

The Economics of Crime and Criminal Justice

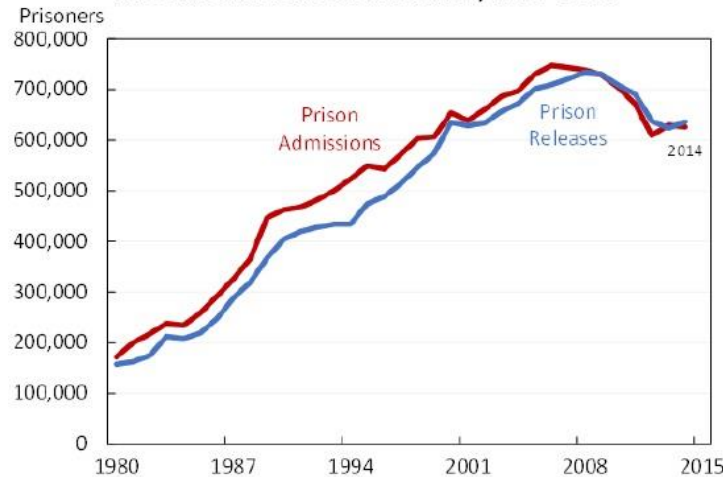
Trends, Causes, and Implications for Reform

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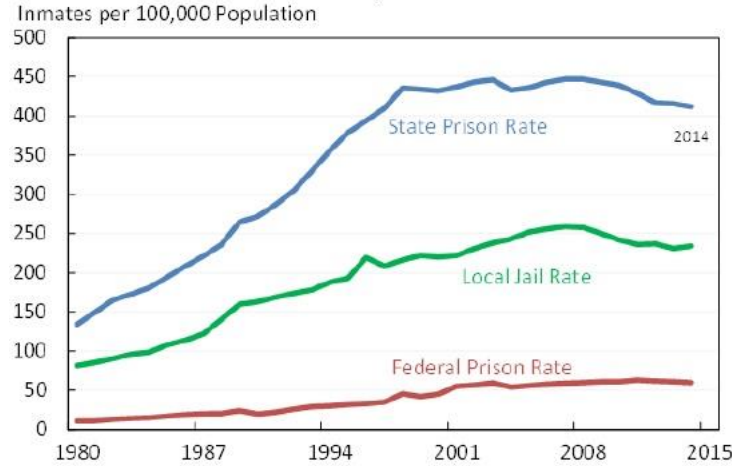
National Trends in Crime and Incarceration

Prison Admissions and Releases, 1980-2014



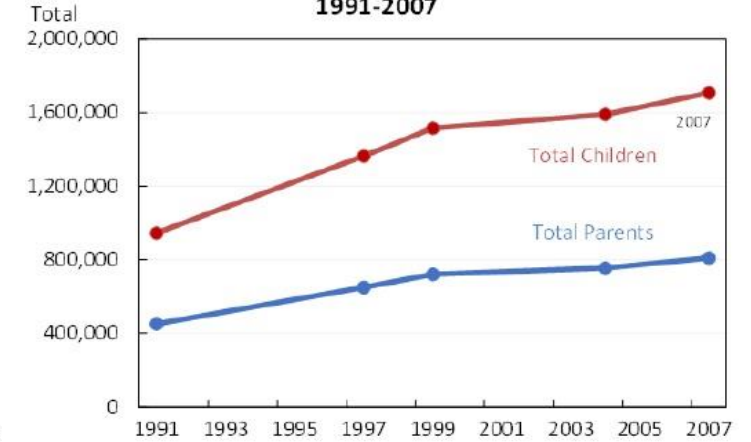
Source: Bureau of Justice Statistics, CEA calculations.

Incarceration, 1980-2014



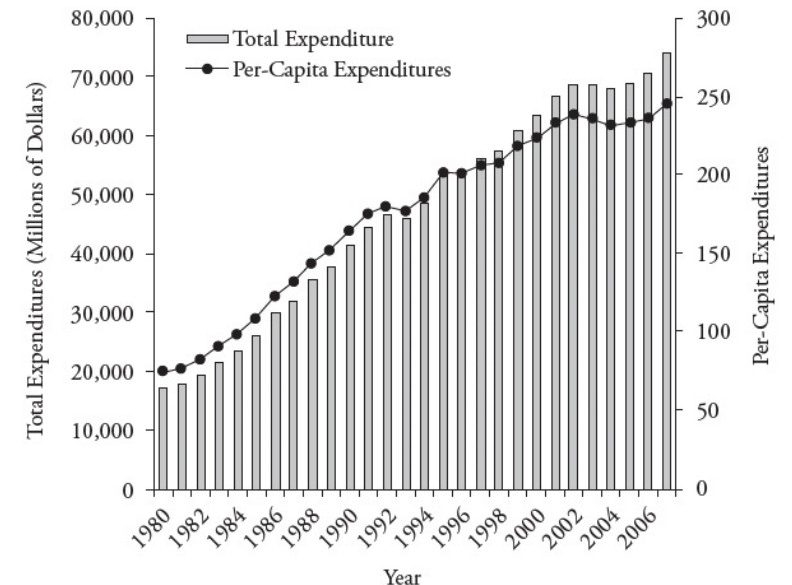
Source: Bureau of Justice Statistics, CEA calculations.

