within the Illinois Department of Corrections in order to improve the employment prospects of ex-offenders.
- Advocating for increasing transitional services for the incarcerated and post-incarcerated.
- Advocating for wider implementation and ongoing improvements in community-based employment services for ex-offenders, with continued participation of NLEN in the Best Practices subcommittee of the State Workforce Board's Taskforce on Ex-offender Employability.
- Advocating for alternatives to incarceration for non-violent, drug-related crimes.

Further research needs to be conducted to assess the complex consequences of so many adults being involved in the criminal justice system and of the large numbers of ex-offenders returning to the community from prison. Effective advocacy for alternatives to incarceration for non-violent offenses requires accurate information not only on the need for alternatives, but also on the forms these alternatives might take, and the resources necessary to support them.

Authorization of sentencing alternatives is the first step; however implementation requires allocation of adequate resources. For example, Illinois HB 1961 provides Cook County judges with the authority to sentence women detained in Cook County Jail for certain nonviolent felony offenses to a pilot Residential Treatment and Transition Center rather than state prison. As yet, no funds have been allocated to support the pilot Center. NLEN is planning to work with the police, courts, the Department of Corrections, legislators, community organizations, and funders to build support for a demonstration project in North Lawndale that offers an alternative to incarceration for non-violent offenses.

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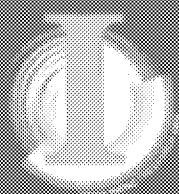
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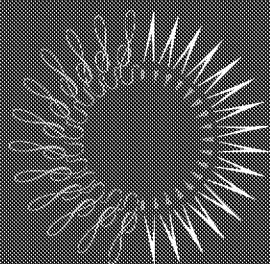
*This report would not have been possible without the dedication and hard work of the core EESN staff, Walter and Pamela, and the commitment of three program consultants, Dennis Deer, Dwight Batties, and Dennis Delfosse.*



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THE  
**PEW**  
CENTER ON THE STATES

# **One in 100:**

## Behind Bars in America 2008



The Pew Charitable Trusts is driven by the power of knowledge to solve today's most challenging problems. Pew applies a rigorous, analytical approach to improve public policy, inform the public and stimulate civic life. We partner with a diverse range of donors, public and private organizations and concerned citizens who share our commitment to fact-based solutions and goal-driven investments to improve society.



# Table of Contents

About this Report .....2

Executive Summary .....3

**A Snapshot of Prison Growth .....5**

    1 in 100 Adults Behind Bars .....5

    State Trends Vary Widely .....7

    Florida: A Case Study in Growth .....9

**The Costs – High and Climbing Fast .....11**

    California: \$8.8 Billion and Growing .....11

    Health Care, Geriatrics Drive Costs .....12

    Staff Vacancies, Overtime Spike .....13

    Restitution, Child Support, Tax Payments Lag .....13

    Crowding Out Other Priorities .....14

    Pre-K, Higher Ed Funding Lags .....15

**Controlling Crime and Costs .....17**

    A New Path in Texas .....17

    Managing Prison Admissions .....18

    Adjusting Length of Stay .....19

**A Final Word .....21**

*Figures*

    Prison Count Pushes Up .....5

    Doing the Math .....6

    Who’s Behind Bars .....7

    Wide Variation in Prison Growth .....8

    High Growth Rates Spread Across Nation .....9

    Twenty Years of Rising Costs .....12

    Taking a Bigger Cut .....14

    Of Books and Bars .....15

    Making Decisions Where to Spend .....16

    Controlling Crime and Prison Populations: Two Levers .....20

Endnotes .....23

Methodology Notes .....24

Jurisdictional Notes .....28

*Appendix*

    Table A-1: State, Regional and National Prison Counts .....29

    Table A-2: State Corrections Spending, FY 2007 .....30

    Table A-3: State Spending on Corrections and Higher Education, FY 1987-2007 .....31

    Table A-4: National Corrections and Higher Education Spending Trends, FY 1987-2007 .....32

    Table A-5: State Employees in Corrections Workforce, 2006 .....33

    Table A-6: 1 in X: Incarceration Rates by Sex, Race/Ethnicity, Age and State .....34

    Table A-7: International Comparisons .....35

# About this Report

The Pew Charitable Trusts applies the power of knowledge to solve today's most challenging problems. Pew's Center on the States identifies and advances effective policy approaches to critical issues facing states.

Launched in 2006 as an initiative of the Center, the Public Safety Performance Project seeks to help states advance fiscally sound, data-driven policies and practices in sentencing and corrections that protect public safety, hold offenders accountable, and control corrections costs.

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We also would like to thank the 50 state correctional agencies, the Federal Bureau of Prisons, the Bureau of Justice Statistics, and the National Association of State Budget Officers, which provided much of the data for this report.

For additional information on the Pew Center on the States and the Public Safety Performance Project, please visit [www.pewcenteronthestates.org](http://www.pewcenteronthestates.org).

February 2008

# Executive Summary

Three decades of growth in America's prison population has quietly nudged the nation across a sobering threshold: for the first time, more than one in every 100 adults is now confined in an American jail or prison. According to figures gathered and analyzed by the Pew Public Safety Performance Project, the number of people behind bars in the United States continued to climb in 2007, saddling cash-strapped states with soaring costs they can ill afford and failing to have a clear impact either on recidivism or overall crime.

For some groups, the incarceration numbers are especially startling. While one in 30 men between the ages of 20 and 34 is behind bars, for black males in that age group the figure is one in nine. Gender adds another dimension to the picture. Men still are roughly 10 times more likely to be in jail or prison, but the female population is burgeoning at a far brisker pace. For black women in their mid- to late-30s, the incarceration rate also has hit the 1-in-100 mark. Growing older, meanwhile, continues to have a dramatic chilling effect on criminal behavior. While one in every 53 people in their 20s is behind bars, the rate for those over 55 falls to one in 837.

While the national incarceration trend remains on the rise, some states report a flattening of growth, or even a decline, figures from January 1 of this year show. Texas' count dropped slightly over the previous year, but with California's massive system dipping by 4,068 inmates, Texas has become the nation's imprisonment leader. New York and Michigan, also among the country's biggest systems, reported declines as well.

There is reason to suspect those states may soon have lots of company.

Prison costs are blowing holes in state budgets but barely making a dent in recidivism rates. At the same time, policy makers are becoming increasingly aware of research-backed strategies for community

corrections—better ways to identify which offenders need a prison cell and which can be safely handled in the community, new technologies to monitor their whereabouts and behavior, and more effective supervision and treatment programs to help them stay on the straight and narrow. Taken together, these trends are encouraging policy makers to diversify their states' array of criminal sanctions with options for low-risk offenders that save tax dollars but still hold offenders accountable for their actions.

*"There isn't a person in public office that's not sensitive to the accusation of being soft on crime. But you don't have to be soft on crime to be smart in dealing with criminals."*

*OH Gov. Ted Strickland (D)  
The Columbus Dispatch  
January 26, 2008*

## Policy Choices Drive Growth

In exploring such alternatives, lawmakers are learning that current prison growth is not driven primarily by a parallel increase in crime, or a corresponding surge in the population at large. Rather, it flows principally from a wave of policy choices that are sending more lawbreakers to prison and, through popular "three-strikes" measures and other sentencing enhancements, keeping them there longer. Overlaying that picture in some states has been the habitual use of prison stays to punish

"There's a shift away from the mindset of lock them up and throw away the key. That cannot sustain itself."

*OH State Rep. John J. White  
(R-Kettering)  
Dayton Daily News  
February 11, 2007*

those who break rules governing their probation or parole. In California, for example, such violators make up a large proportion of prison admissions, churning in and out of badly overloaded facilities. Nationally, more than half of released offenders

are back in prison within three years, either for a new crime or for violating the terms of their release.<sup>1</sup>

Few doubt the necessity of locking up violent criminals and those who repeatedly threaten community safety. And policy makers understandably are moved to act by especially heinous crimes or victims seeking justice in the name of a loved one.

Increasingly, however, states are discovering that casting such a wide net for prisoners creates a vexing fiscal burden—especially in lean times. Finding enough dollars to house, feed and provide a doctor's care to a low-risk inmate is a struggle besetting states from Arizona to Vermont. In the absence of tax hikes, lawmakers may find themselves forced to cut or limit other vital programs—from transportation to education and healthcare—to foot the incarceration tab.

That tab, meanwhile, is exploding, fueled in part by staff overtime expenses and a steep rise in inmate healthcare costs. In 1987, the states collectively spent \$10.6 billion of their general funds—their primary pool of discretionary tax dollars—on corrections. Last year, they spent more than \$44 billion, a 315 percent jump, data from the

National Association of State Budget Officers show. Adjusted to 2007 dollars, the increase was 127 percent. Over the same period, adjusted spending on higher education rose just 21 percent.

## Taking a Different Tack

Faced with the mushrooming bills, many states are confronting agonizing choices and weathering bitter divisions in their legislatures. But lawmakers are by no means powerless before the budget onslaught. Indeed, a rising number of states already are diversifying their menu of sanctions with new approaches that save money but still ensure that the public is protected and that offenders are held accountable. And some already are reaping encouraging results.

Kansas and Texas are well on their way. Facing daunting projections of prison population growth, they have embraced a strategy that blends incentives for reduced recidivism with greater use of community supervision for lower-risk offenders. In addition, the two states increasingly are imposing sanctions other than prison for parole and probation violators whose infractions are considered "technical," such as missing a counseling session. The new approach, born of bipartisan leadership, is allowing the two states to ensure they have enough prison beds for violent offenders while helping less dangerous lawbreakers become productive, taxpaying citizens.

No policy maker would choose this path if it meant sacrificing public safety. But gradually, some states are proving that deploying a broad range of sanctions can protect communities, punish lawbreakers and conserve tax dollars for other pressing public needs.

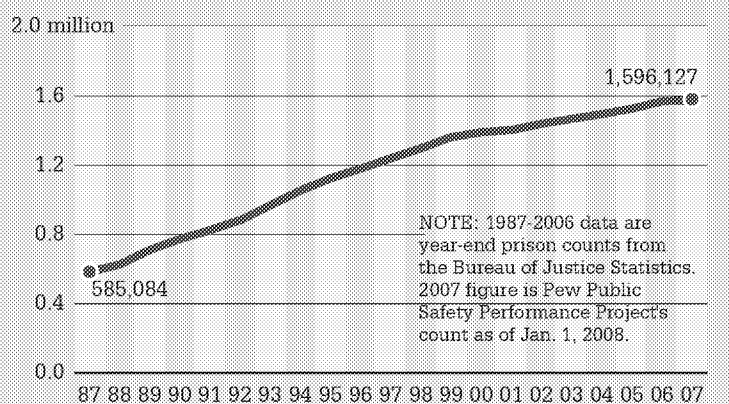
# A Snapshot of Prison Growth

**T**he United States incarcerates **more people** than any country in the world, including the far more populous nation of China. At the start of the new year, the American penal system held more than 2.3 million adults. China was second, with 1.5 million people behind bars, and Russia was a distant third with 890,000 inmates, according to the latest available figures. Beyond the sheer number of inmates, America also is the global leader in the rate at which it incarcerates its citizenry, outpacing nations like South Africa and Iran. In Germany, 93 people are in prison for every 100,000 adults and children. In the U.S, the rate is roughly eight times that, or 750 per 100,000.<sup>2</sup> (See *Appendix A-7* for additional international analysis.)

To produce a fresh portrait of incarceration levels at the start of 2008, Pew conducted a survey of inmate counts from the states and the federal government. Our finding: the U.S. prison population rose by more than 25,000 inmates in 2007—a 1.6 percent rate of growth that brought the national prison census to 1,596,127. Although the 2007 expansion didn't match the 3.1 percent hike during 2006, the growth tracks projections<sup>3</sup> and continues a pattern of steady expansion that has characterized the U.S. penal system for more than 30 years.

## PRISON COUNT PUSHES UP

Between 1987 and 2007, the national prison population has nearly tripled.



SOURCES: Bureau of Justice Statistics; Pew Public Safety Performance Project

## 1 in 100 Adults Behind Bars

The consequences of that upward trend are many, but few can rival this: more than 1 in 100 adults is now locked up in America. With 1,596,127 in state or federal prison custody, and another 723,131 in local jails, the total adult inmate count at the beginning of 2008 stood at 2,319,258. With the number of adults just shy of 230 million, the actual incarceration rate is 1 in every 99.1 adults.

That statistic masks far higher incarceration rates by race, age and gender. A separate analysis of midyear 2006 data from the U.S. Department of Justice shows that for Hispanic and black men, for instance, imprisonment is a far more prevalent



reality than it is for white men.<sup>4</sup> The young, meanwhile, are disproportionately more likely to wind up in prison than their elders. While one in every 15 black males aged 18 or older is in prison or jail, for black men over 55, the rate is one in 115. *(See Appendix A-6 for additional analysis of incarceration rates by race, sex and age.)*

State Trends Vary Widely

Look beneath the national incarceration numbers and you'll find the growth in 2007 transcended geographical boundaries. A majority of states in all four regions of the country finished the year with more prisoners than they housed at the start. The South led the way, with its population jumping from 623,563 to 641,024—a rise of 2.8 percent. Only three of the 16 states in the southern region reported a drop in inmates, while nine experienced growth exceeding 4 percent. In the West, meanwhile, Arizona outpaced all other states, and in the Northeast, New Hampshire's population grew the fastest. Among Midwestern states, Iowa was the growth leader, expanding its inmate count by 6.1 percent.

"I don't think we're getting the worst drug lords into the prisons. We're just getting the people who went out and got caught. It's the low-hanging fruit."

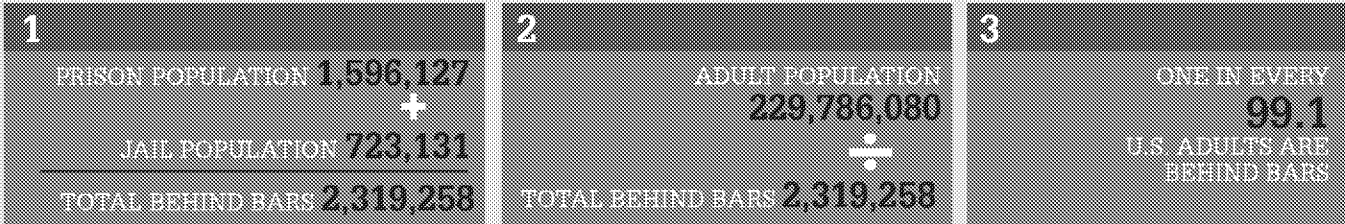
KY State Justice Secretary J. Michael Brown  
Testimony to KY Senate Judiciary Committee  
Lexington Herald-Leader  
January 24, 2008

All told, 36 states reported higher numbers as 2008 dawned. Among the eight largest correctional agencies—those with more than 50,000 inmates—four grew (Ohio, Florida, Georgia and the Federal Bureau of Prisons) while four (New York, Michigan, Texas and California) saw their populations dip. Ten states, meanwhile, experienced an inmate population jump of 5 percent or greater, a list topped by Kentucky, with a surge of 12 percent.

Kentucky and Nevada are two states with relatively small correctional systems hit hard by growth. In Kentucky, an indeterminate sentencing structure means the parole board has broad powers to determine when a prisoner is suitable for release—and thus, to a large degree, how big the crowd behind bars will be. Guidelines require

DOING THE MATH

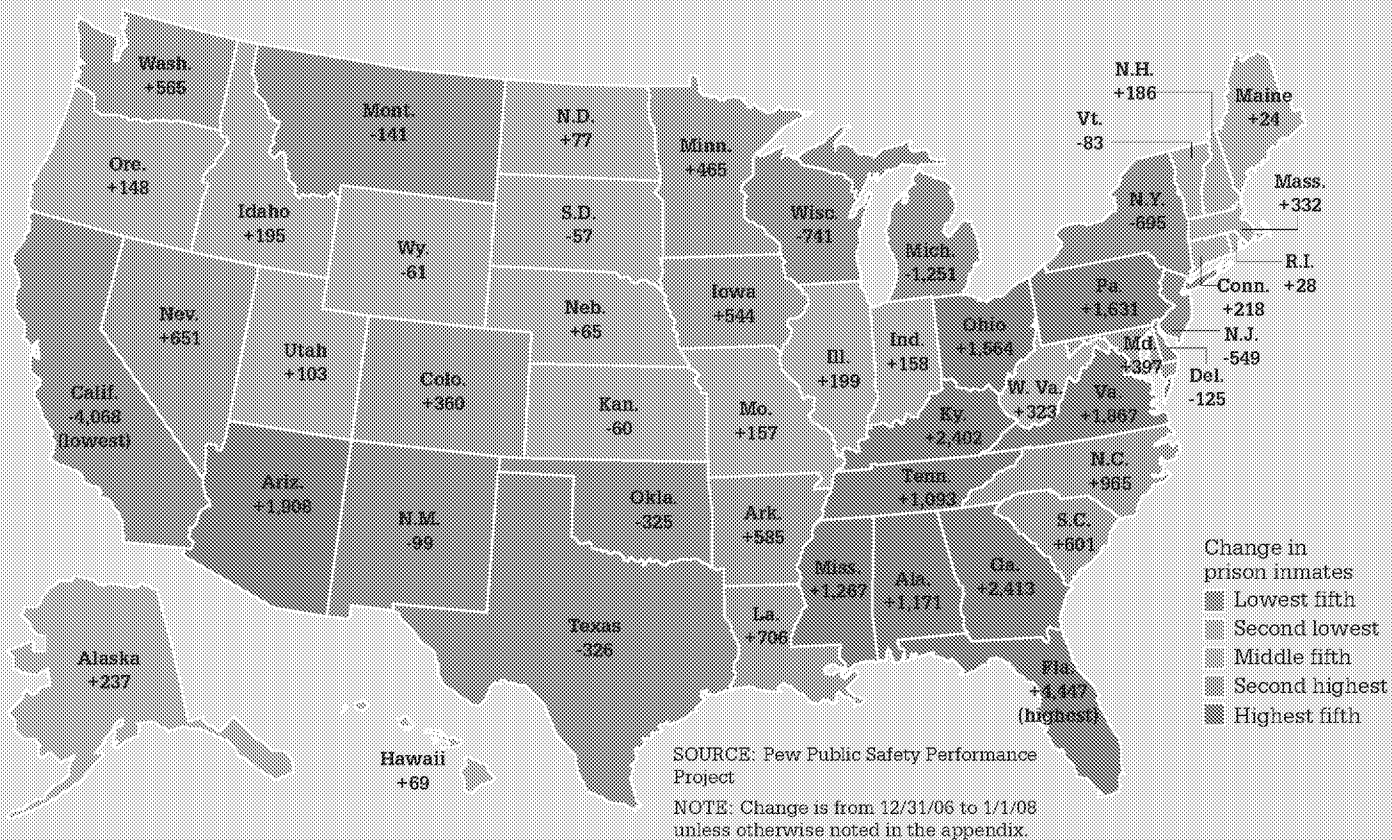
The calculation behind the 1 in 100 U.S. adults behind bars statistic.



NOTE: See Methodology Notes for jail and adult population estimates.

WIDE VARIANCE IN PRISON GROWTH

State prisoner change, 2007, by quintile



inmates to serve a certain proportion of their sentence, but beyond that, board discretion comes into play in deciding whether to grant or deny parole. Over the past year, under new appointees to the board, the parole grant rate declined and the prison population increased as more inmates stayed locked up for a longer time. The result of this and other policies was a 12 percent jump in the incarcerated population in 2007. Absent a change of direction, projections show the inmate count will continue to rise to nearly 31,000—an increase of 40 percent—over the next decade.

Out West, Nevada at the start of the 2007 legislative session also faced a rapidly expanding prison population, fueled by an unexpected jump in prison admissions from the Las Vegas area. New

forecasts warned that without intervention by the state, the population would continue its steep ascent, climbing from 13,000 prisoners to more than 18,000 over the next 10 years. The fiscal consequences were alarming. Among other things, the growth forced prisoners from Washington and Wyoming who were housed in Nevada back to those states. That meant both lost revenue and new appropriations from the state general fund. At the beginning of 2008, Nevada’s jails and prisons held 13,552 inmates, a 5 percent jump over the number incarcerated in the Silver State at the end of 2006.



# Florida: A Case Study in Growth

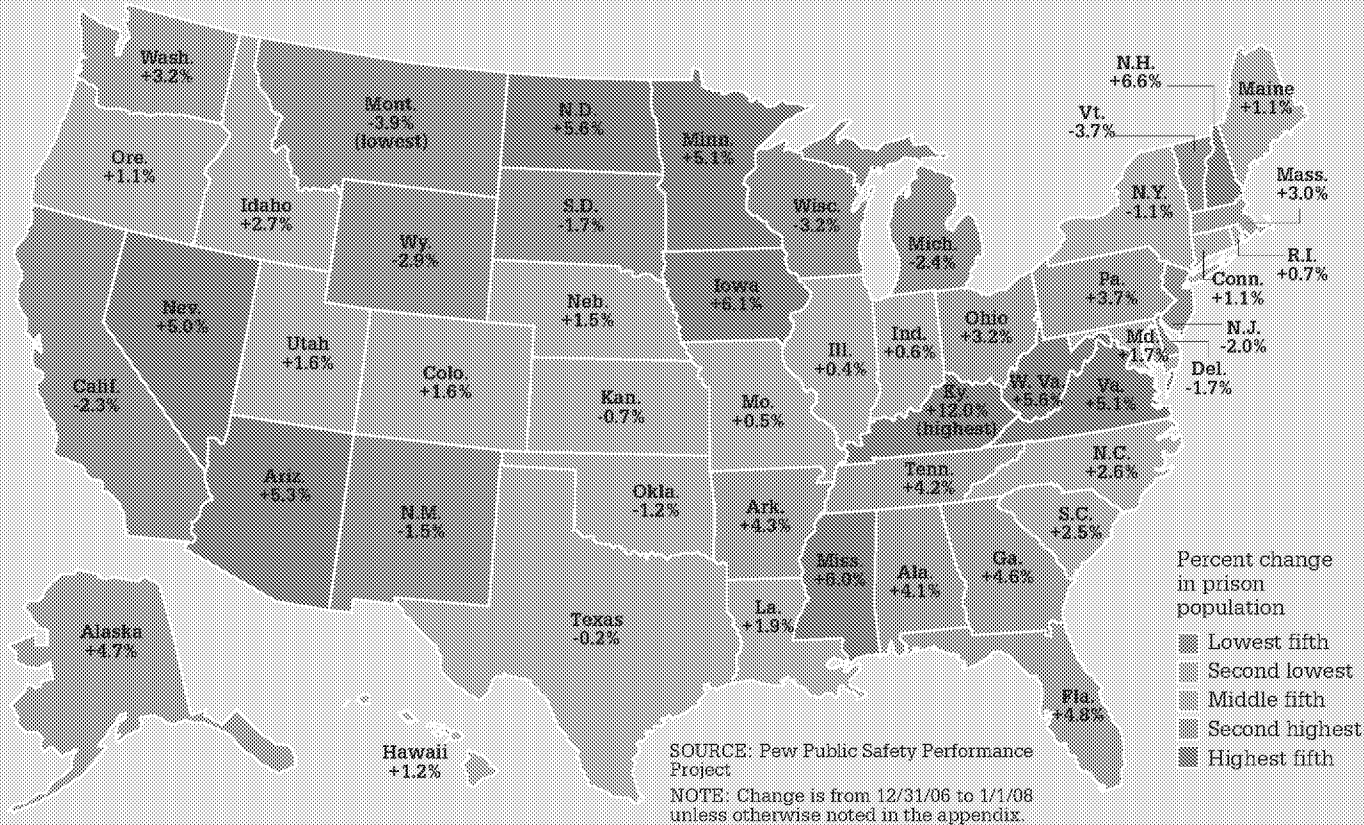
For policy makers keen on understanding the dynamics of prison growth, Florida serves as a compelling case. Between 1993 and 2007, the state’s inmate population has increased from 53,000 to over 97,000. While crime and a growing resident population play a role, most of the growth, analysts agree, stemmed from a host of correctional policies and practices adopted by the state.

One of the first came in 1995, when the legislature abolished “good time” credits and discretionary

release by the parole board, and required that all prisoners—regardless of their crime, prior record, or risk to recidivate—serve 85 percent of their sentence. Next came a “zero tolerance” policy and other measures mandating that probation officers report every offender who violated any condition of supervision and increasing prison time for these “technical violations.” As a result, the number of violators in Florida prisons has jumped by an estimated 12,000.<sup>5</sup> Crime in Florida has dropped substantially during this period, but it has fallen as

## HIGH GROWTH RATES SPREAD ACROSS NATION

Percent change in state prison populations, 2007, by quintile



much or more in some states that have not grown their prison systems, or even have shrunk them, such as New York.

Without a change of direction, Florida is expected to reach a peak of nearly 125,000 inmates by 2013. Based on that projection, the state will run out of prison capacity by early 2009 and will need to add another 16,500 beds to keep pace.<sup>6</sup>

# The Costs – High and Climbing Fast

**P**risons and jails are “24-7” operations. They require large, highly trained staffs. Their inhabitants are troubled, aging and generally sicker than people outside prison walls. Even absent continued growth, the cost of keeping the nation’s lock-ups running safely is staggering. Total state spending on corrections—including bonds and federal contributions—topped \$49 billion last year, up from \$12 billion in 1987. By 2011, continued prison growth is expected to cost states an additional \$25 billion.<sup>7</sup>

The primary catalyst behind the increase is obvious: prison growth means more bodies to feed, clothe, house and supervise. While figures vary widely by state, the average per prisoner operating cost was \$23,876 in 2005, the most recent year for which data were available. Rhode Island spent the most per inmate (\$44,860) while Louisiana had the lowest per inmate cost, \$13,009.<sup>8</sup> While employee wages and benefits account for much of the variance among states, other factors—such as the inmate-to-staff ratio—play a role as well. Capital expenses, meanwhile, are difficult to estimate, but researchers cite \$65,000 per bed as the best approximation for a typical medium security facility.<sup>9</sup>

## California: \$8.8 Billion and Growing

Remarkably, 13 states now devote more than \$1 billion a year in general funds to their corrections systems. The undisputed leader is California, where spending totaled \$8.8 billion last year. Even

when adjusted for inflation, that represents a 216 percent increase over the amount California spent on corrections 20 years earlier.

And last year, the governor signed a bill authorizing another \$7.9 billion in spending, through lease revenue bonds, for 53,000 more prison and jail beds.

Texas, with a slightly larger number of inmates, ranks a distant second in spending, investing roughly \$3.3 billion last year.

“We are jammed up with this situation right now because we have fallen in love with one of the most undocumented beliefs: That somehow you get safer if you put more people in jail.”

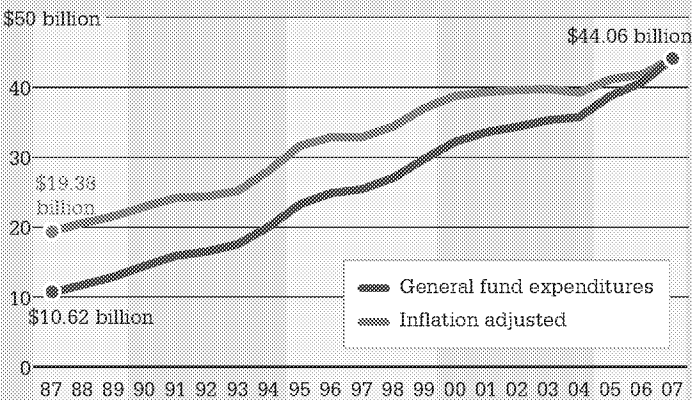
*CA Senate President Pro Tem  
Don Perata (D-East Bay)  
Associated Press  
December 8, 2007*

California vividly symbolizes the financial perils of the state prison business. On top of the perennial political tug-of-war, the state’s whopping corrections budget is shaped by a bevy of court settlements that make predicting and controlling spending tricky. Following successful lawsuits by prisoner plaintiffs, California now is subject to court oversight of inmate medical and dental care, mental health services, its juvenile offenders, and the treatment of disabled inmates. Even its parole revocation system is controlled by a legal settlement, and thereby subject to judicial orders that influence spending.

Healthcare costs have been affected more than any other category. In FY 2000-01, California spent \$676 million on such costs. By FY 2004-05, after the state settled a lawsuit alleging negligent and insufficient medical care, spending had soared to \$1.05 billion, an increase of 55 percent.<sup>10</sup> And that was before a

## TWENTY YEARS OF RISING COSTS

Between fiscal years 1987 and 2007, total state general fund expenditures on corrections rose 315 percent.



SOURCE: National Association of State Budget Officers, "State Expenditure Report" series; Inflation adjusted figures are based on a reanalysis of data in this series.

NOTE: These figures represent state general funds. They do not include federal or local government corrections expenditures and typically do not include funding from other state sources.

judge appointed a federal receiver to run prison healthcare, a move that is driving such spending up even more dramatically. It now stands at \$2.1 billion annually, a 210 percent increase since 2000.

### Health Care, Geriatrics Drive Costs

As California has learned, medical care is one of the principal cost drivers in corrections budgets today. From 1998 to 2001, healthcare spending in state prisons grew 10 percent annually, a 2004 report by the Council of State Governments found. At the time of the study, medical care costs totaled \$3.7 billion annually and accounted for about 10 percent of correctional spending.<sup>11</sup>

Under the 1976 U.S. Supreme Court ruling *Estelle v. Gamble*, states are compelled to provide a constitutionally adequate level of medical care, or care that generally meets a "community standard."

Beyond that mandate, the rise in medical outlays largely stems from mushrooming costs associated with special needs populations, including HIV-positive prisoners and geriatric inmates.

Communicable diseases are a particular concern, spreading quickly in a crowded prison environment where risky behaviors such as tattooing and piercing, unprotected sex, fighting and intravenous drug use are not uncommon.<sup>12</sup> Hepatitis C, a blood-borne, life-threatening disease, is the biggest worry. The latest Hepatitis C treatments cost as much as \$30,000 per inmate annually. At one California prison, in Vacaville, the chief medical officer estimates that half of the 3,200 inmates have been infected with Hepatitis C.<sup>13</sup> Other states put the in-prison prevalence at between 25 and 40 percent.<sup>14</sup>

Increasingly, the graying of the nation's prisons is causing costs to swell. While crime remains overwhelmingly a young man's game, between 1992 and 2001, the number of state and federal inmates aged 50 or older rose from 41,586 to 113,358, a staggering jump of 173 percent, a 2004 National Institute of Corrections report found.<sup>15</sup> And older inmates are gradually making up a larger proportion of the overall count. In the federal prisons, for example, about one-quarter of the population was over 50 in 1989. By 2010, that proportion is forecast to grow to one-third. On the state level, Oklahoma recently found that 16 percent of newly admitted inmates were over 45 years old—more than double the rate in 1990.<sup>16</sup>

While aging decreases criminal activity, it brings a multitude of challenges in a prison setting. Because they are often preyed upon by younger, stronger inmates, older convicts may require special housing.<sup>17</sup> Hearing and visual impairments, incontinence, dietary intolerance, depression and the early onset of

chronic diseases are other complicating management factors. As a result, the average cost associated with an older prisoner is \$70,000—two to three times that of a younger prisoner.<sup>18</sup>

The bottom line: Some crimes are so heinous they warrant a lifetime behind bars. But states are spending more and more on inmates who are less and less of a threat to public safety.

**Staff Vacancies, Overtime Spike**

Another key cost driver is compensation for the officers who patrol cellblocks.

In 2006, the most recent year for which data were available, there were approximately 4.25 million state government employees. About 11 percent of them—or one in nine—worked in corrections,<sup>19</sup> but prisons are struggling mightily to keep a full complement of officers on staff. The result—the extensive use of overtime—is one of the biggest budget busters confronting states.

