

## Framing the debate on criminal justice reform: What citizens and policymakers should know

William A. Galston and Elizabeth H. McElvein\*

### INTRODUCTION

Americans across partisan, ideological, and racial lines are rethinking the country's criminal justice system. This is entirely appropriate—and necessary. By situating decades-long trends in crime and punishment in the appropriate historical and comparative contexts, we hope to provide citizens and policymakers with a framework for assessing the opportunities and challenges of criminal justice reform.

The charts that form the second part of this report offer additional details on the issues we summarize here.

### CRIME

Despite recent speculation about a nationwide crime surge,<sup>1</sup> crime rates are near the lowest levels seen in decades. From 1980 to 2012, the most recent year for which comprehensive, nation-wide data is available, there has been a 35 percent drop in the violent crime rate (from 597 to 387 crimes per 100,000 citizens) and a 47 percent decrease in property crime rate (from 5,353 to 2,859 crimes per 100,000 citizens).<sup>2</sup> From 1980 to 2008, homicide rates declined for blacks as well as for whites, with a significant uptick in the mid-1980s and subsequent decline in the early 1990s. The rate in homicide victimization for whites declined 49 percent (from 6.5 to 3.3 homicides per 100,000 citizens), and offense rate dropped 47 percent (from 6.4 to 3.4 homicides per 100,000 citizens). Parallel to this trend, the rate of black homicide victimization declined 58 percent (from 37.6 to 19.6 homicides per 100,000 citizens) and offense rate declined 50 percent (from 49.8 to 24.7 homicides per 100,000 citizens).<sup>3</sup>

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While the nationwide arrest rate for all offenses decreased by 16 percent during this period, the arrest rate for drug crime increased by 93.4 percent.<sup>4</sup> Drug sale/manufacturing arrests increased by 55 percent and drug possession arrests increased 104.5 percent.<sup>5</sup> Arrest rates are not synonymous with rates of offenses; arrests reflect the frequency with which crimes are reported, police decisions regarding offenses on which they will concentrate their attention and resources, and the relative vulnerability of certain crimes to arrest.

The net decrease in nationwide crime coincides with the rapid buildup of the United State prison population. However, the relationship between decreased crime and increased incarceration is disputed. To understand historic decreases in crime and arrest rates, we must consider a number of complex social and political factors. Beyond increased incarceration, widely discussed hypotheses include:

*Improved policing:* Over the past two decades, new technology has permitted police to use data to target and reduce crime.<sup>6</sup>

*Waning demand for crack cocaine:* As the demand for crack has waned, so too has the associated violence and addiction.<sup>7</sup>

*Shifting demographics:* The average age of the U.S. population has increased, and age is inversely related to propensity to commit a crime.<sup>8</sup>

*The economy:* Favorable economic conditions in the 1990s and 2000s, including low unemployment rates and increased consumer confidence, reduced some of the impetus for crime.<sup>9</sup>

## PRISON BUILDUP

Over the past thirty years, the United States' prison population has increased by 340 percent.<sup>10</sup> The incarcerated population is a function of the number of offenders admitted to and released from prison. For decades, the number of prisoners admitted greatly outpaced the number released, driving a surge in the population of incarcerated individuals at the local, state, and federal levels.<sup>11</sup> As of 2014, the latest year for which comprehensive nationwide data is available, the United States incarcerated 2,306,117 individuals.<sup>12</sup>

There is vigorous scholarly debate on the causes and correlates of the burgeoning prison population.<sup>13</sup> Increased admissions can be attributed to a variety of factors including increased rates of investigation, prosecution, sentencing, and admission.<sup>14</sup> Decreased releases are due to factors such as increased sentence length and decreased eligibility for parole.<sup>15</sup>

Many of these factors are the result of public policy choices, which vary with the nation's political mood. In the mid-1970s, for instance, reformers championed statutory sentencing standards, including mandatory minimums, to address "racial and other unwarranted disparities" in the criminal justice system. A decade later, responding to surging crime rates and widespread concern about public safety, state and federal lawmakers enacted tough new measures—mandatory minimum laws, three strikes laws, and life in prison without the possibility of parole, for instance—to target violent and drug offenders.<sup>16</sup>

## PRISON COMPOSITION

In 2014, the state prison population was 6.4 times that of the federal prison population.<sup>17</sup> In state prisons, violent offenders comprise the majority (53 percent) of sentenced prisoners, while drug offenders make up just 16 percent

of the population.<sup>18</sup> In federal prisons, drug offenders make up the majority (50 percent) of the population, while violent offenders constitute just 7 percent of the population.<sup>19</sup>

Of those drug offenders in federal prison, 95.1 percent can be classified as traffickers, while just 0.8 percent of federal drug offenders are imprisoned for unlawful possession. However, the drug offender category is quite broad, including offenses ranging in culpability from drug mule to high-level supplier/ importer. Fewer than half of federal drug offenders (41.4 percent) are involved with the organization and/ or management of the drug trade; the majority (56.7 percent) of offenders played a lesser and more replaceable role in drug distribution.<sup>20</sup>

## CHARACTERISTICS OF THE PRISON POPULATION

Although men comprise the majority (93.4 percent) of the U.S. incarcerated population, the proportion of incarcerated women has grown at almost twice the rate of men since the 1990s.<sup>21</sup> The underlying circumstances contributing to the dramatic increase in women's incarceration for drug offenses have yet to be thoroughly examined and addressed by researchers or policymakers.<sup>22</sup>

The United States incarcerates a disproportionate number of black and Latino individuals relative to their composition in the U.S. population.<sup>23</sup> The causes and correlates of this racial discrepancy in the criminal justice system are manifold. Studies suggest that a variety of factors contribute to racial disparities in criminal justice involvement, including law enforcement practices, neighborhood crime rates, offenders' socioeconomic status, and state and federal-level sentencing policy.<sup>24</sup>

Most (76.6 percent) offenders recidivate within five years of being released from prison, a striking trend observable across demographic categories.<sup>25</sup> Cyclical incarceration imposes tremendous costs on individuals, families, and communities.<sup>26</sup> Upon being released from prison, individuals faced legal barriers to employment, housing, and voting.<sup>27</sup> Families with incarcerated loved ones suffer financial losses due to lost income. Studies show that children with incarcerated parents exhibit more negative behavioral,<sup>28</sup> academic, and emotional outcomes.<sup>29</sup> These so-called "collateral consequences" compound and destabilize community support systems.

## COST OF INCARCERATION

In 2010, total corrections expenditures totaled \$80 billion—a 350 percent increase from 1980 (in real terms).<sup>33</sup> Consistent with the distribution of the prison population, the majority of the expenditure occurs at the local and state, rather than federal, levels.<sup>31</sup>

## INDIVIDUALS KILLED BY POLICE

987 individuals were shot and killed by police officers in 2015.<sup>32</sup> The vast majority (78 percent) of victims were armed with a deadly weapon: only 10 percent were killed while unarmed.<sup>33</sup> 50 percent of the individuals killed by police were white, but police killed a disproportionate number of minority individuals relative to the racial composition of the U.S. population.<sup>34</sup> While the data are not inconsistent with racial bias in police shootings, the best available evidence is too limited to allow us to substantiate claims of racial bias.

The majority of police killings do not take place in major metropolitan areas.<sup>35</sup> For example, only 2 out of the 15 fatal shootings in Maryland occurred in Baltimore.<sup>36</sup> Chicago is a notable exception to this pattern; 9 out of the 21 (43 percent) of police shootings in Illinois occurred in Chicago.<sup>37</sup>