Number of Parents in Prison and their Minor Children, 1991-2007



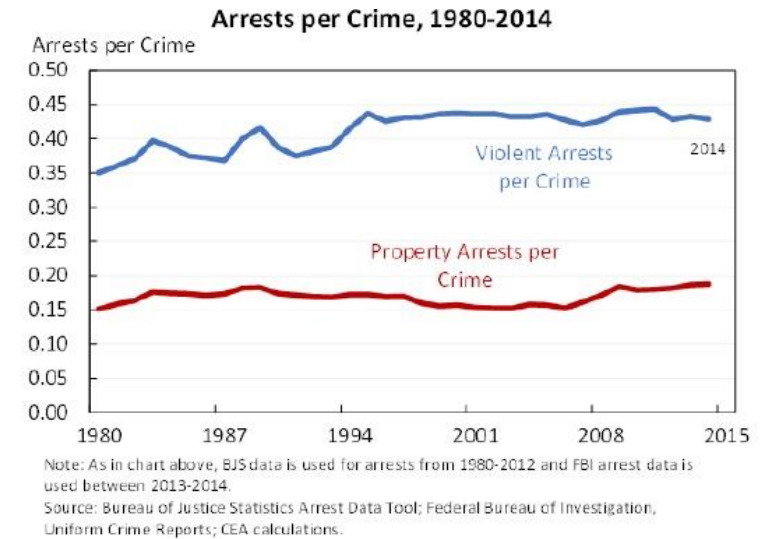
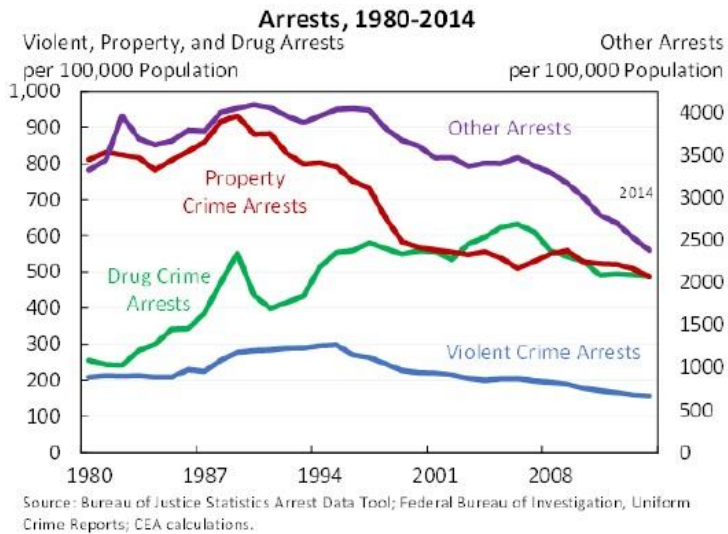
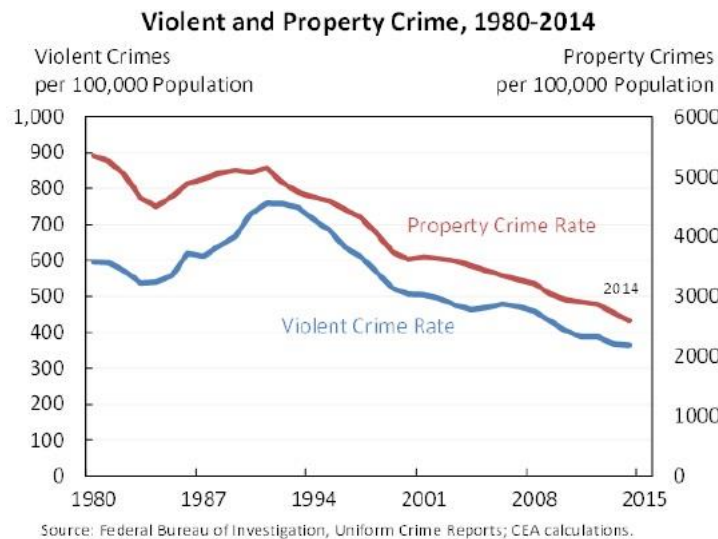
Source: Bureau of Justice Statistics Special Report: Glaze and Maruschak (2008).

- Prison admissions up nearly 400% since 1980
- 1 out of 77 people in corrections in the 1980s; now 1 out of 31
- 1 out of 28 children has a parent in jail
- Corrections spending up 300% since 1982; now \$80 billion
- 11 states now spend more on corrections than on higher education



Source: Figure 1.7, *Why Are So Many Americans in Prison*

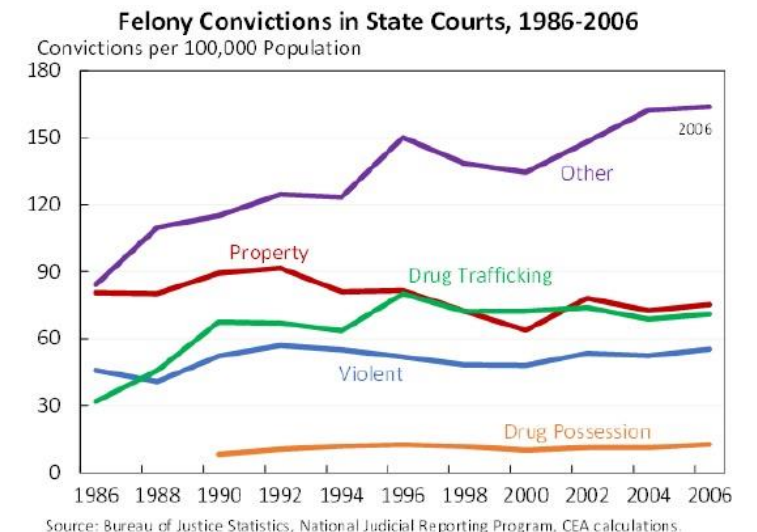
Decomposition of the Incarceration Surge



$$\frac{\text{Incarcerations}}{\text{Population}} = \frac{\text{Crimes}}{\text{Population}} * \frac{\text{Arrests}}{\text{Crimes}} * \frac{\text{Incarcerations}}{\text{Arrests}}$$

↑
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↑

- Violent crime down 39% and property crime down 52%
- Arrests per crime have been flat
- Conviction rate up by 56% between 1986 and 2006
- Drug, other (assault, weapons, drunk driving) convictions much higher



Decomposition of the Incarceration Surge

Table 2.2 **Decomposing Prison Admissions Rates for Part-1 Felony Offenses, 1984, 2004, and 2009**

	Crimes per 100,000 Residents			Arrests per Crime			Prison Admissions per Arrest		
	1984	2004	2009	1984	2004	2009	1984	2004	2009
Murder and negligent manslaughter	7.9	5.5	5.0	1.05	0.73	0.81	0.59	1.39	1.15
Rape and sexual assault	35.7	32.4	28.7	0.38	0.22	0.24	0.28	0.89	0.76
Robbery	205.7	136.7	133.0	0.26	0.22	0.31	0.21	0.37	0.28
Aggravated assault	290.6	288.6	262.8	0.38	0.41	0.52	0.04	0.10	0.11
Burglary	1,265.5	730.3	716.3	0.13	0.11	0.14	0.11	0.22	0.19
Larceny and fraud	2,795.2	2,362.3	2,060.0	0.24	0.21	0.21	0.02	0.05	0.06
Motor vehicle theft	437.7	421.5	258.8	0.10	0.09	0.10	0.02	0.10	0.11

Source: Crime rates and arrest totals: FBI Uniform Crime Reports (1984, 2004, and 2009); prison admissions totals: authors' tabulations from the Bureau of Justice Statistics, *National Corrections Reporting Program* (1984, 2004a, and 2009).

Note: We apply the distribution of admissions across offense types for states participating in the NCRP to total admissions to state prison for the nation to arrive at offense-specific admissions rates.