In Wisconsin, for instance, overtime rose 27 percent between 2005 and 2006, largely due to an unanticipated 1,200-inmate jump in the prison population.<sup>20</sup> California’s overtime costs, meanwhile, exploded by 35 percent between 2005 and 2006, as the state struggled to keep its 33 prisons staffed despite nearly 4,000 vacancies. Overtime costs in California topped half a billion dollars in 2006, with 15 percent of the corrections workforce earning at least \$25,000 in overtime that year. Six employees even earned more than the \$212,179 annual salary set aside for Gov. Arnold Schwarzenegger.<sup>21</sup>

The economic picture is so dire in California, where a budget deficit of \$14.5 billion is predicted for the coming fiscal year, that the Republican governor has proposed releasing more than 22,100 inmates before their terms are up. Eligibility would be limited to nonviolent, non-serious offenders, and the plan excludes sex offenders and those convicted of 25 other specific crimes.

Governor Schwarzenegger says the state would save \$1.1 billion through his proposal, but so far it has received a cool reception from both parties in the legislature.

**Restitution, Child Support, Tax Payments Lag**

While overtime and healthcare costs show up vividly in budget documents, the nation’s reliance on incarceration for many low-risk offenders inflicts economic hardship in many other, less obvious ways. If they have a job at all, prisoners are typically unable to earn more than a very low wage, making it unlikely they will pay much, if anything, in child support, victim restitution or taxes. National statistics on such impacts are scarce. But a few state-level reports document the difference incarceration can make.

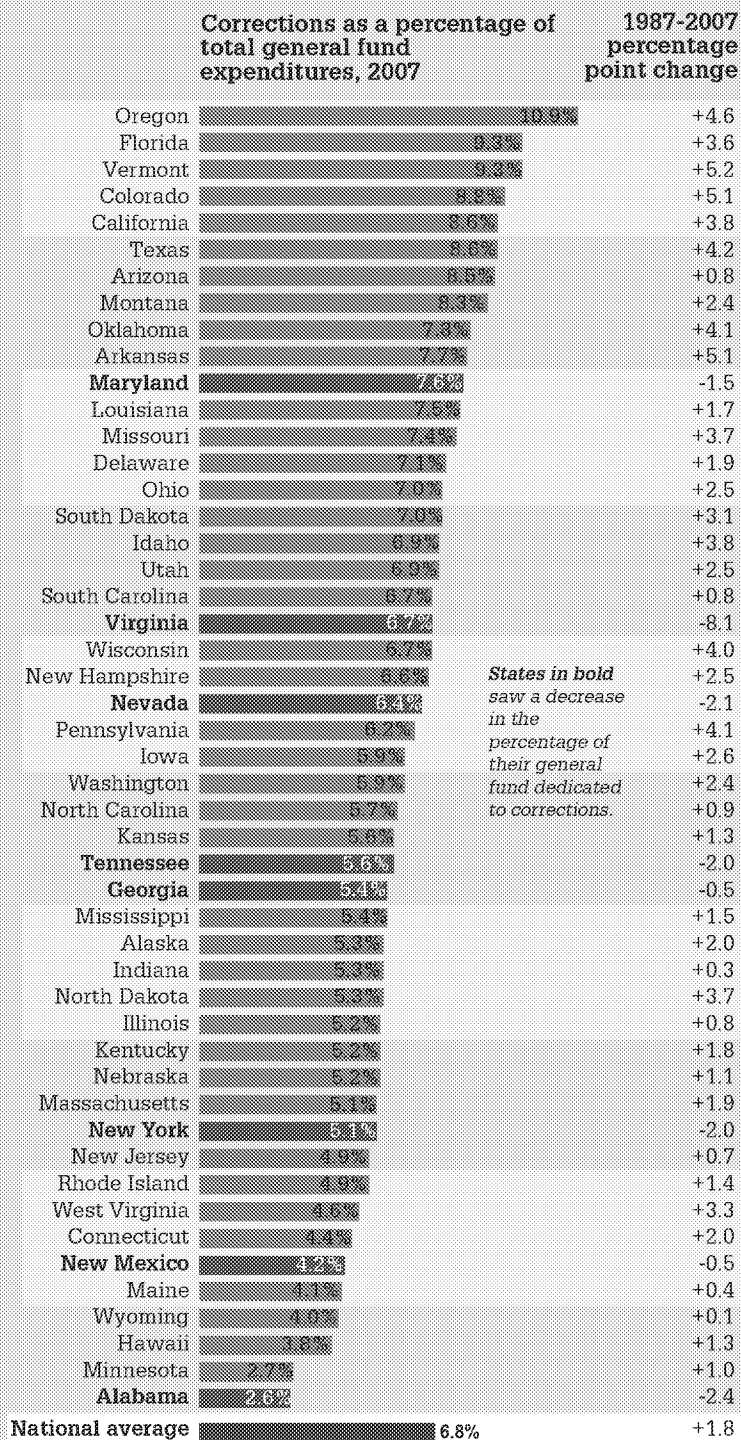
In a 2001 study, Massachusetts found that more than three-quarters of the state’s prison population had paid none of its mandated child support in the previous 12 months. During the same timeframe, more than two-thirds of parolees with child

“Our policy and funding decisions need to be based on good data and the latest research. Unless we have that foundation, I’m not confident we’re doing everything we can to fight crime effectively and to be efficient with taxpayer dollars.”

*AZ State Sen. John Huppenthal  
(R-Phoenix)  
Press release  
February 6, 2007*

## TAKING A BIGGER CUT

In fiscal year 2007, an estimated 1 in every 15 state general fund dollars was spent on corrections.



SOURCE: National Association of State Budget Officers, "State Expenditure Report" series; Percentage point increases are based on a reanalysis of data in this series.

NOTE: Michigan does not have a comparable figure because of the state's general fund definition. See Jurisdictional Notes.

support obligations managed to make at least partial payments. Overall, the average prisoner paid only \$206 over the previous year for child support obligations, while the average amount paid by parolees was \$1,538—more than seven times as much.<sup>22</sup>

In Florida, meanwhile, statistics show that offenders under supervision in the community make substantial restitution payments to victims. In FY 2004-2005, one study showed, Florida probationers paid more than \$37.3 million in restitution under mandatory financial obligation agreements established at the onset of their supervision.<sup>23</sup>

## Crowding Out Other Priorities

Year by year, corrections budgets are consuming an ever larger chunk of state general funds, leaving less and less in the pot for other needs. Collectively, correctional agencies now consume 6.8 percent of state general funds, 2007 data show.<sup>24</sup> That means one in every 15 dollars in the states' main pool of discretionary money goes to corrections. Considering all types of funds, corrections had the second fastest rate of growth in FY 2006. With a 9.2 percent jump, it trailed transportation but outpaced increases in spending on education and Medicaid.<sup>25</sup>

Some states spend an even larger proportion of their budgets on corrections. Oregon, for example, directed one in every 10 dollars to corrections, while Florida and Vermont spent one in 11. Minnesota and Alabama are at the other extreme, spending less than 3 percent of

their general fund dollars on corrections. Over the past 20 years, corrections spending took up a larger share of overall general fund expenditures in 42 states.

Some policy makers are questioning the wisdom of devoting an increasingly large slice of the budget pie to incarceration, especially when recidivism rates have remained discouragingly high. Are we getting our money's worth? Is our investment in this system returning sufficient dividends for victims, taxpayers and society at large?

On average, corrections is the fifth-largest state budget category, behind health, elementary and secondary education, higher education and transportation. But nearly all corrections dollars come from the states' own coffers; healthcare, by contrast, draws a majority of funding from the federal government, primarily through Medicaid. For some public officials, that distinction highlights the effect of corrections spending on other priorities.

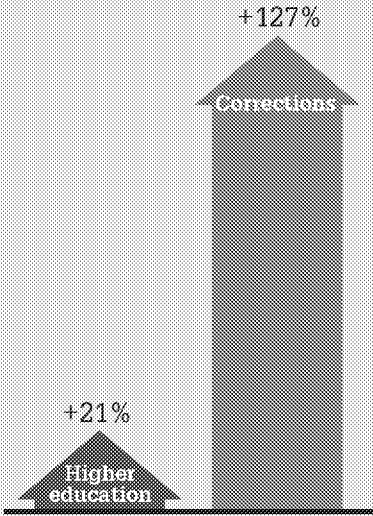
Pre-K, Higher Ed Funding Lags

Higher education is of particular concern. Higher education spending accounts for a roughly comparable portion of state expenditures as corrections, and other than tuition is paid for almost entirely out of state rather than federal funds. States don't necessarily make explicit choices between higher education and corrections funding, but they do have to balance their budgets. So, unlike the federal government, a dollar spent in one area is unavailable for another.

In 1987, states collectively spent \$33 billion of their general funds on higher education. By 2007, they were spending \$72.88 billion, an increase of 121

OF BOOKS AND BARS

Between 1987 and 2007, the amount states spent on **corrections** more than doubled while the increase in **higher education** spending has been moderate.



SOURCE: National Association of State Budget Officers. "State Expenditure Report" series; Inflation adjusted general fund figures are based on a reanalysis of data in this series.

percent. Adjusted to 2007 dollars, the increase was 21 percent. Over the same timeframe, inflation-adjusted corrections spending rose 127 percent, from \$10.6 billion (\$19.4 billion in 2007 dollars) to more than \$44 billion.

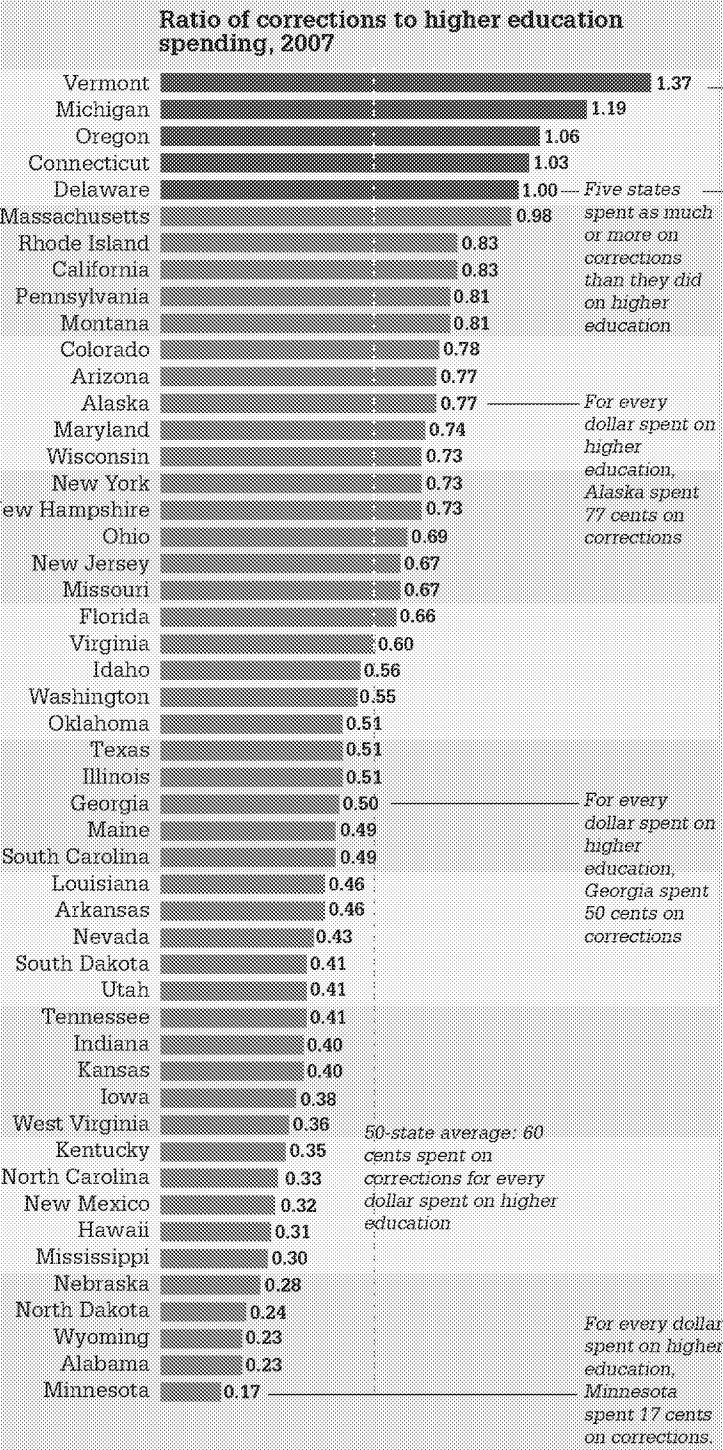
"If we don't change the course now, we will be building prisons forever and ever—prisons we can't afford."

TX State Senator John Whitmire (D-Houston)  
Chair, Senate Criminal Justice Committee  
Austin-American Statesman  
January 31, 2007

Some regional differences were more dramatic. While inflation-adjusted prison spending rose 61 percent in the Northeast in the last 20 years, higher education spending went the other way, dropping by 5.5 percent. In the West, meanwhile, the number of dollars allocated to prisons skyrocketed by 205 percent. At the same time, higher education spending rose just 28 percent.

# MAKING DECISIONS WHERE TO SPEND

While states don't necessarily choose between higher education and corrections, a dollar spent in one area is unavailable for another.



SOURCE: Reanalysis of data presented in the National Association of State Budget Officers, "State Expenditure Report" series

Corrections spending also competes with the funding many states want to devote to early childhood education, one of the most proven crime prevention strategies. Research shows that attending a high-quality pre-kindergarten influences a child's success both in school and in life. One rigorous study that followed severely disadvantaged children into adulthood showed that participation in pre-kindergarten dramatically reduced participation in juvenile and adult crime, and increased high school graduation, employment and earnings, with a total benefit-cost ratio of 16 to 1.<sup>26</sup>

Backed with such evidence of success, states have substantially increased support for high-quality, voluntary pre-kindergarten. New state pre-k funding exceeded \$525 million in FY 2008, an increase of more than 12 percent over FY07 expenditures, bringing total state investments in early education across the country to \$4.8 billion.<sup>27</sup>

Increasingly, state policy makers are finding that a dollar spent for pre-k classes now can forestall many more dollars for prison beds down the road.

"It's not good public policy to take all of these taxpayer dollars at a very tough time, and invest it in the prison system when we ought to be investing it in the things that are going to transform the economy, like education and diversifying the economy."

MI Gov. Jennifer Granholm (D)  
Associated Press  
December 12, 2007



# Controlling Crime and Costs

**T**he politics of crime fighting have made most lawmakers understandably wary of advocating a diverse punishment strategy. There are politicians who have seen their careers torpedoed by opponents who used a lone vote, or even a comment, to create a dreaded “soft-on-crime” image at election time.

Still, in some states, policy makers on both sides of the aisle are finding a safe path through this minefield. In some cases, the soaring costs of imprisonment have hindered spending on other vital programs to a degree that many find unacceptable. At the same time, polls show a shift in public attitudes toward crime, which has dropped down the list of issues of most concern to voters.<sup>28</sup> Taken together, these factors—coupled with new strategies that can cut recidivism rates—are fueling a bipartisan appetite for new approaches.

Fortunately, public officials today enjoy a panoply of options as they consider how to rein in expansion of their prison population while maintaining public safety. Indeed, policy choices—more than crime rates, general population growth or other factors—are what determine the number of people behind bars. Policy makers largely control the levers that govern who goes in and when they get out. In short, they control their own fiscal destiny.

Some states already have broken away from old, prison-fits-all patterns to create more diverse correctional systems that are proving more cost-effective and at least as effective at preventing

offenders from returning to crime and drugs. These systems typically blend incarceration for high-risk and violent offenders with the increased use of other punishments for lawbreakers guilty of less serious crimes. Those at the vanguard include states with longstanding reputations for tough sentencing. Texas, with the second highest incarceration rate in the nation, is one of them.

“It’s far better for our society if we can get rid of the drug habit than if they just serve a short period of incarceration and go back to drugs after they come out.”

*TX State Rep. Jerry Madden  
(R-Plano)  
Chair, House  
Corrections Committee*

## A New Path in Texas

Between 1985 and 2005, the Texas prison population jumped 300 percent, forcing a vast expansion of prison capacity. After investing \$2.3 billion to add 108,000 beds, Texas didn’t get much of a breather. Within less than a decade, its prisons were teeming and experts forecast the arrival of another 14,000-17,000 inmates within five years.

In 2007, legislators from both parties decided it was time for a course change. Rather than spend \$523 million on more prison cells, they authorized a virtual makeover of the correctional system. Anchoring their approach was a dramatic expansion of drug treatment and diversion beds, many of them in secure facilities. Legislators also approved broad changes in parole practices and

expanded drug courts. In all, the reforms are expected to save Texas \$210 million over the next two years—plus an additional \$233 million if the recidivism rate drops and the state can avoid contingency plans to build three new prisons.<sup>29</sup>

“It’s always been safer politically to build the next prison, rather than stop and see whether that’s really the smartest thing to do,” said state Sen.

“For continued funding, we have to achieve that goal statewide. The DOC has announced to us our funding will no longer be based solely on how many clients we have, but on our performance.”

*Ken Moore, Director,  
Reno County (KS)  
Community Corrections  
The Hutchinson News  
January 19, 2008*

John Whitmire of Houston, chairman of the senate’s criminal justice committee. “But we’re at a point where I don’t think we can afford to do that anymore.”

At the start of 2008, the future looked promising in the Lone Star state. For the next five years, new projections by the Legislative Budget Board show, the prison trend is a flat line.

## Managing Prison Admissions

As Texas has found, two principal variables govern the size of the crowd on a state’s prison yards—the number of admissions and the length of time an inmate remains behind bars. Even the smallest modifications can yield a marked slowdown—or acceleration—in population growth.

At the front end of the pipeline, states are reaping savings primarily through two maneuvers—the diversion of lower-risk offenders away from prison into less-costly settings and the use of a variety of

“intermediate” sanctions for parolees and probationers who violate conditions of their release.

One common target for diversion is nonviolent offenders with drug addictions or mental illnesses. Since 2004, at least 13 states have adopted legislation creating or expanding community corrections options for nonviolent offenders, including drug courts that combine the “carrot” of substance abuse treatment with the “stick” of penalties for missing treatment or failing a drug test.<sup>30</sup>

Another focus of diversion programs is those who have broken the rules of their release on probation or parole. In 2005, parole violators accounted for more than one-third of all prison admissions, the federal Bureau of Justice Statistics reports.<sup>31</sup> Similarly, half the people in U.S. jails are there because they failed on probation in the community.

While some violators are reincarcerated for new crimes, a significant number wind up back in prison for so-called “technical” violations—transgressions such as a failed drug test or missed appointment with a supervisory agent. California locks up massive numbers of violators, scrambling to accommodate them in a sprawling, 171,444-inmate system so crowded that a three-judge panel may order a population reduction. A 2005 study showed that more than two-thirds of parolees in the Golden State were returned to prison within three years of release; of those, 39 percent were due to technical violations.<sup>32</sup>

Viewing technical violators as a lesser threat to society than other offenders, states are increasingly opting to punish them with community-based

sanctions. These include a mix of day reporting centers, electronic monitoring systems, and community service. This strategy makes offenders pay for their missteps but keeps prison beds free for more violent and chronic lawbreakers. And, it makes it more likely the violators will be able to pay victim restitution, child support and taxes.

Kansas is among the states giving this approach an aggressive try. In 2006, Kansas faced bleak failure rates among offenders, with probation or parole revocations accounting for two-thirds of prison admissions, and nine out of 10 of those revocations resulting from technical violations. Meanwhile, the state was bracing for a 22 percent increase in its incarcerated population by 2016—and a bill of nearly \$500 million for new prison construction and operations.

To gain a sense of public attitudes about such significant new spending, legislators commissioned a survey, which revealed that most Kansans favored combining some construction with programs to help offenders on probation succeed and avoid reincarceration. At the recommendation of a bipartisan task force, the Kansas Legislature offered grants to community corrections agencies to cut revocations for those on parole and probation by 20 percent. Key elements of the strategy include tracking and monitoring revocations and creating guidelines to assist judges and officers in revocation decisions.<sup>33</sup>

“By holding individuals who committed less serious crimes accountable for completing treatment and vocational programs, we will ensure we have space in our prisons to keep violent offenders behind bars,” said Gov. Kathleen Sebelius, a vocal supporter of her state’s direction.

## Adjusting Length of Stay

The other key lever states can pull to tame prison growth is adjusting the length of time inmates remain behind bars. In some states with indeterminate sentencing, such as Texas, parole boards are taking pains to ensure their parole grant rates are meeting the minimum level mandated by law. Even a small tweak—such as the 5 percent increase in grants by the Texas Board of Pardons and Parole between 2006 and 2007—can have an appreciable thinning effect on the prison population.

More commonly, states are opting to use “earned time,” or credits that shorten an inmate’s term, to control the prison numbers. Typically, offenders are offered such credits if they complete rehabilitation or education programs, demonstrate good behavior or meet some other benchmark. In addition to freeing up cell space, this strategy aids wardens and correctional officers by giving inmates an incentive to behave, and helps cut reoffense rates by increasing participation in risk-reducing programs.

Nevada is among the states enjoying benefits from this approach. With projections for dramatic prison growth over the coming decade, Nevada at the start of 2007 faced a serious fiscal struggle that threatened spending on other key government services. With public safety paramount, policy makers decided to get creative. First, the legislature

“Community release programs that are conducted under strict guidelines and conditions enhance public safety because offenders who re-enter society under parole supervision are far less likely to re-offend than those who are released without the benefit of a supervised release.”

*CT Gov. Jodi Rell (R)*  
Press release  
January 27, 2008

CONTROLLING CRIME AND PRISON POPULATIONS: TWO LEVERS

States that want to protect public safety while slowing the growth of their prison populations can pull two basic policy levers: they can divert a greater number of low-risk offenders from prison; they can reduce the length of time that the lowest-risk offenders stay behind bars; and, of course, they can do some combination of the two.

Both options require strong community corrections programs to ensure that offenders in the community remain crime- and drug-free.

REDUCE PRISON ADMISSIONS	Front-End: Sentencing and Diversion	<p>Drug courts that break the cycle of crime and addiction with frequent drug tests, a continuum of treatment services and increasing penalties for violations.</p> <p>Targeted penalty changes that steer selected low-risk offenders to community corrections programs or modify mandatory minimums.</p> <p>Comprehensive sentencing guidelines that allow states to decide as a matter of policy which types of offenders should go to prison and which are appropriate for community corrections.</p>
	Back-End: Accountability for Parole and Probation Violations	<p>Intermediate sanctions such as day reporting centers for offenders who break the rules of their release, to ensure that each violation receives a swift, certain and proportionate response.</p> <p>Short-term residential facilities for persistent rule violators with substance abuse problems.</p> <p>Performance incentives that shorten terms of supervision for offenders who comply with their conditions and fulfill obligations such as victim restitution and child support.</p>
REDUCE LENGTH OF STAY	Release: Risk Reduction Before Reentry	<p>Risk reduction credits that allow slightly earlier release for inmates who complete treatment and education programs designed to reduce recidivism.</p> <p>Risk-based release instruments that use analysis of actual recidivism patterns to help releasing authorities decide who should remain behind bars and who is ready for release.</p> <p>Sufficient program availability in prisons and the community so release isn't delayed because inmates cannot complete requirements.</p>

NOTE: For a summary of recent and upcoming state activity on sentencing and corrections issues, see National Conference of State Legislatures, "State Sentencing and Corrections Legislation: 2007 Action, 2008 Outlook," January 2008. [www.ncsl.org/programs/cj/pewpublicsafety.htm](http://www.ncsl.org/programs/cj/pewpublicsafety.htm).

and executive branch agreed to expand earned time credits for prisoners, except sex offenders and those convicted of violent crimes. In passing AB 510, lawmakers increased the amount of good time an inmate could earn for good conduct and completion of education and treatment programs. To achieve an added population benefit, Nevada made the law retroactive to prisoners sentenced as long ago as 2000.

So far, the results in Nevada have fulfilled expectations, and, after the bump upward in 2007, the prison population has begun a moderate decline. A commission created to track impacts of the reforms has found no increases in key indicators such as crime, arrests or court filings.

## A Final Word

As a nation, the United States has long anchored its punishment policy in bricks and mortar. The tangible feel of a jail or prison, with its surefire incapacitation of convicts, has been an unquestioned weapon of choice in our battle against crime. Recent studies show, however, that a continual increase in our reliance on incarceration will pay declining dividends in crime prevention. In short, experts say, expanding prisons will accomplish less and cost more than it has in the past.<sup>34</sup>

Meanwhile, the breathtaking rise in correctional costs is triggering alarm in statehouses around the nation. By inevitably reducing the amount of tax dollars that are available for other vital needs, relentless prison growth is drawing closer scrutiny from lawmakers and the public. In some states, that scrutiny has evolved into action, producing encouraging results both for public safety and public spending. These states are finding that by broadening the mix of sanctions in their correctional tool box, they can save money and still make lawbreakers pay.

"Nebraska's prison population is projected to grow in the coming years, and the concept we've embraced through community corrections is that there are better solutions to this challenge than to simply build another maximum-security prison."

*NE Gov. Dave Heineman (R)*  
Press release  
February 12, 2007

The national inmate count marches onward and upward, almost exactly as it was projected to do last year. And with one in 100 adults looking out at this country from behind an expensive wall of bars, the potential of new approaches cannot be ignored.



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# Methodology Notes

This report estimates the number of prisoners housed in state and federal correctional facilities as of January 1, 2008. A separate estimate was made for the number of persons in local jail facilities on that date. In order to calculate the national incarceration rate, we also estimated the adult resident population.

The 2008 national incarceration rate in this report is not comparable to the rates published for prior years by the U.S. Department of Justice, Bureau of Justice Statistics (BJS), or to those issued last year by the Pew Public Safety Performance Project. The difference occurs because this report uses the adult resident population to calculate the incarceration rate for adults, while the BJS incarceration rates and the earlier Pew report are based on the total U.S. population, including those under age 18.

<b>This Report</b>	<b>Bureau of Justice Statistics</b>
Inmates/ Adult Population=	Inmates/ Total Population=
Adult Incarceration Rate	Incarceration Rate

## State and Federal Prison Population Estimate

In making the state and federal prisoner population estimate, we took a two-pronged approach to obtain the count of inmates under the jurisdiction of each state’s Department of Corrections (DOC) and the Federal Bureau of Prisons (FBOP) on January 1, 2008.

The first phase was a two-page survey which the Association of State Correctional Administrators (ASCA) sent to each DOC and the FBOP requesting its total jurisdictional count as well as certain subpopulations (e.g., pretrial, sentenced, males and females, etc.) comprising the total jurisdictional count. At the same time, the JFA Institute sought to obtain each department’s total jurisdictional count through a combination of emails and phone calls to each DOC and searches of the DOC websites for inmate population statistics. The objective was to ensure that through two organizations and two methods we were able to secure the most accurate count for each state and the FBOP. We investigated and reconciled any differences in the total jurisdictional counts, often through follow-up emails or phone calls to the states.

For many DOCs, prisoners under their jurisdiction are housed not only in their own prison facilities, but also in facilities controlled by other agencies (i.e., local jails, other states’ prisons, federal prisons, and private prisons). To avoid double-counting, we specified that the states’ responses should include the inmates under a DOC’s jurisdiction regardless of the inmates’ locations, and exclude any inmates housed by a DOC who are not under that DOC’s jurisdiction. As a hypothetical example, Mississippi would exclude inmates they are housing in their prisons for Texas while Texas would include its prisoners housed in Mississippi.

Unless otherwise noted, for the January 1, 2008 inmate population count, we utilized the total jurisdictional count that each state DOC provided



on the ASCA survey. For the 2006 inmate population count, we utilized the December 31, 2006 jurisdictional prisoner count from Table 1 of the Bureau of Justice Statistics' "Prisoners in 2006" report. Note that some states provided counts on dates other than January 1, 2008.

Many states provided their total jurisdictional counts before performing the data verification process they would normally undertake before publishing their official counts. As a result, the inmate figures in this report may differ from total jurisdictional counts subsequently published. We expect any such differences to be minor.

State-specific information about the source of the counts and any additional explanations appear in "Jurisdictional Notes" following this section.

The inmate count does not include a significant number of inmates held in facilities other than federal and state prisons and local jails. It excludes those in custody in territorial prisons, facilities administered by U.S. Immigration and Customs Enforcement, military facilities, jails in Indian country, and juvenile facilities. At yearend 2006, there were 126,230 inmates in custody in these facilities, three-quarters of them juveniles, according to the most recent count by the Justice Department. However, the count does include approximately 8,500 juveniles in jails or prisons.

**Local Jail Population Estimate**

This estimate takes into account people who are incarcerated in local (county and city) jails. Typically these inmates are being held pending trial or have been sentenced to less than a year.

Since there are more than 3,000 local jails in the United States, it was not feasible to conduct a complete national survey. Instead, we extrapolated from the most recent national trends as reported by BJS, which does conduct an annual survey using a sophisticated sampling methodology.

Table 1 shows the BJS jail population counts from its recent surveys. There has been considerable fluctuation in the rate of growth over the past six years. The average rate of growth has been 3.56 percent, but the growth rate slowed considerably in 2006.

To help inform our estimate, we surveyed some of the nation's largest jail systems during December 2007. Together these jails represent 12 percent of the nation's jail population. Here we see significant fluctuation, with an overall increase of only 1 percent since midyear 2004.

Since the BJS surveys represent the populations as of June 30, and given that jail populations have severe seasonal fluctuations, the December 2007 jail counts are not directly comparable to the June 30 BJS counts. Still, those counts offer some evidence that jail growth may indeed have slowed. So using the average rate of growth since 2000 may well over-estimate the actual jail population.

For these reasons we decided to use the 2006 growth rate of 2.47 percent. An estimate of the January 1, 2008 population must cover the 18-month period beginning with the last BJS report, from mid-year 2006. So we multiplied the 2.47 percent annual rate by a factor of 1.5 which produces an 18-month growth rate of 3.7 percent. This produced an estimated January 1, 2008 jail population of 794,417.

**Table 1: Estimate of Local Jail Growth Rate**

Year	Jail Population	% Change
2000	621,149	
2001	631,240	1.62%
2002	665,475	5.42%
2003	691,301	3.88%
2004	713,990	3.28%
2005	747,529	4.70%
2006	766,010	2.47%
Average Change 2000-2006		3.56%
Jan. 2008 estimate	794,417	2.47% (annual) 3.70% (18-month)

Sources: 2000-2006 from Bureau of Justice Statistics, "Prison and Jail Inmates at Mid-Year" series, 2000-2006; Jan. 2008 estimate from JFA Institute

**Table 2: U.S. Adult Resident Population Calculation**

Year	Population 18 Years and Over	% Change
2000	209,851,322	
2001	212,591,294	1.31%
2002	215,220,145	1.24%
2003	217,710,885	1.16%
2004	220,343,552	1.21%
2005	222,972,821	1.19%
2006	225,662,922	1.21%
Average Change 2000-2006		1.22%
Jan. 2008 estimate	229,786,080	1.22% (annual) 1.83% (18-month)

Source: U.S. Census Bureau, Annual Estimates of the Population by Selected Age Groups and Sex for the United States: April 1, 2000 to July 1, 2006; Jan. 2008 estimate from JFA Institute

For purposes of calculating the national adult incarceration rate, state prisoners being held in local jails were backed out of the jail figures to avoid double-counting. Our survey of the state prison population included identifying the number of these locally-held state inmates. Based on these figures, the unduplicated count of jail inmates on January 1, 2008 was estimated at 723,131.

January 1, 2008 Local Jail Estimate	794,417
State Inmates in Local Jails (2008)	-71,286
Unduplicated Local Jail Estimate	= 723,131

If the local jail population had grown by 21,397 fewer inmates than we estimate, the national adult incarceration rate would be exactly 1 in 100. That would result in an annual growth rate of 0.61% for the 18 months ending on January 1, 2008. In each year since 2000, the jail growth rate has been at least 2.5 times higher than that. If there was no growth in the jail population between mid-year 2006 and January 1, 2008, the national adult incarceration rate would be 1 in 100.3.

## National Adult Population Estimate

There is not an official U.S. Census count of the nation's adult population (persons age 18 years and older) for January 1, 2008. The Census Bureau has issued a total national population estimate for July 1, 2007, but at press time it had not yet released estimates by age.