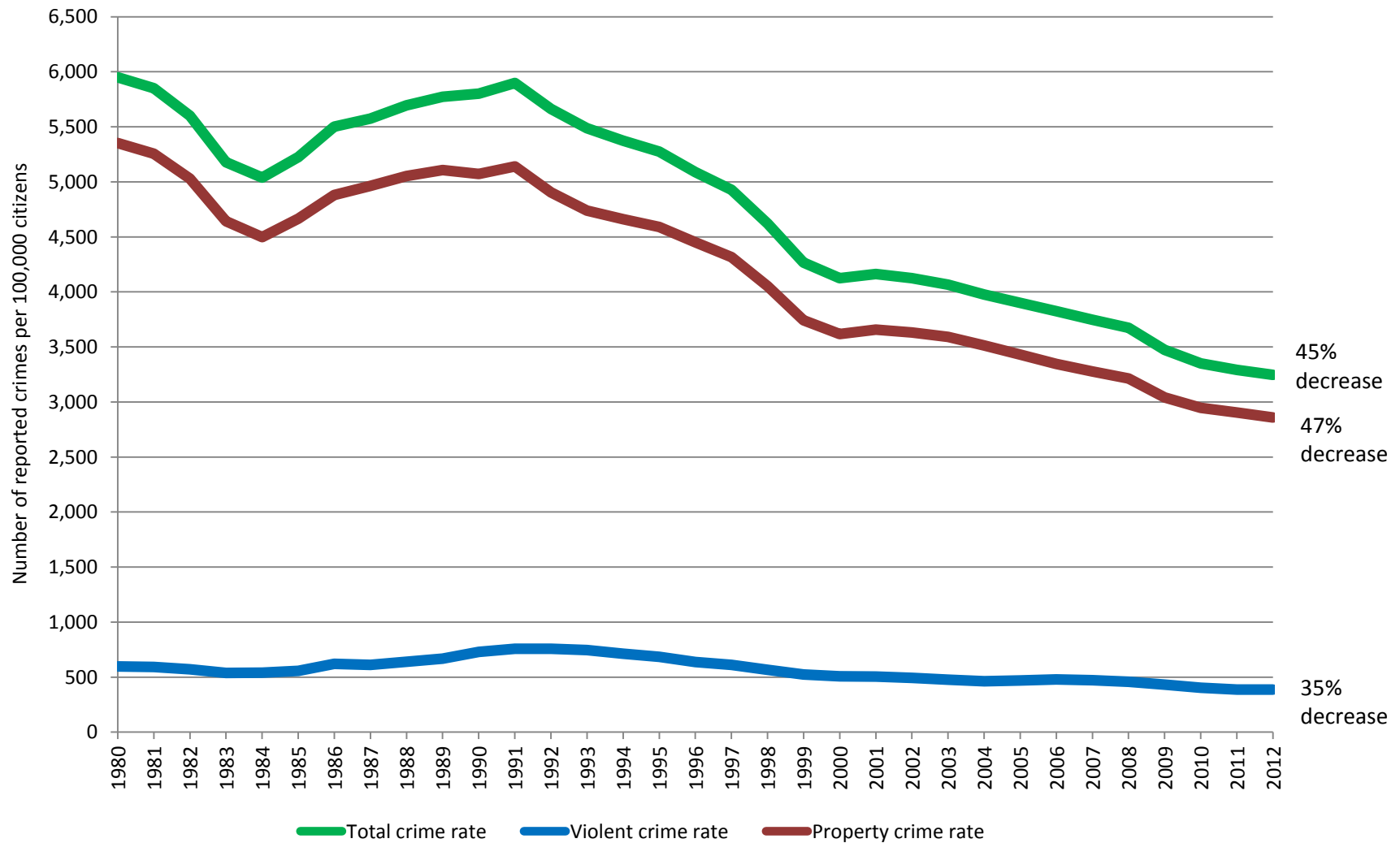
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**CRIME**

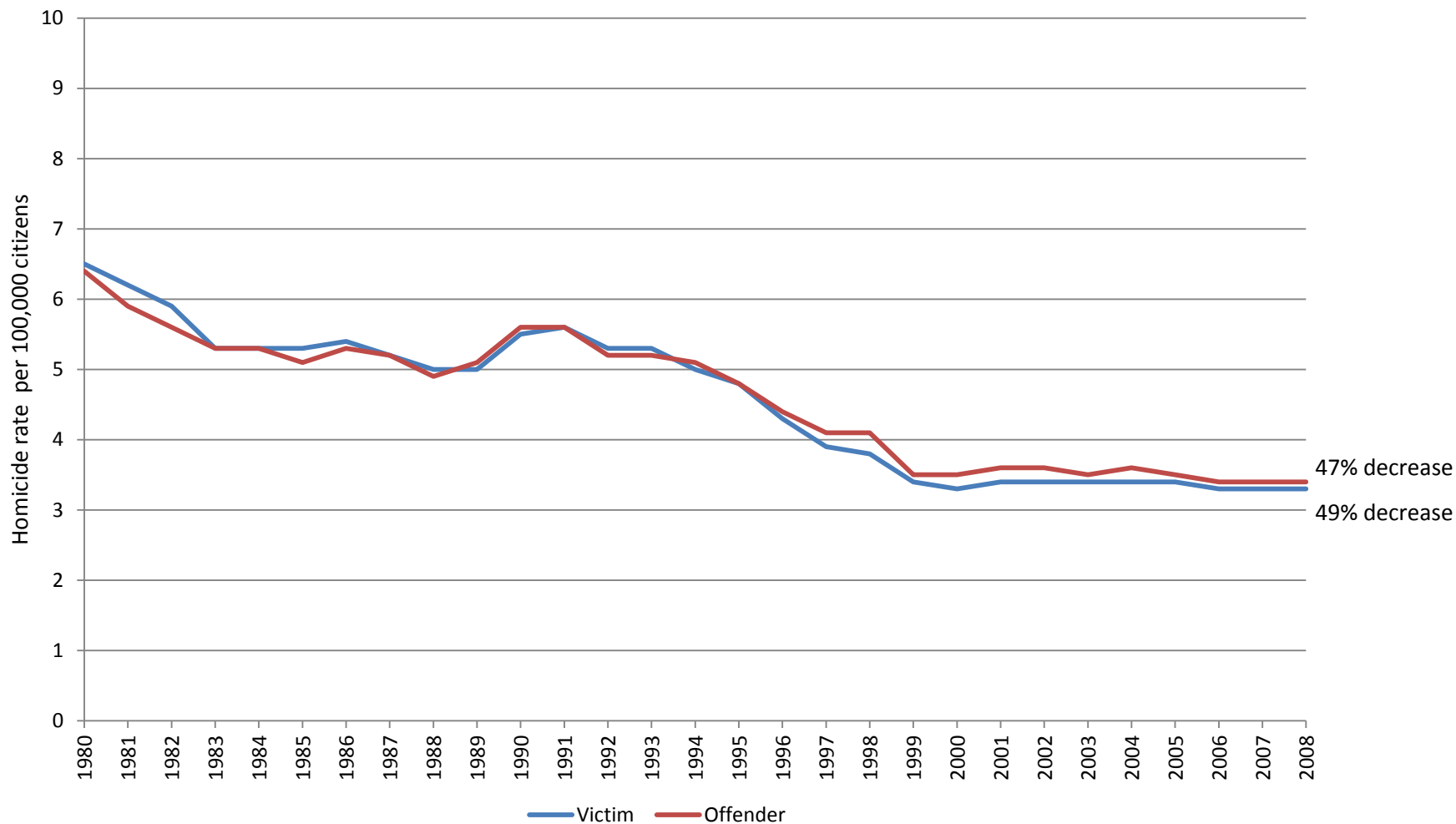
# Crime rates nationwide



Brookings analysis of "Estimated crime in United States-Total," generated using the Uniform Crime Reporting Data Tool, Federal Bureau of Investigation, <http://www.ucrdatatool.gov/Search/Crime/State/RunCrimeStatebyState.cfm>