Source: *Why Are So Many Americans in Prison* (Russell Sage Foundation)

Decomposition of the Incarceration Surge

Table 2.3 Comparison of Drug Arrest Rates, Drug Prison Admissions Rates, and Prison Admissions per Drug Arrest, 1984, 2004, and 2009

	1984	2004	2009
Drug arrests per 100,000 U.S. residents			
All drug offenses	300.4	596.0	541.9
Sales, manufacturing, or trafficking	67.8	111.4	101.1
Possession or nature unspecified	232.7	484.6	440.7
Drug-related prison admissions per 100,000 U.S. residents			
All drug offenses	8.5	51.1	47.0
Sales, manufacturing, or trafficking	4.5	21.2	19.5
Possession or nature unspecified	4.0	29.9	27.5
Drug-related prison admissions per drug-related arrest			
All drug offenses	0.03	0.09	0.09
Sales, manufacturing, or trafficking	0.07	0.19	0.19
Possession or nature unspecified	0.02	0.06	0.06

Source: Arrest data from the FBI Uniform Crime Reports (1984, 2004, and 2009) and prison admissions data from the Bureau of Justice Statistics, *National Corrections Reporting Program* (1984, 2004a, and 2009).

Table 2.4 Comparison of Expected Value of Time Served, by Crime Type, 1984 and 2004

Offense	1984	2004	Ratio 2004/1984
Murder and negligent manslaughter	9.20	14.27	1.55
Rape and sexual assault	5.05	8.09	1.60
Robbery	3.51	5.04	1.44
Aggravated assault	2.20	3.12	1.42
Other violent crime	3.56	2.29	0.64
Burglary	1.62	1.95	1.21
Larceny and fraud	1.26	1.31	1.04
Motor vehicle theft	1.93	1.51	0.78
Other property crime	1.11	1.42	1.28
Drugs	1.87	1.75	0.94
Other	0.98	2.09	2.13
Parole violations	0.78	0.47	0.61

Source: Authors' tabulations from the Bureau of Justice Statistics, *National Corrections Reporting Program* (1983, 1984, 1985, 2003, 2004a); Bureau of Justice Statistics, *Survey of Inmates in State and Federal Correctional Facilities* (2004b); Bureau of Justice Statistics, *Survey of Inmates in State Correctional Facilities* (1986).

Is the War on Drugs to Blame?

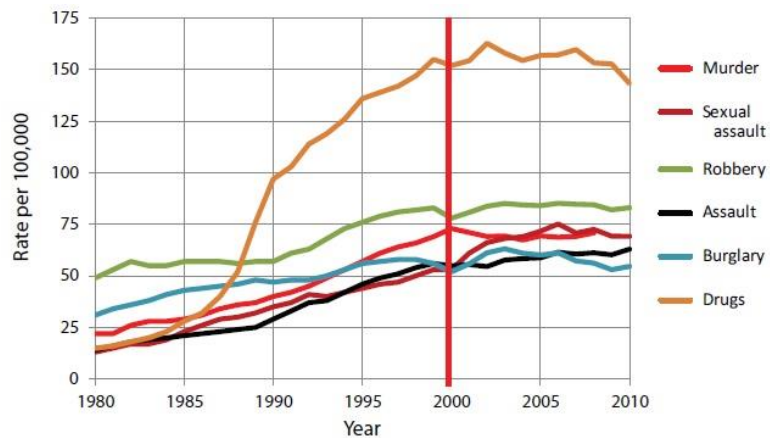


FIGURE 2-7 Combined state incarceration rate by crime type, 1980 to 2010.
SOURCE: Beck and Blumstein (2012).

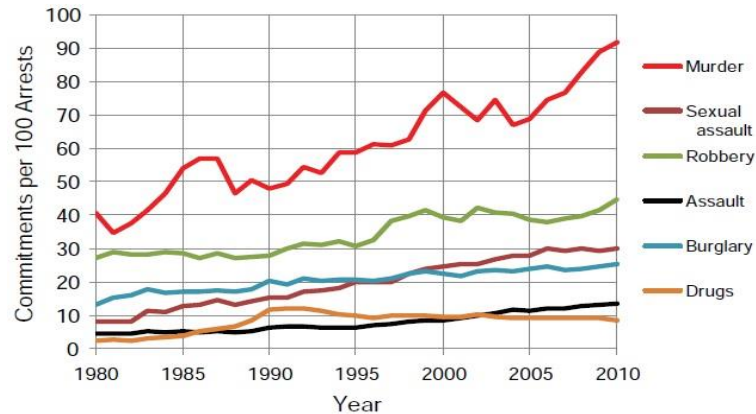


FIGURE 2-9 State prison admissions per 100 adult arrests, 1980-2010.
NOTE: Commitments include only new court commitments (which include new offenders and parole violators with new sentences only).
SOURCE: Beck and Blumstein (2012).

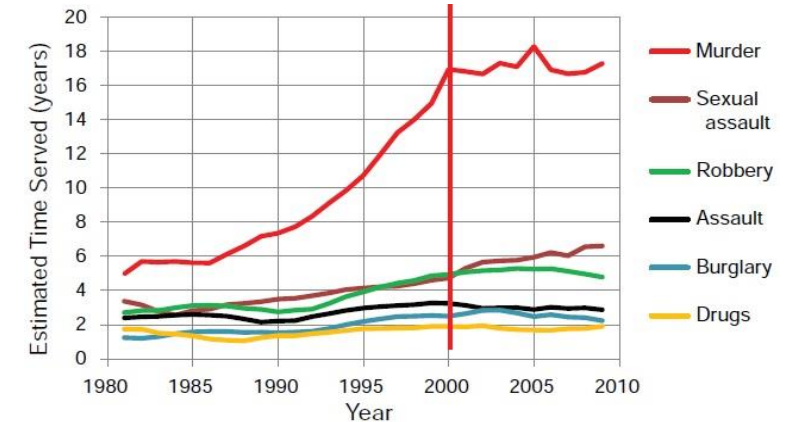
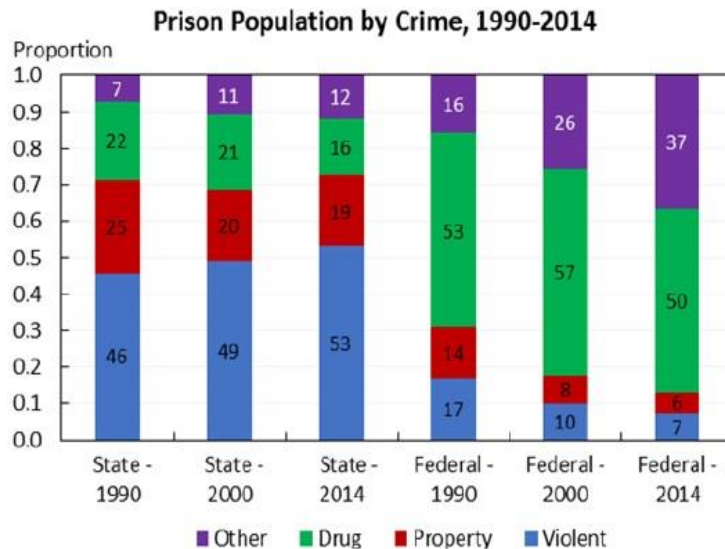


FIGURE 2-10 Estimated time served in state prison, 1980 to 2010.
NOTE: See text for a discussion of calculations of time served.
SOURCE: Beck and Blumstein (2012).