Such estimates are available from 2000 to 2006. To make our estimate of the January 1, 2008 adult population we applied the average annual change since 2000 to the most recent Census estimate. Specifically, we calculated the average annual

percentage change in the census estimates for the population 18 years and over from July 1, 2000 to July 1, 2006. To project forward 18 months from the most recent census estimate, we multiplied the average annual percentage change from 2000 to 2006 (1.22%) by 1.5 and applied that result to the census estimate for July 1, 2006 for the population 18 years and over (Table 2). This yields a January 1, 2008 adult population estimate of 229,786,080.

**Calculation of National Incarceration Rate**

The actual prisoner counts and estimates above yield the following overall computation of the nation’s adult incarceration rate as of January 1, 2008.

State incarceration rates were not calculated for this report due to the lack of statewide jail population counts or a reliable method to estimate them.

Jail Population (estimate, unduplicated)	723,131
Prison Population (state/federal count)	+1,596,127
Total Inmate Population	2,319,258

Adult Population Estimate = 229,786,080  
Inmates/Adults = 1 in 99.1  
*(or 1,009 inmates per 100,000 adult residents)*

Finally, inmate populations were not adjusted for illegal U.S. residents because such residents are not excluded from the census counts upon which our adult population estimate is based.

**Cost Estimates**

State corrections spending figures in this report are from the most recent data available from the National Association of State Budget Officers (NASBO). NASBO explains that its corrections spending totals include “the costs to build and operate prison systems and may include spending on juvenile justice programs and alternatives to incarceration such as probation and parole.” There is no current national data source that tracks spending on prisons alone. Some states operate parole and probation systems in addition to prison systems, and these costs would be included in the figures. In many other states, probation or juvenile systems operate at the county level or within the judiciary, so these costs would not be included in the state totals. In addition, jails and other correctional programs operated by local jurisdictions are not included in the figures, which reflect spending by state governments.

# Jurisdictional Notes

Unless noted below, for the January 1, 2008 inmate population count we used the total jurisdictional count that each state DOC provided on the survey conducted for the Public Safety Performance Project by the Association of State Correctional Administrators (ASCA). For the December 31, 2006 count we used the December 31, 2006 jurisdictional prisoner count from Table 1 of the Bureau of Justice Statistics' "Prisoners in 2006" report.

State	Notes
Alabama	Alabama's 2008 count is the total jurisdictional population on 12/31/2007 shown in the Alabama DOC's December 2007 Monthly Report and reported by phone to the JFA Institute.
Alaska	Alaska's 2008 count was reported by phone to the JFA Institute.
Arkansas	Arkansas' count excludes about 1,500 inmates under the jurisdiction of the Department of Community Correction.
California	California's 2008 count is from 12/31/2007.
District of Columbia	The District of Columbia is not included as a separate jurisdiction in this report. D.C. prisoners were transferred to federal custody in 2001.
Federal Bureau of Prisons	The BOP reported its total as 199,342, which included 189 juveniles and 164 long term boarders. These populations were not counted in this survey, resulting in a comparable total of 198,989.
Florida	Florida's 2008 count is from 12/31/07.
Georgia	Georgia's 2008 count represents the population in or awaiting DOC prison beds on 12/28/2007, and excludes offenders in or awaiting beds in residential probation facilities (5,287).
Illinois	Illinois' 2008 count is from 2/8/08.
Indiana	One component of Indiana's 2008 count (state inmates in local jails) is from 12/28/07; the remaining counts are from 1/1/08.
Iowa	Iowa's 2008 count includes inmates awaiting trial for civil commitment as sex offenders (9). It also includes detainees held for federal pretrial (about 116), a portion of whom are also serving Iowa prison sentences.
Michigan	Michigan's figure for corrections share of general fund spending is not comparable with other states. In 1994, Michigan separated its K-12 education system into a different fund. The resulting general fund was significantly smaller, and thus expenditures for corrections and all other state agencies account for a much greater portion of it. Calculations that would make Michigan's spending patterns comparable with other states were not available.
Minnesota	Minnesota submitted inmate population counts for July 1, 2007; more recent figures were not available.
Mississippi	Mississippi's 1/1/08 count includes offenders pending file review (111) and out on court order (272).
New Hampshire	New Hampshire's 2008 count includes inmates assigned to Administrative Home Confinement (electronic monitoring).
Oklahoma	Oklahoma's 2008 count is from 12/31/2007. Numbers include inmates sentenced in other states but located in either a state or contract facility under the Oklahoma DOC jurisdiction (about 69).
Rhode Island	Rhode Island's 2006 count is based on the total population count on 12/31/06 from Rhode Island Department of Corrections, not on the BJS 2006 count.
Texas	Texas' 2008 count shows the 12/31/07 total population count that is equivalent to the 2006 BJS count, as provided by the Legislative Budget Board to the Public Safety Performance Project. This count includes inmates that Texas does not consider in its counting definition as being part of its prison, state jail and treatment institutions. For example, BJS included in its December 2006 count over 13,000 inmates in county jails sentenced as felons or parole violators awaiting a hearing. TDCJ considers these inmates as being under the jurisdiction of local jail authorities.

# Appendices

**TABLE A-1 State, Regional and National Prison Counts**

	Prison Population 12/31/06	Prison Population 1/1/08	# Change	% Change	
<b>U.S. Total</b>	<b>1,570,644</b>	<b>1,596,127</b>	<b>25,483</b>	<b>1.6%</b>	
<b>Federal</b>	<b>193,046</b>	<b>198,989</b>	<b>5,943</b>	<b>3.1%</b>	
<b>State</b>	<b>1,377,598</b>	<b>1,397,138</b>	<b>19,540</b>	<b>1.4%</b>	
<i>Northeast</i>	<i>177,600</i>	<i>178,692</i>	<i>1,092</i>	<i>0.6%</i>	
Connecticut	20,566	20,784	218	1.1%	
Maine	2,120	2,144	24	1.1%	
Massachusetts	11,032	11,364	332	3.0%	
New Hampshire	2,805	2,991	186	6.6%	
New Jersey	27,371	26,822	-549	-2.0%	
New York	63,315	62,620	-695	-1.1%	
Pennsylvania	44,397	46,028	1,631	3.7%	
Rhode Island	3,779	3,807	28	0.7%	
Vermont	2,215	2,132	-83	-3.7%	
<i>Midwest</i>	<i>261,466</i>	<i>262,586</i>	<i>1,120</i>	<i>0.4%</i>	
Illinois	45,106	45,305	199	0.4%	
Indiana	26,091	26,249	158	0.6%	Sources: 2006
Iowa	8,875	9,419	544	6.1%	figures - 12/31/06
Kansas	8,816	8,756	-60	-0.7%	Bureau of Justice
Michigan	51,577	50,326	-1,251	-2.4%	Statistics
Minnesota	9,108	9,573	465	5.1%	Jurisdictional
Missouri	30,167	30,324	157	0.5%	Count of Prisoners
Nebraska	4,407	4,472	65	1.5%	
North Dakota	1,363	1,440	77	5.6%	
Ohio	49,166	50,730	1,564	3.2%	2008 figures -
South Dakota	3,359	3,302	-57	-1.7%	1/1/2008 Public
Wisconsin	23,431	22,690	-741	-3.2%	Safety
<i>South</i>	<i>623,563</i>	<i>641,024</i>	<i>17,461</i>	<i>2.8%</i>	Performance
Alabama	28,241	29,412	1,171	4.1%	Project
Arkansas	13,729	14,314	585	4.3%	Jurisdictional
Delaware	7,206	7,081	-125	-1.7%	Count of Prisoners
Florida	92,969	97,416	4,447	4.8%	
Georgia	52,792	55,205	2,413	4.6%	
Kentucky	20,000	22,402	2,402	12.0%	Notes: Change is
Louisiana	37,012	37,718	706	1.9%	from 12/31/06 to
Maryland	22,945	23,342	397	1.7%	1/1/08 unless
Mississippi	21,068	22,335	1,267	6.0%	otherwise
North Carolina	37,460	38,425	965	2.6%	explained in
Oklahoma	26,243	25,918	-325	-1.2%	"Jurisdictional
South Carolina	23,616	24,217	601	2.5%	Notes"
Tennessee	25,745	26,838	1,093	4.2%	
Texas	172,116	171,790	-326	-0.2%	Many states have
Virginia	36,688	38,555	1,867	5.1%	not completed
West Virginia	5,733	6,056	323	5.6%	their data
<i>West</i>	<i>314,969</i>	<i>314,836</i>	<i>-133</i>	<i>0.0%</i>	verification
Alaska	5,069	5,306	237	4.7%	process. Final
Arizona	35,892	37,800	1,908	5.3%	published figures
California	175,512	171,444	-4,068	-2.3%	may differ slightly.
Colorado	22,481	22,541	60	0.3%	
Hawaii	5,967	6,036	69	1.2%	
Idaho	7,124	7,319	195	2.7%	
Montana	3,572	3,431	-141	-3.9%	The District of
Nevada	12,901	13,552	651	5.0%	Columbia is not
New Mexico	6,639	6,540	-99	-1.5%	included. D.C.
Oregon	13,707	13,855	148	1.1%	prisoners were
Utah	6,430	6,533	103	1.6%	transferred to
Washington	17,561	18,126	565	3.2%	federal custody in
Wyoming	2,114	2,053	-61	-2.9%	2001.

TABLE A-2 **State Corrections Spending, FY 2007**

	General Fund (in millions)	Percent of General Fund
State total	\$44,062	6.8%
<i>Northeast</i>	<i>\$8,010</i>	<i>5.2%</i>
Connecticut	\$661	4.4%
Maine	\$122	4.1%
Massachusetts	\$1,139	5.1%
New Hampshire	\$92	6.6%
New Jersey	\$1,468	4.9%
New York	\$2,622	5.1%
Pennsylvania	\$1,638	6.2%
Rhode Island	\$157	4.9%
Vermont	\$111	9.3%
<i>Midwest</i>	<i>\$8,443</i>	<i>6.9%</i>
Illinois	\$1,125	5.2%
Indiana	\$649	5.3%
Iowa	\$313	5.9%
Kansas	\$312	5.6%
Michigan*	\$2,063	22.6%
Minnesota	\$438	2.7%
Missouri	\$586	7.4%
Nebraska	\$172	5.2%
North Dakota	\$55	5.3%
Ohio	\$1,766	7.0%
South Dakota	\$74	7.0%
Wisconsin	\$890	6.7%
<i>South</i>	<i>\$14,182</i>	<i>6.8%</i>
Alabama	\$388	2.6%
Arkansas	\$314	7.7%
Delaware	\$240	7.1%
Florida	\$2,719	9.3%
Georgia	\$998	5.4%
Kentucky	\$454	5.2%
Louisiana	\$552	7.5%
Maryland	\$1,084	7.6%
Mississippi	\$227	5.4%
North Carolina	\$1,083	5.7%
Oklahoma	\$461	7.8%
South Carolina	\$444	6.7%
Tennessee	\$619	5.6%
Texas	\$3,292	8.6%
Virginia	\$1,136	6.7%
West Virginia	\$171	4.6%
<i>West</i>	<i>\$13,427</i>	<i>7.9%</i>
Alaska	\$227	5.3%
Arizona	\$895	8.5%
California	\$8,795	8.6%
Colorado	\$599	8.8%
Hawaii	\$205	3.8%
Idaho	\$179	6.9%
Montana	\$142	8.3%
Nevada	\$222	6.4%
New Mexico	\$241	4.2%
Oregon	\$684	10.9%
Utah	\$324	6.9%
Washington	\$832	5.9%
Wyoming	\$82	4.0%

Source: National Association of State Budget Officers, State Expenditure Report FY 2006. FY 2007 NASBO figures are estimates.

Notes: Michigan's percentage is not comparable with other states. See Jurisdiction Notes for additional detail about Michigan's figure.

The District of Columbia is not included. D.C. prisoners were transferred to federal custody in 2001.

**TABLE A-3 State Spending on Corrections and Higher Education, FY 1987-2007**

	State General Fund Higher Education Spending, FY 2007 (in millions)	Ratio of Corrections to Higher Education General Fund Spending, FY 2007	Ratio of Corrections to Higher Education General Fund Spending, FY 1987	Change in Ratio, FY 1987-2007
State total	\$72,888	0.60	0.32	0.28
Northeast	\$10,253	0.78	0.46	0.32
Connecticut	\$644	1.03	0.35	0.68
Maine	\$247	0.49	0.31	0.18
Massachusetts	\$1,160	0.98	0.30	0.68
New Hampshire	\$126	0.73	0.29	0.44
New Jersey	\$2,204	0.67	0.49	0.18
New York	\$3,587	0.73	0.61	0.12
Pennsylvania	\$2,015	0.81	0.20	0.61
Rhode Island	\$189	0.83	0.32	0.51
Vermont	\$81	1.37	0.37	1.00
Midwest	\$15,377	0.55	0.25	0.30
Illinois	\$2,209	0.51	0.30	0.21
Indiana	\$1,610	0.40	0.24	0.16
Iowa	\$827	0.38	0.16	0.22
Kansas	\$785	0.40	0.23	0.17
Michigan	\$1,728	1.19	0.38	0.81
Minnesota	\$2,558	0.17	0.09	0.08
Missouri	\$880	0.67	0.25	0.42
Nebraska	\$604	0.28	0.16	0.13
North Dakota	\$229	0.24	0.08	0.16
Ohio	\$2,551	0.69	0.28	0.41
South Dakota	\$182	0.41	0.16	0.25
Wisconsin	\$1,214	0.73	0.20	0.54
South	\$28,874	0.49	0.32	0.17
Alabama	\$1,712	0.23	0.25	-0.03
Arkansas	\$683	0.46	0.14	0.32
Delaware	\$239	1.00	0.45	0.56
Florida	\$4,110	0.66	0.34	0.32
Georgia	\$1,979	0.50	0.28	0.22
Kentucky	\$1,281	0.35	0.21	0.14
Louisiana	\$1,193	0.46	0.41	0.05
Maryland	\$1,456	0.74	0.71	0.03
Mississippi	\$760	0.30	0.20	0.10
North Carolina	\$3,310	0.33	0.19	0.14
Oklahoma	\$897	0.51	0.27	0.25
South Carolina	\$911	0.49	0.35	0.14
Tennessee	\$1,527	0.41	0.36	0.04
Texas	\$6,444	0.51	0.17	0.34
Virginia	\$1,903	0.60	0.79	-0.19
West Virginia	\$469	0.36	0.11	0.26
West	\$18,623	0.72	0.30	0.42
Alaska	\$296	0.77	0.48	0.29
Arizona	\$1,158	0.77	0.39	0.38
California	\$10,652	0.83	0.32	0.51
Colorado	\$764	0.78	0.18	0.60
Hawaii	\$666	0.31	0.23	0.08
Idaho	\$322	0.56	0.19	0.37
Montana	\$175	0.81	0.29	0.52
Nevada	\$513	0.43	0.44	0.00
New Mexico	\$762	0.32	0.29	0.03
Oregon	\$648	1.06	0.34	0.71
Utah	\$799	0.41	0.23	0.17
Washington	\$1,507	0.55	0.23	0.32
Wyoming	\$361	0.23	0.13	0.10

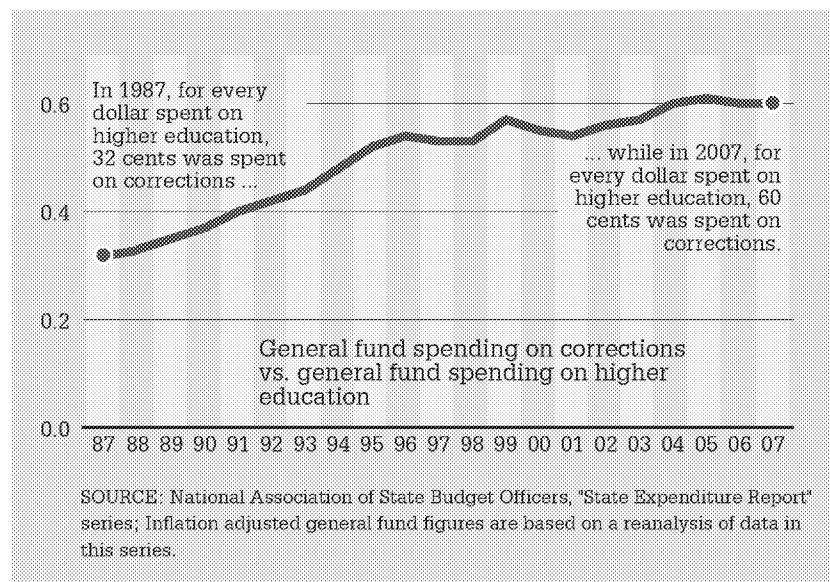
For every  
dollar Ohio  
spent on  
higher  
education,  
it spent 69  
cents on  
corrections.

Source: Data and reanalysis of data from National Association of State Budget Officers, State Expenditure Reports, FY 2007. NASBO figures are estimates.

Notes: The District of Columbia is not included. D.C. prisoners were transferred to federal custody in 2001.

**TABLE A-4 National Corrections and Higher Education Spending Trends, FY 1987-2007**

		Corrections as Percent of All State General Fund Spending	State General Fund Corrections Spending (in millions)	State General Fund Higher Education Spending (in millions)	Ratio of Corrections to Higher Education General Fund Spending	National Prison Population
Sources: Spending	2007	6.8%	\$44,062	\$72,888	0.60	1,596,127
data is from	2006	6.8%	\$40,661	\$67,792	0.60	1,570,861
National	2005	7.2%	\$38,755	\$63,202	0.61	1,527,929
Association of	2004	7.0%	\$35,744	\$59,819	0.60	1,496,629
State Budget	2003	7.2%	\$35,285	\$61,638	0.57	1,468,601
Officers, State	2002	6.9%	\$34,364	\$61,784	0.56	1,440,144
Expenditure	2001	6.9%	\$33,571	\$62,079	0.54	1,404,032
Reports or	2000	7.1%	\$32,195	\$58,119	0.55	1,391,261
reanalysis thereof.	1999	7.1%	\$29,733	\$52,470	0.57	1,363,701
FY 2007 NASBO	1998	5.9%	\$27,021	\$51,461	0.53	1,299,096
figures are	1997	6.8%	\$25,440	\$48,352	0.53	1,240,659
estimates.	1996	4.3%	\$24,847	\$46,279	0.54	1,181,919
Note: 1987-2006	1995	4.4%	\$23,251	\$44,588	0.52	1,125,874
prison populations	1994	3.9%	\$20,062	\$41,812	0.48	1,054,702
from Bureau of	1993	3.5%	\$17,547	\$40,137	0.44	969,301
Justice Statistics	1992	5.6%	\$16,504	\$39,567	0.42	882,500
2007 prison	1991	5.7%	\$15,890	\$39,267	0.40	825,559
population from	1990	5.5%	\$14,453	\$38,729	0.37	773,919
this report (as of	1989	5.3%	\$12,887	\$36,919	0.35	712,364
1/1/08 for most	1988	6.9%	\$11,744	\$35,108	0.33	627,600
states)	1987	5.0%	\$10,619	\$33,026	0.32	585,084





**TABLE A-5 State Employees in Corrections Workforce, 2006**  
**(by Region)** **(by Percent)**

State total	11.0%
<i>Northeast</i>	10.2%
Connecticut	12.6%
Maine	6.1%
Massachusetts	7.1%
New Hampshire	7.1%
New Jersey	6.5%
New York	13.6%
Pennsylvania	10.9%
Rhode Island	8.2%
Vermont	8.3%
<i>Midwest</i>	10.3%
Illinois	10.3%
Indiana	8.3%
Iowa	6.0%
Kansas	8.5%
Michigan	12.8%
Minnesota	5.2%
Missouri	13.9%
Nebraska	8.6%
North Dakota	3.8%
Ohio	11.8%
South Dakota	6.3%
Wisconsin	14.0%
<i>South</i>	12.1%
Alabama	5.7%
Arkansas	8.5%
Delaware	11.0%
Florida	15.1%
Georgia	15.9%
Kentucky	5.2%
Louisiana	8.7%
Maryland	13.1%
Mississippi	6.4%
North Carolina	15.0%
Oklahoma	8.4%
South Carolina	9.9%
Tennessee	8.8%
Texas	16.9%
Virginia	11.7%
West Virginia	8.7%
<i>West</i>	10.3%
Alaska	6.9%
Arizona	14.5%
California	12.8%
Colorado	9.7%
Hawaii	4.2%
Idaho	8.4%
Montana	6.3%
Nevada	13.5%
New Mexico	7.8%
Oregon	8.8%
Utah	6.5%
Washington	7.7%
Wyoming	7.4%

State total	11.0%
Texas	16.9%
Georgia	15.9%
Florida	15.1%
North Carolina	15.0%
Arizona	14.5%
Wisconsin	14.0%
Missouri	13.9%
New York	13.6%
Nevada	13.5%
Maryland	13.1%
California	12.8%
Michigan	12.8%
Connecticut	12.6%
Ohio	11.8%
Virginia	11.7%
Delaware	11.0%
Pennsylvania	10.9%
Illinois	10.3%
South Carolina	9.9%
Colorado	9.7%
Tennessee	8.8%
Oregon	8.8%
Louisiana	8.7%
West Virginia	8.7%
Nebraska	8.6%
Kansas	8.5%
Arkansas	8.5%
Idaho	8.4%
Oklahoma	8.4%
Vermont	8.3%
Indiana	8.3%
Rhode Island	8.2%
New Mexico	7.8%
Washington	7.7%
Wyoming	7.4%
Massachusetts	7.1%
New Hampshire	7.1%
Alaska	6.9%
New Jersey	6.5%
Utah	6.5%
Mississippi	6.4%
Montana	6.3%
South Dakota	6.3%
Maine	6.1%
Iowa	6.0%
Alabama	5.7%
Minnesota	5.2%
Kentucky	5.2%
Hawaii	4.2%
North Dakota	3.8%

Source: Reanalysis of U.S.  
 Census Bureau, State  
 Government Employment and  
 Payroll data

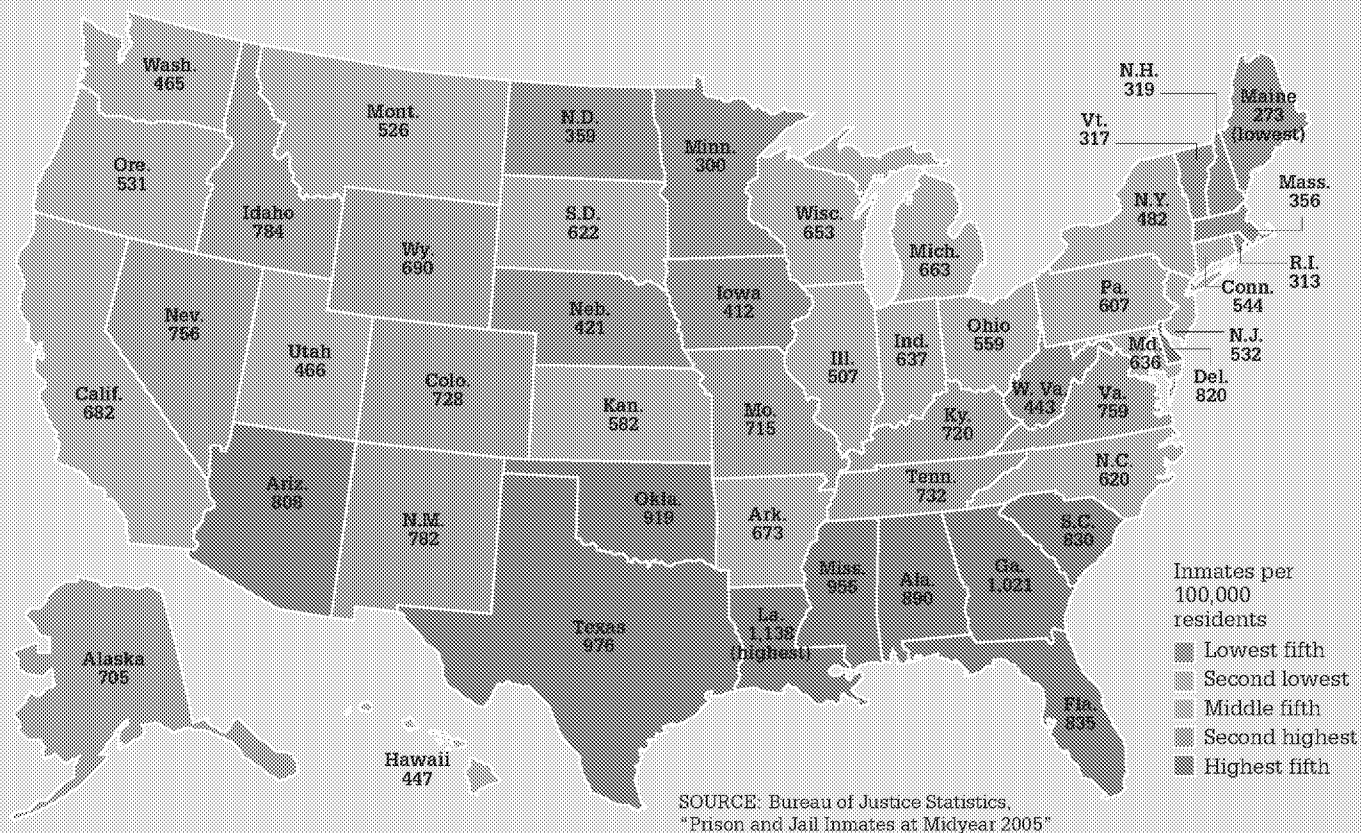
TABLE A-6

**1 in X: Incarceration Rates by Sex, Race/Ethnicity, Age & State**

Source: All data are from BJS, "Prison and Jail Inmates at Midyear 2006," or reanalysis thereof.

	All				Men				Women			
	All	White	Black	Hispanic	All	White	Black	Hispanic	All	White	Black	Hispanic
All ages	133	245	41	96	72	136	21	54	746	1064	279	658
18+	102	194	29	64	54	106	15	36	580	859	203	436
18-19	101	191	36	85	57	107	19	47	833	1235	382	571
20-24	53	103	17	41	30	60	9	24	345	453	157	289
25-29	53	104	17	43	30	59	9	26	333	443	140	328
30-34	54	92	17	47	30	53	9	27	270	343	108	300
35-39	63	104	19	55	36	61	10	32	265	355	100	297
40-44	76	124	24	66	43	71	13	38	352	500	125	358
45-54	153	266	45	101	83	148	23	55	893	1333	397	709
55+	837	1249	264	383	391	588	115	184	8333	11111	3571	3846

For example, this cell indicates that 1 in every 115 black males 55 years or older was behind bars on June 30, 2006.

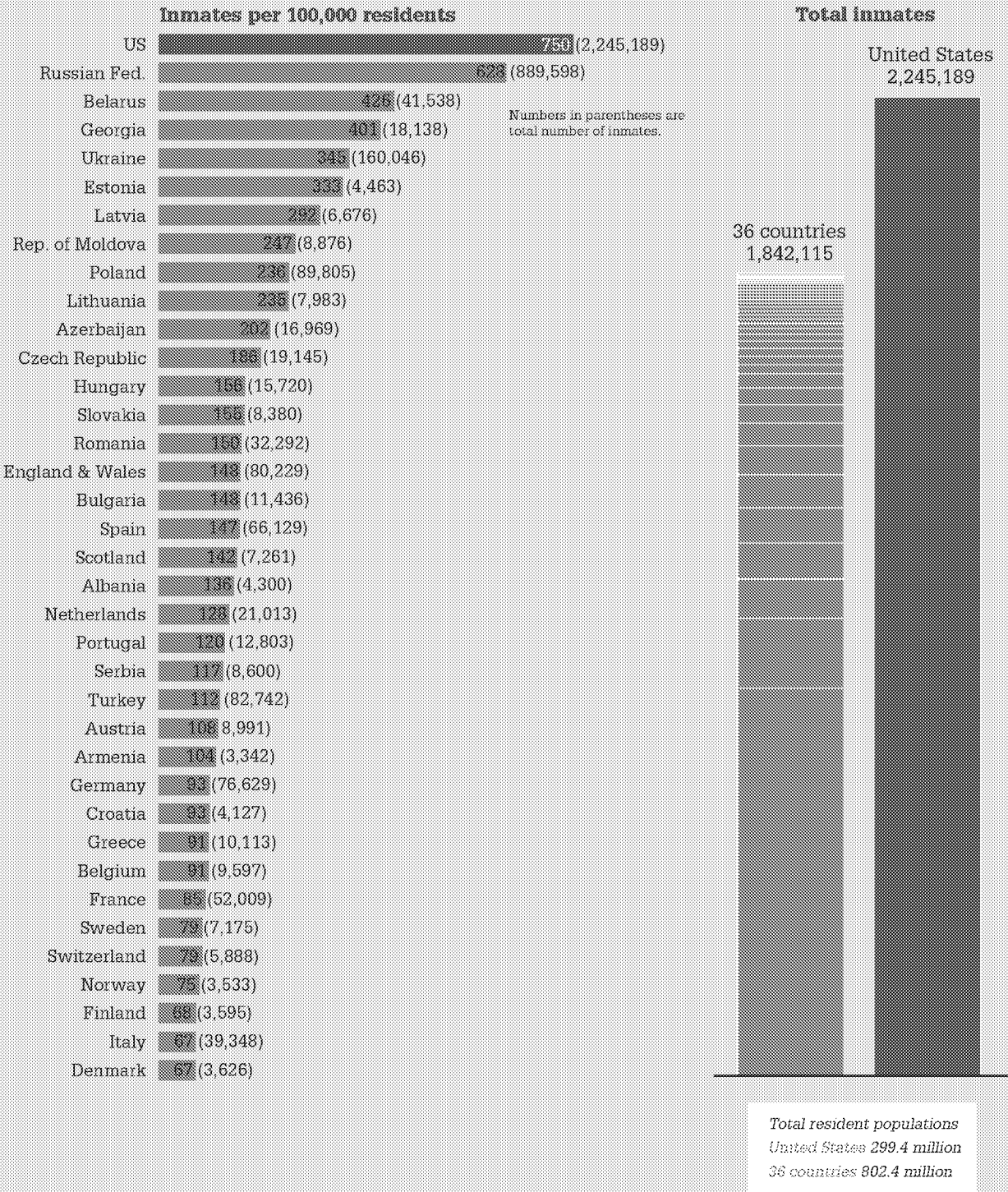
**STATE INCARCERATION RATES, 2005, BY QUINTILE**

SOURCE: Bureau of Justice Statistics, "Prison and Jail Inmates at Midyear 2005"

TABLE A-7

INTERNATIONAL COMPARISONS

The U.S. inmate population compared to the 36 largest European inmate populations (years vary).



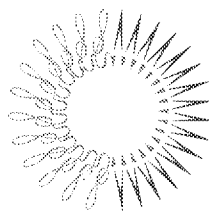
SOURCE: International Centre for Prison Studies at King's College, London, "World Prison Brief." Data downloaded January 2008.  
NOTE: Rates are for total number of residents, not just adults. Figures in this chart may not align with others due to differences in counting methods.







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# State of Recidivism

## The Revolving Door of America's Prisons



APRIL 2011

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For additional information, visit [www.pewcenteronthestates.org](http://www.pewcenteronthestates.org).

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# Contents

Executive Summary ..... 1

Introduction ..... 5

    Recidivism as a Performance Measure ..... 6

    Overview of the Study ..... 7

        Sidebar: What Is the Recidivism Rate?..... 7

A Closer Look at Recidivism Rates ..... 9

    New Figures Show Steady National Recidivism Rate..... 9

    State Rates Vary Widely ..... 12

        Sidebar: Comparing State Rates: A Note of Caution ..... 12

    How Have Recidivism Rates Changed? ..... 13

Unpacking the Numbers ..... 17

    How Does Sentencing Policy Impact Recidivism Rates? ..... 17

    How Does Community Corrections Policy Impact Recidivism Rates? .. 17

    Attacking Recidivism: Examples from Three States ..... 19

Improving Public Safety and Cutting Correctional Costs..... 25

    Reducing Recidivism: Strategies for Success ..... 26

        Sidebar: Resources for Developing Effective Reentry  
        and Supervision Strategies..... 27

    A Promising Start ..... 31

(continued)

CONTENTS

Exhibits

State Prison Releases and Recidivism Rates . . . . . 10

The Cycle of Prison Release . . . . . 14

The State of Recidivism . . . . . 15

Protecting Public Safety and Cutting Costs . . . . . 26

States Providing Data on First Releases  
versus Data for All Releases . . . . . 34

How States Classify the Reasons Offenders  
Were Returned to Prison . . . . . 35

Appendix: Methodology . . . . . 33

Differences Between the Pew/ASCA Survey  
and BJS Research . . . . . 34

Jurisdictional Notes . . . . . 36

Endnotes . . . . . 39

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Launched in 2006, the Public Safety Performance Project seeks to help states advance fiscally sound, data-driven policies and practices in sentencing and corrections that protect public safety, hold offenders accountable and control corrections costs.