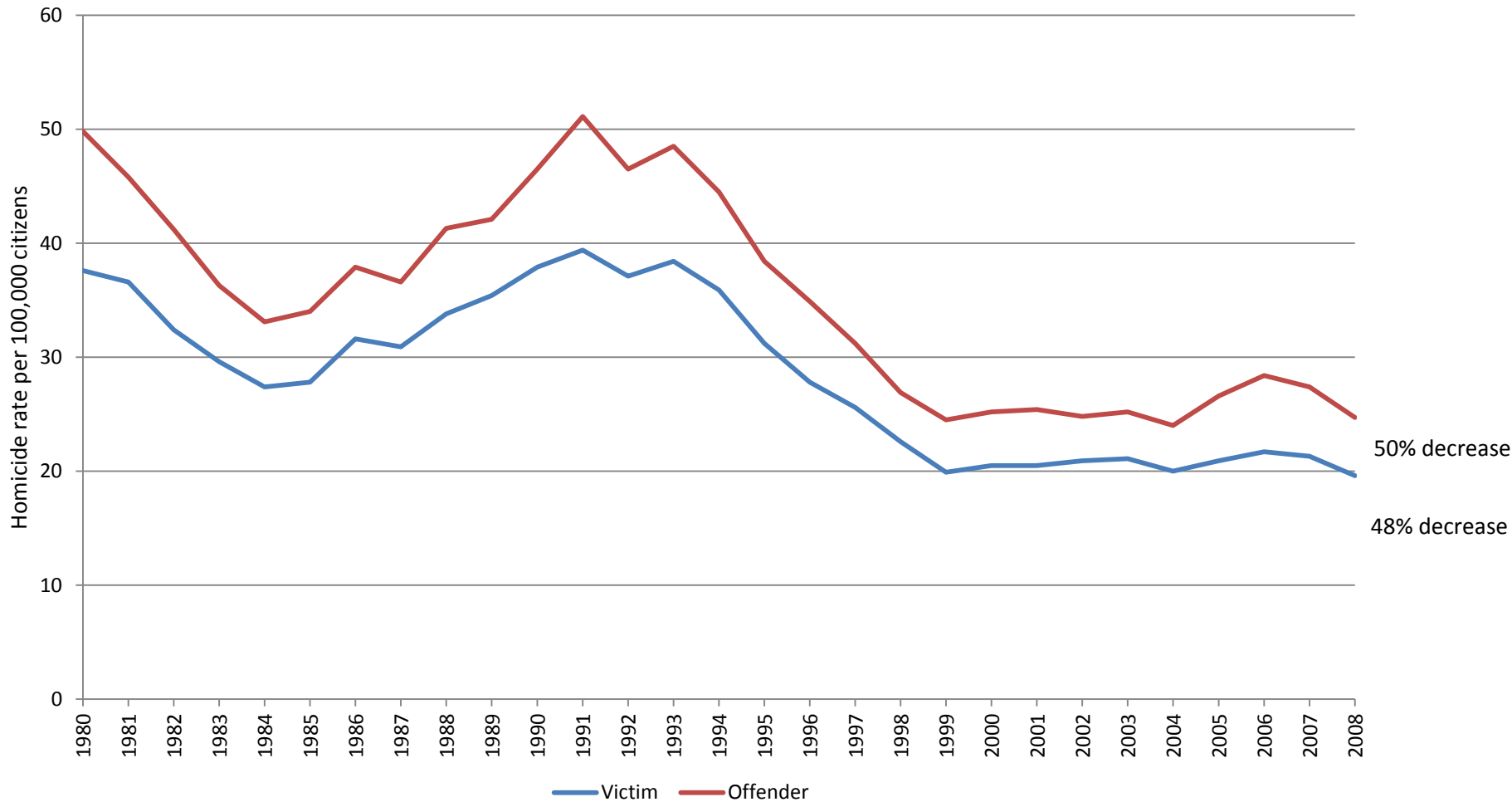
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# White homicide rates



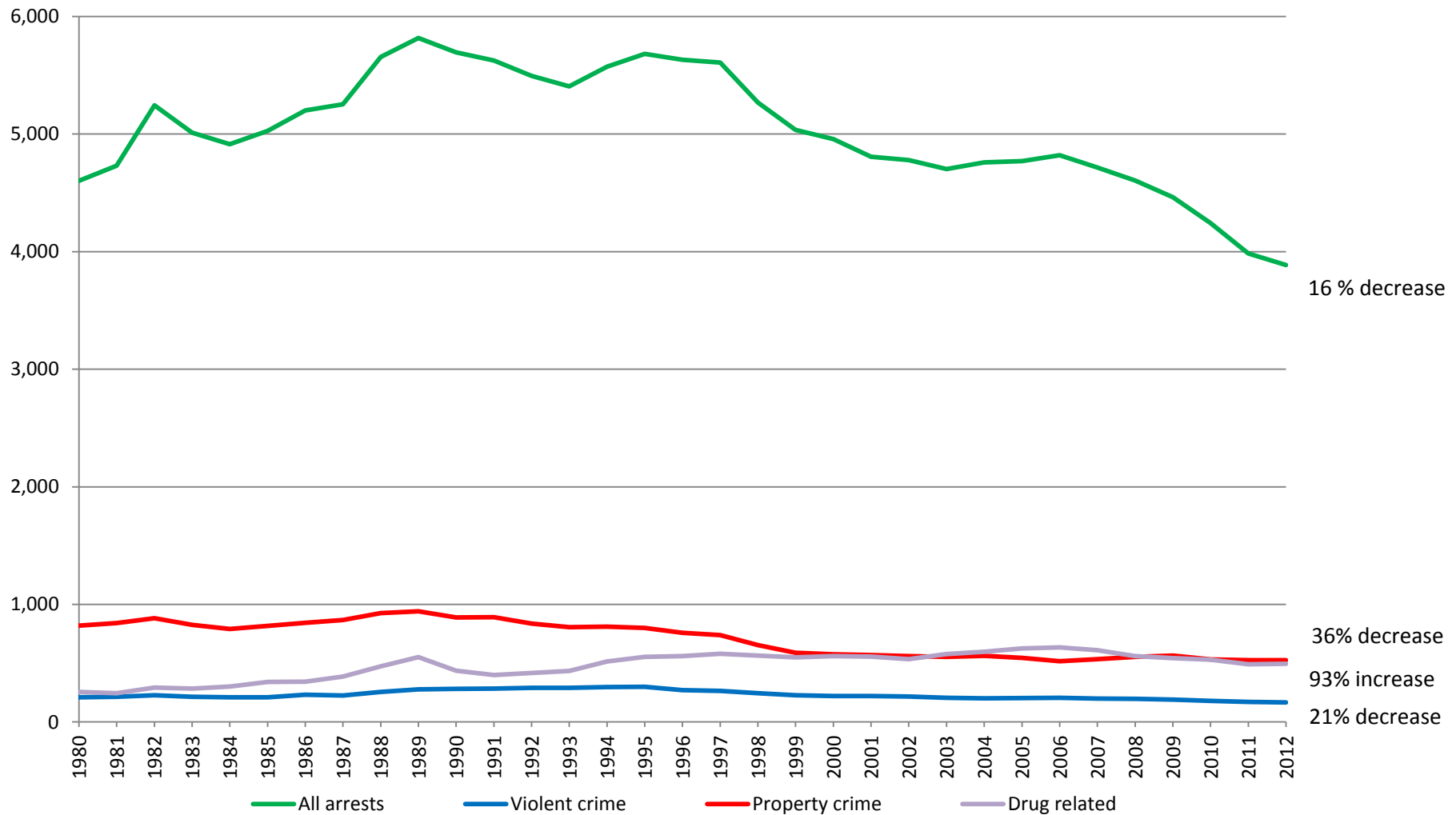
Brookings analysis of Cooper, Alexia and Smith, Erica L., "Homicide Trends in United States," Supplementary Homicide Report, Table: 'Homicide Victimization Rates per 100,000 Population by Race' and 'Homicide Offender Rates per 100,000 Population by Race,' Bureau of Justice Statistics, November 16, 2011, Accessed on March 7, 2016.  
<http://www.bjs.gov/index.cfm?ty=pbdetail&iid=2221>.

# Black homicide rates



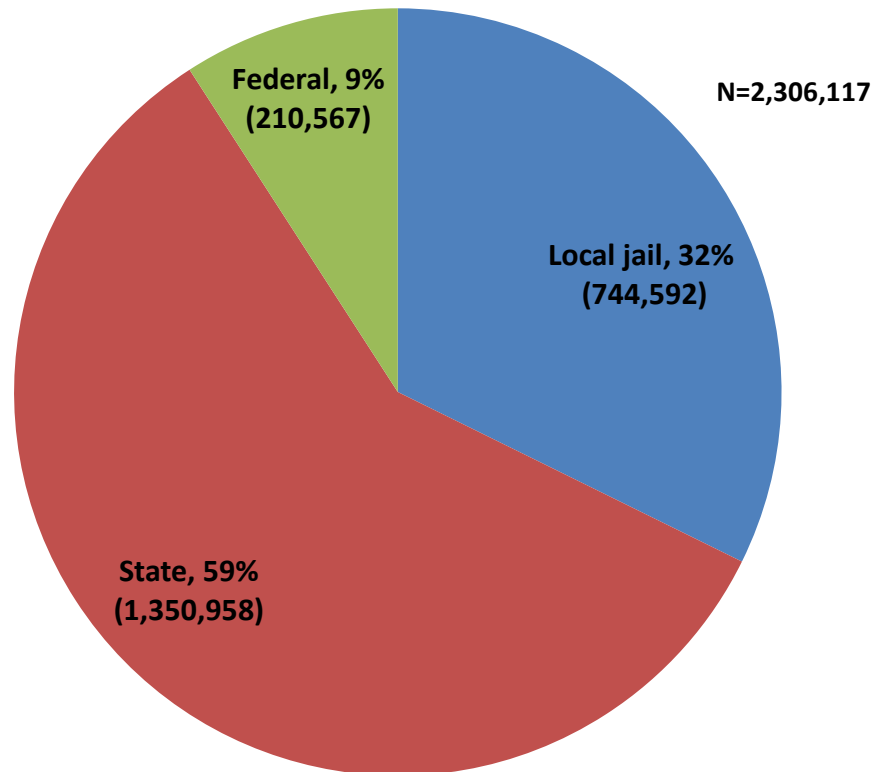
Brookings analysis of Cooper, Alexia and Smith, Erica L., "Homicide Trends in United States," Supplementary Homicide Report, Table: 'Homicide Victimization Rates per 100,000 Population by Race' and 'Homicide Offender Rates per 100,000 Population by Race,' Bureau of Justice Statistics, November 16, 2011, Accessed on March 7, 2016.  
<http://www.bjs.gov/index.cfm?ty=pbdetail&iid=2221>.