Source: *The Growth of Incarceration in the United States*

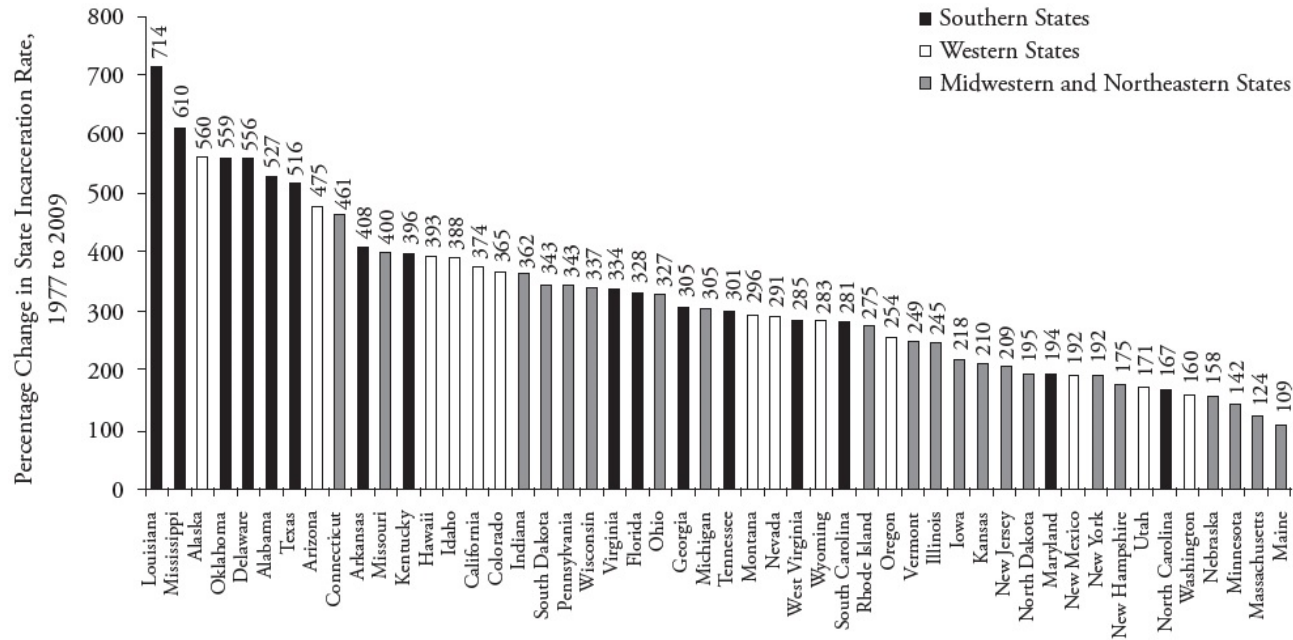


Source: Bureau of Justice Statistics, CEA calculations.

- Drug felonies represented 33% of prison admissions at the peak in the 1990s; now less than 20%
- Only 21% of prison growth between 1980 and 2009 is directly due to drug incarcerations; 51% from violent offenders
- The median length of prison sentence is unchanged (2.7 years), though the average has increased because of some very long sentences
- The vast majority of incarcerations come from plea deals, not convictions

How Does Missouri Compare?

Change in Prison Populations per 100,000 U.S. Residents from 1977 to 2009, by State



Source: Figure 1.2, *Why Are So Many Americans in Prison*

- Missouri led the Midwest in incarceration growth 1972 – 2000
- Missouri has the 8th highest incarceration rate (*source*: NIC)
- Missouri spends \$22,000/prisoner, which is *below* US average
- Property crimes 15% higher than average; 37% for violent crimes

South

Louisiana
Mississippi
Texas
Oklahoma
Delaware
Alabama
South Carolina
Georgia
Arkansas
Florida
Virginia
Tennessee
Maryland
Kentucky
North Carolina
West Virginia

West

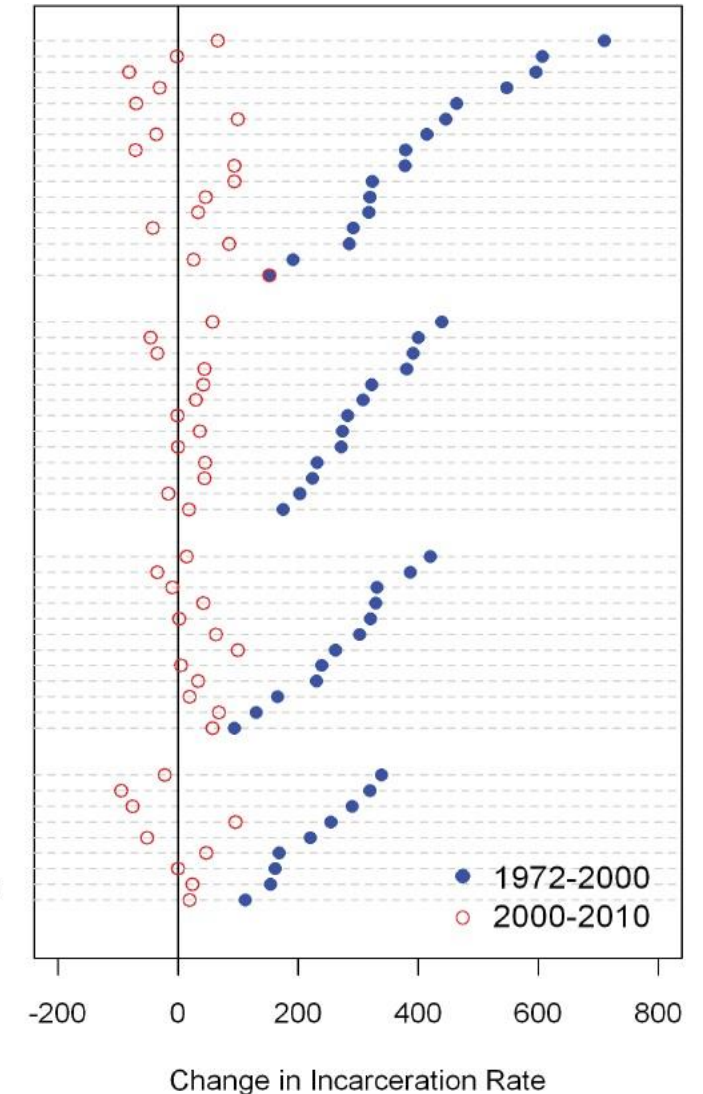
Arizona
Nevada
California
Idaho
Colorado
Montana
Alaska
Wyoming
Hawaii
Oregon
New Mexico
Utah
Washington