# Executive Summary

The dramatic growth of America's prison population during the past three decades is by now a familiar story. In 2008, the Pew Center on the States reported that incarceration levels had risen to a point where one in 100 American adults was behind bars. A second Pew study the following year added another disturbing dimension to the picture, revealing that one in 31 adults in the United States was either incarcerated or on probation or parole.

The costs associated with this growth also have been well documented. Total state spending on corrections is now about \$52 billion, the bulk of which is spent on prisons. State spending on corrections quadrupled during the past two decades, making it the second fastest growing area of state budgets, trailing only Medicaid.

While America's imprisonment boom and its fiscal impacts have been widely debated, the public safety payoff from our expenditures on incarceration has undergone far less scrutiny. Now, however, as the nation's slumping economy continues to force states to do more with less, policy makers are asking tougher questions about corrections outcomes.

One key element of that analysis is measuring recidivism, or the rate at which offenders return to prison. Prisons, of course, are not solely responsible for recidivism results. Parole and probation agencies, along with social service providers and community organizations, play a critical role.

Although preventing offenders from committing more crimes once released is only one goal of the overall correctional system, it is a crucial one, both in terms of preventing future victimization and ensuring that taxpayer dollars are spent effectively. This report seeks to elevate the public discussion about recidivism, prompting policy makers and the public to dig more deeply into the factors that impact rates of return to prison, and into effective strategies for reducing them.

## A Fresh Look at the Numbers

For years the most widely accepted sources of national recidivism statistics have been two studies produced by the U.S. Department of Justice's Bureau of Justice Statistics (BJS). The most recent of those reports, which tracked offenders released

EXECUTIVE SUMMARY

from state prison in 1994, concluded that a little more than half of released offenders (51.8 percent) were back in prison within three years, either for committing a new crime or for violating rules of their supervision. Published in 2002, the BJS study followed a sample of offenders from 15 states, and did not provide any state-level recidivism data.

Recognizing the importance of recidivism to policy makers seeking better results from their correctional systems, Pew, in collaboration with the Association of State Correctional Administrators (ASCA), undertook a comprehensive survey aimed at producing the first state-by-state look at recidivism rates. The Pew/ASCA survey asked states to report three-year return-to-prison rates for all inmates released

from their prison systems in 1999 and 2004. This survey differs from the prior BJS study in many important ways, the most significant of which is that it includes recidivism data from more than twice as many states.

According to the survey results, 45.4 percent of people released from prison in 1999 and 43.3 percent of those sent home in 2004 were reincarcerated within three years, either for committing a new crime or for violating conditions governing their release. While differences in survey methods complicate direct comparisons of national recidivism rates over time, a comparison of the states included in both the Pew/ASCA and BJS studies reveals that recidivism rates have been largely stable. When excluding California, whose size skews the national picture, recidivism rates between 1994 and 2007 have consistently remained around 40 percent.



Without education, job skills, and other basic services, offenders are

likely to repeat the same steps that brought them to jail in the first place ... This is a problem that needs to be addressed head-on. We cannot say we are doing everything we can to keep our communities and our families safe if we are not addressing the high rate at which offenders are becoming repeat criminals."

Louisiana Gov. Bobby Jindal (R)  
March 18, 2011

The new figures suggest that despite the massive increase in corrections spending, in many states there has been little improvement in the performance of corrections systems. If more than four out of 10 adult American offenders still return to prison within three years of their release, the system designed to deter them from continued criminal behavior clearly is falling short. That is an unhappy reality, not just for offenders, but for the safety of American communities.

### Variation among States

While Pew’s new national numbers provide a useful and representative snapshot of recidivism, this report goes further, breaking out the figures state by state and showing change in reoffending trends over time. The result is a patchwork of recidivism rates that provokes myriad questions about the dramatic variations seen across the country.

For example, why do Wyoming and Oregon have the lowest overall recidivism rates for offenders released in 2004, and why do Minnesota and California have the highest? Why does North Carolina return relatively few ex-offenders to prison for technical violations of their parole, but reincarcerate a comparatively large proportion for new crimes? What drove the recidivism rate down by 22.1 percent in Kansas between 1999 and 2004, and what drove it up 34.9 percent in South Dakota during the same time period?

The causes of these variations are not always what they seem, and we explore some individual state stories, along with

some of the variables that influence recidivism patterns. We also examine policies and practices with demonstrated success in helping states reduce their recidivism rates. These strategies, anchored in research and proven over time, include the use of sophisticated risk assessments, meticulous reentry planning and post-release supervision carefully tailored to each offender’s circumstances. By employing such measures and other evidence-based interventions, states can improve the odds that released offenders will not reappear at the prison gate. That outcome benefits everyone, saving public funds and keeping communities safe.



By reducing the rate of offenders who return to prison, we keep our communities safer, our families more intact, and we’re able to begin reinvesting incarceration costs to other critical services.”

Kentucky Gov. Steve Beshear (D)  
January 4, 2011

# Introduction

Since the early 1970s, prisons have been the weapon of choice in America's fight against crime. Between 1973 and 2009, the nation's prison population grew by 705 percent, resulting in more than one in 100 adults behind bars.<sup>1</sup> This growth came at substantial cost, with annual state and federal spending on corrections exploding by 305 percent during the past two decades, to about \$52 billion.<sup>2</sup> During that same period, corrections spending doubled as a share of state funding. It now accounts for one of every 14 general fund dollars,<sup>3</sup> and one in every eight state employees works for a corrections agency.<sup>4</sup>

This high price would be more than defensible had it yielded proportionate improvements in public safety. In fact, the crime rate has been falling since the early 1990s, and is now at its lowest level since 1968.<sup>5</sup> Prison expansion certainly contributed to this trend. The most sophisticated research gives prison growth credit for one-quarter to one-third of the crime drop during the 1990s.<sup>6</sup> Other factors likely included advances in law enforcement practices, changes in drug markets and an aging American population, to name a few.

However, a deeper look at the data reveals a far more complicated picture with significant implications for public policy:

- During the past 10 years, all 19 states that cut their imprisonment rates also experienced a decline in their crime rates.<sup>7</sup>
- Florida and New York began the twenty-first century with nearly the same size prison population (about 70,000 inmates). During the ensuing decade, Florida added 30,000 inmates and now has more than 100,000 persons behind bars. Meanwhile, New York's prison population fell below 60,000. Yet the crime rate dropped in both states by about the same rate. In fact, New York's crime drop was slightly larger (29.2 percent) compared with Florida's (28.2 percent).
- Researchers calculate that we are past the point of diminishing returns, where each additional prison cell provides less and less public safety benefit. For example, in 1980, Washington State received more than \$9 in benefits for every dollar spent locking up drug offenders; now that

there are so many people behind bars, the state receives just 37 cents in benefits for each dollar spent.<sup>8</sup>

- Finally, if prisons helped cut crime by at most one-third, then other factors and efforts must account for the remaining two-thirds of the reduction. And because prisons are the most expensive option available, there are more cost-effective policies and programs. For example, it costs an average of \$78.95 per day to keep an inmate locked up, more than 20 times the cost of a day on probation.<sup>9</sup>

Figures like these, along with massive state budget shortfalls, have helped contribute

to a growing national movement that puts prison spending under greater scrutiny than ever before. For most of the past 40 years, the most common question policy makers asked about the budgets of state departments of corrections was simply “How many more prisons do we need?” Today state and national leaders from both parties are asking a much tougher question: “How do we get taxpayers a better public safety return on their corrections dollars?”

## Recidivism as a Performance Measure

In their efforts to answer that question, many states are taking a hard look at their recidivism rate as a key indicator of the return they receive from their correctional investments. Prisons serve multiple purposes, including exacting retribution for breaking the law, separating offenders from society so they cannot commit more crimes, deterring the general population from committing crimes and discouraging incarcerated offenders from committing new crimes once they are released. The last goal—avoiding future criminal conduct through deterrence and rehabilitation—is measured by the recidivism rate and has long been considered the leading statistical indicator of return on correctional investment.

To be sure, the performance of corrections agencies should be judged by whether the recidivism rate is



To increase public safety in this austere budget environment, we must support cost-effective efforts by states that are grounded in the ‘best practices’ and draw on the latest innovations from public corrections and the faith-based community ... For many years, reducing recidivism seemed nearly impossible. Now, many states are starting to turn a corner through commonsense and cost-effective reforms.”

U.S. Rep. Frank Wolf (R-VA, chair, Subcommittee on Commerce, Justice, Science and Related Agencies, Committee on Appropriations)  
January 8, 2011

rising or falling over time. All other things being equal, a state where corrections agencies are strategically improving their release preparation and supervision strategies will see its recidivism rate drop.

Policy makers should exercise caution, however, before merely accepting low or high recidivism numbers as evidence of successful or failing correctional programs. A low recidivism rate does not always reflect the use of sound release preparation and supervision strategies. By contrast, they also may be the by-product of a wide range of other factors, such as policies that send low-risk offenders to prison instead of granting probation, which is likely to result in a low rate of reoffending but at a higher cost. Moreover, beyond the justice system, recidivism rates can be influenced by larger social and economic forces. Therefore, any evaluation of recidivism data must include an understanding of this broader context and the larger policies and practices that drive the numbers.

For this reason, states in this report are presented in alphabetical order, rather than ranked by recidivism rate. Readers are advised to focus on differences within states over time, and to probe for reasons why one state's recidivism rate might be higher than its neighbor's rather than to make judgments about the performance of its corrections agencies based on this single indicator.

## Overview of the Study

At a time when states are mired in fiscal crises and struggling with painful budget choices, policy makers need updated information about the public safety return on corrections spending in their states. Specifically, they need knowledge about what is working—and what is not—to slow down the revolving door of prisons.

To help them along that path, Pew undertook a first-of-its-kind project—a survey of every state's department of

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## WHAT IS THE RECIDIVISM RATE?

Recidivism is the act of reengaging in criminal offending despite having been punished. The prison recidivism rate—the subject of this report—is the proportion of persons released from prison who are rearrested, reconvicted or returned to custody within a specific time period. Typically, recidivism studies follow released offenders for three years following their release from prison or placement on probation. Offenders are returned to prison for one of two reasons:

1. For committing a new crime that results in a new conviction  
or
2. For a technical violation of supervision, such as not reporting to their parole or probation officer or failing a drug test





Prisons are often the forgotten element of the criminal justice system until things go badly. Catching the guy and prosecuting him is really important work, but if we don't do anything with that individual after we've got him, then shame on us. If all that effort goes to waste and we just open the doors five years later, and it's the same guy walking out the door and the same criminal thinking, we've failed in our mission."

Minnesota Commissioner of Corrections Tom Roy  
April 7, 2011

corrections—with the aim of creating a single source of state-level recidivism data.<sup>10</sup> The survey, conducted with assistance from the Association of State Correctional Administrators (ASCA), asked states to provide recidivism rates for the 36 months following an offender's release from prison.<sup>11</sup> States also were asked to

specify whether an individual was returned to prison for a new criminal conviction or for a technical violation of the terms of his or her supervision. The survey sought estimates of recidivism for two cohorts of prisoners, those released in 1999 and for a second group released in 2004.

Thirty-three states responded with data for the 1999 release cohort, and 41 states provided data for offenders released in 2004, allowing for an analysis of recidivism trends in almost three dozen states that represent 87 and 91 percent of all releases from state prison, respectively.<sup>12</sup> This report provides the first opportunity to examine intrastate rates over time. These data provide crucial insight to policy makers as they assess the performance of their state's correctional system. Those states that did not participate either were unable to respond to our survey because they had not collected data on recidivism for the requested period(s) or they did not respond to numerous efforts to contact state officials. The Appendix contains more information on the research methodology.

# A Closer Look at Recidivism Rates

## New Figures Show Steady National Recidivism Rate

The Pew/ASCA survey found the three-year return-to-prison rate for inmates released in 1999 to be 45.4 percent, and 43.3 percent for those released in 2004. Recidivism rates changed little between the 1999 and 2004 release cohorts, despite more than 63,000 more people being discharged from prison in 2004. The total number of releases from prison increased by 13.5 percent in the 33 states that reported data for both 1999 and 2004

(see Exhibit 1 for state-by-state data). The number of prisoners released increased in 29 states but decreased in four. Across the 33 states that reported for both periods, the recidivism rate declined slightly, dropping 4.8 percent between the cohorts.

Despite a nearly two-decade decline in national crime rates, the rate of reincarceration for a new crime among those persons released from prison increased by 11.9 percent between the two cohorts in this study. However, this increase was offset by a 17.7 percent drop in the rate of offenders returned for a technical violation. These numbers suggest that states are improving their responses to community supervision violations, thereby reserving prison space for ex-offenders who have committed new crimes. Nevertheless, the increase in the rate of returns for new crimes underscores the need for states to identify and implement evidence-based strategies that protect public safety and hold offenders accountable.

Prior to this research, the most recent studies of national recidivism rates by BJS found that the rate of released

**66** I believe in, and we have, tough statutes and sentences for those who break our laws and endanger our citizens and communities. As a result, our crime rates are down. However, our recidivism rate is still too high. Reduction in recidivism means fewer victims, and less prison costs."

Virginia Gov. Bob McDonnell (R)  
January 12, 2011

## A CLOSER LOOK AT RECIDIVISM RATES

Exhibit 1

## State Prison Releases and Recidivism Rates

	Releases 1999–2002	Recidivism 1999–2002	Releases 2004–2007	Recidivism 2004–2007
Alabama	8,771	36.0%	10,880	35.1%
Alaska*	N/A	N/A	11,619	50.4%
Arizona	13,091	39.6%	15,795	39.1%
Arkansas*	5,663	49.0%	6,244	44.4%
California	126,456	61.1%	118,189	57.8%
Colorado	N/A	N/A	N/A	N/A
Connecticut*	13,950	45.8%	16,100	43.7%
Delaware	N/A	N/A	N/A	N/A
Florida	N/A	N/A	N/A	N/A
Georgia*	16,951	38.0%	18,972	34.8%
Hawaii	N/A	N/A	N/A	N/A
Idaho	1,071	33.0%	1,574	33.6%
Illinois	25,025	51.8%	35,606	51.7%
Indiana	N/A	N/A	13,651	37.8%
Iowa*	2,953	32.4%	3,533	33.9%
Kansas*	5,088	55.1%	5,178	42.9%
Kentucky	7,622	38.8%	10,743	41.0%
Louisiana	12,787	43.9%	13,391	39.3%
Maine	N/A	N/A	N/A	N/A
Maryland	N/A	N/A	N/A	N/A
Massachusetts*	2,860	38.1%	2,299	42.2%
Michigan	10,985	38.0%	14,217	31.0%
Minnesota	3,940	55.1%	5,189	61.2%
Mississippi	5,742	26.6%	8,428	33.3%
Missouri	12,974	48.7%	18,637	54.4%
Montana	906	41.8%	1,253	42.1%
Nebraska	1,612	28.8%	1,846	32.3%
Nevada	N/A	N/A	N/A	N/A

(continued)

## A CLOSER LOOK AT RECIDIVISM RATES

Exhibit 1

State Prison Releases and Recidivism Rates *(continued)*

	1999–2002		2004–2007	
	Releases	Recidivism	Releases	Recidivism
New Hampshire*	N/A	N/A	1,082	44.2%
New Jersey	14,034	48.2%	14,039	42.7%
New Mexico	N/A	N/A	3,615	43.8%
New York	25,592	39.9%	24,921	39.9%
North Carolina	23,445	43.8%	22,406	41.1%
North Dakota	N/A	N/A	845	39.6%
Ohio	22,128	39.0%	26,695	39.6%
Oklahoma	7,802	24.1%	8,159	26.4%
Oregon	2,769	33.4%	4,202	22.8%
Pennsylvania	6,844	36.6%	8,750	39.6%
Rhode Island	N/A	N/A	770	30.8%
South Carolina	9,299	26.8%	11,211	31.8%
South Dakota	1,231	33.7%	2,034	45.5%
Tennessee	N/A	N/A	N/A	N/A
Texas*	56,571	32.1%	72,130	31.9%
Utah	2,563	65.8%	3,056	53.7%
Vermont	N/A	N/A	N/A	N/A
Virginia	8,997	29.0%	11,999	28.3%
Washington	5,738	32.8%	8,093	42.9%
West Virginia	N/A	N/A	1,346	26.8%
Wisconsin*	5,206	46.1%	8,501	46.0%
Wyoming	N/A	N/A	705	24.8%

<b>Total</b>	<b>470,666</b>	<b>45.4%</b>	<b>567,903</b>	<b>43.3%</b>
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NOTES: The national total for 1999–2002 is not directly comparable to the national total for 2004–2007 because eight states did not report data for the 1999–2002 cohort. The 2004–2007 recidivism rate for the 33 states that reported data in both years is 43.3 percent, but the total releases are 534,270. Data are missing for nine states (Colorado, Delaware, Florida, Hawaii, Maryland, Maine, Nevada, Tennessee and Vermont). Eight additional states provided data for 2004–2007 only (Alaska, Indiana, North Dakota, New Hampshire, New Mexico, Rhode Island, West Virginia and Wyoming).

\*See the jurisdictional notes in the Appendix for information about this state.

SOURCE: Pew/ASCA Recidivism Survey.

A CLOSER LOOK AT RECIDIVISM RATES

prisoners who were reincarcerated within three years of release had increased sharply.<sup>13</sup> For inmates released in 1983, the estimated national recidivism rate was 41.4 percent; for prisoners released in 1994, it had jumped to 51.8 percent. The Pew/ASCA survey differs from the prior BJS studies in many important ways. See the Appendix for a discussion of the differences between the studies.

While differences in survey methods complicated direct comparisons of national recidivism rates over time, a comparison of the states included in both the Pew/ASCA and BJS studies reveals that recidivism rates have been largely stable since the mid-1990s. The high number of releases and rate of return for offenders from California has a significant impact on the national recidivism rates. When California is excluded from the national figures, the recidivism rate for the remaining states declines to 39.7 percent and 38.5 percent for the 1999 and 2004 release cohorts, respectively. These rates are similar to the 40.1 percent rate that BJS produced for its 1994 release cohort when excluding California. This suggests that the overall national recidivism rate has been largely stable, with roughly four in 10 prisoners returning to prison within three years of release.

State Rates Vary Widely

The national recidivism rates provide an important barometer of return on

correctional investment, but they obscure key differences among the states. The correctional landscape varies dramatically in scale, policy and practice from state to state, rendering national estimates helpful for understanding broad trends and developments, but ill suited for identifying state progress and promising areas for improvement. State-level analyses uncovered interesting findings related to prisoner releases and rates of recidivism in the past decade.

Recidivism among 1999 Releases

In the 33 states that reported data for the 1999 release cohort, 45.4 percent of inmates released from prison were reincarcerated within three years. Utah

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COMPARING STATE RATES:  
A NOTE OF CAUTION

Readers are advised to use caution when comparing recidivism rates across states. A state's recidivism rate is the product of numerous variables, and valid interstate assessments are possible only with careful study and analysis of the wide range of unique conditions affecting corrections agencies in each state.

See the Appendix for a discussion of interstate differences in the measurement and reporting of recidivism rates.

A CLOSER LOOK AT RECIDIVISM RATES

had the highest rate of recidivism, with 65.8 percent of those released from prison sent back within three years. In five states, more than half of released prisoners were returned to prison during the follow-up period.

Oklahoma had the lowest rate of recidivism, with 24.1 percent of released prisoners returned to custody. Four other states (Mississippi, Nebraska, South Carolina and Virginia) reported three-year recidivism rates of less than 30 percent.

Breaking the numbers down further, 19.9 percent of all released offenders were reincarcerated for a new crime and 25.5 percent were returned for a technical violation of supervision (Exhibit 2). States' rates of recidivism for a new crime ranged from a high of 41.9 percent in North Carolina to a low of 8 percent in Georgia. Recidivism for technical violations was equally varied, topping out at 51.2 percent in Utah and dipping as low as 1.9 percent in North Carolina.

**Recidivism among 2004 Releases**

Findings for the 2004 release cohort largely mirrored those for the 1999 group, with some interesting state variations. Figures from the 41 participating states showed that 43.3 percent of people released from prison in 2004 were returned within three years. Minnesota reported the highest recidivism rate, with 61.2 percent of released prisoners

returning to custody within three years. Six states had recidivism rates that were above 50 percent.

Oregon had the lowest rate of recidivism in the country for prisoners released in 2004—22.8 percent. Nationally five states reported recidivism rates under 30 percent for their 2004 releases.

Among this group of released offenders, 22.3 percent were returned to prison for a new crime and 21 percent were returned for a technical violation of supervision. Alaska reported the highest rate of recidivism for a new crime (44.7 percent), while Montana reported the lowest rate (4.7 percent). A look at technical violations leading to reincarceration showed rates as high as 40.3 percent in Missouri and as low as zero in Arkansas. The reason for Arkansas's results: the Department of Community Corrections operates two distinct programs as alternatives to traditional incarceration for adult offenders who fail to comply with the terms of parole supervision.

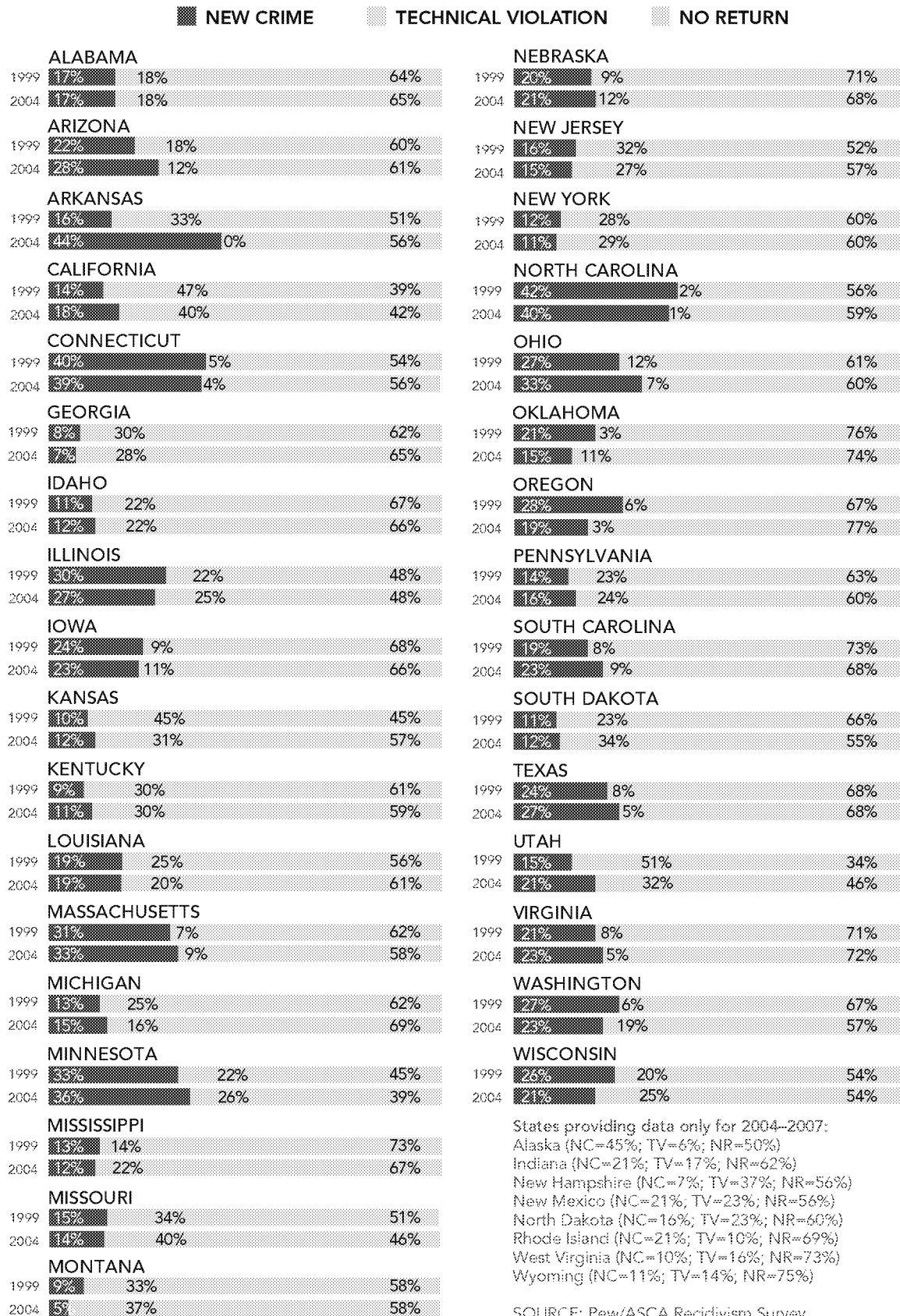
**How Have Recidivism Rates Changed?**

The Pew/ASCA study shows a nearly even split between states that had increasing and decreasing rates of recidivism between the 1999 and 2004 releases (Exhibit 3). Oregon, Kansas and Utah led the country in declining returns to prison during the

## Exhibit 2

# The Cycle of Prison Release

This graph shows the proportion of released offenders who returned to prison for either committing a new crime or a technical violation as well as those who did not return within three years.



A CLOSER LOOK AT RECIDIVISM RATES

study period, with Oregon reporting the steepest drop of 31.9 percent. Louisiana, Michigan and New Jersey also reported decreases of at least 10 percent.

Meanwhile, South Dakota and Washington State reported increases of greater than 30 percent. Six other states (Massachusetts, Minnesota, Mississippi, Missouri, Nebraska and South Carolina) reported

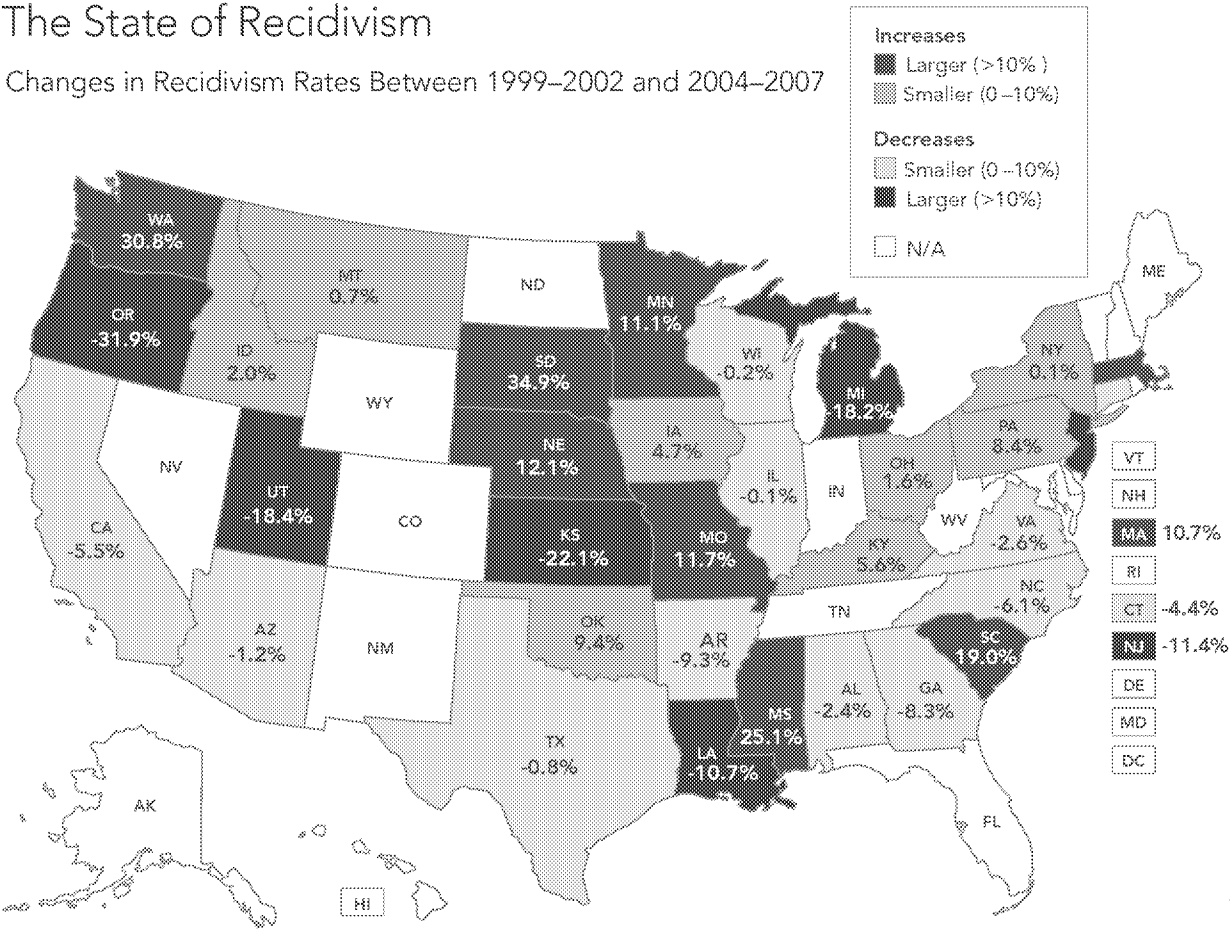
increases of greater than 10 percent in their recidivism rates between the 1999 and 2004 cohorts.

Focusing the lens more tightly, Montana and Oregon documented the largest declines in new crime returns while North Carolina, Ohio and Oregon reported the largest decreases in returns for technical violations of supervision.

Exhibit 3

The State of Recidivism

Changes in Recidivism Rates Between 1999–2002 and 2004–2007



SOURCE: Pew/ASCA Recidivism Survey.



# Unpacking the Numbers

Recidivism rates vary widely among the states, and there are a number of potential explanations for the differences. Many deliberate policy decisions, such as the types of offenders sentenced to prison, how inmates are selected for release, the length of stay under supervision, and decisions about how to respond to violations of supervision, can have a large impact on recidivism rates. States differ markedly with regard to these practices, which influence recidivism rates to a strikingly high degree. In other words, the numbers are only one piece of the puzzle. In order to understand the significance of a state's recidivism rate, one must examine the underlying policies and practices that impact the number.

## How Does Sentencing Policy Impact Recidivism Rates?

States that send comparatively low-risk offenders to prison are likely to see lower rearrest and violation rates compared with states that concentrate prison space on more dangerous offenders. If, for example, a state incarcerates a large proportion of lower-risk offenders, then its recidivism rate might be comparatively low, because such offenders would be, by definition, less of a

risk to return to prison. A state with a larger percentage of serious offenders behind bars, on the other hand, might experience higher rates of reincarceration when those offenders return to the community.

Oklahoma exemplifies the former example: "A lot of people who might be put on probation or diverted into an alternative program in another state wind up going to prison in Oklahoma," notes Michael Connelly, administrator of evaluation and analysis in the Oklahoma Department of Corrections. "These lower level folks aren't as likely to recidivate, so it benefits our overall numbers and makes us look like we're doing an even better job than we're doing." Oklahoma's overall recidivism rate for offenders released in 2004 was 26.4 percent, the third lowest in the country, the Pew/ASCA survey found.

## How Does Community Corrections Policy Impact Recidivism Rates?

Few practices can influence a state's recidivism rate more dramatically than its handling of technical violations of conditions of supervision. As a result,



“It is easy to see that we are at a critical turning point in criminal justice policies—one that will hopefully result in smart and tough policies to protect the public.”

Texas State Rep. Jerry Madden (R)  
May 11, 2010

taking a close look at a state’s management of such violations is key to understanding what its recidivism rate really means.