# Arrest rates nationwide



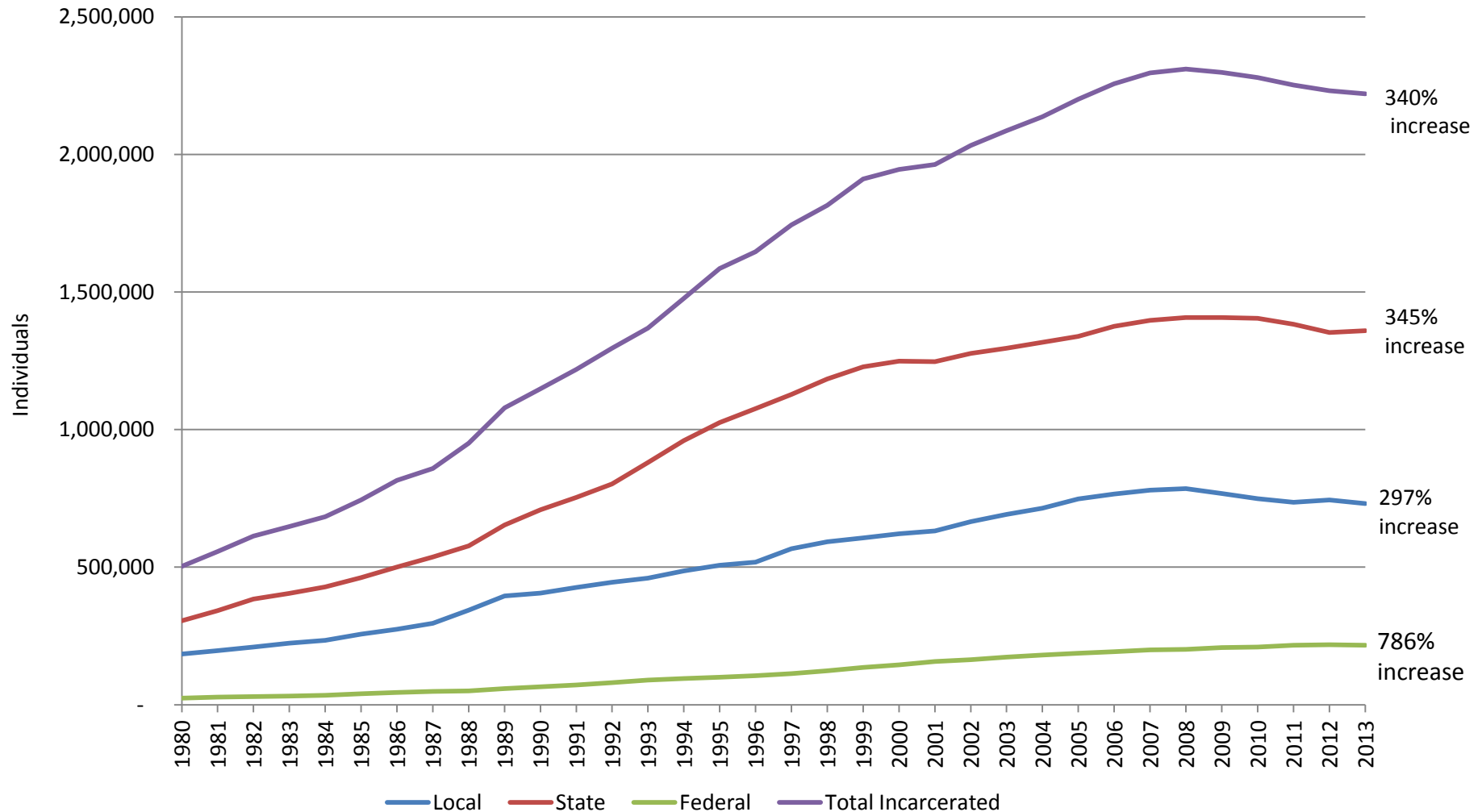
# **PRISON BUILDUP**

# Incarcerated population, 2014



Brookings analysis of Carson, Ann, "Prisoners in 2014," Bureau of Justice Statistics, September 2015, p.3 <http://www.bjs.gov/content/pub/pdf/p14.pdf>, and Minton, Todd, and Zeng, Zhen, "Jail Inmates at Midyear 2014," Bureau of Justice Statistics, June 2015, p. 3 <http://www.bjs.gov/content/pub/pdf/jim14.pdf>.

# Incarcerated population

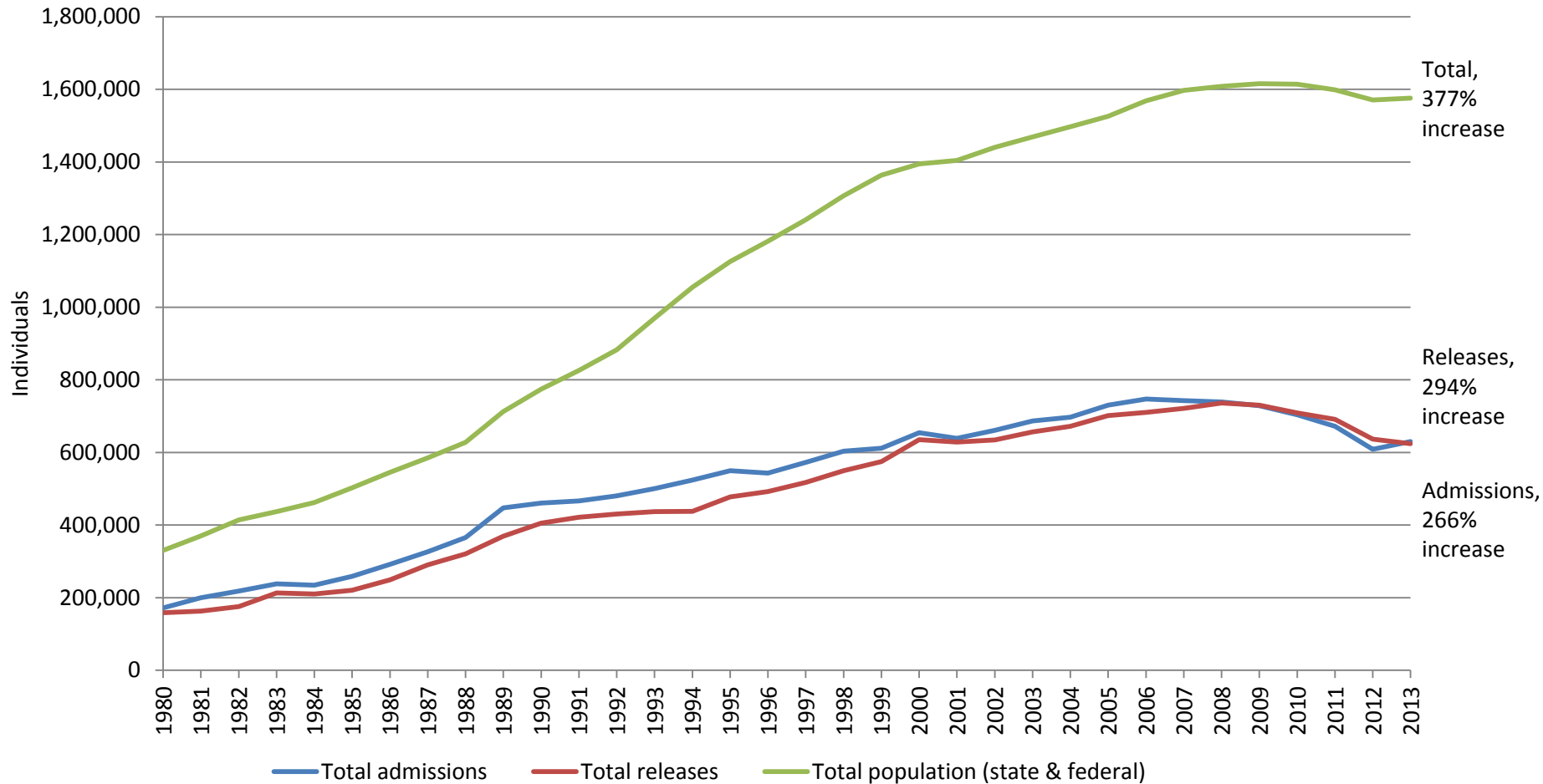


Brookings analysis of "Table: Estimated number of persons under correctional supervision in the United States, 1980-2013," Key Statistics: Total Correctional Population, Bureau of Justice Statistics. Accessed January 4, 2016, <http://www.bjs.gov/index.cfm?ty=kfdetail&iid=487>.