Midwest

Missouri
Michigan
Wisconsin
Ohio
Illinois
South Dakota
Indiana
Kansas
Iowa
Nebraska
North Dakota
Minnesota

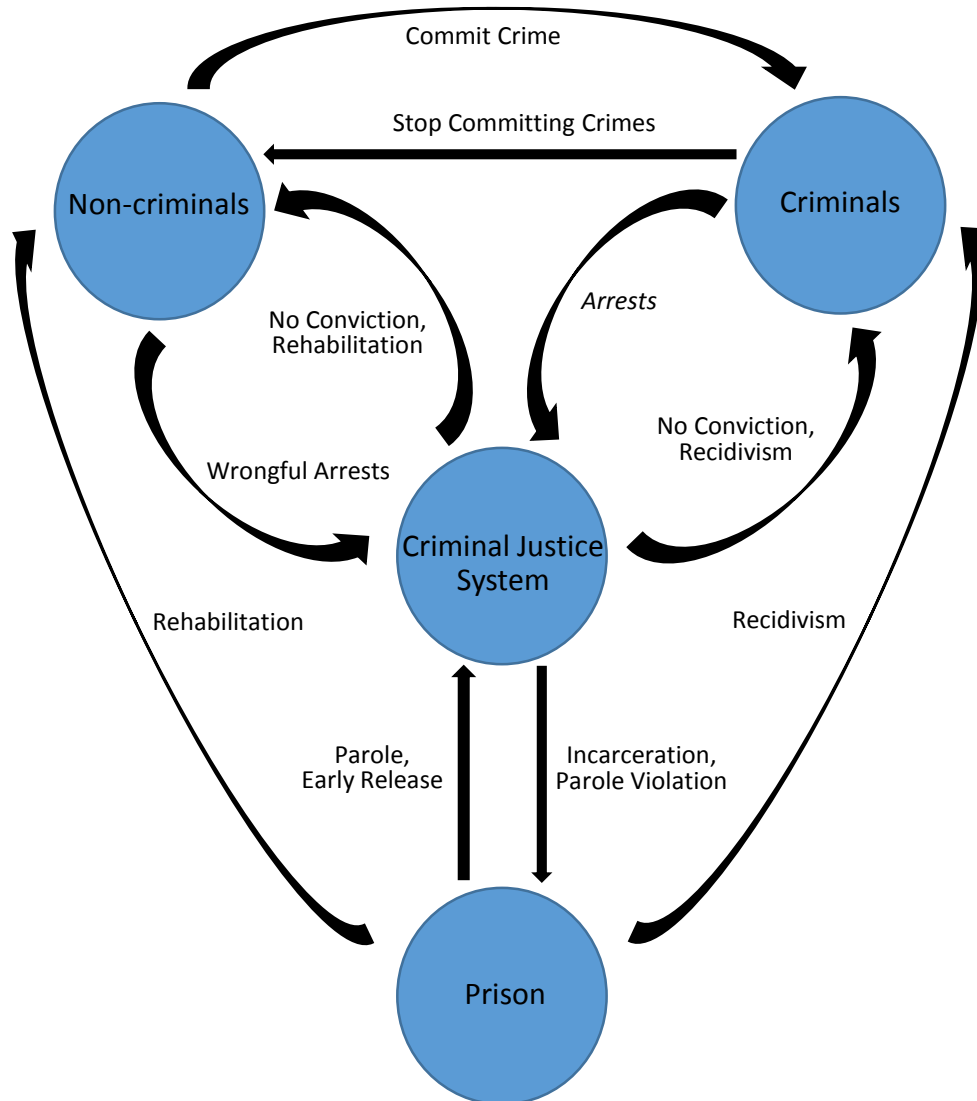
Northeast

Connecticut
New York
New Jersey
Pennsylvania
Massachusetts
Vermont
Rhode Island
New Hampshire
Maine



Source: Figure 2-5, *The Growth of Incarceration in the United States*

Understanding The Drivers of Crime and Incarceration



- Theory of incarceration: deterrence (\downarrow commit crime) and incapacitation (\uparrow arrests + \uparrow incarceration + \downarrow parole)
 - Policies: mandatory minimums, truth-in-sentencing, repeat offender laws
 - Responsible for at least 25% to 35% of the drop in crime
 - Other factors: aging, better policing, improved economic conditions
- Factors that affect deterrence:
 - *Speed* and *certainty* of punishment are more effective than *severity*
 - Recidivism, persistence \rightarrow deterrence weakest among current criminals
 - Early-life choices are important (e.g. high school) and difficult to reverse
 - Job prospects typically bad for would-be criminals
- Factors that affect incapacitation:
 - US employs 2.5x more corrections officers per capita but 30% fewer police
 - Longer pre-trial detention and higher bail \rightarrow more plea bargains
 - Shift from discretion towards fixed sentencing
- Factors that affect rehabilitation/recidivism:
 - Technical parole violations a major cause of reincarceration
 - Incentive to participate in prison programming affected by sentencing policies
 - *Collateral consequences* limit economic opportunities

Evidence-Based Criminal Justice Reform

Tally of Cost-Benefit Analyses of Criminal Justice Policy: Evidence from Economics Literature

	Percent of Studies		
	Number of Studies	Consider Indirect or Collateral Consequences	Cost-Effective Policy
Police	6	17%	83%
Incarceration	7	43%	29%
Sentencing	5	40%	20%
Education	9	67%	100%

Note: Estimates are derived from economics studies that focus on the United States and conduct cost-benefit analyses. The studies differ in policy setting, outcomes, time frame and methodological approaches.

Conclusions about the cost-effectiveness of policies are taken from the analysis and expertise of the authors in each study.

Sources: Police: Levitt 1997; Cohen and Ludwig 2003; Evans and Owens 2007; Caetano and Maheshri 2013; Chalfin and McCrary 2013; DeAngelo and Hansen 2014.

Incarceration: Levitt 1996; Spelman 2000; Kuziemko and Levitt 2004; Spelman 2005; Donohue 2009; Hjalmarsson 2009b; Lofstrom and Raphael 2013.