First, states that have shorter periods of post-prison supervision may have lower rates of revocation to prison, because their offenders must comply with supervision rules for shorter periods. North Carolina is a good example of this policy. Parole supervision in North Carolina lasts between six and nine months, an unusually short period. Not surprisingly, the state had the second lowest rate of technical violators returned to prison among offenders released in 2004—less than 1 percent. If you are not on parole, you are not going to be reincarcerated on a technical violation. By contrast, North Carolina has a relatively high rate of return for new crimes—40.4 percent for offenders released in 2004—placing it in the top third among states by that measure.

Second, the ability of supervision agencies to detect violations and how they respond

to such violations have a substantial impact on recidivism rates. Detection can depend on caseload sizes; the number and complexity of the rules and programs with which offenders must comply; the availability of drug testing and GPS and other monitoring systems; and the strength of the relationships that officers have with offenders’ families and communities. Responses to violations are guided by supervision philosophy, and the laws and policies that specify what officers are supposed to do when various violations are discovered.<sup>14</sup> The examples below illustrate a few ways in which management of technical violations can influence the recidivism rate.

In some states, released offenders who break the rules of their supervision are routinely punished with a short prison stay. California, for example, has for years taken this route, an approach that has helped to keep its prison population the highest in the nation. In other states, such as Oregon, the practice is to use prison only as a last resort, and technical violations are instead met with a range of sanctions in the community, sometimes including time in jail. The state that uses prison as a response would have a higher recidivism rate, because a violator’s return to prison is counted in the calculation. But that higher rate would not necessarily mean that state is doing a worse job preparing offenders to succeed in the community. Rather, it is merely a reflection of how transgressions are handled.

Another variable in the mix is a state's fundamental parole policy. In some "truth in sentencing" states, where offenders serve 85 percent or more of their prison terms, there are proportionally fewer people on parole, because inmates will have at most 15 percent of their sentence left after release. Fewer parolees translate into fewer violations, and therefore a lower recidivism rate. Arizona, which applies a strict truth in sentencing standard to nonviolent as well as violent offenders, may be a case in point. The Pew/ASCA survey data show that only 11.5 percent of Arizona offenders released in 2004 returned to prison on a technical violation, ranking it in the lower third among states participating in the survey.

California is just the opposite. There, almost everyone released from prison goes on mandatory parole, typically for three years. That is a long time to abide by the often strict conditions imposed on parolees. This partly explains why California ranked second among states in the proportion of released offenders from 2004 who were returned to prison for technical violations within three years, with a rate of 40 percent. The proportion of released California offenders reimprisoned for new crimes, meanwhile, was just 17.7 percent, ranking it in the bottom half of states.

These kinds of differences substantially complicate interstate comparisons, and, much in the same way the Federal

Bureau of Investigation cautions against comparing state crime rates, great care should be used in comparing state recidivism rates. Differences among states certainly should prompt many questions, such as "Why is the rate in my state so much higher than our neighbor's?" But looking at the change within a state over time is more likely to yield a valid sense of the performance of any state's corrections system.

### Attacking Recidivism: Examples from Three States

Assessing a state's correctional performance requires linking recidivism rates with the specific policies and practices that impact the frequency with which persons reoffend. Oregon, Michigan and Missouri are three states that took thoughtful and concerted steps to put research into practice. While none of the three would argue it has the perfect system, their stories help illuminate strategies that can help cut reoffending and corrections costs.



"We were frustrated with the revolving door of people moving in and out of the system ... The question was, are we doing the best we can do with the resources we've got?"

North Little Rock (AR) Police Chief Danny Bradley  
March 7, 2011



## LEADING THE WAY IN OREGON

One state considered a national standout in reducing recidivism is Oregon. For offenders released in 2004, Oregon recorded the lowest overall recidivism rate among the 41 reporting states, a rate of 22.8 percent. Oregon also experienced the biggest decline in recidivism from 1999 to 2004, a drop of almost 32 percent. Oregon officials attribute their success to a comprehensive approach to reform and a commitment to change that reaches across all levels of government—from the supervision officer in the field, to the judiciary, through the state corrections department and up the ranks of legislative leadership.

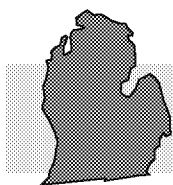
In prison, Oregon inmates receive risk and needs assessments at intake, and targeted case management during incarceration, along with detailed transition planning that begins six months before release. In the community, probation officers use a sanctioning grid to impose swift, certain consequences for violations, creating consistency across offenders and from county to county. In both settings, offender programs are anchored in research and continually monitored and updated to optimize their effectiveness.

The change in the handling of offenders who violate terms of their supervision was striking. In the past, parole and probation violators filled more than a quarter of Oregon's prison beds. Today violators are rarely reincarcerated. Instead, they face an array of graduated sanctions in the community, including a short jail stay as needed to hold violators accountable. Results of the Pew/ASCA survey confirmed this—only 5.9 percent of offenders released in 1999 and 3.3 percent of the 2004 cohort were returned to prison on technical violations.

“It’s pretty rare in Oregon for someone to be violated all the way back to prison,” said Oregon Director of Corrections Max Williams, “so we don’t have that revolving door that puts so much pressure on the prison population in other states.”

A key piece of legislation, passed with bipartisan support in 2003, helped fuel Oregon's efforts. The bill, SB 267, required that any correctional program receiving state money be evidence-based in its design and delivery.<sup>15</sup>

“I think the bill pushed Oregon forward at a faster pace, and forced us to make sure our programs were truly translating the best available research into practice in the field,” Williams said.



## TURNING THE TIDE IN MICHIGAN

At the start of the millennium, Michigan did not look like a state on the cusp of inspiring correctional reform. Its myriad problems included high crime rates, a sharply rising inmate population, disappointing recidivism numbers and an economy deeply wounded by the ailing auto industry. By 2002, the state was sinking \$1.6 billion a year into corrections, almost one-fifth of its general fund.

Less than a decade later, Michigan is riding a wave of policy changes that have allowed it to shrink its inmate population by 12 percent, close more than 20 correctional facilities and keep a growing number of parolees from returning to custody.

The cornerstone of the effort is the Michigan Prisoner Reentry Initiative (MPRI). Launched in 2003 and expanded statewide in 2008, the initiative's mission is to equip every released offender with tools to succeed in the community. MPRI begins at intake, when a prisoner's risk, needs and strengths are measured to develop individualized programming. Prior to parole, offenders are transferred to a reentry facility, and a transition plan, which addresses employment, housing, transportation, mentoring, counseling and any necessary treatment for mental illness or addictions, is finalized in close collaboration with community service

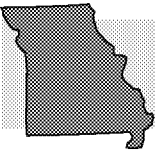
providers. After release, officers use firm but flexible graduated sanctions—including short stays in a reentry center if needed—to manage rule breaking before it escalates to more serious transgressions.

The Pew/ASCA recidivism survey found a mixed picture in Michigan. Recidivism declined by 18 percent between 1999 and 2004 because of a dramatic drop in the reincarceration of technical violators, but returns to prison for new crimes jumped by almost 21 percent during the period. Those numbers, however, do not capture progress that has occurred under MPRI since Pew's observation period ended in 2007.

Overall, post-2007 preliminary figures from the Michigan Department of Corrections show that parolees released through the MPRI are returning to prison 33 percent less frequently than similar offenders who do not participate in the program. A closer look at all offenders released from Michigan prisons reveals that parole revocations for both new crimes and technical violations are at their lowest level since record keeping began 23 years ago. In 2009, there were 195 revocations for every 1,000 parolees—101 were for technical violations and 94 were for new crimes. A decade earlier, that figure was 344 revocations per 1,000 parolees—246 for technical violations and 98 for new criminal convictions.

The trend is particularly significant because Michigan's parole population has grown dramatically in recent years. As MPRI has produced positive results, members of the state's Parole & Commutation Board have become increasingly confident about parolee success, leading to higher parole approval rates. As a result, the state paroled roughly 3,000 more prisoners in 2009 than it did in 2006.

"Although the roots of MPRI were clearly in a budget crisis, it was never only about saving money—it was a belief that doing corrections 'right' would result in a smaller prison system and large savings," recalled former Michigan Director of Corrections Patricia L. Caruso. "We had to change our entire culture to focus on success. It was challenging, but fortunately, it worked."



**TACKLING TECHNICAL VIOLATIONS IN MISSOURI**

“ I want to be absolutely clear. I am not advocating that we reduce prison populations just to save money. Nonviolent offenders are still law breakers, and they will break laws until they learn their lesson. What I am saying is that we need to do a better job teaching nonviolent offenders the right lessons. That takes more than prison; it takes more than slap-on-the-wrist-probation. Drug and alcohol addiction must be broken; discipline and job skills must be learned. When that can be done better, outside of expensive prison walls, that is what we should do. Results matter, public safety matters, taxpayer dollars matter, saving lives and restoring families matter.”

Chief Justice William Ray Price Jr.,  
Supreme Court of Missouri  
February 9, 2011

In early 2002, Missouri faced a dilemma familiar to many states: A jump in the prison population had stretched capacity to the limit, yet budget woes and other funding priorities meant there were no dollars to increase prison capacity. The message from the governor's office and General Assembly was clear—no more prisons. Find another way to cope.

In response, Missouri policy makers took a hard look at what was driving their inmate population upward. Longer terms brought on by mandatory minimum sentencing were partly responsible. But the primary contributor was a steep rise in the number of parole and probation violators behind bars. The Pew/ASCA data confirm the diagnosis. In 2004, the state recorded an overall recidivism rate of 54.4 percent—the third highest among the states. Missouri also ranked

UNPACKING THE NUMBERS

highest in the proportion of released offenders imprisoned for a technical violation (40.3 percent). That factor contributed to an overall increase in recidivism in Missouri of 12 percent between 1999 and 2004.

Over the next four years, Missouri mapped out a meticulous plan for managing all but the most serious violators in the community. It began with a work group that analyzed revocations, evolved into an inter-agency team that drafted a vision and set goals, continued through a pilot project and ultimately took flight through new policies and procedures, coupled with extensive parole and probation staff training, in 2006.

Today released offenders in Missouri are subject to “e-driven supervision” (the “e” is for evidence), which uses a new risk assessment tool to categorize parolees and help set supervision levels. When violations occur, officers have a range

of sanctions they may impose, from a verbal reprimand or modification of conditions, to electronic monitoring, residential drug treatment or “shock time” in jail.

“Every possible avenue is tried for that individual before we resort to sending him back to prison,” Missouri Director of Corrections George Lombardi said. “That approach is just part of our culture now.”

The payoff has been dramatic: 46 percent of offenders released in fiscal year 2004, for example, were returned to prison within two years, either for a new crime or technical violation. Since then, that rate has dropped steadily, and reached a low of 36.4 percent for offenders released in fiscal year 2009.

Missouri’s prison population, meanwhile, has held steady at about 30,500 inmates since 2005.

# Improving Public Safety and Cutting Correctional Costs

With state revenues down and lawmakers forced to make cuts to vital public programs, corrections spending is under scrutiny like never before. Leaders from across the political spectrum are demanding a more effective correctional system that reduces recidivism and delivers taxpayers a higher public safety return on their investment.

States have been seeking better results in four main areas:

**Staff and program cuts:** The vast majority of states recently made or plan to make cuts to personnel and programs to save money. A recent survey of state corrections departments by the Vera Institute of Justice showed that least 32 states have implemented staff reductions or hiring freezes, and 22 states have eliminated programs or instituted cut-backs.<sup>16</sup>

**Operating efficiencies:** To save additional dollars, a number of states are finding ways to operate more efficiently by reducing the number of prison beds and closing facilities, reining in food service costs, investing in technology to streamline and improve institutional surveillance,

cutting back on inmate transportation costs and improving energy efficiency in facilities.<sup>17</sup>

**Sentencing and release policies:** Several states are reexamining their statutes that help determine who goes to prison and how long they stay. Many states are updating the dollar thresholds for various property crimes, realizing they have not been adjusted since the 1960s, while others are modifying penalties for drug crimes, including making more offenders eligible for prison alternatives.<sup>18</sup> Other states are instituting or changing earned-time credit incentives for inmates.

**Recidivism reduction strategies:** Finally, almost all states have under way a variety of efforts to break the cycle of recidivism. In addition to improving correctional policy and practice, many of these initiatives involve coordination of offender services with other government agencies, such as health and housing, and community- and faith-based organizations.<sup>19</sup>

Policies targeted at reducing recidivism offer perhaps the ripest opportunities for achieving the twin goals of less



crime and lower costs. Research indicates that strong implementation of evidence-based practices (EBP) and programs can reduce recidivism rates by 50 percent.<sup>20</sup> Such powerful results were seen recently in Arizona, where a combination of new legislation and persistent efforts by the courts and probation officials to adopt EBP resulted in a 31 percent drop in new felony convictions of probationers during the past two years.<sup>21</sup>

That kind of change is unlikely nationwide over a short period, but Pew calculates that if the 41 states that responded to our survey with 2004 data could reduce their recidivism rates by just 10 percent, they could save more than \$635 million in averted prison costs in one year alone (see Exhibit 4 for an analysis of 10 states). More importantly, the drop in recidivism would mean fewer victims of crime.

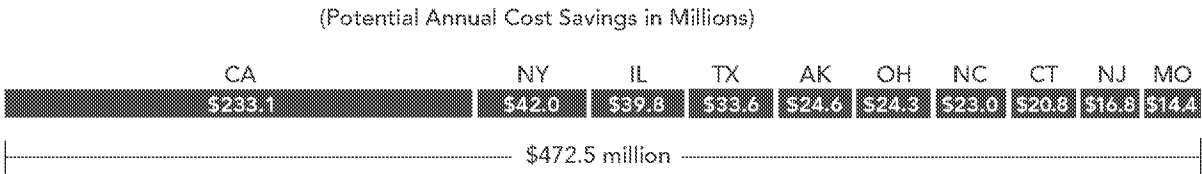
Reducing Recidivism:  
Strategies for Success

Many states already are employing a mix of strategies proven to break the cycle of recidivism. Research shows that the largest reductions in recidivism are realized when evidence-based programs and practices are implemented in prisons and govern the supervision of probationers and parolees in the community post-release. While outlining a comprehensive reentry strategy is beyond the scope of this study, leaders in the field have published helpful resources that are available to policy makers and practitioners (see sidebar). For purposes of this report, we highlight a condensed array of approaches that states have used to reduce recidivism, hold offenders accountable and control corrections costs.

Exhibit 4

Protecting Public Safety and Cutting Costs

If just the 10 states with the greatest potential cost savings reduced their recidivism rates by 10 percent, they could save more than \$470 million in a single year.



NOTE: Potential cost savings were calculated by multiplying each state's annual operating cost per inmate in 2005 by one-tenth of the number of offenders who returned to prison in 2004–2007. Annual operating costs per inmate in 2005 are from Pew Center on the States, *Public Safety, Public Spending: Forecasting America's Prison Population 2007–2011* (Washington, DC: The Pew Charitable Trusts, June 2007). To achieve the full estimated savings, states would have to close correctional facilities.

SOURCE: Pew/ASCA Recidivism Survey.

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# RESOURCES FOR DEVELOPING EFFECTIVE REENTRY AND SUPERVISION STRATEGIES

During the past decade, a number of leading criminal justice organizations, stakeholders and community leaders have developed comprehensive reentry and supervision strategies. There are a number of resources in the field aimed at helping policy makers and practitioners implement effective, evidence-based correctional policies and programs, including:

- Council of State Governments: *Report of the Re-Entry Policy Council: Charting the Safe and Successful Return of Prisoners to the Community* and the many materials from the CSG Justice Center's National Reentry Resource Center.<sup>22</sup>
- Urban Institute: *Putting Public Safety First: 13 Parole Supervision Strategies to Enhance Reentry Outcomes*<sup>23</sup>
- National Governors Association Center for Best Practices: *Improving Prisoner Reentry through Strategic Policy Innovations*<sup>24</sup>
- U.S. Department of Justice National Institute of Corrections and Crime & Justice Institute: *Implementing Evidence-Based Policy and Practice in Community Corrections*<sup>25</sup>
- Pew Center on the States, Public Safety Performance Project: *Policy Framework to Strengthen Community Corrections*<sup>26</sup>

## 1. Define Success as Recidivism Reduction and Measure and Reward Progress

Although America's first prisons were aimed at rehabilitation, in the twentieth century the mission became command and control. Keep the inmates inside the walls, prevent riots, meet constitutionally minimal standards of confinement and make sure staff is safe. Those were, and today remain, the chief marching orders for most wardens. Setting up inmates for success when they leave has not been part of the job description.

Successful efforts to improve public safety and control corrections costs should start with defining, measuring, tracking and rewarding correctional agencies' performance in terms of recidivism reduction. It is worrisome that not all 50 states were able or willing to provide data on key public safety outcomes such as the rate of reincarceration of released offenders. States cannot determine whether their correctional interventions are effective if they lack the basic data necessary to evaluate outcomes. Focusing on desired results such as decreasing

recidivism, reducing substance abuse, increasing employment and paying victim restitution encourages correctional agencies to set goals for these important outcomes, to track their performance and to use that information to manage and improve practice. Further, by offering incentives to agencies that reach defined targets, states can promote changes in practices—and agency culture—that lead to positive results for ex-offenders and improve public safety.

A number of states have adopted reforms to directly reduce recidivism, measure progress and reward success. In Kansas, for example, the legislature created the Kansas Sentencing Commission with the explicit responsibility of measuring and monitoring the state's progress in

reducing recidivism.<sup>27</sup> More recently, the Kansas legislature implemented incentive funding for diverting technical violators away from the expensive option of reincarceration. Legislation passed in 2007 provided \$4 million annually in state grants to county community corrections programs that submit plans to reduce revocations to prison by 20 percent.<sup>28</sup> Similarly, in the past three years, Arizona, California, Illinois and South Carolina each have passed legislation that sets up “performance incentive funding” programs for probation departments to reduce recidivism and technical violation rates.<sup>29</sup> The Arizona program provides refunds—equal to up to 40 percent of the resultant cost savings—to counties that cut revocations to prison.<sup>30</sup>

The federal government, which provides hundreds of millions in aid annually to state and local justice systems, could help accelerate the trend toward results-based corrections. Similar to efforts that reward success in education and other fields, appropriate justice awards could be linked to progress on reducing recidivism and other key objectives.

**2. Begin Preparation for Release at Time of Prison Admission**

Prior to the past decade, little was done to smooth an offender's transition from prison back to the community. In most states, offenders typically were set free with a few dollars and the phone number of the local parole office. While the impulse to

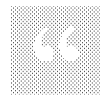
“As a former prosecutor, I believe strongly in securing tough and appropriate prison sentences for people who break our laws. But it is also important that we do everything we can to ensure that when these people get out of prison, they enter our communities as productive members of society, so we can start to reverse the dangerous cycles of recidivism and violence.”

U.S. Sen. Patrick Leahy  
(D-VT, chair, Judiciary Committee)  
July 21, 2010

do the bare minimum may have reflected public sentiment, it did little to enhance public safety.

Over time, research has revealed a series of critical steps that can put offenders on a path to success. A large and growing body of evidence shows that the first such step is careful planning for release. Beginning at the time of prison admission, such pre-release preparation can yield positive results in the crucial first months after an offender returns to the community when he or she is at greatest risk of returning to prison.<sup>31</sup>

The process should begin with a thorough screening and assessment at intake to identify potentially urgent needs, such as substance abuse treatment and mental health services. The assessment should guide a case management plan during incarceration that uses evidence-based programming tailored to each offender's criminal risk factors. While in prison, offenders should develop relationships with parole officers and others who will be integral to their lives after release. Ensuring that conditions of supervision at home are clearly communicated and tailored to each individual's risk factors for reoffending is equally critical, and should be conveyed prior to an offender's release. In Oregon and Michigan, for example, field staff connect with inmates to help explore housing options, identify the need for mental health or other community services, and clearly communicate expectations and the rules of supervision.<sup>32</sup>



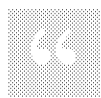
It's time to end business as usual in our prison system and for legislators to think and act with courage and creativity. We can make sensible and proven reforms to our criminal justice system that will cut prison costs while keeping the public safe."

Former House Speaker Newt Gingrich (R)  
January 8, 2011

### 3. Optimize Use of Supervision Resources

Decades of research have produced ample evidence and professional consensus about which case management strategies most effectively reduce recidivism and improve public safety. Effective community supervision begins with validated risk and needs assessments, the accurate categorization of offenders by their risk of reoffending and the development and implementation of case plans based on an individual's needs and risk of reoffending.

The identification of risk and needs is a critical step, because supervision and programs are most effective at reducing future crime when they are specific to an offender's individual profile.<sup>33</sup> Failing to match treatment with an offender's risk level can, in fact, have serious consequences. Research shows, for example, that putting lower-risk



“If you just throw everyone in jail, it’s terribly expensive and they get out and they are in the same boat.”

Kentucky State Sen. Tom Jensen (R)  
March 5, 2011

offenders in intensive programming actually increases their recidivism rates.<sup>34</sup> Evidence-based interventions targeting offenders with a moderate to high risk of committing new crimes produce better outcomes for both the offenders and the community.<sup>35</sup>

Programming also is key, as research demonstrates that a combination of surveillance and treatment is more effective at reducing recidivism than reliance on monitoring and control alone.<sup>36</sup> Supervision can improve public safety and individual outcomes while maximizing the use of scarce correctional dollars by focusing on high-risk offenders and incorporating critical community-based mental health and substance abuse services, education and employment assistance.

Some states have codified the use of risk and needs assessments and individualized treatment plans and directed resources toward higher risk offenders. For example, in 2010 New Hampshire passed a bill mandating the administration of risk and

needs assessments to all offenders on probation and parole to inform decisions about the length of active supervision terms.<sup>37</sup> Illinois passed a similar law in 2009, creating a task force to deploy a tool to evaluate offenders’ risks, needs and resources necessary to improve outcomes. The state mandated use of this tool with at least 75 percent of the incarcerated and parole populations within five years.<sup>38</sup> Washington’s Offender Accountability Act, passed in 1999, required that felony offenders be classified according to their risk of reoffending, and that those at higher risk receive proportionally more staff attention and rehabilitation resources.<sup>39</sup>

#### 4. Impose Swift and Certain Sanctions

Some technical violators should undoubtedly be returned to prison, particularly those who violate conditions such as “stay away” orders that have a direct link to victim safety. But progressive sanctions that hold the offender accountable and keep him or her in the community—and therefore connected to family and employment—can be just as effective, if not more effective, than a costly revocation.<sup>40</sup>

When using alternative sanctions, agencies should ensure their officers respond to violations swiftly with consequences that are proportional to the seriousness of the wrongdoing. One model of this approach is delivering remarkable results in Honolulu, Hawaii,

where the penalty for rule-breakers is a swift and certain few days in jail. Aided by collaboration among prosecutors and defense counsel, police, probation officers and treatment providers, Hawaii's Opportunity Probation with Enforcement (HOPE) program has proven in a randomized controlled trial to cut both revocations and new arrests by more than 50 percent.<sup>41</sup>

### **5. Create Incentives for Offenders to Succeed**

Criminal justice professionals and academics have long debated whether parole and probation agencies should tilt more toward law enforcement or social work. The result is a system that tries to do a little of both, and ends up being mainly reactive, waiting for offenders to break the rules and then figuring out how to punish them.

More recently, the field has begun to benefit from research that shows offenders, just like everyone else, respond better to the prospect of rewards than to the fear of punishment. Behavioral incentives, such as offering ex-offenders the opportunity to reduce the length of their supervision terms, can be a powerful carrot, motivating them to obtain and hold a job, stay sober and in treatment, abide by other conditions of release and avoid new crimes.<sup>42</sup> In addition to promoting positive behavior by offenders, earned-time credits help clear low-risk offenders from caseloads so supervision

agencies can focus on higher-risk parolees and on the critical period immediately following release.

A growing number of states are embracing earned-time credits as part of their correctional approach. In the past three years, Arizona and South Carolina passed laws authorizing their courts to reduce the term of an offender's probation by up to 20 days per month for every month the offender meets certain measures of compliance.<sup>43</sup>

Nevada passed a similar law granting earned-time credit to offenders who meet specified education and treatment conditions. Recent legislation in New Hampshire directed the commissioner of corrections to issue a rule establishing standards for offenders to receive credit for participation in recidivism reduction programs.<sup>44</sup>

## **A Promising Start**

The nation's persistent fiscal crisis has made corrections a prime focus for policy makers. Even if states could afford to keep building and operating more prisons, recent research and the experience of several states now make it clear that there are strategies for controlling low-risk offenders and those who break the rules of their supervision that cost less and are more effective. Increasingly, lawmakers around the country are recognizing that aggressive recidivism reduction is a smarter

approach to curbing corrections costs and protecting public safety.

At least 95 percent of inmates in America ultimately will be released and returned to the community.<sup>43</sup> Keeping them crime- and drug-free is no easy assignment. Many offenders lacked education, work experience, family support and a stable living situation before they were incarcerated, and many suffer from mental illness or a history of addiction. Once released, ex-offenders have the added stigma of a prison record, a considerable

barrier to employment. Moreover, the parole and probation agencies charged with supervising them often are burdened with high caseloads and outdated technologies.

Despite the obstacles, states such as Oregon, Michigan and Missouri are demonstrating success in reducing victimization and closing the revolving door that for so long has funneled a stream of repeat offenders back into prison. Their work and promising initiatives under way in many other states deserve attention now more than ever.

# Appendix: Methodology

The Public Safety Performance Project of the Pew Center on the States, in conjunction with the Association of State Correctional Administrators (ASCA), conducted a 50-state survey of state departments of correction during 2009. Pew and ASCA collected data for two cohorts released in calendar years 1999 and 2004. The questionnaire was designed to collect recidivism data for sentenced prisoners released from state correctional facilities who returned to custody for either a new criminal conviction or a technical violation of the terms of their supervision within 36 months of their release. The survey asked states to report an individual returned both for a new conviction and a technical violation as a new conviction.

Upon receipt of the surveys, Pew followed up with the states to verify the responses and solicit clarifications for any outstanding questions. We received responses from 33 states with data for the 1999 release cohort and 41 states with data for the 2004 cohort. Despite our best efforts to collect uniform and comparable data across states, the diversity of state practices in data definitions makes

assembling purely analogous data difficult. Specific areas of inconsistency include:

**Period of Observation:** The survey asked states to report recidivism data for cohorts released in calendar years 1999 and 2004. Three states (Iowa, New Hampshire and Texas) reported data from fiscal years 1999 and 2004.

**First Releases versus All Releases:** States varied concerning whether they reported only an inmate's first release for a particular offense during the calendar year, or all releases. In the Pew/ASCA survey, 13 states provided data only on first releases from prison (Exhibit A1).

**Return for New Conviction versus Technical Violation:** The survey asked states to classify any individual who was returned to custody for both a technical violation of the terms of his or her supervision and for a conviction of a new crime as having returned for a new crime. However, due to limitations in data collection and database management, some states were unable to report in the requested manner. Exhibit A2 shows how states reported offenders who were



returned to prison within three years of release for technical violations and then, while incarcerated, were later convicted of a new crime that occurred prior to the return to prison.

### Differences Between the Pew/ASCA Survey and BJS Research

The Pew/ASCA survey and the earlier BJS research differ in important ways. First, the studies used distinct methods of collecting recidivism data. The Pew/ASCA survey asked all states to self-report data on releases from and returns to prison. For its research, BJS collected data for all prison releases from 11 states in 1983 and 15 states in 1994 and drew a sample from each of those states based on offense category. Researchers then constructed samples to match with offender “rap sheet” data to create rates of rearrest, reconviction and return to prison. BJS analyzed these release cohorts for three years following release.

A second key difference between the studies is that the Pew/ASCA survey included more than twice as many states as the BJS studies. The Pew/ASCA survey includes either 18 or 26 more states than the BJS 1994 recidivism study, depending on which cohort is used as a point of comparison. The 12 states that were included in both the Pew/ASCA 1999 survey and the BJS 1994 study had an average recidivism rate of 47.9 percent

Exhibit A1

### States Providing Data on First Releases versus Data for All Releases

DATA FOR FIRST RELEASES ONLY	DATA FOR ALL RELEASES
Alaska	Alabama
California	Arizona
Indiana	Arkansas
Massachusetts	California
Mississippi	Connecticut*
Montana	Georgia
Nebraska	Illinois
New Jersey	Indiana*
North Carolina	Iowa
Oregon	Kansas
Pennsylvania	Kentucky
Rhode Island	Louisiana
South Dakota	Michigan
	Minnesota
	Missouri
	New Hampshire
	New Mexico
	New York
	Ohio*
	Oklahoma
	South Carolina*
	Texas
	Utah
	Virginia
	Washington
	West Virginia
	Wisconsin
	Wyoming

NOTES: Connecticut and South Carolina report only most recent release. Indiana reports an offender's first release in a calendar year, but that may not necessarily be their first release for their current offense. Ohio does not count more than one release in the same calendar year. Idaho and North Dakota did not verify release type.

for the 1999 cohort—a figure closer to the 51.8 percent reported by BJS for 1994. When California is excluded from the national figures, the recidivism rates for the remaining states decline to 39.7 percent and 38.5 percent for the 1999 and 2004 release cohorts, respectively. These rates are similar to the 40.1 percent rate that BJS produced for its 1994 release cohort when excluding California. The inclusion of additional states contributes to a more representative national recidivism rate.

A third difference is that the Pew/ASCA survey did not include individuals who were released from prison in one state and who may have been incarcerated subsequently in another state. This is a reflection of the self-report data gathering process of the Pew/ASCA study. State departments of correction reported on people who returned to one of their facilities, which would not count a former offender who was incarcerated in another state. The BJS study, on the other hand, did include out-of-state incarceration data. This is likely to impact states differently, depending on proximity to high-crime areas in neighboring states or major interstate drug corridors, for example.

Finally, the BJS study collected data on inmates who were being released for the first time since beginning their current sentence. Any individual who had been released in a prior year and was released again during 1994 on the same sentence

Exhibit A2

How States Classify the Reasons Offenders Were Returned to Prison

NEW CONVICTION	TECHNICAL VIOLATION
Alabama	Alaska
Arizona	Arkansas
Indiana	California
Iowa	Connecticut
Kansas	Georgia
Massachusetts	Kentucky
Michigan	Louisiana
Minnesota	Montana
Missouri	New Hampshire
Nebraska	New Mexico
North Carolina	New York
Ohio	Rhode Island
Pennsylvania	West Virginia
South Carolina	
Texas	
Utah	
Washington	
Wisconsin	

NOTES: Illinois, Mississippi, New Jersey, Oklahoma, Oregon and Wyoming did not verify in all cases whether a person returning to prison for a technical violation ultimately would be updated and reclassified as a new conviction subsequent to the final disposition of the case. South Dakota and Virginia do not take jurisdictional control of an offender until all outstanding charges have been processed. Idaho and North Dakota did not verify how they classify an offender's return to prison.

would be excluded from their analysis. In the Pew/ASCA study, only 13 states reported data for first releases. The remaining 28 states provided recidivism data for all releases. These state reporting variations and the out-of-state factor are likely to account for a minimal part of the

difference in the recidivism rates between the two methods.

Jurisdictional Notes

Within the 50 states and the District of Columbia there are hundreds of prison, probation and parole agencies (in addition to many more jails and community corrections agencies) operating with different population and budget counting rules. The following notes are provided to explain some of these differences and to account for many of the idiosyncrasies in the reported data. The notes are based on direct communication with state officials, but they are not a complete description of all counting issues.

**Alaska**—Alaska operates a unified prison and jail system. The number of persons released and returned to the custody of the Department of Corrections includes both prisoners and an unspecified number of individuals housed in jail.

**Arkansas**—Since 2003 (women) and 2004 (men), the Arkansas Department of Community Corrections has operated two distinct programs that provide alternatives to traditional incarceration for adult offenders who fail to comply with terms of parole supervision. This policy change has impacted the rate of return to prison for a technical violation for the 2004 cohort.

**Connecticut**—Connecticut operates a unified prison and jail system. The

number of persons released and returned to the custody of the Department of Corrections includes both prisoners and an unspecified number of individuals housed in jail.