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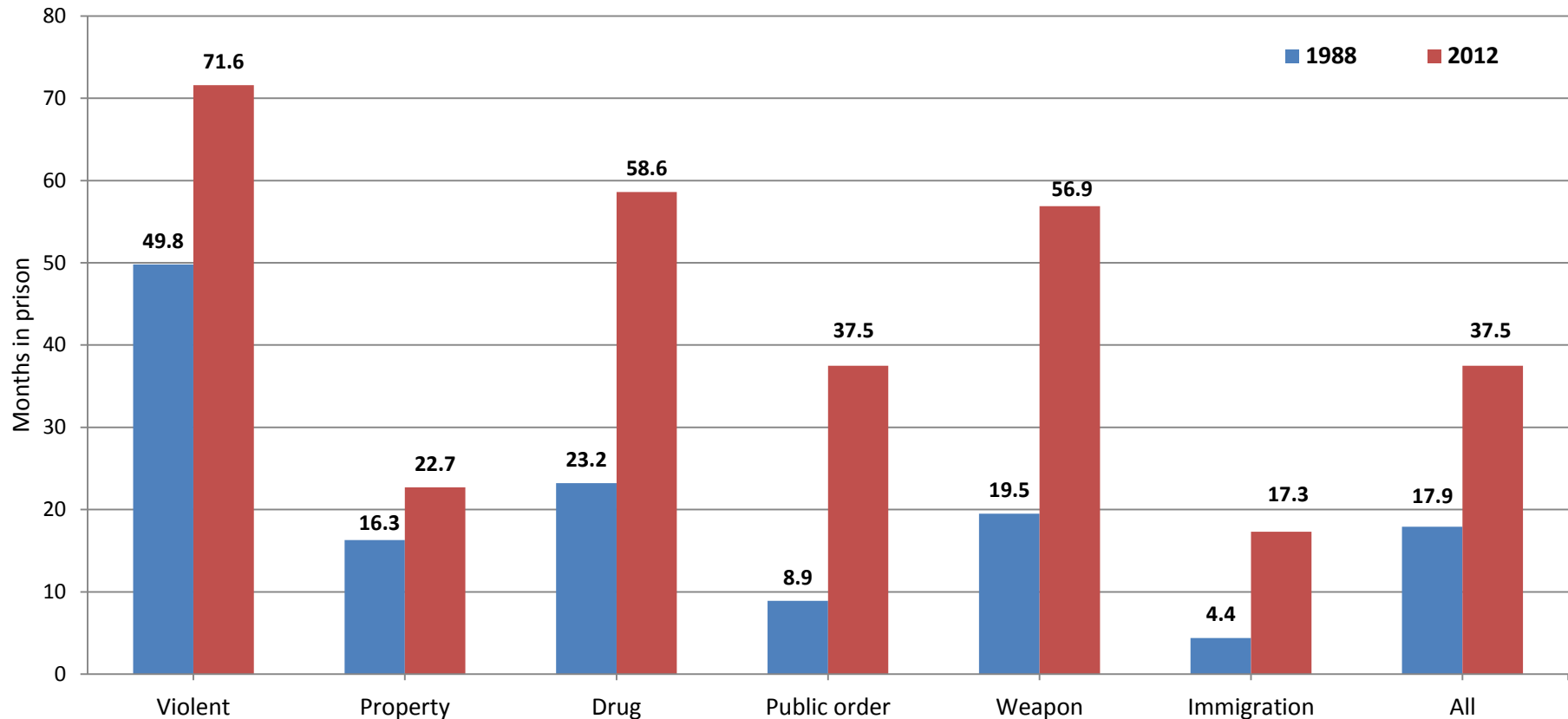
# Incarcerated population

## Admissions and releases



Brookings analysis of Carson, E. Ann and Mulako-Wangota, Joseph. "Prisoners under the jurisdiction of state or federal correctional authorities, December 31, 1978-2014," generated using the Corrections Statistical Analysis Tool (CSAT), Bureau of Justice Statistics, Accessed December 9, 2015. <http://www.bjs.gov/index.cfm?ty=nps>.

# Average time served all federal offenses



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.

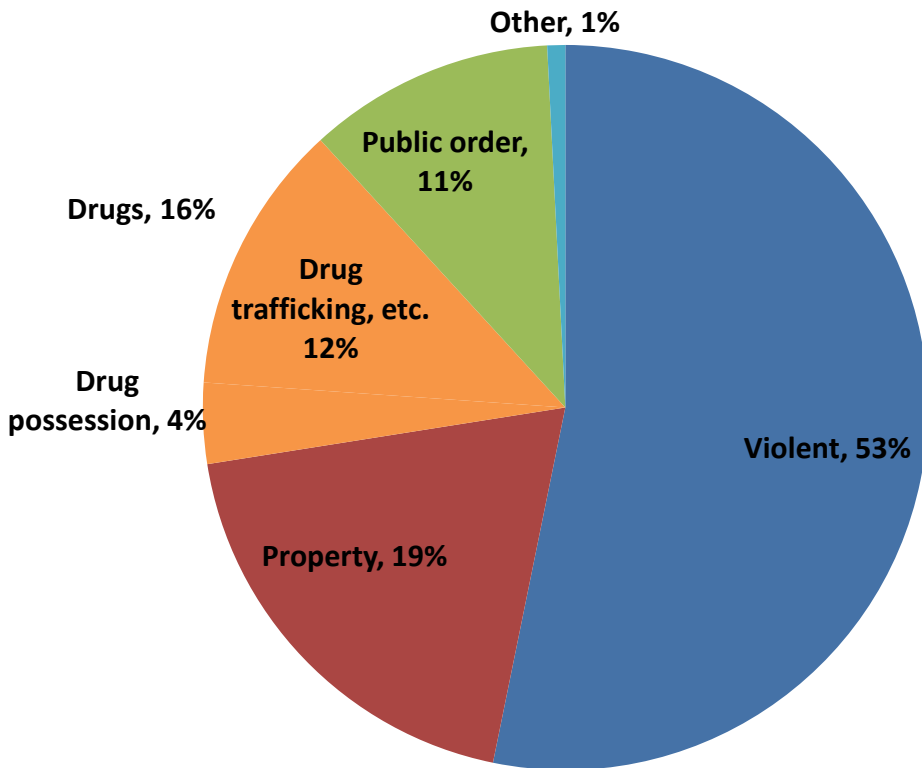
"Federal Criminal Case Processing 1982-1993, Table 18 (1988 data)," Bureau of Justice Statistics; "Federal Justice Statistics 2012-Statistical Tables, Table 7.11 (2012 data)," Bureau of Justice Statistics, in "Prison Time Surges for Federal Inmates," Recreated from The Pew Charitable Trusts, November 2015, p. 1. <http://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2015/11/prison-time-surges-for-federal-inmates>.