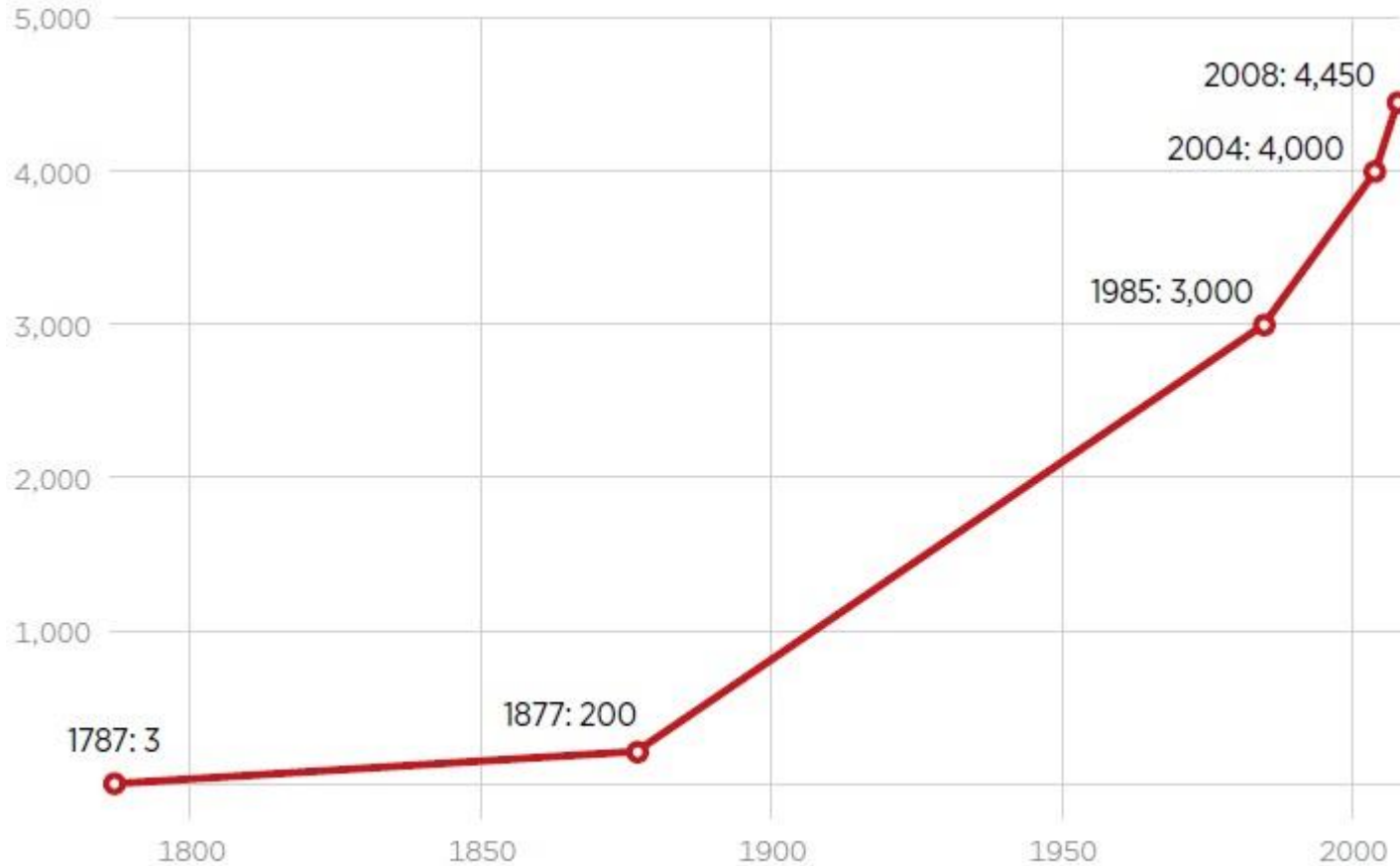
Sentencing: Owens 2009; Helland and Tabarrok 2007; Iyengar 2008; Kuziemko 2013; Mueller-Smith 2015.

Education: Donohue and Siegelman 1998; Reynolds et al. 2001; Lochner, 2004; Lochner and Moretti 2004; Schweinhart et al. 2005; Belfield et al. 2006; CPPRG 2007; Deming 2009b; Oreopoulos and Salvanes 2011; Anderson 2014.

- Goal: enhance safety, strengthen individual rights, and minimize criminal justice costs
- We should be tough on crime *and* tough on criminal justice spending
- Broad overview of reforms:
 - Stop overcriminalization: shift crime-making power from bureaucrats to elected officials.
 - Less one-size-fits-all sentencing: reallocate resources from excessive incarceration to policing.
 - Reform collateral consequences: reduce arbitrary barriers that fuel recidivism.
 - Better align monetary incentives: reform bail, civil asset forfeiture, and legal financial obligations; ensure local “skin in the game”
- Impediments to effective reform:
 - Hostility to law enforcement: police are crucial!
 - Virtue signaling and false narratives.
 - Lack of data and good analysis. Corr ≠ causation!
 - The belief that reform means tolerating crime.
 - Conflicting political forces and incentives.

Stop Overcriminalization

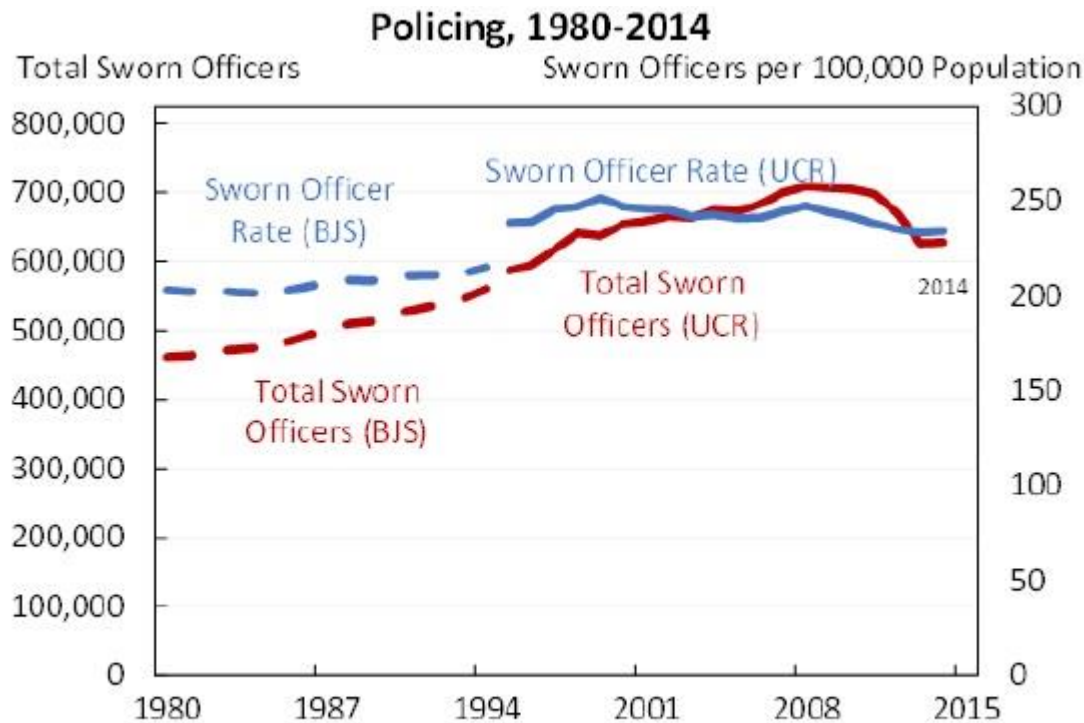
NUMBER OF FEDERAL CRIMES (SELECT YEARS)



Source: Heritage Foundation research.