**Georgia**—Beginning in 2000, Georgia prohibited misdemeanants from being supervised by state probation officers. Misdemeanants placed on probation were supervised by private probation companies, county or municipal providers. Prior to this change, misdemeanants were subject to revocation to prison as a result of their probation status. As a result, an unspecified number of misdemeanants may be present in the 1999 release cohort.

**Iowa**—Iowa reported data for its state fiscal year (July 1 through June 30) rather than calendar year.

**Kansas**—Kansas reported data for its state fiscal year (July 1 through June 30) rather than calendar year. Data include offenders paroled to another criminal justice jurisdiction if the offender was later released from that jurisdiction during the stated time frame. The data also include offenders whose sentence has expired and who will no longer be under the Kansas Department of Corrections jurisdiction. For readmissions, if the offender had been discharged, he or she can be admitted and classified only as “with a new sentence.” For every readmission, the state’s conviction file was checked to

APPENDIX: METHODOLOGY

see if there were any convictions entered with the admission in which the offense was committed while the offender was in the community. This would then count as an admission with a new sentence. Any crimes committed while the offender was incarcerated were not included. The admission was to have occurred within 36 months of release. Offenders who were on post release/parole and readmitted were counted as technical violators if no new conviction (that was committed in the community while the offender was on post release/parole) was found with the new admission.

**Massachusetts**—Massachusetts did not have data on releases to probation for 1999 so, in the interest of reporting comparable data, releases to probation were excluded for the 2004 release cohort as well.

**New Hampshire**—New Hampshire reported data for its state fiscal year (July 1 through June 30) rather than calendar year.

**Texas**—Texas reported data for its state fiscal year (September 1 through August 31) rather than calendar year.

**Wisconsin**—Wisconsin monitors persons three years from the day of release, plus any subsequent reconfinement time in a Department of Corrections (DOC) facility experienced

during the three-year follow-up period. For example, if an individual is returned to custody for 30 days within the three-year follow-up period, an additional 30 days will be added to time during which he or she is monitored for the purposes of calculating a recidivism rate. Wisconsin counts case dispositions that go beyond the three-year follow-up period if the new crime took place during the follow-up period and disposition took place later. For example, there is a 322-day span between the crime date and a final court disposition. A person in the 2004 release cohort who was subsequently re-admitted to prison at the very end of the follow-up period (12/31/2007), whose admission was classified as violator-no new sentence, but who later received a conviction for the crime that took place during the three-year follow-up period, would be counted as a new conviction for the 2004 release cohort.

In addition, Wisconsin represents persons as recidivists (new conviction) who committed a crime within the three-year at-risk period, and whose disposition for that crime resulted in a prison admission. This means that, for example, a person in the 1999 release cohort who committed a crime in 2000, but who was not apprehended, charged, convicted and sentenced to prison until 2008, is still counted as a recidivist (new conviction) under the Wisconsin DOC numbers.

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[Home Page](#) > [Take Action](#) > Illinois

# Illinois

## Sections

[Legislation](#)[Testimony](#)[Organizations in Illinois](#)[Endorsements](#)[Fact sheets](#)[Additional reading](#)

After the 2000 Census, Illinois counted 26,304 mostly Black and Latino residents of Chicago as residents of downstate prison towns, which had a staggering impact on democracy at both the state, and county levels. Most of the state's prisoners (60%) are Chicago residents, but the vast majority of them (90%) are counted as residents of downstate prisons. This miscount of incarcerated people misrepresents Illinois' demographic makeup and skews its system of legislative representation. The Census Bureau continues to count Illinois' incarcerated residents at the prison locations rather than at home, but a growing campaign seeks to eliminate prison gerrymandering by changing how the state and counties *use* the Census data.

Every prison built in Illinois after 1941 was built more than 100 miles away from Chicago; the average distance from Chicago to a prison is more than 200 miles. The State bars people in prison from voting, but their presence in the Census boosts the population of the downstate districts whose legislators favor prison expansion. After the 2001 redistricting 11 downstate House districts were padded with substantial prison populations, skewing district boundaries throughout the state.

The problem is even more serious in county government, where large prisons can dominate the comparatively small populations of county legislative and supervisory districts. After redistricting following the 2010 Census, for example, 34% of LaSalle County's 6th district is incarcerated, giving every group of 66 residents in that district the same voting power as 100 residents in any other district.

Counties and municipalities, however, need not wait for state action to solve prison-based gerrymandering problems. The City of Crest Hill, for example, adjusts population data when drawing its districts, and excludes the prison population. Crest Hill's District 2 contains Stateville Correctional Center, it would be about 60% prisoners if the City included the prison in population data when redistricting in 2012.

## Legislation

### Current session:

A bill was introduced in the House to collect the home addresses of incarcerated people,

001825

and to require the state and county governments to draw legislature districts on the basis of Census Bureau data corrected to count incarcerated people at their home addresses:

- [HB 1489](#), "No Representation Without Population Act," cosponsored by Representatives LaShawn K. Ford, Mary E. Flowers, Eddie Lee Jackson, Sr., Camille Y. Lilly, Jehan A. Gordon-Booth, Emanuel Chris Welch, Carol Ammons, Kenneth Dunkin and Arthur Turner, filed on February 5, 2015.

### Previous legislation:

- [HB 62](#) No Representation Without Population Act, prefiled by Rep. LaShawn K. Ford, January 3, 2013
- Prisoner Census Adjustment Act, HB94 [Prisoner Census Adjustment Act](#), introduced by Rep. LaShawn K. Ford, January 12, 2011. Amended and passed out of committee, but failed to pass a floor vote.
- [Fact sheet about HB94 \[PDF\]](#)

### Testimony

- [Josina Morita](#), Director of the United Congress of Community and Religious Organizations, 3/20/13

### Organizations in Illinois

It's impossible to include everyone who is working toward fair districting in Illinois, but if you are looking to get involved, these are some of the people and organizations you might want to contact:

- Josina Morita, [United Congress of Community and Religious Organizations](#)
- Dan Johnson-Weinberger at [Progressive Public Affairs](#)

### Endorsements

- The *New York Times* editorial board has supported this movement in over 10 editorials, including [Phantom Voters in New York](#), [Prison-Based Gerrymandering](#), and [Phantom Voters, Thanks to the Census](#).

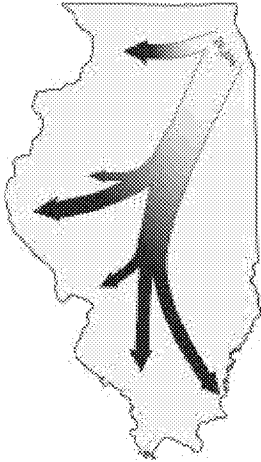
### Fact sheets

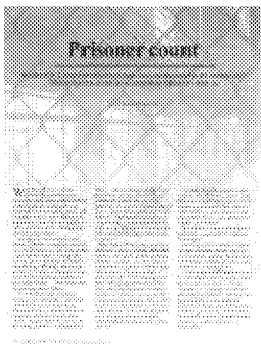
- [Support HB 62 \[PDF\]](#) No Representation without Population Act: Ensuring fair representation for all Illinoisans (United Congress of Community and Religious Organizations)
- [Prison-Based Gerrymandering in Illinois \[PDF\]](#)
- [Majority of Illinois counties & cities with large prisons reject prison-based gerrymandering \[PDF\]](#)
- [Fact sheet about the bill \[PDF\]](#)

- [Prison-based Gerrymandering in Lee County, Illinois \[PDF\]](#)
- [Prison-based Gerrymandering in Clinton County, Illinois \[PDF\]](#)
- [Prison-based Gerrymandering in Rock Island County, Illinois \[PDF\]](#)
- [Prison-based Gerrymandering in Vermilion County, Illinois \[PDF\]](#)
- [Prison-based Gerrymandering in Will County, Illinois \[PDF\]](#)

## Additional reading

- [Prison-based gerrymandering is a problem for all Illinoisans, especially for those in counties near prisons](#), by Josina Morita, Executive Coordinator, *The United Congress of Community and Religious Organizations*, March, 2011

-  [Importing Constituents: Prisoners and Political Clout in Illinois \(2010\)](#) is our district-by-district analysis of how crediting Chicago's incarcerated residents to downstate districts distorts democracy and flouts federal and state law. Analysis is based on redistricting after the 2000 Census.

-  [Prisoner Count: Should U.S. Census tabulations include those incarcerated in the prison's community? Voting rights activists are among those who don't think so](#), [PDF] by Jessica Pupovac, *Illinois Issues*, February, 2010

Illinois State Commission on Criminal Justice and Sentencing Reform

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- \* Home

- <<http://www.icjia.org/cjreform2015/index.html>>

- \* About

- <#>

- o The Commission

- <<http://www.icjia.org/cjreform2015/about>>

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- <<http://www.icjia.org/cjreform2015/about/meetings.html>>

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- o Articles

- o National prison overview

- <<http://www.icjia.org/cjreform2015/research/national-prison-data.html>>

- o Illinois prison overview

- <<http://www.icjia.org/cjreform2015/research/illinois-prison-overview.html>>

- o 25% by 2025

- <<http://www.icjia.org/cjreform2015/research/25-by-2025.html>>

- \* // Comments

- <<https://www.surveygizmo.com/s3/2097986/Submit-Your-Comments-to-the-Illinois-State-Commission-on-Criminal-Justice-Sentencing-Reform>>