# **PRISON COMPOSITION**

# Composition of offenses

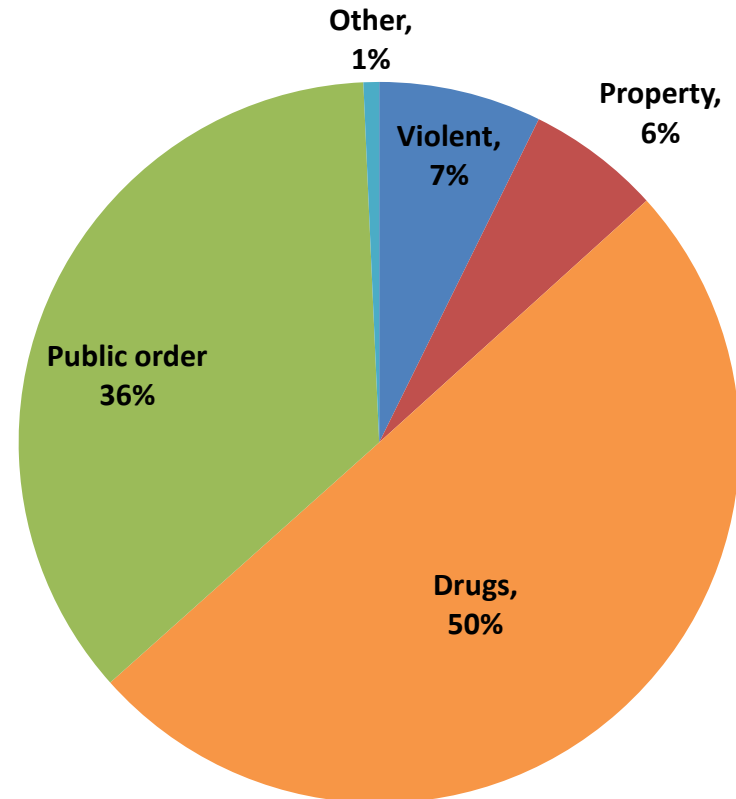
## Sentenced prisoners, 2014

**State**



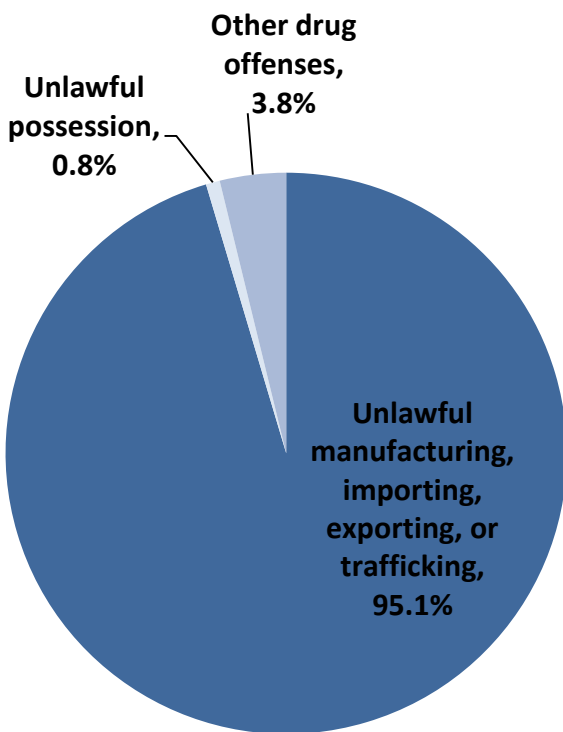
Carson, Ann, "Prisoners in 2014," Table 11, Estimated percent of sentenced prisoners under state jurisdiction, by offense, sex, race, and Hispanic origin, December 31, 2013, Bureau of Justice Statistics, p. 16  
<http://www.bjs.gov/content/pub/pdf/p14.pdf>.

**Federal**

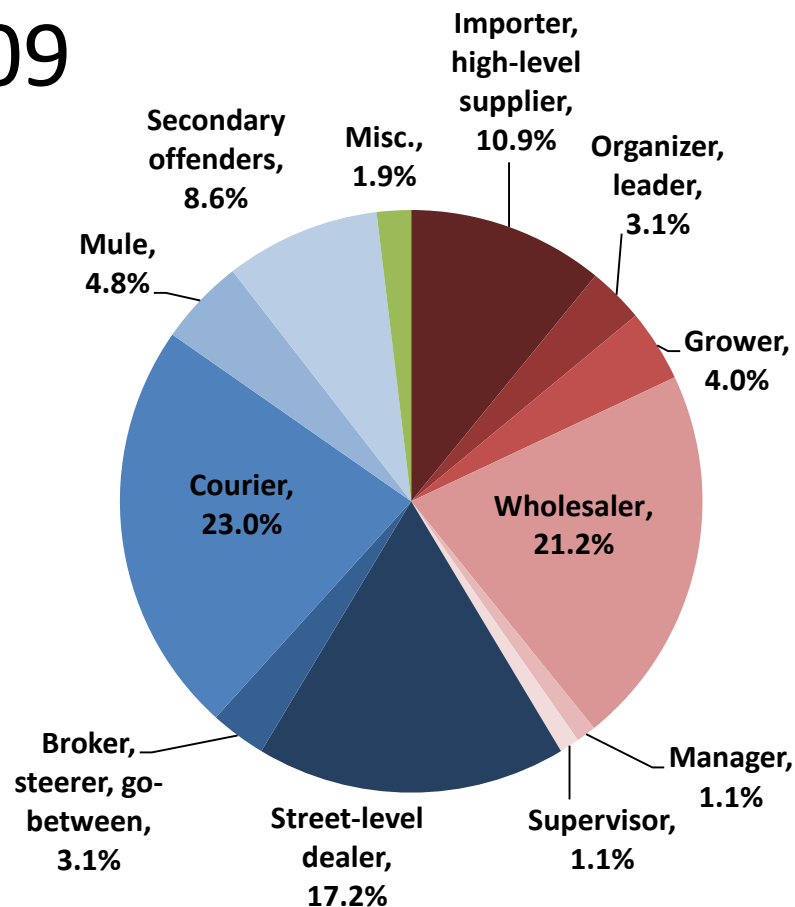


Carson, Ann, "Prisoners in 2014," Table 12, Estimated percent of sentenced prisoners under federal correctional authority, by most serious offense, sex, race, and Hispanic origin, September 30, 2014, Bureau of Justice Statistics, p. 17  
<http://www.bjs.gov/content/pub/pdf/p14.pdf>.

# Composition of federal drug offenders, 2009



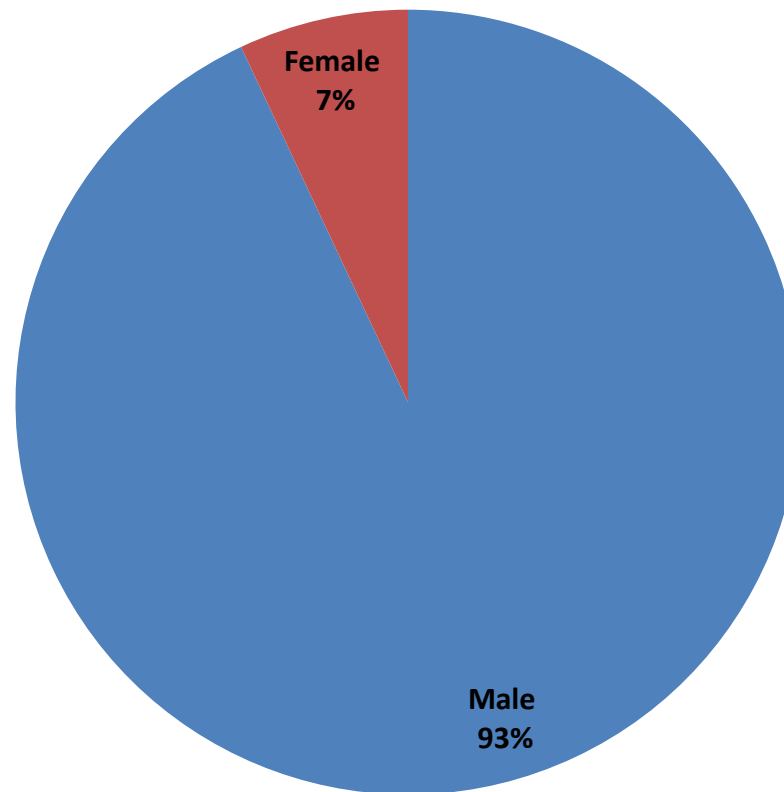
Brookings analysis of "Report to the Congress: Mandatory Minimum Penalties in the Federal Criminal Justice System," The United States Sentencing Commission, October 2011, p. 149, [http://www.ussc.gov/sites/default/files/pdf/news/congressional-testimony-and-reports/mandatory-minimum-penalties/20111031-rtc-pdf/Chapter\\_08.pdf](http://www.ussc.gov/sites/default/files/pdf/news/congressional-testimony-and-reports/mandatory-minimum-penalties/20111031-rtc-pdf/Chapter_08.pdf).