- The proliferation of criminal penalties abridges rights and wastes crime fighting resources
- Many criminal penalties exist for actions that a regular person would not know are illegal
- Reform options:
 - *Mens rea reform*: protection for people who unwittingly violate the law
 - *Rule of lenity*: ambiguous statutes should be construed in favor of the defendant
 - Shift crime-making powers from unelected bureaucrats to accountable representatives
 - Require written analysis and justification for new criminal offenses

Less One-Size-Fits-All Sentencing

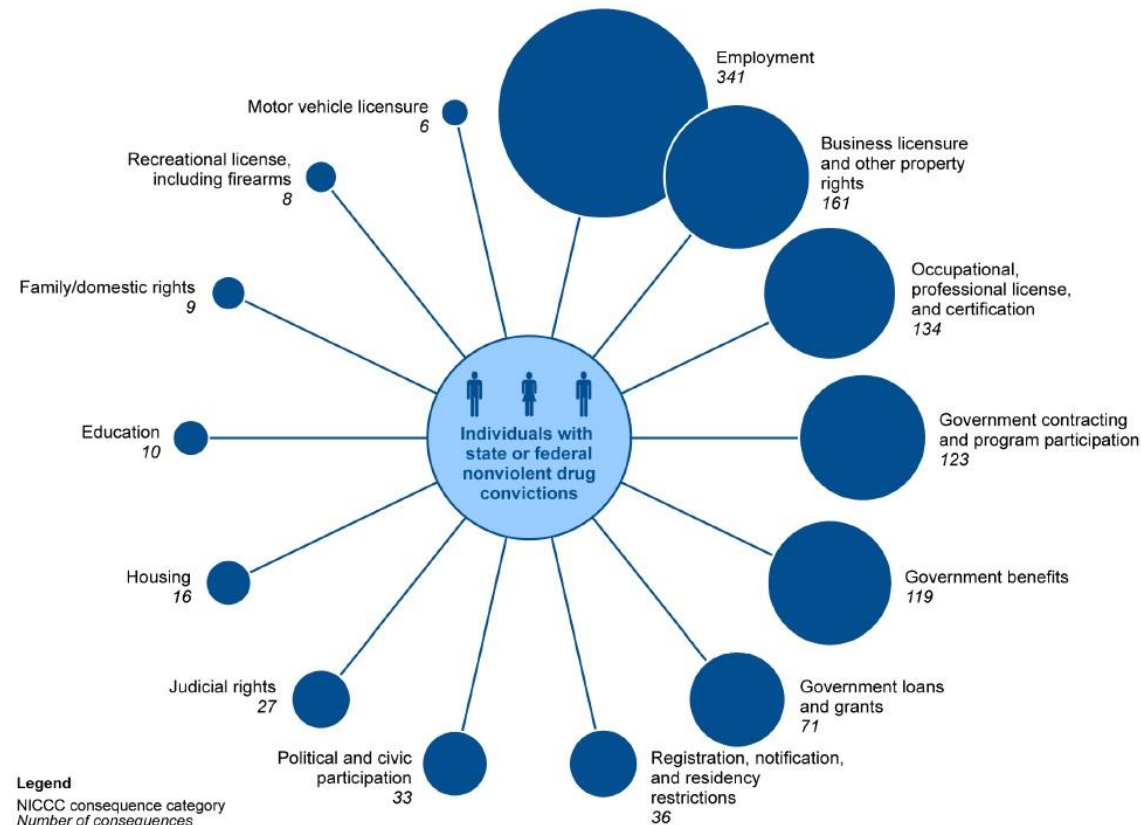


Source: Federal Bureau of Investigation, Uniform Crime Reports; Bureau of Justice Statistics, Employment and Expenditures Extracts, Census Bureau; CEA calculations.

- The US employs 2.5x more corrections officers per capita but 30% fewer police
- A 10% increase in police decreases crime by 3 – 10%
 - Improved policing (e.g. hot spots policing) also highly effective
- *Speed and certainty* of punishment have stronger deterrent effect than *severity* of punishment
 - Probationers subject to frequent drug tests with immediate but brief penalties for violations are 70% less likely to test positive
 - Diminishing returns to incapacitation, partly because of aging
- Longer, inflexible incarceration can *increase recidivism*
 - Depreciation of labor market skills
 - Development of criminal expertise
 - Reduced incentive to engage in productive behaviors
- Reform options:
 - Shift from mandatory minimums, truth-in-sentencing, and repeat offender laws toward presumptive sentencing
 - Implement risk assessment for sentencing and parole
 - Reduce the flow back into prison from technical violations
 - Encourage productive behavior in prison through earned time

Reform Collateral Consequences

Figure 1: Number of Federal Collateral Consequences for Nonviolent Drug Convictions, by Consequence Category, as Identified in the NICCC

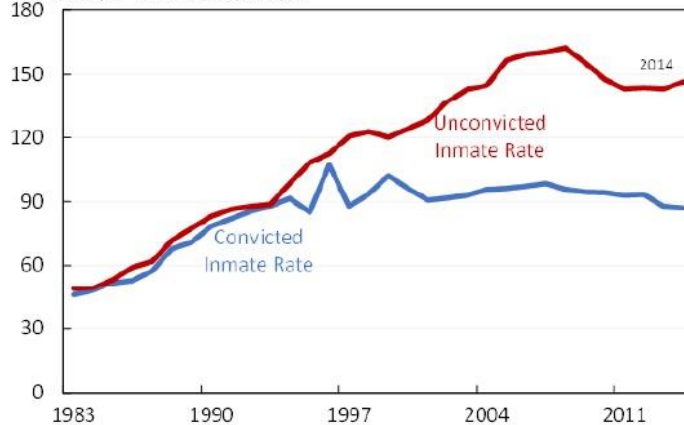


Source: GAO analysis of the American Bar Association's National Inventory of the Collateral Consequences of Conviction (NICCC). | GAO-17-691