Article contents

- \* Introduction

- <#introduction>

- \* Crime and courts

- <#illinois-crime-trends>

```
* Prison

<#illinois-prison-population-1>
* Time served

<#by-bed-years-and-length-of-stay>
* Prison costs

<#illinois-prison-costs>

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Illinois State Commission on Criminal Justice and Sentencing Reform

Illinois prison overview

Introduction

To safely reduce the Illinois prison population by 25 percent in 10 years, research and data must focus on laws, policies, and practices that determine prison admissions and lengths of stay.

There is widespread belief that more prisons will deter criminals and reduce offending. However, research shows the rate of incarceration has only a minimal relationship to crime reduction <[https://www.brennancenter.org/sites/default/files/analysis/What\\_Caused\\_The\\_Crime\\_Decline.pdf](https://www.brennancenter.org/sites/default/files/analysis/What_Caused_The_Crime_Decline.pdf)>. In fact, research indicates the use of prison has reached a point of diminishing returns and incarceration may do more harm to public safety than good <<http://www.prisonpolicy.org/scans/sp/DimRet.pdf>>.

The following is a brief description of trends related to the Illinois prison populations supported by local and national research to foster discussion of what is possible in reform.

Historical perspective

Illinois Governor Bruce Rauner is the fourth of the last five governors to convene a group of legislators, stakeholders, and criminal justice experts to address the consequences of the state's use of prison. Testimony from Illinois Criminal Justice Information Authority (ICJIA) Executive director John Maki, highlights key historic points that led to Governor Rauner's Executive Order establishing the Illinois State Commission on Criminal Justice and Sentencing Reform.

Historically, Illinois has had a costly overreliance on prison which has grown exponentially in the last four decades, from 6,000 inmates in 1974 to almost 49,000 today. The growth has continued despite space

constraints - today's prison system was designed to hold only 32,000 - and falling crime rates since the early 1990s. Figure 1 offers a timeline of significant events in the recent history of Illinois' prisons.

Figure 1 - Timeline of Illinois Prisons

1977 Illinois abolishes indeterminate sentencing in favor of determinate sentencing; new felony classification scheme created Class X for the most serious offenders; Governor Thompson reestablished the death penalty.

1977 - 1983 Prison admissions increase, longer lengths of stays increase prison population from 10,000 to 14,000.

Governor James R. Thompson's Task Force on Prison Overcrowding recommends comprehensive correction reform - diverting low-level offenders, building new prisons.

1991 Prison population fills new prisons, adds 29,000 inmates. Crime rates for property, violent offenses peak in early 1990s and fall over two decades.

1993 Prison pop. reaches 32,000 -- twice its capacity. Governor Jim Edgar's Task Force on prison overcrowding recommends continuum of community-based sanctions and moratorium on sentence enhancements. Task Force estimates the plan will reduce the prison population over 20 percent (7,500 inmates in four years). Good-time sentence credits expands for prison programs. Illinois creates new boot camp diversion programs. Tamms Correctional Center built, is Illinois' only "supermax" facility (until 2013 closure).

1998 Truth in Sentencing almost doubles length of time most serious offenders served in prison by removing their ability to earn time off their sentences.

1991 - 1999 State prisons add an additional 15,000 inmates during Governor Edgar administration.

2000 Governor George Ryan issued a moratorium on executions.

2003 Governor Rod Blagojevich focuses on reentry, reducing recidivism creates,

- (1) a graduated sanctions system for mandatory supervised release (formerly parole),
- (2) Sheridan drug treatment prison, and,
- (3) commission to examine and improve reentry systems.

State creates Illinois Capital Punishment Reform Study Committee.

2003 - 2009 Prison population stabilizes at about 45,000 inmates.

2009 Governor Pat Quinn grants sentence credits to short-term prisoners to reduce the prison pop. After suspending the policy, prison population increases from about 45,000 to 48,000.

2011 Illinois abolishes the death penalty.

2013 Prison population approaches 49,000. Property and violent crime rates at record lows.

2015 Prison population remains just below 49,000.

Illinois Prison Population

Demographics

The 2013 demographic and offense characteristics of the Illinois prison population and state population are compared in Figure 2. The Illinois prison population was primarily male. Women accounted for 6 percent of the prison population but half of the Illinois general population. Almost 60 percent of the prison population were Black compared to 15 percent of the general population. And while nearly 65 percent of the general population is White, Whites made up less than 30 percent of the prison population. Geographically, half of all inmates were sent to the Illinois Department of Corrections (IDOC) from Cook County. Twelve percent were from the Collar counties of DuPage, Kane, Lake, McHenry, and Will, and 21 percent were from other urban counties in the state. Only 17 percent of offenders in prison in December 2013 were from rural counties.

Figure 2 - Characteristics of Illinois prison and general population, 2013

Prison Population*		Illinois General Population	
Number	Percent	Number	Percent
Total 48,652	100.0%	12,882,135	100.0%
Race/Ethnicity			
White 14,137	29.1%	8,173,563	63.5%
Black 28,190	57.9%	1,887,329	14.7%
Hispanic 6,059	12.5%	2,121,248	16.5%
Other 266	0.5%	699,995	5.4%
Sex			
Male 45,737	94.0%	6,326,483	49.1%
Female 2,915	6.0%	6,555,652	50.1%
County			
Cook 24,121	49.6%	5,240,700	40.7%
Collar 5,645	11.6%	3,149,026	24.4%
Other Urban 8,488	17.4%	2,321,061	18.0%
Rural 10,398	21.4%	2,171,348	16.9%

\*as of 12/31/2013

By offense

In 2013, 45 percent of Illinois prisoners were incarcerated for a violent offense, which varied by gender. Almost half of male offenders were in prison for a violent crime (45 percent) compared to 34 percent of female offenders. About 20 percent of male and females were in prison for property and drug crimes. Few male offenders were in prison for a property (19 percent) or drug crime (21 percent). However, a larger percentage of female offenders were in prison for a property crime (30 percent) or drug crime (29 percent). Small number of men and women were in prison for a sex crime, 13 percent and 3 percent respectively.

In Illinois, felony and misdemeanor offenses are classified by degree of severity. In order of decreasing severity, these classifications are first degree murder, Class X felonies, Class 1, 2, 3, and 4 felonies. State statute mandates imprisonment first degree murder (Class M), all Class X offenses, and certain Class 1 and 2 felonies. Nearly 40 percent of the prison population were incarcerated for a Class M or X felony offenses. Few prisoners (12 percent) were incarcerated for Class 4

felony offenses.

Figure 3 - Prison Population: Admission Types and Offense

Characteristics	Offense Class Number	Percent
Class 4	5,739	11.8%
Class 3	4,234	8.7%
Class 2	10,933	22.5%
Class 1	8,036	16.5%
Class X	12,099	24.9%
Class M	7,081	14.6%
Other/unknown	530	1.0%
Offense type		
Person	21,768	44.7%
Property	9,507	19.5%
Drug	10,317	21.2%
Sex	5,968	12.3%
Other/unknown	1,092	2.2%
Admission type		
New court	43,158	89.5%
Technical violator	4,988	10.3%
Other/unknown	146	0.1%

\*as of 12/31/2013

Illinois Crime Trends

Crime rates in Illinois measured by I-UCR  
<<http://www.isp.state.il.us/crime/ucrhome.cfm>> property and violent offenses reported to the police have fallen significantly since the early 1990s. At its peak in 1991, rates showed more than 5,000 property crimes and more than 1,000 violent crimes per 100,000 residents. These rates fell to 2,500 property crimes and 415 violent crimes per 100,000 in 2012, a 50-percent drop.

While the violent crime rate decreased 30 percent and the property rate decreased 40 percent over 40 years, by 2013, the incarceration rate had increased 600 percent. At the peak of the crime rates in 1991, 250 individuals per 100,000 residents were in Illinois prisons. In 2012, close to 400 individuals per 100,000 residents were in Illinois prisons. The drug arrest rate in Illinois increased from 181.3 arrests per 100,000 people in 1975 to nearly 900 arrests per 100,000 people in 1999, varying between 700 and 900 arrests per 100,000 people in the past 15 years. The trends of arrests and the prison population in Illinois are shown in Figure 4.

Created with Highcharts 4.1.5  
Chart context menu  
I-UCR offense and drug arrest rates per 100,000 people  
IDOC prison incarceration rate per 100,000 people  
Figure 4 - UCR Crime Indicators and Incarceration Rate  
incarceration rate  
I-UCR property offense rate  
I-UCR violent offense rate  
I-UCR drug arrest rate  
1973 1975 1977 1979 1981 1983 1985 1987 1989 1991 1993 1995 1997 1999 2001 2003 2005 2007 2009 2011 2013  
01000200030004000500060000100200300400500600  
Highcharts.com



Illinois Court Trends

In Illinois, after an arrest for a felony offense, the prosecutor may choose to file a felony case against a defendant that could end in any one of several outcomes, including conviction and subsequent sentence. A felony filing occurs when a felony case is officially entered in a court against one or more defendants by the prosecutor. A felony sentence occurs when the defendant pleads guilty or is convicted of a felony and sentenced to probation, prison, or another punishment. Trends of arrests, felony filings, and felony sentences are shown in Figure 5.

Created with Highcharts 4.1.5  
Chart context menu  
Calendar Year  
Count  
Figure 5 - Illinois Arrests, Felony Filings, and Felony Sentences  
I-UCR property, violent, and controlled substance arrests  
Felony Filings  
Felony Sentences  
1982 1983 1984 1985 1986 1987 1988 1989 1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013  
k 50k 100k 150k 200k 250k  
Highcharts.com

Trends in arrests, felony filings, and felony sentences are shown as ratios in Figure 6. The ratio of felony sentences per total I-UCR violent, property, and controlled substance arrests more than doubled between 1982 and 2013 from roughly 0.25 to 0.5 felony sentences per one of these arrests. From 1982 to 2013, the ratio of felony sentences per felony filing remained about the same at 0.6 to 0.7 sentences per filing.

These data indicate that a person charged with a felony today does not have a considerably higher probability of being convicted and sentenced compared to years past. However, a person arrested for violent, property, or controlled substance offense may have a higher probability of being charged with a felony. This could be a result of legislative initiatives and increased charging severity. If the probability of an arrest resulting in a felony filing increases, the number of sentences to prison could increase even if the probability of being sentenced to prison for a conviction or for a felony filing does not change. The National Research Council Committee on Law and Justice noted a similar national trend showing an increase in the probability of an arrest leading to incarceration  
<<http://www.nap.edu/catalog/18613/the-growth-of-incarceration-in-the-united-states-exploring-causes>>.

Created with Highcharts 4.1.5  
Chart context menu  
Calendar Year  
Ratio  
Figure 6 - Ratios of Arrests, Felony Filings, and Felony Sentences  
Sentencing as a ratio of filings and arrests  
Felony Sentences per Felony Filings  
Felony Sentences per Total I-UCR Controlled Substance, Property, and Violent Arrests  
1982 1983 1984 1985 1986 1987 1988 1989 1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013  
0.25 0.50 0.75  
Highcharts.com

Illinois sentences by type

The distribution of Illinois court sentence dispositions, shown in Figure 7, differs for misdemeanors and felonies. The prison population

does not include misdemeanants, but the distribution of misdemeanor sentences may be important if offenses that are currently felonies are reclassified. Probation and supervision make up one-third of all felony dispositions and almost two-thirds of all misdemeanor dispositions. Incarceration in either jail or prison composes almost half of all felony dispositions and 16 percent of all misdemeanor dispositions.

Created with Highcharts 4.1.5  
Chart context menu  
Sentence Dispositions  
Figure 7 - Illinois Sentences for Felonies and Misdemeanors  
Probation: 21,776.0 (25.0%) Probation: 8,664.0 (7.6%) Fines, Costs, Restitution: 16,276.0 (18.7%) Fines, Costs, Restitution: 28,653.0 (25.3%) Supervision: 6,562.0 (7.5%) Supervision: 58,363.0 (51.5%) Imprisonment - Jail: 11,345.0 (13.0%) Imprisonment - Jail: 17,643.0 (15.6%) Imprisonment - IDOC: 31,228.0 (35.8%) Imprisonment - IDOC: 0.0 (0.0%) Probation Fines, Costs, Restitution Supervision Imprisonment - Jail Imprisonment - IDOC Felonies Misdemeanors 0k 25k 50k 75k 100k 125k  
Highcharts.com

Illinois Prison admission trends

After a felony conviction, an offender may be sentenced to prison and admitted to IDOC. Overall, admissions to IDOC have substantially increased over the past 30 years, but are lower than their peak in the mid-2000s. Between fiscal years 1984 to 2013, the number of admissions to IDOC almost tripled, from 9,943 to 31,250 admissions. The growth in admissions varies by offense class and offense type.

Admissions to IDOC by class also changed considerably during that time period (Figure 8). Admissions from new court sentences (including those convicted of new crimes and sentenced while on mandatory supervised release) nearly tripled over the past 30 years but are below their peak period, in the mid-2000s. The largest growth in admissions was for Class 4 felonies. Class 4 admissions were roughly 10 percent of all new court admissions in the early 1980s but 35 to 40 percent of all new court admissions in the past 10 years.

Class 4 felony sentences range from one to three years, with the majority of Class 4 felony offenders being admitted on a property or drug offense. Although Class 4 is the least severe felony class in Illinois, Class 4 admissions typically have more extensive criminal histories and higher recidivism rates. When entering an IDOC facility on a new sentence, a Class 4 offender will have an average of 17 arrests. Nearly 75 percent will have at least one prior violent arrest on their record as well as a prior probation sentence and 60 percent having at least one prior admission for a crime against a person. Due to relatively short sentences and eligibility for jail and sentence credits, Class 4 offenders typically spend less than a year in prison; roughly half spend 6 months or less. This can be problematic for corrections-based programming that has better results for those in programming longer.

Created with Highcharts 4.1.5  
Chart context menu  
Fiscal Year New Court Admissions  
Figure 8 - Illinois Prison Admissions by Class  
Class 4 Class

3Class 2Class 1Class XClass  
M198419851986198719881989199019911992199319941995199619971998199920002001  
2002200320042005200620072008200920102011201220130k5k10k15kHighcharts.com

Technical violator admissions, admissions due to a violation of parole, fluctuate considerably over time, but overall they have increased substantially in Illinois and nationally. These admissions are not due to a new conviction while on parole but can be triggered by a new arrest while on MSR. Various parole policies, staffing levels and decisions, MSR population levels, and legislation have influenced technical violator readmission levels over time  
<<http://www.icjia.state.il.us/spac/pdf/SPAC%20Report%20MSR%20violator%209-13.pdf>>.

Like offense class, the admissions to IDOC vary over time by offense type (Figure 9). The largest increase by offense type has been for drug admissions, although the number has largely declined since the mid - to late- 2000s. The numbers of admissions for violent, property, and sex offenses have doubled to tripled over the past 30 years, but the number of drug admissions, even after accounting for the recent decline, has increased by a factor of approximately 15. Reported property offenses peaked in the early 1990s and violent offenses reported to police peaked in the mid-1990s. Both have had a relatively steady decline into the present day, but new court admissions to prison for violent and property offenses have yet to return to pre-1990 levels and are both about twice as high as in 1989.

Created with Highcharts 4.1.5Chart context menuFiscal  
YearAdmissionsFigure 9 - Illinois Prison Admissions by Offense and Admission TypeNew court - PersonNew court - PropertyNew court - DrugNew court - SexNew court - Other/UnknownTechnical  
violator19841985198619871988198919901991199219931994199519961997199819992  
00020012002200320042005200620072008200920102011201220130k5k10k15kHighchar  
ts.com

Illinois Prison Population

By class and offense type

Trends in Illinois prison population by offense class are shown in Figure 10. The number of Class 3 felons remained stable over time while the number of murders, Class 1, and Class 2 felonies more than doubled. The largest growth was seen in Class 4 felonies: IDOC held more than seven times more Class 4 felons in 2013 than in 1989. Figure 11 shows the growth of the IDOC population by offense type. Person and drug crimes fueled the largest growth, while modest increases were seen in property and sex crimes.

Created with Highcharts 4.1.5Chart context menuFiscal yearPersons in IDOCFigure 10 - IDOC Inmate Population by ClassClass 4Class 3Class 2Class 1Class XClass

MOther/Unknown1984198519861987198819891990199119921993199419951996199719981999200020012002200320042005200620072008200920102011201220130k20k40k60kHighcharts.com  
Created with Highcharts 4.1.5Chart context menuFiscal yearPersons in IDOCFigure 11 - IDOC Inmate Population by Offense TypePersonPropertyDrugSexOther/Unknown19891990199119921993199419951996199719981999200020012002200320042005200620072008200920102011201220130k20k40k60kHighcharts.com

By bed-years and length of stay

Bed-years is a metric that allows another perspective on resource consumption by IDOC. Bed-years are the number of years a person sentenced to IDOC will actually spend in prison. For example, a person sentenced on a class 4 felony sentenced may only spend half of one year in prison (0.5 bed-years), while a person sentenced for a class M felony may spend 20 years in prison (20 bed-years). Figure 12 shows the relationship between bed-years and the number of inmates held by the Illinois Department of Corrections. Bed-years are appropriate for fiscal and operational analysis, as the state pays for beds over time. A person who stays less than a year in prison does not occupy a full bed-year, while the state taxpayers must pay 20 bed-years for a person on a 20 year sentence.

Created with Highcharts 4.1.5Chart context menuPeople in IDOC prison populationBed-yearsFigure 12 - Illinois Bed-Years and Number of InmatesPeople in IDOC prison populationBed-years1989199019911992199319941995199619971998199920002001200220032004200520062007200820092010201120122013020000400006000080000100000050000010000001500002000000250000Highcharts.com

While the number of inmates has risen 8 percent since 2000, the length of time served by inmates exiting IDOC has continued to increase the total bed-years used by the prison system by 28 percent over the same time period. That increase can be attributed to increased sentence terms due to mandatory minimums, extended terms based on aggravating factors, and the effect of truth-in-sentencing laws. Truth-in-sentencing, a trend that occurred in Illinois and other states, required those convicted and sentenced to prison to serve a large proportion (usually 85%) of their court-imposed sentence. The bed-year impact of truth-in-sentencing provisions passed after 1999 will continue to increase the upward trend in bed-years as lengths of stay of those leaving prison increases. A detailed analysis of the impact of truth in sentencing laws in Illinois is available here  
<<http://www.icjia.state.il.us/public/pdf/ResearchReports/FINAL%20REPORT%20The%20Impact%20of%20Illinois%20Truth-in-Sentencing%20Law%200609.pdf>>.

Small changes to sentence credits can have a large impact on the prison population. Crediting a small amount of sentence credit across thousands of offenders creates a large bed-years and fiscal savings. Dr. David Olson described in his evaluation of drug treatment programs

<[http://www.icjia.state.il.us/public/pdf/ResearchReports/SWICC\\_Year\\_3\\_Evaluations\\_Report\\_March\\_2011.pdf](http://www.icjia.state.il.us/public/pdf/ResearchReports/SWICC_Year_3_Evaluations_Report_March_2011.pdf)>  
in Illinois the sizable impact of allowing credits for program participation. During the four-year period under study in his evaluation of Southwestern Illinois Correctional Center, Olson found that 34,355 days of good conduct credit were earned per year, or more than 137,343 days total. This sentence credit time is equivalent to 94 years of reduced incarceration per fiscal year. With a current per capita cost of \$22,201, that creates a savings of \$2.1 million annually.

Actual time served among Class M and X felony exits steadily increased both before and after truth-in-sentencing laws passed in 1998 (Figure 13). From 1989 through 2013, the actual time served in prison (excluding technical violators and any additional time served due to technical violations) by class M offenders exiting nearly doubled from 8.6 to 17.1 years and for class X offenders exiting increased 50 percent from 3.6 to 5.4 years.

Created with Highcharts 4.1.5  
Chart context menu  
Fiscal Year  
Years in IDOC  
Figure 13 - Average length of stay for Class M and X Prison exits  
Class X  
Class  
M  
1989 1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013  
051101520  
Highcharts.com

Actual time served by offenders in Class 4 through Class 1 felony offense categories that exited (excluding technical violators and any additional time served due to technical violations) show similar patterns since 1989 (Figure 14). A large increase in time served occurred in recent years due to the suspension of awarding meritorious and supplemental meritorious good conduct credits in 2009. This effectively added several months of incarceration for inmates who would previously have been allowed such credits and increased the size of the prison population.

Created with Highcharts 4.1.5  
Chart context menu  
Fiscal Year  
Years in IDOC  
Figure 14 - Average length of stay for Class 1-4 Prison exits  
Class 4  
Class 3  
Class 2  
Class 1  
1989 1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013  
00.511.522.5  
Highcharts.com

The aging prison population

Over the past several decades people admitted to Illinois prisons have been getting older. This trend is true for both new admissions and offenders returning to prison for a technical violation of parole. The increasing age of inmates admitted to Illinois prisons over time is seen at every level of offense severity, but especially those convicted of murder. Figure 15 shows the average age by offense class over time. Inmates sentenced for Murder from 1993 to 2013 had the largest increased average age, over seven years, while others increase from four to six years.

Created with Highcharts 4.1.5  
Chart context menu  
Fiscal Year  
Years  
Figure 15

- Average Age of Illinois Prisoners by Offense Class  
Class 4  
Class 3  
Class 2  
Class 1  
Class X  
Overall  
1993  
1998  
2003  
2008  
2013  
27.53  
32.53  
37.54  
42.5  
Highcharts.com

Illinois Prison Costs

Since 1999, Illinois has appropriated over \$1 billion for adult prisons and parole. For fiscal year 2014, the state appropriated and spent almost \$1.3 billion on the prison budget. Off budget items, including pension contributions and group health benefits for state corrections employees, were an additional \$600 million spent on the adult corrections system. The budget for IDOC, not adjusted for inflation, can be seen longitudinally in Figure 16.

Created with Highcharts 4.1.5  
Chart context menu  
Fiscal year  
Dollars  
Figure 16 - IDOC Budget  
GRF Appropriated in Nominal dollars  
GRF Appropriation  
1996  
1997  
1998  
1999  
2000  
2001  
2002  
2003  
2004  
2005  
2006  
2007  
2008  
2009  
2010  
2011  
2012  
2013  
2014  
2015  
\$500M  
\$1,000M  
\$1,500M  
Highcharts.com

Note on data sources

Data on IDOC admissions, prison population, length of stay, and budget are from SPAC and ICJIA analyses of data provided by the IDOC Planning and Research Unit as well as IDOC statistical reports and correspondence with IDOC officials. I-UCR offense and arrest data are from Crime in Illinois reports and data published by the Illinois State Police. Data on felony filings is from annual reports published by the Administrative Office of the Illinois Courts. Felony sentences in Figure 5 and 6 are also from these reports. Felony sentence dispositions in Figure 7 are from SPAC and ICJIA analysis of electronic criminal history data from the Illinois State Police.

// 2016 by the Illinois State Commission on Criminal Justice and Sentencing Reform <<http://www.icjia.org/cjreform2015/index.html>> |  
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<<https://www.surveygizmo.com/s3/2097986/Submit-Your-Comments-to-the-Illinois-State-Commission-on-Criminal-Justice-Sentencing-Reform>>  
| Join our mailing list  
<[http://visitor.r20.constantcontact.com/manage/optin?v=001MqUcqqvjwLCJX1LMSWbTe3zHHmEQgFeBuHvBcJWtBwgrxFbDSGx4HayPFh6Pb5cQUYKWO7Cbzfa98fxhycho07-tHaayZQdJKeqM8rxPD\\_ccdyiqivsCkf91cJTtJd3KWRBvXQ7ov6mAzfFB8pnunBQDX16dAw2VXJBn0385-b\\_j5Wgb6z4Iv-Z6ByJ9lmM6BAqqD75q\\_\\_Y%3D](http://visitor.r20.constantcontact.com/manage/optin?v=001MqUcqqvjwLCJX1LMSWbTe3zHHmEQgFeBuHvBcJWtBwgrxFbDSGx4HayPFh6Pb5cQUYKWO7Cbzfa98fxhycho07-tHaayZQdJKeqM8rxPD_ccdyiqivsCkf91cJTtJd3KWRBvXQ7ov6mAzfFB8pnunBQDX16dAw2VXJBn0385-b_j5Wgb6z4Iv-Z6ByJ9lmM6BAqqD75q__Y%3D)>

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UNITED STATES DEPARTMENT OF COMMERCE  
Economics and Statistics Administration  
U.S. Census Bureau  
Washington, DC 20233-0001

## 2020 CENSUS PROGRAM MEMORANDUM SERIES: 2018.04

**Date:** February 5, 2018

**MEMORANDUM FOR:** The Record

**From:** Albert E. Fontenot, Jr. **(signed February 5, 2018)**  
Associate Director for Decennial Census Programs

**Subject:** 2020 Census Residence Criteria and Residence Situations

**Contact:** Burton Reist, Chief  
Decennial Communications and Stakeholder Relations  
301-763-4155  
Burton.H.Reist@census.gov

This memorandum documents the release of the "Final 2020 Census Residence Criteria and Residence Situations" in the Federal Register. The residence criteria and residence situations determine who should be counted and where they should be counted.

### Overview

Every decade, the Census Bureau undertakes a review of the decennial residence criteria and residence situations to ensure that the concept of "usual residence" is applied in a way that is consistent with the Census Bureau's commitment to count every person once, only once, and in the correct place, and to fulfill the Constitutional requirement to apportion the seats in the U.S. House of Representatives among the states according to their respective numbers.

### Discussion

From the very first census in 1790, Congress established the principle of counting people where they usually reside, which is defined as the place where a person lives and sleeps most of the time, in order to be fair and consistent. The census has followed that principle ever since. For most people, determining their usual residence is straightforward. For others, like members of the military, college students, and other people living in group quarters, knowing where to count them can be more complicated.

For the 2020 Census, the Census Bureau has updated where we count people in five specific residence situations:

1. *Overseas military and civilian employees of the U.S. government* — The 2020 Census will count military and civilian employees of the U.S. government who are temporarily *deployed* overseas on Census Day at their usual home address in the United States, as part of the resident





population, instead of their home state of record. Military and civilian employees of the U.S. government who are *stationed or assigned* overseas on Census Day, as well as their dependents living with them, will continue to be counted in their home state of record for apportionment purposes only.

2. *Overseas federal employees who are not U.S. citizens* — The 2020 Census will count any non-U.S. citizens who are military or civilian employees of the U.S. government who are deployed, stationed, or assigned overseas on Census Day in the same way as U.S. citizens who are included in the federally affiliated overseas count.
3. *Maritime/Merchant Vessel Crews* — The 2020 Census will count the crews of U.S. flag maritime or merchant vessels who are sailing between a U.S. port and a foreign port on Census Day at their usual home address, or at the U.S. port if they have no usual home address.
4. *Juveniles in Treatment Centers* — The 2020 Census will count juveniles staying in non-correctional residential treatment centers on Census Day at their usual home address, or at the facility if they have no usual home address.
5. *Religious Group Quarters Residents* — The 2020 Census will count people living in religious group quarters on Census Day at the facility.

The 2020 Census will not change where prisoners, college students, and people in other residence situations are counted.

### **The 2020 Census Memorandum Series**

The 2020 Census Memorandum Series documents significant decisions, actions, and accomplishments of the 2020 Census Program for the purpose of informing stakeholders, coordinating interdivisional efforts, and documenting important historical changes.

A memorandum generally will be added to this series for any decision or documentation that meets the following criteria:

1. A major program-level decision that will affect the overall design or have significant effect on 2020 Census operations or systems.
2. A major policy decision or change that will affect the overall design or significantly impact 2020 Census operations or systems.
3. A report that documents the research and testing for 2020 Census operations or systems.

Visit 2020 Census on [Census.gov](https://www.census.gov) to access the Memorandum Series, the 2020 Census Operational Plan, and other information about preparations for the 2020 Census.

listed in the ADDRESSES section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

#### Differences From the NPRM

Subsequent to publication of the NPRM, the FAA identified an error within a set of True (T) and Magnetic (M) coordinates along V-113. The intersection coordinates "INT Modesto 208°(T) 19(M) and El Nido 277°(T) 262°(M) radials" were misidentified as PATYY intersection in the NPRM; when in fact these coordinates are for WINDY intersection. The FAA is changing the coordinates to "INT Modesto 208° (T) 191° (M) and El Nido 298° (T) 283° (M)" as the correct coordinates for PATYY intersection.

#### The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 to amend VOR Federal Airways V-113 and V-244 in the western United States due to the scheduled decommissioning of the Manteca and Maxwell VOR facilities. The routes are outlined below.

**V-113:** V-113 currently extends between Morro Bay, CA (MQO) and Lewistown, MT (LWT) with a gap between Panoche, CA (PXN) and Linden, CA (LIN). The FAA is filling the gap between Panoche, CA (PXN) and Linden, CA (LIN). The unaffected portions of the existing route will remain as charted.

**V-244:** V-244 currently extends between Oakland, CA (OAK) and Salina, KS, (SLN). The FAA is relocating the segment of the route from Oakland, CA by rerouting the airway approximately 10 nautical miles north of the previous airway until tied back into the previous route at Coaldale, NV. The unaffected portion of the existing route will remain as charted.

All radials in the regulatory text route descriptions below are stated in True degrees.

VOR Federal airways are published in paragraph 6010(a), of FAA Order 7400.11B dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airways listed in this document will be subsequently published in the Order.

#### Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "significant regulatory action" under

Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### Environmental Review

The FAA has determined that this action modifying VOR Federal airways V-113 and V-244 qualifies for categorical exclusion under the National Environmental Policy Act and its agency-specific implementing regulations in FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures" regarding categorical exclusions for procedural actions at paragraph 5-6.5a, which categorically excludes from full environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points. Therefore, this airspace action is not expected to result in any significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5-2 regarding Extraordinary Circumstances, this action has been reviewed for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis, and it is determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

#### §71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017 and effective September 15, 2017, is amended as follows:

#### Paragraph 6010—Domestic VOR Federal Airways

##### V-113 (Amended)

From Morro Bay, CA; Paso Robles, CA; Priest, CA; Panoche, CA; INT Modesto 208° and El Nido 298° radials; Modesto, CA; Linden, CA; INT Linden 046° and Mustang, NV, 208° radials; Mustang; 42 miles, 24 miles, 115 MSL, 95 MSL, Sod House, NV; 67 miles, 95 MSL, 85 MSL, Romo, OR; 61 miles, 85 MSL, Boise, ID; Salmon, ID; Coppertown, MT; Helena, MT; to Lewistown, MT

\* \* \* \* \*

##### V-244 (Amended)

From Oakland, CA; INT Oakland 077° and Linden, CA, 248° radials; Linden; 30 miles, 153 MSL, INT Linden 094° and Hangtown, CA, 157° radials; 58 miles, 153 MSL, INT Coaldale, CA, 267° and Friant, CA, 022° radials; 23 miles, 153 MSL, INT Coaldale 267° and Bishop, CA, 337° radials; 43 miles, 125 MSL, Coaldale, NV; Tonopah, NV; 40 miles, 115 MSL, Wilson Creek, NV; 28 miles, 115 MSL, Milford, UT; Hanksville, UT; 63 miles, 13 miles, 140 MSL, 36 miles, 115 MSL, Montrose, CO; Blue Mesa, CO; 33 miles, 122 MSL, 27 miles, 155 MSL, Pueblo, CO; 18 miles, 48 miles, 60 MSL, Lamar, CO; 20 miles, 116 miles, 65 MSL, Hays, KS; to Salina, KS. The airspace within R-2531A and R-2531B is excluded.

Issued in Washington, DC, on January 29, 2018.

Sean E. Hook,

Acting Manager, Airspace Policy Group.

(FR Doc. 2018-02133 Filed 2-7-18; 8:45 am)

BILLING CODE 4810-13-P

#### DEPARTMENT OF COMMERCE

#### Bureau of the Census

#### 15 CFR Chapter I

[Docket Number 160526465-8033-03]

RIN 0607-XC026

#### Final 2020 Census Residence Criteria and Residence Situations

AGENCY: Bureau of the Census, Department of Commerce.  
ACTION: Final criteria.

**SUMMARY:** The Bureau of the Census (U.S. Census Bureau) is providing notification of the Final 2020 Census Residence Criteria and Residence Situations. In addition, this document contains a summary of comments received in response to the June 30,

2016, Federal Register document, as well as the Census Bureau's responses to those comments. The residence criteria are used to determine where people are counted during each decennial census. Specific residence situations are included with the criteria to illustrate how the criteria are applied.

**DATES:** The final criteria in this document are effective on March 12, 2018.

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#### SUPPLEMENTARY INFORMATION:

##### A. Background

The U.S. Census Bureau is committed to counting every person in the 2020 Census once, only once, and in the right place. The fundamental reason that the decennial census is conducted is to fulfill the Constitutional requirement (Article I, Section 2) to apportion the seats in the U.S. House of Representatives among the states.<sup>1</sup> For a fair and equitable apportionment, it is crucial that the Census Bureau counts everyone in the right place during the decennial census.

The residence criteria are used to determine where people are counted during each decennial census. Specific residence situations are included with the criteria to illustrate how the criteria are applied.

##### 1. The Concept of Usual Residence

The Census Bureau's enumeration procedures are guided by the constitutional and statutory mandates to count all residents of the several states. [U.S. Const. Art. 1, Section 2, cl.3, Title 13, United States Code, Section 141.] The state in which a person resides and the specific location within that state is determined in accordance with the concept of "usual residence," which is defined by the Census Bureau as the place where a person lives and sleeps most of the time. This is not always the same as a person's legal residence, voting residence, or where they prefer to be counted. This concept of "usual residence" is grounded in the law providing for the first census, the Act of March 1, 1790, expressly specifying that persons be enumerated at their "usual place of abode."

<sup>1</sup> Apportionment is based on the resident population, plus a count of overseas federal employees, for each of the 50 states. Redistricting data include the resident population of the 50 states, District of Columbia, and Puerto Rico.

Determining usual residence is straightforward for most people. However, given our nation's wide diversity in types of living arrangements, the concept of usual residence has a variety of applications. Some examples of these living arrangements include people experiencing homelessness, people with a seasonal/second residence, people in group facilities,<sup>2</sup> people in the process of moving, people in hospitals, children in shared custody arrangements, college students, live-in employees, military personnel, and people who live in workers' dormitories.

##### 2. Reviewing the 2020 Census Residence Criteria and Residence Situations

Every decade, the Census Bureau undertakes a review of the Residence Criteria and Residence Situations to ensure that the concept of usual residence is interpreted and applied, consistent with the intent of the Census Act of 1790, which was authored by a Congress that included many of the framers of the U.S. Constitution and directed that people were to be counted at their usual residence. This review also serves as an opportunity to identify new or changing living situations resulting from societal change, and to address those situations in the guidance in a way that is consistent with the concept of usual residence.

This decade, as part of the review, the Census Bureau requested public comment on the "2010 Census Residence Rule and Residence Situations" through the *Federal Register* (80 FR 28950) on May 20, 2015, to allow the public to recommend any changes they would like to be considered for the 2020 Census. The Census Bureau received 252 comment submission letters or emails that contained 262 total comments. (Some comment submissions included comments or suggestions on more than one residence situation.)

On June 30, 2016, the Census Bureau published the "Proposed 2020 Census Residence Criteria and Residence Situations" in the *Federal Register* (81 FR 42577).<sup>3</sup> In that publication, the Census Bureau included a summary of comments on the May 2015 *Federal Register* document, as well as the Bureau's responses to those comments.

<sup>2</sup> In this document, "group facilities" (referred to also as "group quarters" (GQ)) are defined as places where people live or stay in group living arrangements, which are owned or managed by an entity or organization providing housing and/or services for the residents.

<sup>3</sup> The Proposed 2020 Census Residence Criteria and Residence Situations are the same as the Final 2020 Census Residence Criteria and Residence Situations that are provided in Section C.

During the 60-day comment period that ended on September 1, 2016, the Census Bureau received 77,958 comment submissions<sup>4</sup> that contained 77,995 total comments in response to the proposed residence criteria and situations. A summary of these comments and the Census Bureau's responses are included in section B of this document.

Section C of this document provides the Final 2020 Census Residence Criteria and Residence Situations.<sup>5</sup>

##### B. Summary of Comments Received in Response to the "Proposed 2020 Census Residence Criteria and Residence Situations"

On June 30, 2016, the Census Bureau published a document in the *Federal Register* asking for public comment on the "Proposed 2020 Census Residence Criteria and Residence Situations." Of the 77,995 comments received, 77,887 pertained to prisoners,<sup>6</sup> and 44 pertained to overseas military personnel. There were four comments on health care facilities. There were three comments on each of the following residence situations: Foreign citizens in the United States, juvenile facilities, and people in shelters and/or experiencing homelessness. There were two comments on each of the following residence situations: Boarding school students, college students, group homes and residential treatment centers for adults, transitory locations, visitors on Census Day, people who live or stay in more than one place, merchant marine personnel, and religious group quarters. There was one comment on each of the rest of the residence situations (people away from their usual residence on Census Day (e.g., on vacation or business trip); people living outside the United States; people moving into or out of a residence around Census Day; people who are born or who die around

<sup>4</sup> Of the 77,958 comment submissions, 2,958 contained unique content and 75,000 were duplicates.

<sup>5</sup> The Census Bureau used the term "Residence Rule and Residence Situations" when referring to the 2010 version of this documentation and in portions of previous publications in the *Federal Register* in 2015 and 2016 regarding this topic. However, in this document, and in the foreseeable future, the Census Bureau will use the term "Residence Criteria and Residence Situations."

<sup>6</sup> The majority of comments received on this topic used the terms "prisoner," "incarcerated," or "inmate." Although the terminology is not exactly what we use in the residence criteria documentation, we believe the context of the comments suggests the comments apply to people in Federal and State Prisons, Local Jails and Other Municipal Confinement Facilities, and possibly Federal Detention Centers and Correctional Facilities intended for juveniles. References in this document to "prisons," or "prisoners," should be interpreted as referring to all of these types of facilities.

Census Day; relatives and nonrelatives; residential schools for people with disabilities; housing for older adults; U.S. military personnel; and workers' residential facilities). The Census Bureau also received one comment on the concept of usual residence, seven general comments on the overall residence criteria, and 18 comments on other issues not directly related to the residence criteria or any specific residence situation.

#### 1. Comments on Prisoners

Of the 77,887 comments pertaining to prisoners, 77,863 suggested that prisoners should be counted at their home or pre-incarceration address. The rationales included in these comments were as follows.

- Almost all commenters either directly suggested, or alluded to the view, that counting prisoners at the prison inflates the political power of the area where the prison is located, and deflates the political power in the prisoners' home communities. These commenters stated that this distorts the redistricting process by allowing officials to count prisoners as "residents" of the districts where they are imprisoned, even though the prisoners are not allowed to vote during the time that they are confined in that district.

- Similarly, many commenters suggested that counting prisoners away from their home address goes against the principle of equal representation. Some commenters more specifically suggested that the practice potentially violates the Voting Rights Act and/or the U.S. constitutional commitment to one person, one vote. A couple of commenters stated that the practice differs from certain international guidelines.

- A few commenters stated that counting prisoners at the correctional facilities can also negatively impact the communities in which the prisons are located by distorting and/or complicating the redistricting process at the local level (e.g., county commissions, city councils, and school boards).

- Some commenters stated that the current residence criteria for prisoners are inconsistent with certain states' laws regarding residency for elections (i.e., some state laws specifically say that a correctional facility is not a residence).

- Some commenters stated that some states and many local governments already adjust their population data to remove prisoners when drawing their districts. However, these commenters also suggested that this "piecemeal" approach at the local level is inefficient

and cannot fully resolve the issues associated with where prisoners are counted.

- Most commenters suggested that counting prisoners at the prison inaccurately represents the population counts and demographic characteristics of prisoners' home communities, as well as the communities where the prisons are located. These commenters stated that prisoners typically come from urban, underserved communities whose populations are disproportionately African-American and Latino, while prisons are more likely to be located in largely White (non-Hispanic) rural communities, far from the actual homes of the prisoners. Therefore, most commenters also suggested that counting prisoners at the prisons disproportionately harms communities with high proportions of minorities, by preventing their home communities from receiving their fair share of representation and funding.

- Many commenters stated that the incarcerated population has increased significantly in recent decades. Some commenters also stated that, throughout the long history of the decennial census, the Census Bureau has previously evolved and reevaluated its residence criteria in response to other historical changes in demographics and normative living situations (e.g., the 1950 change to how college students were counted). Therefore, they suggested that the changes in the prisoner population and patterns of prison locations during recent decades warrant a similar evolution of the residence criteria.

- Some commenters suggested that the Census Bureau should change its interpretation of the concept of "usual residence" (i.e., as the place where a person lives and sleeps most of the time), as it relates to incarcerated people. To support this suggestion, commenters used various rationales.

- Some commenters suggested that prisoners do not have enduring social ties or allegiance to the community where they are incarcerated. To explain this, some commenters more specifically stated that prisoners cannot interact with the community where they are incarcerated, are there involuntarily, and generally do not plan to remain in that community upon their release. A few commenters also stated that the governmental representatives of the community where the prison is located do not serve the prisoners, or they stated that prisoners are not constituents of the community where the prison is located. These commenters further stated that prisoners rely, instead, on the representative services of the legislators in their pre-incarceration communities.

- Some commenters suggested that the correctional facility where a prisoner is located on Census Day is not where a prisoner spends most of their time.

- Some supported this suggestion by stating that counting incarcerated people at the facility in which they are housed on Census Day ignores the transient and temporary nature of incarceration. These commenters stated that incarcerated people are typically transferred multiple times between various correctional facilities during the time between when they are arrested and when they are released.

- Some supported this suggestion by focusing on local jails. They stated that, while the length of incarceration for prison inmates is typically more than one year, about a third of all inmates (in prisons and jails) are jail inmates, and the typical length of incarceration for jail inmates is much shorter than one year (i.e., a few days to a few weeks). A few also stated that the majority of jail inmates have not been convicted of a crime, or stated that they are awaiting trial and presumed innocent until proven guilty.

- A few supported this suggestion by stating that, if your measuring stick is the 10-year period for which the decennial census counts affect representation, funding, and policies, most prisoners are incarcerated for less than 10 years.

- A few commenters suggested that multiple factors must be considered together when determining the correct place to count certain types of people, such as prisoners, who do not easily align with the standard definition of usual residence. Therefore, they stated that a one-size-fits-all approach of focusing solely on where people live and sleep most of the time is not appropriate for determining where to count prisoners.

- A few commenters suggested that only prisoners who are serving long-term sentences, such as longer than six months or a year, should be counted at the facility, and that prisoners serving shorter terms should be counted at their usual residence outside of the facility.

- Some commenters suggested that the treatment of prisoners is inconsistent with the treatment of other residence situations in which people are temporarily living or staying away from their permanent address (e.g., travelers and snowbirds). A few stated that the proposed residence criteria make it appear as if the Census Bureau plans to count boarding school students, deployed military personnel, truck drivers, members of Congress, and/or juveniles in residential treatment

facilities at their home address, even if they do not spend most of their time there.

- Some commenters suggested that the number/proportion of comments submitted on this issue indicates that there is an overwhelming consensus urging a change to how prisoners are counted in the census.

- A few commenters suggested that the Census Bureau has acknowledged the need to correct its own data by proposing to help states with post-census population adjustments.

- Some of these commenters suggested that "this ad hoc approach is neither efficient nor universally implementable." Some also stated that many states have laws that would prevent them from using such alternative data to adjust their Census counts for redistricting, and that many states may not have the resources to gather the necessary data to provide to the Census Bureau. Some also expressed concerns about the states' inability to provide data on federal prisoners and prisoners who are incarcerated in another state.

- Therefore, some of these commenters suggested that the only way to implement a consistent solution for the entire United States is for the Census Bureau to change the way it counts prisoners. A few also suggested that the Census Bureau would be best able to accomplish this change if all correctional facilities (local, state, and federal) and/or all state and federal corrections departments were required to collect and maintain accurate records on each prisoner's home/pre-incarceration address.

Four comments were in support of counting prisoners at the correctional facility. All of these commenters suggested that the correctional facility is the prisoner's usual residence, or where they live and sleep most of the time (i.e., prisoners are usually in prison, or away from their pre-incarceration address, for relatively long periods of time, such as one year or more). One commenter further stated that, because people are usually sent to prison for more than one year, they are not considered to be only "temporary residents" of the prison under many government regulations (other than the Census Bureau's). One commenter suggested that it makes sense to count prisoners at the facility because the communities in which the facilities are located are responsible for providing emergency response and certain law enforcement services to those facilities, as well as providing road maintenance and hospitality services (e.g., hotels and restaurants) for

the family and friends of the prisoners who travel to the facility for visitation.

One commenter suggested that counting prisoners at their "home address" would create unreasonable burden on the census process because of the considerable time and effort that would be necessary, both on the part of the facility administrators who would need to research and maintain the address records, and on the census enumerators who would need to collect and ensure the accuracy of the addresses. One commenter stated that any approach that would count prisoners somewhere other than the prison would likely result in a national undercount due to the difficulty in tracking inmates in transit. One commenter stated that it is not the Census Bureau's responsibility to facilitate states' redistricting activities beyond their currently proposed activities (i.e., providing the redistricting data file, identifying the group quarters counts at the block level, and the proposed option to geocode prisoner addresses if they are provided by the state to the Census Bureau).

Twenty comments were neutral regarding where to count prisoners, in that they did not state whether they thought that prisoners should be counted at the facility or at some other address. Many of these commenters stated the importance of equal representation for all. Some stated that prisoners should have the right to vote. A few further clarified that prisoners should have the right to vote if they are going to be counted as residents (of any place) for redistricting purposes, or vice versa (i.e., if prisoners do not have the right to vote, then they should not be counted). One specifically stated that incarcerated people should not be counted at all (either at the facility or elsewhere) because they committed a crime and are not legally eligible to vote. A few commenters stated concerns regarding the fairness or effectiveness of the criminal justice system.

**Census Bureau Response:** For the 2020 Census, the Census Bureau will retain the proposed residence situation guidance for correctional facilities (Sections C.13.e, C.15, and C.17.a). The practice of counting prisoners at the correctional facility is consistent with the concept of usual residence, as established by the Census Act of 1790. As noted in section A.1 of this document, "usual residence" is defined as the place where a person lives and sleeps most of the time, which is not always the same as their legal residence, voting residence, or where they prefer to be counted. Therefore, counting prisoners anywhere other than the

facility would be less consistent with the concept of usual residence, since the majority of people in prisons live and sleep most of the time at the prison.

States are responsible for legislative redistricting. The Census Bureau works closely with the states and recognizes that some states have decided, or may decide in the future, to 'move' their prisoner population back to the prisoners' pre-incarceration addresses for redistricting and other purposes. Therefore, following the 2020 Census, the Census Bureau plans to offer a product that states can request, in order to assist them in their goals of reallocating their own prisoner population counts. Any state that requests this product will be required to submit a data file (indicating where each prisoner was incarcerated on Census Day, as well as their pre-incarceration address) in a specified format. The Census Bureau will review the submitted file and, if it includes the necessary data, provide a product that contains supplemental information the state can use to construct alternative within-state tabulations for its own purposes. However, the Census Bureau will not use the state-provided data in this product to make any changes to the official decennial census counts.