Brookings analysis of "Report to the Congress: Mandatory Minimum Penalties in the Federal Criminal Justice System," The United States Sentencing Commission, October 2011, Appendix D, Figure D-15, p. D-68, [http://www.ussc.gov/sites/default/files/pdf/news/congressional-testimony-and-reports/mandatory-minimum-penalties/20111031-rtc-pdf/Chapter\\_08.pdf](http://www.ussc.gov/sites/default/files/pdf/news/congressional-testimony-and-reports/mandatory-minimum-penalties/20111031-rtc-pdf/Chapter_08.pdf).

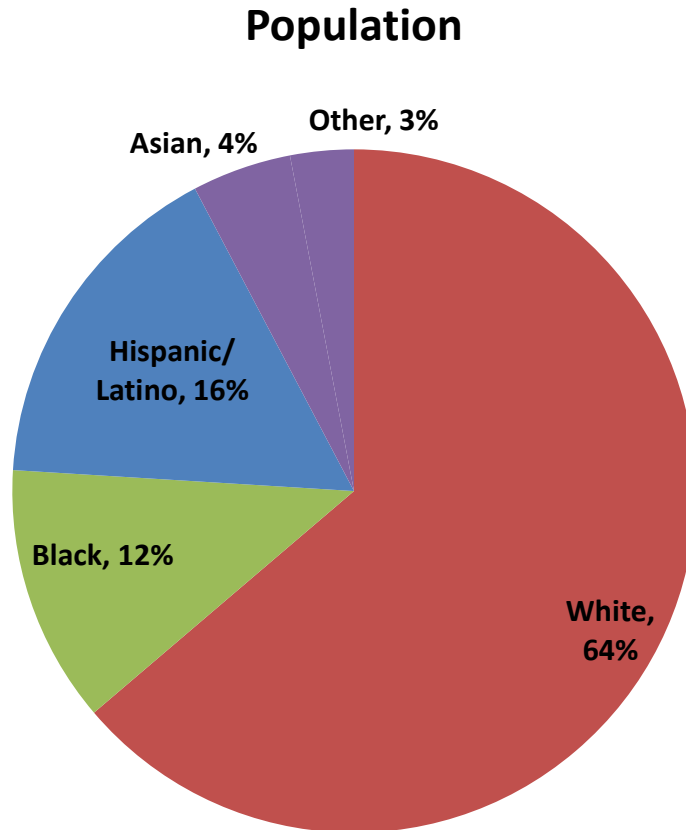
# **CHARACTERISTICS OF THE PRISON POPULATION**

# Composition of the prison population by gender, 2010

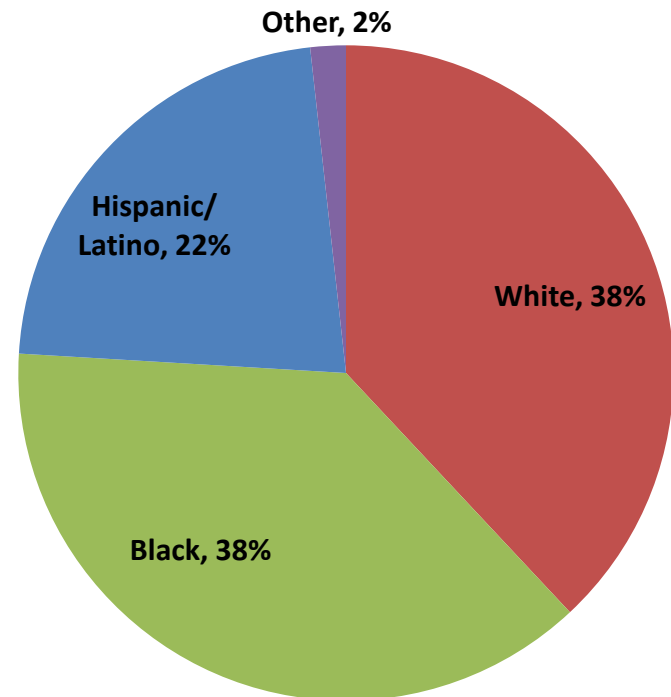


Brookings analysis of Carson, E. Ann and Mulako-Wangota, Joseph. Bureau of Justice Statistics. "Count of total jurisdiction population," generated from the Corrections Statistical Analysis Tool (CSAT – Prisoners), Bureau of Justice Statistics, Accessed January 20, 2016, <http://www.bjs.gov/index.cfm?ty=nps>.

# Composition of the prison population by demographic category, 2010



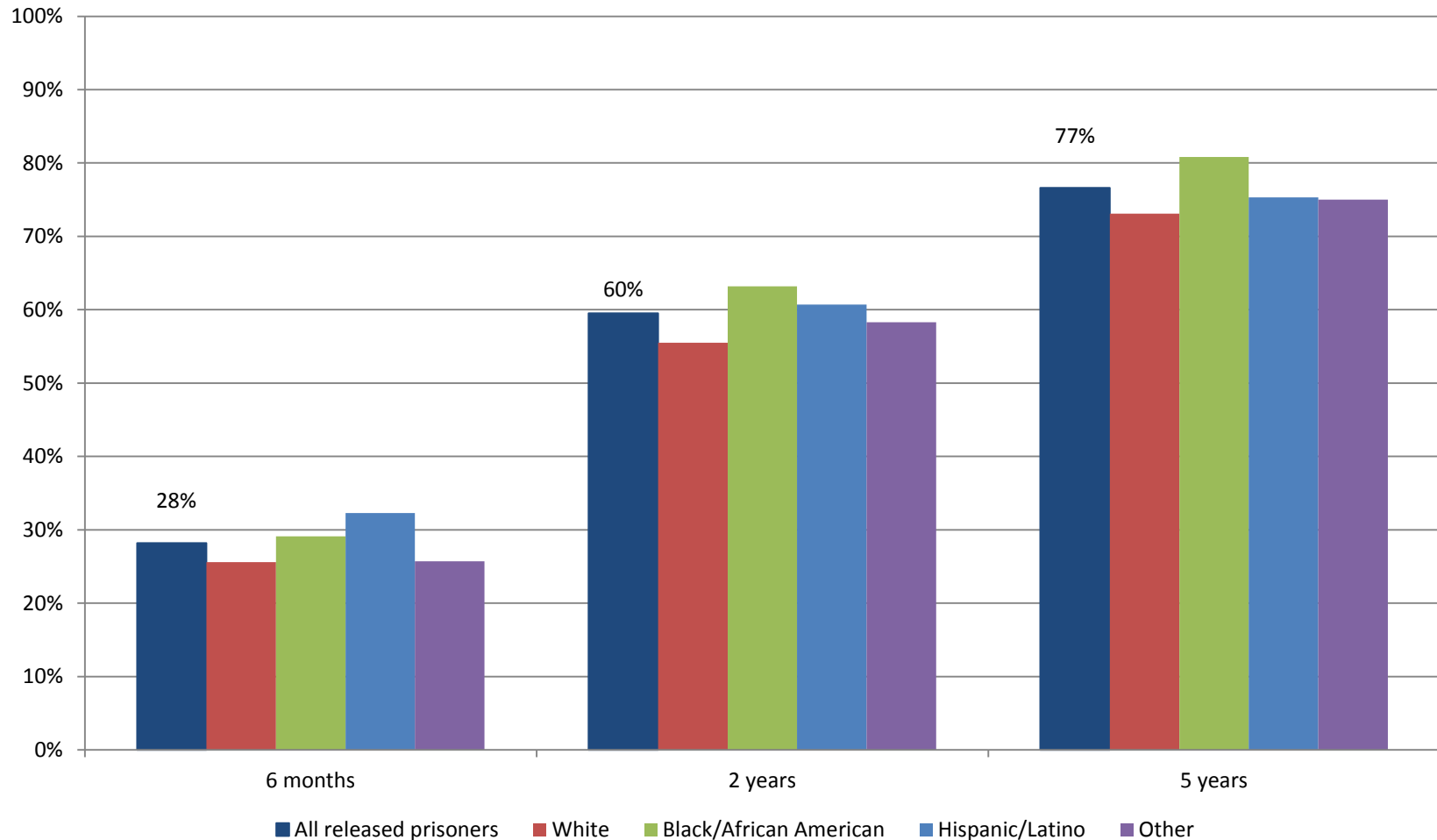
**Prison population**



"Census 2010: 50 Million Latinos Hispanics Account for More Than Half of Nation's Growth in Past Decade" Pew Research Center, Pew Hispanic Center, March 24, 2011, p. 5, <http://www.pewhispanic.org/files/reports/140.pdf>