- Ex-prisoners have worse labor market outcomes, but disentangling cause and effect is difficult
- *Artificial* economic barriers for ex-prisoners are a significant driver of recidivism
 - Over 46,000 federal and state laws restricting employment and occupational/business licenses
 - Restrictions extend to housing, drivers' licenses, etc.
 - States with fewer barriers have lower recidivism rates
- Excess retribution can *undermine* deterrence by decreasing the opportunity cost of crime
- Barriers reduce incentive to build skills in prison
- Reform options:
 - Avoid ineffective ban the box policies that reduce job creation and increase discrimination
 - Replace categorical restrictions with a targeted focus on criminal records that are recent, relevant, and pose a threat
 - Court-issued employability certificates to shield employers from negligent hiring lawsuits
 - Consolidate all collateral consequences in a single location to increase transparency and allow public scrutiny

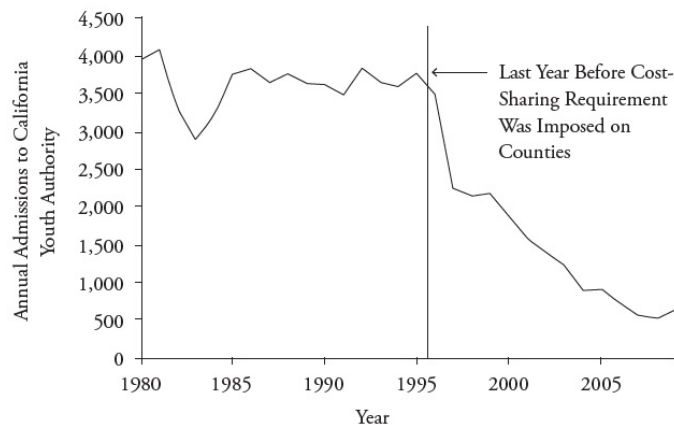
Better Align Monetary Incentives

Convicted and Unconvicted Inmates in Local Jails, 1983-2014
Inmates per 100,000 Population



Note: Data for 1989 and 1994 were not available and were imputed from adjacent values.
Source: Bureau of Justice Statistics, CEA calculations.

Annual Admissions to California Youth Authority State Institutions, 1980 to 2009

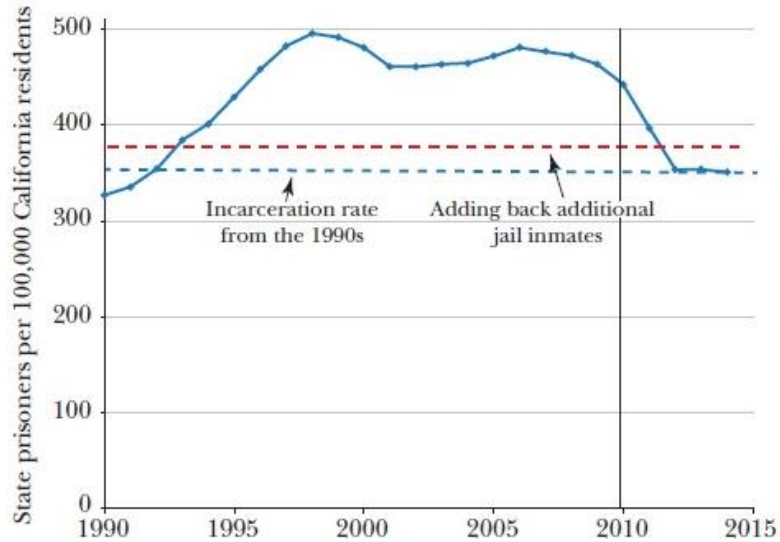


Source: Figure 8.3, *Why Are So Many Americans in Prison*

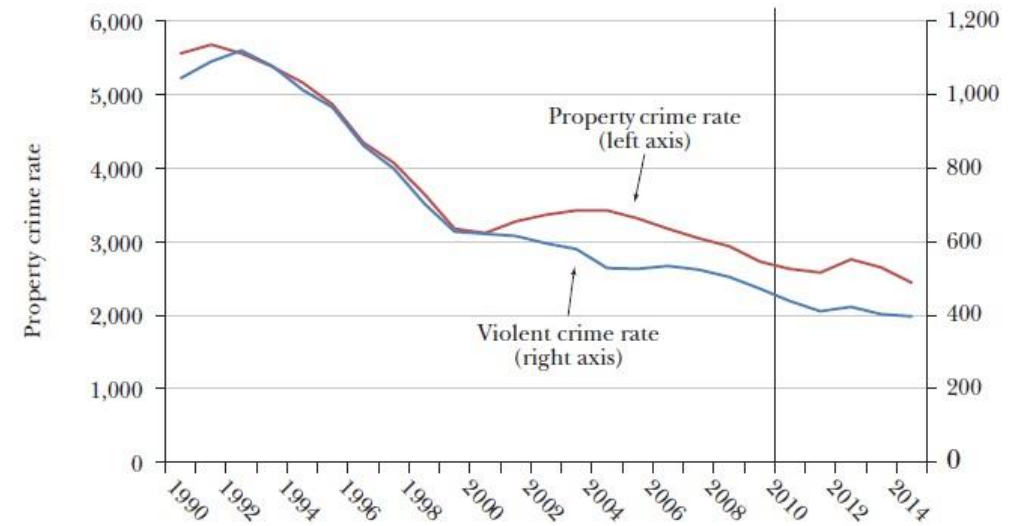
- Higher incidence of bail → 200% more people in jails *awaiting trial*
 - 53% of defendants were assigned bail in 1990 compared to 72% in 2009
- Financial penalties target the poorest, not the most dangerous
 - Ability to pay has a major impact on effectiveness
 - Increases prosecutor bargaining power for plea deals
 - Excessive legal financial obligations (fines, fees, criminal debt) reduce deterrence, discourage labor market participation, and increase recidivism
 - In Missouri, 72% of inmates also have court-imposed monetary sanctions
- Dysfunctional financial incentives encourage intergovernmental free-riding and abuses of civil asset forfeiture
 - “It’s kind of like pennies from heaven — it gets you a toy or something that you need is the way that we typically look at it to be perfectly honest.” – Police Chief Ken Burton
- Reform options:
 - Use risk assessment tools to determine non-financial pretrial release
 - Reduce unnecessary confinement for individuals unable to pay fines and fees
 - Tailor LFOs taking into account ability to pay
 - Overhaul civil asset forfeiture: increase the burden of proof, guarantee right to counsel, send all proceeds to general funds, eliminate equitable sharing

The California Experiment

California's Prison Incarceration Rates, 1990 through 2014



California's Violent Crime Rate and Property Crime Rate (per 100,000 residents)



Source: Figures 7 and 8, *Crime, the Criminal Justice System, and Socioeconomic Inequality*

- A court-ordered reform in California limited the use of technical parole violations
 - The prison population fell by 28,000 (13%) with little discernible change in crime
- A similar decarceration occurred in Italy, but crime went up substantially
- Why the divergence? Additional incarceration loses effectiveness when the rate is already high
 - Initial incarceration rates were low in Italy but high in California