The Census Bureau also plans to provide group quarters data after the 2020 Census sooner than it was provided after the 2010 Census. For the 2010 Census, the Census Bureau released the *Advance Group Quarters Summary File* showing the seven major types of group quarters, including correctional facilities for adults and juvenile facilities. This early<sup>7</sup> release of data on the group quarters population was beneficial to many data users, including those in the redistricting community who must consider whether to include or exclude certain populations when redrawing boundaries as a result of state legislation. The Census Bureau is planning to incorporate similar group quarters information in the standard *Redistricting Data (Public Law 94-171) Summary File* for 2020.

## 2. Comments on the Military Overseas

Of the 44 comments received pertaining to the military overseas, 40 supported the Census Bureau proposal

<sup>7</sup> The *Advance Group Quarters Summary File* was released on April 26, 2011, which was earlier than when that GQ data was originally planned to be released in the *Summary File 1* that was released on June 16–August 25, 2011. The earlier release made it easier to use these GQ data in conjunction with the *Redistricting Data (Public Law 94-171) Summary File*, which was released on February 3–March 24, 2011.

to treat military personnel who are temporarily *deployed* overseas on a short-term basis differently than military personnel who are *stationed* overseas on a more long-term basis. More specifically, most of these commenters suggested that military personnel who are deployed overseas should be counted at their usual residence in the United States where they were stationed at the time they were deployed, and included in the local community-level resident population counts.

Many commenters stated that counting deployed military personnel at their usual residence (where they are stationed) in the United States would more accurately reflect the social and economic impact that these personnel members have on the communities where they usually work, recreate, and reside. Many commenters similarly stated that deployed personnel should be counted at their usual residence in the United States in order to ensure that the communities surrounding military bases are able to obtain the necessary resources and funding to support the soldiers who serve our country and their families, as well as accurate data to inform community planning. These commenters stated that the aforementioned planning, funding, and other resources would support community services such as police and fire departments, schools, roads, parks, utilities, and other infrastructure and amenities.

Some commenters stated that deployments from specific military bases typically happen in surges to support specific events, such as combat missions or natural disasters. Therefore, these commenters suggested that, if an event like this happens around the time of the census enumeration, then the population of the community surrounding that military base would be grossly undercounted if the deployed personnel were not counted there. One commenter suggested that counting deployed personnel at their usual residence would produce more consistent results than counting them at their home of record because the Department of Defense records on military personnel members' home of record<sup>a</sup> were not well maintained prior to the 2010 Census.

<sup>a</sup> Home of record is generally the permanent home of the person at the time of entry or re-enlistment into the Armed Forces, as included on personnel files. For the 2010 Census, if home of record information was not available for a person, the Department of Defense used the person's "legal residence" (the residence a member declares for state income tax withholding purposes), or thirdly, "last duty station," to assign a home state.

Some commenters suggested that the military member's permanent duty station from which they were deployed is their usual residence (*i.e.*, where they live and sleep most of the time), and some commenters stated that counting deployed personnel at their usual residence in the United States would be consistent with how the Census Bureau counts other people who are temporarily away for work purposes. A few commenters stated that deployments are typically short in duration, and one commenter stated that the Army plans to further shorten the length of deployments in the future. A few commenters stated that deployed personnel must return to their permanent duty station in the United States after the deployment ends, and a few commenters stated that many deployed personnel have families that live with them at their permanent duty station and maintain their residence while the military member is deployed.

Some commenters stated that many of the family members of deployed military were confused during the 2010 Census about whether they should count themselves at their usual residence because they were instructed that their deployed family member would be counted through administrative records, and they assumed the same would be true for them as well. One of these commenters stated that proposed residence guidance for how deployed personnel would be counted in the 2020 Census should reduce some of this confusion. However, all of these commenters encouraged the Census Bureau to conduct a strong communication and outreach program to ensure that all family members of deployed personnel are made aware of the fact that they still need to complete the census questionnaire for themselves.

One commenter expressed concern about footnote 5 in the proposed residence criteria documentation, which said: "The ability to successfully integrate the DOD data on deployed personnel into the resident population counts must be evaluated and confirmed prior to the 2020 Census." The commenter was worried that the proposed change for counting deployed military might not be implemented if the research and evaluations are not completed before final decisions must be made, and they suggested that such research is not necessary because the Census Bureau already uses data from the Defense Manpower Data Center when producing annual population estimates at the national, state, and county levels. This commenter also recommended that if the proposed

change for counting deployed military is implemented for the 2020 Census, then the Census Bureau should also ensure that the methodology used to produce the annual population estimates is revised accordingly.

One commenter expressed support for the proposal to include military and civilian employees of the U.S. government who are deployed or stationed/assigned overseas and are not U.S. citizens (but must be legal U.S. residents to meet the requirements for federal employment) in the Federally Affiliated Overseas Count, because these people have met the requirements to qualify for federal employment and have pledged to serve our country. They also stated that this proposal would be consistent with the fact that citizenship status is not a requirement for determining a person's residence.

Three comments opposed the proposal to count deployed military at their usual residence in the United States from which they were deployed. One commenter suggested that all overseas military personnel should be counted in the same way, and that there is not a good reason to treat deployed personnel as a separate category from personnel who are stationed overseas. One commenter suggested that the Census Bureau should continue to count all overseas military personnel, including those who are deployed, in the state where they lived when they enlisted (*i.e.*, their home of record) because military personnel are typically reassigned to a different permanent duty station every few years throughout their career, and their home of record is where they have the strongest ties. One commenter suggested that the Census Bureau should not implement the proposed change to how deployed military are counted because that change would weaken the argument for continuing to count prisoners at the correctional facility where they are incarcerated on Census Day. This commenter also recommended that the Census Bureau should make a stronger case for the distinction between these two large populations (*i.e.*, deployed military personnel versus prisoners).

One comment was neutral regarding when to count overseas military personnel, in that they did not state where they thought deployed personnel should be counted. They simply stated that it appeared that not all of the locally stationed military personnel and their dependents were being counted, and asked for more information on whether this was true and/or how to ensure they were counted in the future.

**Census Bureau Response:** For the 2020 Census, the Census Bureau will



retain the proposed residence situation guidance for overseas military personnel (Sections C.4.a–b and C.13.f–g). This guidance makes a distinction between personnel who are *deployed* overseas and those who are *stationed* or *assigned* overseas. Deployments are typically short in duration, and the deployed personnel will be returning to their usual residence where they are stationed or assigned in the United States after their temporary deployment ends. Personnel stationed or assigned overseas generally remain overseas for longer periods of time and often do not return to the previous stateside location from which they left. Therefore, counting deployed personnel at their usual residence in the United States follows the standard interpretation of the residence criteria to count people at their usual residence if they are temporarily away for work purposes.

The Census Bureau will use administrative data from the Department of Defense to count deployed personnel at their usual residence in the United States for apportionment purposes and for inclusion in the resident population counts. The Census Bureau will count military and civilian employees of the U.S. government who are stationed or assigned outside the United States, and their dependents living with them, in their home state, for apportionment purposes only, using administrative data provided by the Department of Defense and the other federal agencies that employ them.

The Census Bureau has been communicating with stakeholders from various military communities and plans to work closely with military stakeholders to plan and carry out the enumeration of military personnel. As the planning process moves forward, there will be continued testing of our process for integrating DOD data on deployed personnel into the resident population counts.

### 3. Comments on Health Care Facilities

Four comments were related to health care facilities. One commenter simply stated that they agree with the Census Bureau's proposal regarding how to count people in health care facilities. One commenter suggested that the Census Bureau add residence guidance specifically regarding memory care centers as a separate category from nursing facilities because the nature of Alzheimer's disease and Dementia necessitates that these patients be enumerated through administrative records in order to ensure the accuracy of the data. One commenter suggested that people in psychiatric facilities

should be counted at the residence where they were living before they entered the facility because they will most likely return to their prior community, which is where they would normally vote. This commenter also stated that these people should be counted in their prior communities in order to ensure that those communities receive the proper allocation of representatives and resources.

One commenter similarly suggested that people living in psychiatric hospitals on Census Day should be counted at the residence where they sleep most of the time, and only counted at the facility if they do not have a usual home elsewhere. They stated that the Census Bureau misunderstands the functioning of state and private psychiatric hospitals, which today provide primarily acute and short term treatment (e.g., less than two weeks, in most cases). They also stated that most patients in these facilities are likely to have a permanent residence elsewhere. The same commenter also stated that the Census Bureau's proposal for how to count people in nursing/skilled-nursing facilities does not best capture the experience of people with disabilities who are in the process of transitioning from group housing to more independent housing. Therefore, the commenter suggested that the Census Bureau should alter the proposed guidance in order to allow people in nursing/skilled-nursing facilities to be counted at a residence to which they are actively preparing to transition.

**Census Bureau Response:** For the 2020 Census, the Census Bureau will retain the proposed residence situation guidance for health care facilities (Section C.11). Separate residence guidance was not added for memory care centers because these types of facilities would be considered subcategories of assisted living facilities and nursing facilities/skilled nursing facilities (Section C.11), and the guidance provided for these types of facilities is sufficient. Patients in mental (psychiatric) hospitals and psychiatric units in other hospitals (where the primary function is for long-term non-acute care) will be counted at the facility because the facilities or units within the facilities are primarily serving long-term non-acute patients who live and sleep at the facility most of time. Because people must be counted at their current usual residence, rather than a future usual residence, the residence guidance for patients in nursing/skilled-nursing facilities will not be revised to allow some people to be counted at a residence to which they

are actively preparing to transition. Comments on health care facilities not addressed in this section were considered out of scope for this document.

### 4. Comments on Foreign Citizens in the United States

Three comments were related to foreign citizens in the United States. One commenter simply stated that they agree with the Census Bureau's proposal regarding how foreign citizens are counted. One commenter suggested that the Census Bureau should add wording to clarify whether foreign "snowbirds" (i.e., foreign citizens who stay in a seasonal residence in the United States for multiple months) are considered to be "living" in the United States or only "visiting" the United States. In order to more accurately reflect the impact of foreign snowbirds on local jurisdictions in the United States, this commenter suggested defining those who are "living" in the United States as those who are "living or staying in the United States for an extended period of time exceeding \_\_\_\_ months." One commenter expressed concern about the impact of including undocumented people in the population counts for redistricting because these people cannot vote, and they stated that this practice encourages gerrymandering. This commenter suggested collecting data to identify the citizen voting age population (CVAP), so that the data could be used to prevent gerrymandering in gateway communities during the redistricting process.

**Census Bureau Response:** For the 2020 Census, the Census Bureau will retain the proposed residence situation guidance for foreign citizens in the United States (Section C.3). Foreign citizens are considered to be "living" in the United States if, at the time of the census, they are living and sleeping most of the time at a residence in the United States. Section C.3 provides sufficient guidance for foreign citizens either living in or visiting the United States. Section C.5 provides additional guidance regarding "snowbirds." Comments on foreign citizens in the United States not addressed in this section were considered out of scope for this document.

### 5. Comments on Juvenile Facilities

Three comments were related to juvenile facilities. One commenter simply stated that they agree with the Census Bureau's proposal regarding how to count juveniles in non-correctional residential treatment centers. One commenter stated that

juveniles in all three types of juvenile facilities (i.e., correctional facilities, non-correctional group homes, and non-correctional residential treatment centers) should be counted at their usual residence. One commenter similarly stated that people in juvenile facilities should be counted at their usual residence outside the facility, but the context of the comment showed that this commenter was referring mostly to correctional facilities for juveniles (rather than non-correctional group homes and non-correctional residential treatment centers).

**Census Bureau Response:** For the 2020 Census, the Census Bureau will retain the proposed residence situation guidance for juvenile facilities (Section C.17). People in correctional facilities for juveniles and non-correctional group homes for juveniles will be counted at the facility because the majority of people in these types of facilities live and sleep there most of the time. People in non-correctional residential treatment centers for juveniles will be counted at the residence where they live and sleep most of the time (or at the facility if they do not have a usual home elsewhere) because these people typically stay at the facility temporarily and often have a usual home elsewhere to return to after treatment is completed.

#### 6. Comments on People in Shelters and People Experiencing Homelessness

Three comments were related to people in shelters and people experiencing homelessness. One expressed agreement with the Census Bureau's proposal regarding how to count people in all of the subcategories of this residence situation except for the subcategory of people in domestic violence shelters. This commenter suggested that people in domestic violence shelters should be allowed to be counted at their last residence address prior to the shelter, due to the temporary nature of their stay and the confidentiality of that shelter's location. One commenter suggested that the Census Bureau add residence guidance specifically regarding "temporarily moved persons due to emergencies" (e.g., displaced from their home by a hurricane or earthquake). This commenter stated that these people should be counted "in their normal prior residential locations" (if they state the intention to return to that prior location after their home is repaired/rebuilt) so that accurate decisions can be made regarding funding for rebuilding and infrastructure restoration in those locations. One commenter requested that the Census Bureau publish national and/or state level population counts for

the subcategory of people in emergency and transitional shelters with sleeping facilities for people experiencing homelessness. This commenter stated that these data are important to both housing advocates trying to assess the housing needs of people with disabilities, and to legal advocates working to enforce the community integration mandates of the Americans with Disabilities Act.

**Census Bureau Response:** For the 2020 Census, the Census Bureau will retain the proposed residence situation guidance for people in shelters and people experiencing homelessness (Section C.21).

The proposed residence guidance already allows people who are temporarily displaced by natural disasters to be counted at their usual residence to which they intend to return. People in temporary group living quarters established for victims of natural disasters will be counted where they live and sleep most of the time (or at the facility if they do not report a usual home elsewhere). In addition, people who are temporarily displaced or experiencing homelessness, and are staying in a residence for a short or indefinite period of time, will be counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they will be counted where they are staying on Census Day.

#### 7. Comments on College Students and Boarding School Students

Two comments were related to boarding school students, and two comments were related to college students. One commenter simply stated that they agree with the Census Bureau's proposal regarding how to count boarding school students and college students. One commenter suggested that they agree with counting college students at their college residence because that would better ensure that all college students are counted in the census. One commenter suggested that boarding school students should be counted at the school because that is where they live and sleep most of the time, and they participate in (and consume the resources of) the community where the school is located. This commenter also stated that counting boarding school students at their parental home is inconsistent with the fact that college students are counted at their college residence, considering that college students are often just as dependent on their parents as boarding school students.

**Census Bureau Response:** For the 2020 Census, the Census Bureau will retain the proposed residence situation guidance for college students (Section C.10.a–e) and boarding school students (Section C.9.a). The Census Bureau has historically counted boarding school students at their parental home, and will continue doing so because of the students' age and dependency on their parents, and the likelihood that they will return to their parents' residence when they are not attending their boarding school (e.g., weekends, summer/winter breaks, and when they stop attending the school).

#### 8. Comments on Non-Correctional Adult Group Homes and Residential Treatment Centers

Two comments were related to adult group homes and residential treatment centers. One commenter suggested that all people in adult group homes and adult residential treatment centers should be counted at their usual residence other than the facility, because counting them at the facility is not consistent with their state's definition of residence. One commenter stated that the Census Bureau's proposal for how to count people in adult group homes does not best capture the experience of people with disabilities who are in the process of transitioning from group housing to more independent housing. Therefore, the commenter suggested that the Census Bureau should alter the proposed guidance in order to allow people in adult group homes to be counted at a residence to which they are actively preparing to transition. The same commenter also requested that the Census Bureau publish national and/or state level population counts for the subcategories of people in adult group homes and adult residential treatment centers. This commenter stated that these data are important to both housing advocates trying to assess the housing needs of people with disabilities, and to legal advocates working to enforce the community integration mandates of the Americans with Disabilities Act.

**Census Bureau Response:** For the 2020 Census, the Census Bureau will retain the proposed residence situation guidance for people in non-correctional adult group homes and residential treatment centers (Section C.16). People in non-correctional group homes for adults will be counted at the facility because the majority of people in these types of facilities live and sleep there most of the time. People in non-correctional residential treatment centers for adults will be counted at the residence where they live and sleep



most of the time (or at the facility if they do not have a usual home elsewhere) because these people typically stay at the facility temporarily and often have a usual home elsewhere to return to after treatment is completed.

The residence guidance for people in adult group homes will not be revised to allow some people to be counted at a residence to which they are actively preparing to transition because people must be counted at their current usual residence, rather than a future usual residence. Comments on non-correctional adult group homes and residential treatment centers not addressed in this section were considered out of scope for this document.

#### 9. Comments on Transitory Locations

Two comments were related to transitory locations. One commenter simply stated that they agree with the Census Bureau's proposal regarding how to count people in transitory locations. One commenter stated that the proposed residence guidance for transitory locations is acceptable because it is consistent with the concept of usual residence. However, they were concerned that the procedures used in the 2010 Census may have caused certain types of people to not be counted in the census because these people typically move seasonally from one transitory location (e.g., RV park) to another throughout the year, but the location where they are staying on Census Day may not be the location where they spend most of the year. This commenter stated that, during the 2010 Census, if the transitory location where a person was staying on Census Day was not where they stayed most of the time, then they were not enumerated at that location because the assumption was that they would be enumerated at their usual residence. Therefore, the commenter was concerned that people who stayed in one RV park for a few months around Census Day were not counted at that RV park if they indicated that they usually lived elsewhere (e.g., another RV park), and they would also not have been counted at that other RV park when they are there later that year (after the census enumeration period ends). The commenter suggested that we add procedures to account for people who spend most of their time in a combination of multiple transitory locations.

**Census Bureau Response:** For the 2020 Census, the Census Bureau will retain the proposed residence situation guidance for people in transitory locations (Section C.18). Sufficient

guidance for people in transitory locations, including those living in recreational vehicles, is provided in Section C.18. Comments on transitory locations not addressed in this section were considered out of scope for this document.

#### 10. Comments on Visitors on Census Day

Two comments were related to visitors on Census Day. One commenter simply stated that they agree with the Census Bureau's proposal regarding how to count visitors on Census Day. One commenter asked whether the Census Bureau would count all vacationers in a specific state as residents of that state.

**Census Bureau Response:** For the 2020 Census, the Census Bureau will retain the proposed residence situation guidance for visitors on Census Day (Section C.2). People who are temporarily visiting a location on Census Day will be counted where they live and sleep most of the time. If they do not have a usual residence to return to, they will be counted where they are staying on Census Day.

#### 11. Comments on People Who Live or Stay in More Than One Place

Two comments were related to people who live or stay in more than one place. One commenter simply stated that they agree with the Census Bureau's proposal regarding how to count people who live or stay in more than one place. One commenter suggested that the Census Bureau add more clarification to the residence guidance regarding where "snowbirds" (i.e., seasonal residents) are counted.

**Census Bureau Response:** For the 2020 Census, the Census Bureau will retain the proposed residence situation guidance for people who live or stay in more than one place (Section C.5). People who travel seasonally between residences (e.g., snowbirds) will be counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they will be counted where they are staying on Census Day.

#### 12. Comments on Merchant Marine Personnel

Two comments were related to merchant marine personnel, and both commenters simply stated that they agree with the Census Bureau's proposal regarding how to count merchant marine personnel.

**Census Bureau Response:** For the 2020 Census, the Census Bureau will retain the proposed residence situation

guidance for merchant marine personnel (Section C.14).

#### 13. Comments on Religious Group Quarters

Two comments were related to religious group quarters. One commenter simply stated that they agree with the Census Bureau's proposal regarding how to count people in religious group quarters. One commenter expressed agreement with the proposal because most religious group quarters are long-term residences that align with the concept of usual residence.

**Census Bureau Response:** For the 2020 Census, the Census Bureau will retain the proposed residence situation guidance for religious group quarters (Section C.20).

#### 14. Comments on Other Residence Situations

There was one letter that included a comment on every residence situation, and each of those topic-specific comments was included as appropriate among the comments regarding the corresponding residence situations discussed above. However, for each of the other residence situations not already discussed above, the commenter stated that they agreed with how the Census Bureau proposed to count people in the following residence situations.

- People away from their usual residence on Census Day (e.g., on vacation or business trip) (Section C.1).
- People living outside the United States (Section C.4).
- People moving into or out of a residence around Census Day (Section C.6).
- People who are born or who die around Census Day (Section C.7).
- Relatives and nonrelatives (Section C.8).
- Residential schools for people with disabilities (Section C.9.b–c).
- Housing for older adults (Section C.12).
- Stateside military personnel (Section C.13.a–e).
- Workers' residential facilities (Section C.19).

**Census Bureau Response:** For the 2020 Census, the Census Bureau will retain the proposed guidance for the residence situations listed in this section (B.14).

#### 15. Comments on the Concept of Usual Residence or the General Residence Criteria

There was one comment on the concept of usual residence, in which the commenter expressed agreement with

the definition of "usual residence" as being the place where a person lives and sleeps most of the time.

There were seven comments on the general residence criteria. One commenter simply supported the entire residence criteria and residence situations documentation. Two commenters stated that they specifically agree with the three main principles of the residence criteria. One commenter disagreed with "this method of tallying the U.S. population," but did not refer to any specific residence situation. One commenter stated that every resident should be counted in the census. One commenter stated that every citizen should be counted in the census. One commenter suggested that the Census Bureau count people who are away from their home at the time of the census using a code to indicate the reason why they are away (e.g., travel, work, incarceration, etc.).

**Census Bureau Response:** For the 2020 Census, the Census Bureau will retain the three main principles of the residence criteria (see introduction portion of section C). The goal of the decennial census is to count all people who are living in the United States on Census Day at their usual residence. Comments on the concept of usual residence or general residence criteria not addressed in this section were considered out of scope for this document.

#### 16. Other Comments

There were 18 comments that did not directly address the residence criteria or any particular residence situation.

**Census Bureau Response:** Comments that did not directly address the residence criteria or any particular residence situation are out of scope for this document.

#### C. The Final 2020 Census Residence Criteria and Residence Situations

The Residence Criteria are used to determine where people are counted during the 2020 Census. The Criteria say:

- Count people at their usual residence, which is the place where they live and sleep most of the time.
- People in certain types of group facilities on Census Day are counted at the group facility.
- People who do not have a usual residence, or who cannot determine a usual residence, are counted where they are on Census Day.

The following sections describe how the Residence Criteria apply to certain living situations for which people commonly request clarification.

#### 1. People Away From Their Usual Residence on Census Day

*People away from their usual residence on Census Day, such as on a vacation or a business trip, visiting, traveling outside the United States, or working elsewhere without a usual residence there (for example, as a truck driver or traveling salesperson)—Counted at the residence where they live and sleep most of the time.*

#### 2. Visitors on Census Day

*Visitors on Census Day—Counted at the residence where they live and sleep most of the time. If they do not have a usual residence to return to, they are counted where they are staying on Census Day.*

#### 3. Foreign Citizens in the United States

*(a) Citizens of foreign countries living in the United States—Counted at the U.S. residence where they live and sleep most of the time.*

*(b) Citizens of foreign countries living in the United States who are members of the diplomatic community—Counted at the embassy, consulate, United Nations' facility, or other residences where diplomats live.*

*(c) Citizens of foreign countries visiting the United States, such as on a vacation or business trip—Not counted in the census.*

#### 4. People Living Outside the United States

*(a) People deployed outside the United States<sup>9</sup> on Census Day (while stationed or assigned in the United States) who are military or civilian employees of the U.S. government—Counted at the U.S. residence where they live and sleep most of the time, using administrative data provided by federal agencies.<sup>10</sup>*

<sup>9</sup> In this document, "Outside the United States" and "foreign port" are defined as being anywhere outside the geographical area of the 50 United States and the District of Columbia. Therefore, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, the Pacific Island Areas (American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands), and all foreign countries are considered to be "outside the United States." Conversely, "stateside," "U.S. homeport," and "U.S. port" are defined as being anywhere in the 50 United States and the District of Columbia.

<sup>10</sup> Military and civilian employees of the U.S. government who are deployed or stationed/assigned outside the United States (and their dependents living with them outside the United States) are counted using administrative data provided by the Department of Defense and the other federal agencies that employ them. If they are deployed outside the United States (while stationed/assigned in the United States), the administrative data are used to count them at their usual residence in the United States. Otherwise, if they are stationed/assigned outside the United States, the administrative data are used to count them (and

*(b) People stationed or assigned outside the United States on Census Day who are military or civilian employees of the U.S. government, as well as their dependents living with them outside the United States—Counted as part of the U.S. federally affiliated overseas population, using administrative data provided by federal agencies.*

*(c) People living outside the United States on Census Day who are not military or civilian employees of the U.S. government and are not dependents living with military or civilian employees of the U.S. government—Not counted in the stateside census.*

#### 5. People Who Live or Stay in More Than One Place

*(a) People living away most of the time while working, such as people who live at a residence close to where they work and return regularly to another residence—Counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they are counted where they are staying on Census Day.*

*(b) People who live or stay at two or more residences (during the week, month, or year), such as people who travel seasonally between residences (for example, snowbirds)—Counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they are counted where they are staying on Census Day.*

*(c) Children in shared custody or other arrangements who live at more than one residence—Counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they are counted where they are staying on Census Day.*

#### 6. People Moving Into or Out of a Residence Around Census Day

*(a) People who move into a new residence on or before Census Day—Counted at the new residence where they are living on Census Day.*

*(b) People who move out of a residence on Census Day and do not move into a new residence until after Census Day—Counted at the old residence where they were living on Census Day.*

*(c) People who move out of a residence before Census Day and do not move into a new residence until after Census Day—Counted at the residence where they are staying on Census Day.*

their dependents living with them outside the United States) in their home state for apportionment purposes only.

## 7. People Who Are Born or Who Die Around Census Day

(a) *Babies born on or before Census Day*—Counted at the residence where they will live and sleep most of the time, even if they are still in a hospital on Census Day.

(b) *Babies born after Census Day*—Not counted in the census.

(c) *People who die before Census Day*—Not counted in the census.

(d) *People who die on or after Census Day*—Counted at the residence where they were living and sleeping most of the time as of Census Day.

## 8. Relatives and Nonrelatives

(a) *Babies and children of all ages, including biological, step, and adopted children, as well as grandchildren*—Counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they are counted where they are staying on Census Day. (Only count babies born on or before Census Day.)

(b) *Foster children*—Counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they are counted where they are staying on Census Day.

(c) *Spouses and close relatives, such as parents or siblings*—Counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they are counted where they are staying on Census Day.

(d) *Extended relatives, such as grandparents, nieces/nephews, aunts/uncles, cousins, or in-laws*—Counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they are counted where they are staying on Census Day.

(e) *Unmarried partners*—Counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they are counted where they are staying on Census Day.

(f) *Housemates or roommates*—Counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they are counted where they are staying on Census Day.

(g) *Roomers or boarders*—Counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they are counted where they are staying on Census Day.

(h) *Live-in employees, such as caregivers or domestic workers*—

Counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they are counted where they are staying on Census Day.

(i) *Other nonrelatives, such as friends*—Counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they are counted where they are staying on Census Day.

## 9. People in Residential School-Related Facilities

(a) *Boarding school students living away from their parents' or guardians' home while attending boarding school below the college level, including Bureau of Indian Affairs boarding schools*—Counted at their parents' or guardians' home.

(b) *Students in residential schools for people with disabilities on Census Day*—Counted at the school.

(c) *Staff members living at boarding schools or residential schools for people with disabilities on Census Day*—Counted at the residence where they live and sleep most of the time. If they do not have a usual home elsewhere, they are counted at the school.

## 10. College Students (and Staff Living in College Housing)

(a) *College students living at their parents' or guardians' home while attending college in the United States*—Counted at their parents' or guardians' home.

(b) *College students living away from their parents' or guardians' home while attending college in the United States (living either on-campus or off-campus)*—Counted at the on-campus or off-campus residence where they live and sleep most of the time. If they are living in college/university student housing (such as dormitories or residence halls) on Census Day, they are counted at the college/university student housing.

(c) *College students living away from their parents' or guardians' home while attending college in the United States (living either on-campus or off-campus) but staying at their parents' or guardians' home while on break or vacation*—Counted at the on-campus or off-campus residence where they live and sleep most of the time. If they are living in college/university student housing (such as dormitories or residence halls) on Census Day, they are counted at the college/university student housing.

(d) *College students who are U.S. citizens living outside the United States while attending college outside the*

*United States*—Not counted in the stateside census.

(e) *College students who are foreign citizens living in the United States while attending college in the United States (living either on-campus or off-campus)*—Counted at the on-campus or off-campus U.S. residence where they live and sleep most of the time. If they are living in college/university student housing (such as dormitories or residence halls) on Census Day, they are counted at the college/university student housing.

(f) *Staff members living in college/university student housing (such as dormitories or residence halls) on Census Day*—Counted at the residence where they live and sleep most of the time. If they do not have a usual home elsewhere, they are counted at the college/university student housing.

## 11. People in Health Care Facilities

(a) *People in general or Veterans Affairs hospitals (except psychiatric units) on Census Day, including newborn babies still in the hospital on Census Day*—Counted at the residence where they live and sleep most of the time. Newborn babies are counted at the residence where they will live and sleep most of the time. If patients or staff members do not have a usual home elsewhere, they are counted at the hospital.

(b) *People in mental (psychiatric) hospitals and psychiatric units in other hospitals (where the primary function is for long-term non-acute care) on Census Day*—Patients are counted at the facility. Staff members are counted at the residence where they live and sleep most of the time. If staff members do not have a usual home elsewhere, they are counted at the facility.

(c) *People in assisted living facilities<sup>11</sup> where care is provided for individuals who need help with the activities of daily living but do not need the skilled medical care that is provided in a nursing home*—Residents and staff members are counted at the residence where they live and sleep most of the time.

(d) *People in nursing facilities/skilled-nursing facilities (which provide long-term non-acute care) on Census Day*—

<sup>11</sup> Nursing facilities/skilled-nursing facilities, inpatient hospice facilities, assisted living facilities, and housing intended for older adults may coexist within the same entity or organization in some cases. For example, an assisted living facility may have a skilled-nursing floor or wing that meets the nursing facility criteria, which means that specific floor or wing is counted according to the guidelines for nursing facilities/skilled-nursing facilities, while the rest of the living quarters in that facility are counted according to the guidelines for assisted living facilities.

Patients are counted at the facility. Staff members are counted at the residence where they live and sleep most of the time. If staff members do not have a usual home elsewhere, they are counted at the facility.

(e) *People staying at in-patient hospice facilities on Census Day*—Counted at the residence where they live and sleep most of the time. If patients or staff members do not have a usual home elsewhere, they are counted at the facility.

## 12. People in Housing for Older Adults

*People in housing intended for older adults, such as active adult communities, independent living, senior apartments, or retirement communities*—Residents and staff members are counted at the residence where they live and sleep most of the time.

## 13. U.S. Military Personnel

(a) *U.S. military personnel assigned to military barracks/dormitories in the United States on Census Day*—Counted at the military barracks/dormitories.

(b) *U.S. military personnel (and dependents living with them) living in the United States (living either on base or off base) who are not assigned to barracks/dormitories on Census Day*—Counted at the residence where they live and sleep most of the time.

(c) *U.S. military personnel assigned to U.S. military vessels with a U.S. homeport on Census Day*—Counted at the onshore U.S. residence where they live and sleep most of the time. If they have no onshore U.S. residence, they are counted at their vessel's homeport.

(d) *People who are active duty patients assigned to a military treatment facility in the United States on Census Day*—Patients are counted at the facility. Staff members are counted at the residence where they live and sleep most of the time. If staff members do not have a usual home elsewhere, they are counted at the facility.

(e) *People in military disciplinary barracks and jails in the United States on Census Day*—Prisoners are counted at the facility. Staff members are counted at the residence where they live and sleep most of the time. If staff members do not have a usual home elsewhere, they are counted at the facility.

(f) *U.S. military personnel who are deployed outside the United States (while stationed in the United States) and are living on or off a military installation outside the United States on Census Day*—Counted at the U.S. residence where they live and sleep most of the time, using administrative

data provided by the Department of Defense.

(g) *U.S. military personnel who are stationed outside the United States and are living on or off a military installation outside the United States on Census Day, as well as their dependents living with them outside the United States*—Counted as part of the U.S. federally affiliated overseas population, using administrative data provided by the Department of Defense.

(h) *U.S. military personnel assigned to U.S. military vessels with a homeport outside the United States on Census Day*—Counted as part of the U.S. federally affiliated overseas population, using administrative data provided by the Department of Defense.

## 14. Merchant Marine Personnel on U.S. Flag Maritime/Merchant Vessels

(a) *Crews of U.S. flag maritime/merchant vessels docked in a U.S. port, sailing from one U.S. port to another U.S. port, sailing from a U.S. port to a foreign port, or sailing from a foreign port to a U.S. port on Census Day*—Counted at the onshore U.S. residence where they live and sleep most of the time. If they have no onshore U.S. residence, they are counted at their vessel. If the vessel is docked in a U.S. port, sailing from a U.S. port to a foreign port, or sailing from a foreign port to a U.S. port, crewmembers with no onshore U.S. residence are counted at the U.S. port. If the vessel is sailing from one U.S. port to another U.S. port, crewmembers with no onshore U.S. residence are counted at the port of departure.

(b) *Crews of U.S. flag maritime/merchant vessels engaged in U.S. inland waterway transportation on Census Day*—Counted at the onshore U.S. residence where they live and sleep most of the time.

(c) *Crews of U.S. flag maritime/merchant vessels docked in a foreign port or sailing from one foreign port to another foreign port on Census Day*—Not counted in the stateside census.

## 15. People in Correctional Facilities for Adults

(a) *People in federal and state prisons on Census Day*—Prisoners are counted at the facility. Staff members are counted at the residence where they live and sleep most of the time. If staff members do not have a usual home elsewhere, they are counted at the facility.

(b) *People in local jails and other municipal confinement facilities on Census Day*—Prisoners are counted at the facility. Staff members are counted at the residence where they live and

sleep most of the time. If staff members do not have a usual home elsewhere, they are counted at the facility.

(c) *People in federal detention centers on Census Day, such as Metropolitan Correctional Centers, Metropolitan Detention Centers, Bureau of Indian Affairs Detention Centers, Immigration and Customs Enforcement (ICE) Service Processing Centers, and ICE contract detention facilities*—Prisoners are counted at the facility. Staff members are counted at the residence where they live and sleep most of the time. If staff members do not have a usual home elsewhere, they are counted at the facility.

(d) *People in correctional residential facilities on Census Day, such as halfway houses, restitution centers, and prerelease, work release, and study centers*—Residents are counted at the facility. Staff members are counted at the residence where they live and sleep most of the time. If staff members do not have a usual home elsewhere, they are counted at the facility.

## 16. People in Group Homes and Residential Treatment Centers for Adults

(a) *People in group homes intended for adults (non-correctional) on Census Day*—Residents are counted at the facility. Staff members are counted at the residence where they live and sleep most of the time. If staff members do not have a usual home elsewhere, they are counted at the facility.

(b) *People in residential treatment centers for adults (non-correctional) on Census Day*—Counted at the residence where they live and sleep most of the time. If residents or staff members do not have a usual home elsewhere, they are counted at the facility.

## 17. People in Juvenile Facilities

(a) *People in correctional facilities intended for juveniles on Census Day*—Juvenile residents are counted at the facility. Staff members are counted at the residence where they live and sleep most of the time. If staff members do not have a usual home elsewhere, they are counted at the facility.

(b) *People in group homes for juveniles (non-correctional) on Census Day*—Juvenile residents are counted at the facility. Staff members are counted at the residence where they live and sleep most of the time. If staff members do not have a usual home elsewhere, they are counted at the facility.

(c) *People in residential treatment centers for juveniles (non-correctional) on Census Day*—Counted at the residence where they live and sleep most of the time. If juvenile residents or

staff members do not have a usual home elsewhere, they are counted at the facility.

#### 18. People in Transitory Locations

*People at transitory locations such as recreational vehicle (RV) parks, campgrounds, hotels and motels, hostels, marinas, racetracks, circuses, or carnivals*—Anyone, including staff members, staying at the transitory location is counted at the residence where they live and sleep most of the time. If they do not have a usual home elsewhere, or they cannot determine a place where they live most of the time, they are counted at the transitory location.

#### 19. People in Workers' Residential Facilities

*People in workers' group living quarters and Job Corps Centers on Census Day*—Counted at the residence where they live and sleep most of the time. If residents or staff members do not have a usual home elsewhere, they are counted at the facility.

#### 20. People in Religious-Related Residential Facilities

*People in religious group quarters, such as convents and monasteries, on Census Day*—Counted at the facility.

#### 21. People in Shelters and People Experiencing Homelessness

(a) *People in domestic violence shelters on Census Day*—People staying at the shelter (who are not staff) are counted at the shelter. Staff members are counted at the residence where they live and sleep most of the time. If staff members do not have a usual home elsewhere, they are counted at the shelter.

(b) *People who, on Census Day, are in temporary group living quarters established for victims of natural disasters*—Anyone, including staff members, staying at the facility is counted at the residence where they live and sleep most of the time. If they do not have a usual home elsewhere, they are counted at the facility.

(c) *People who, on Census Day, are in emergency and transitional shelters with sleeping facilities for people experiencing homelessness*—People staying at the shelter (who are not staff) are counted at the shelter. Staff members are counted at the residence where they live and sleep most of the time. If staff members do not have a usual home elsewhere, they are counted at the shelter.

(d) *People who, on Census Day, are at soup kitchens and regularly scheduled mobile food vans that provide food to*

*people experiencing homelessness*—Counted at the residence where they live and sleep most of the time. If they do not have a usual home elsewhere, they are counted at the soup kitchen or mobile food van location where they are on Census Day.

(e) *People who, on Census Day, are at targeted non-sheltered outdoor locations where people experiencing homelessness stay without paying*—Counted at the outdoor location where they are on Census Day.

(f) *People who, on Census Day, are temporarily displaced or experiencing homelessness and are staying in a residence for a short or indefinite period of time*—Counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they are counted where they are staying on Census Day.

Dated: February 1, 2018.

Ron S. Jarmia,

Associate Director for Economic Programs,  
Performing the Non-Exclusive Functions and  
Duties of the Director, Bureau of the Census.

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## DEPARTMENT OF DEFENSE

### Department of the Navy

#### 32 CFR Part 706

#### Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DoD.  
ACTION: Final rule.

**SUMMARY:** The Department of the Navy (DoN) is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (DAJAG) (Admiralty and Maritime Law) has determined that USS THOMAS HUDNER (DDG 116) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

**DATES:** This rule is effective February 8, 2018 and is applicable beginning January 25, 2018.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Kyle Fralick, (Admiralty and Maritime Law), Office of

the Judge Advocate General, Department of the Navy, 1322 Patterson Ave. SE, Suite 3000, Washington Navy Yard, DC 20374-5066, telephone 202-685-5040.

**SUPPLEMENTARY INFORMATION:** Pursuant to the authority granted in 33 U.S.C.

1605, the DoN amends 32 CFR part 706.

This amendment provides notice that the DAJAG (Admiralty and Maritime Law), under authority delegated by the secretary of the Navy, has certified that USS THOMAS HUDNER (DDG 116) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 2(f)(i), pertaining to the placement of the masthead light or lights above and clear of all other lights and obstructions; Annex I, paragraph 2(f)(ii), pertaining to the vertical placement of task lights; Rule 23(a), the requirement to display a forward and aft masthead light underway, and Annex I, paragraph 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, and the horizontal distance between the forward and after masthead lights; and Annex I, paragraph 3(c), pertaining to placement of task lights not less than two meters from the fore and aft centerline of the ship in the athwartship direction. The DAJAG (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

#### List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

For the reasons set forth in the preamble, the DoN amends part 706 of title 32 of the Code of Federal Regulations as follows:

#### PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

■ 1. The authority citation for part 706 continues to read:

Authority: 33 U.S.C. 1605.