Brookings Analysis of Guerino, Paul, Harrison, Paige, and Sabol, William, "Prisoners in 2010," Appendix table 12, Estimated number of sentenced prisoners under state and federal jurisdiction, by sex, race, and Hispanic origin, December 31, 2000–2010, Bureau of Justice Statistics, December 2011, p. 26 <http://www.bjs.gov/content/pub/pdf/p10.pdf>

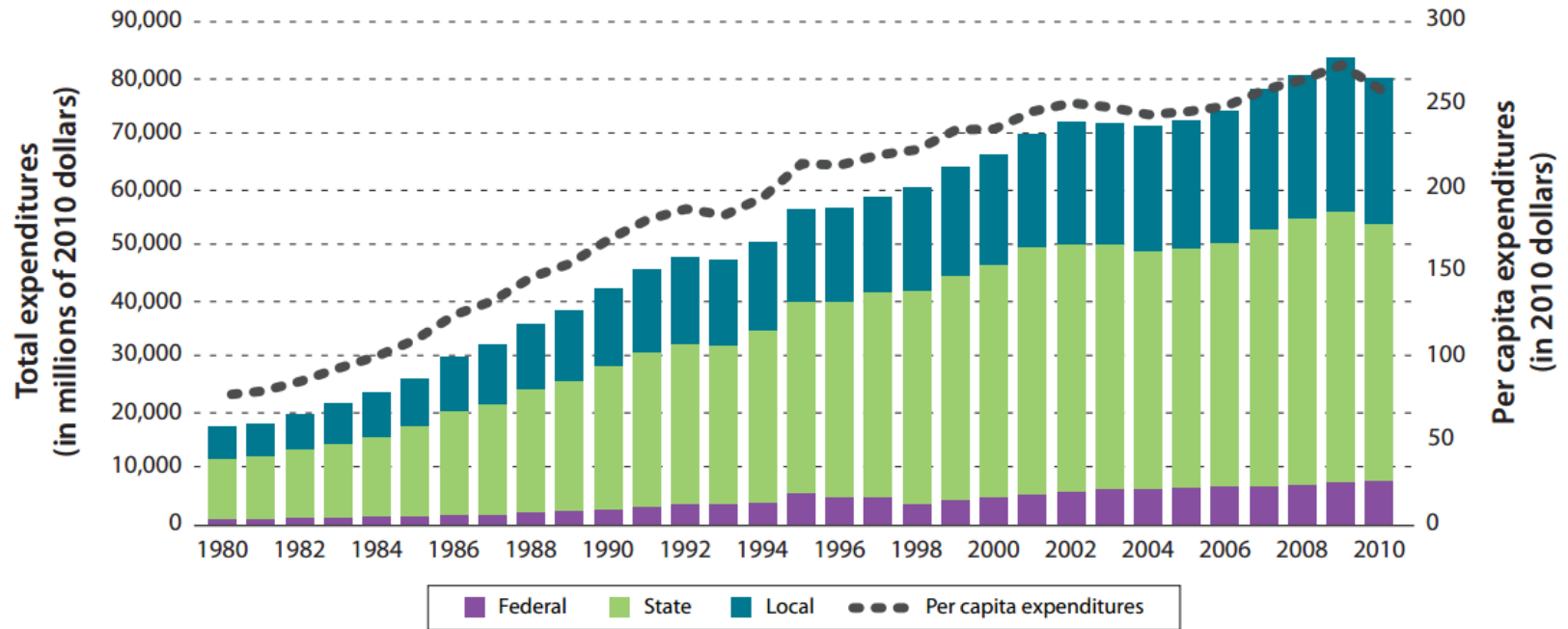
# Prisoner recidivism, 2005-2010



Durose, Matthew, Cooper, Alexia, and Snyder, Howard, "Recidivism of Prisoners Released in 30 States in 2005: Patterns from 2005 to 2010," Table 15, Recidivism of prisoners released in 30 states in 2005, by race or Hispanic origin, most serious commitment offense, and time from release to first arrest, Bureau of Justice Statistics, April 2014, p.13, <http://www.bjs.gov/content/pub/pdf/rprts05p0510.pdf>.

# **COSTS OF INCARCERATION**

# Total corrections expenditures by level of government and per capita expenditures



Sources: Bauer 2003a, 2003b; Census Bureau 2001, 2011, 2013; Gifford 2001; Hughes 2006, 2007; Hughes and Perry 2005; Perry 2005, 2008; Kyckelhahn 2012a, 2012b, 2012c; Kyckelhahn and Martin 2013; authors' calculations.

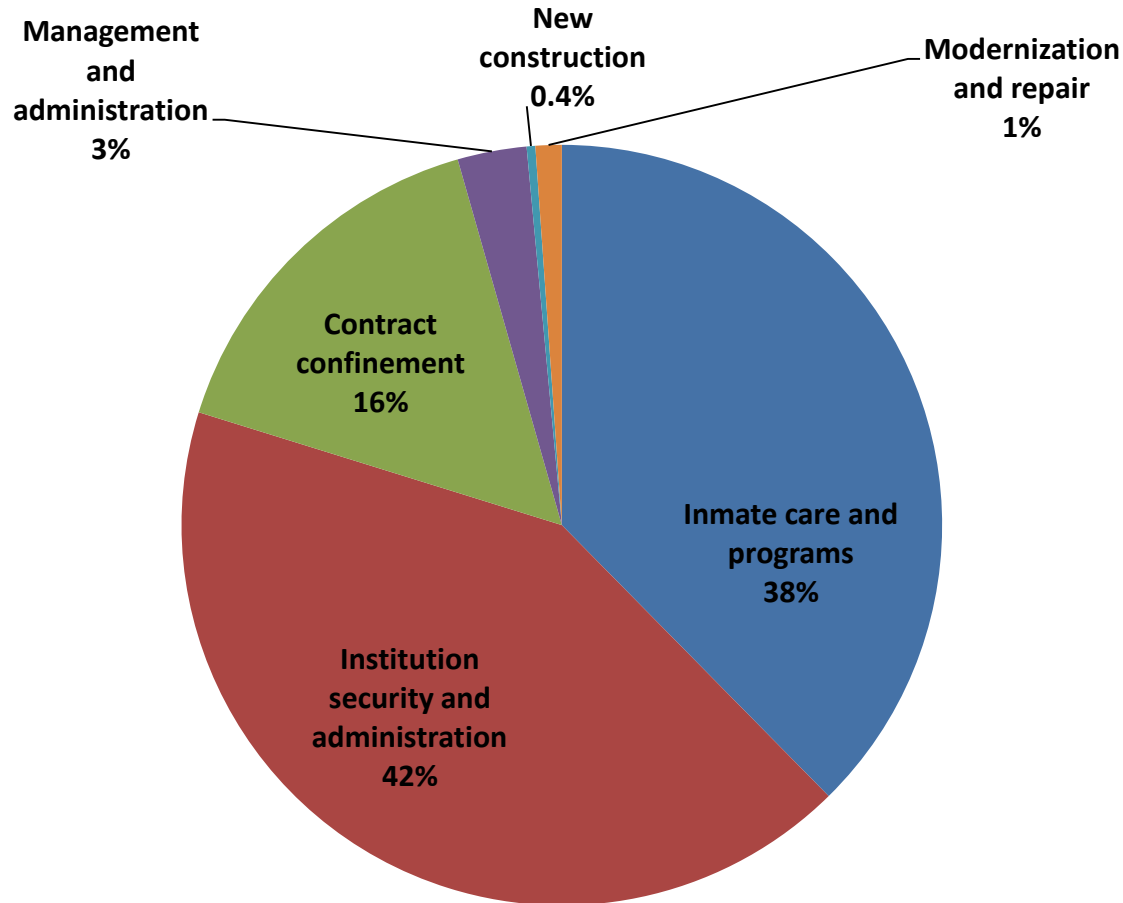
Note: The dollar figures are adjusted to 2010 dollars using the CPI-U-RS (Consumer Price Index Research Series Using Current Methods). Population estimates for each year are taken from the Census Bureau's estimates for July 1 of that year. The figure includes only direct expenditures so as not to double count the value of intergovernmental grants. For more details, see the technical appendix.

THE  
HAMILTON  
PROJECT  
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Kearney, Melissa et. al., "Ten Economic Facts about Crime and Incarceration in the United States," The Hamilton Project, May 2014, p. 13. <http://www.brookings.edu/research/reports/2014/05/10-crime-facts>.

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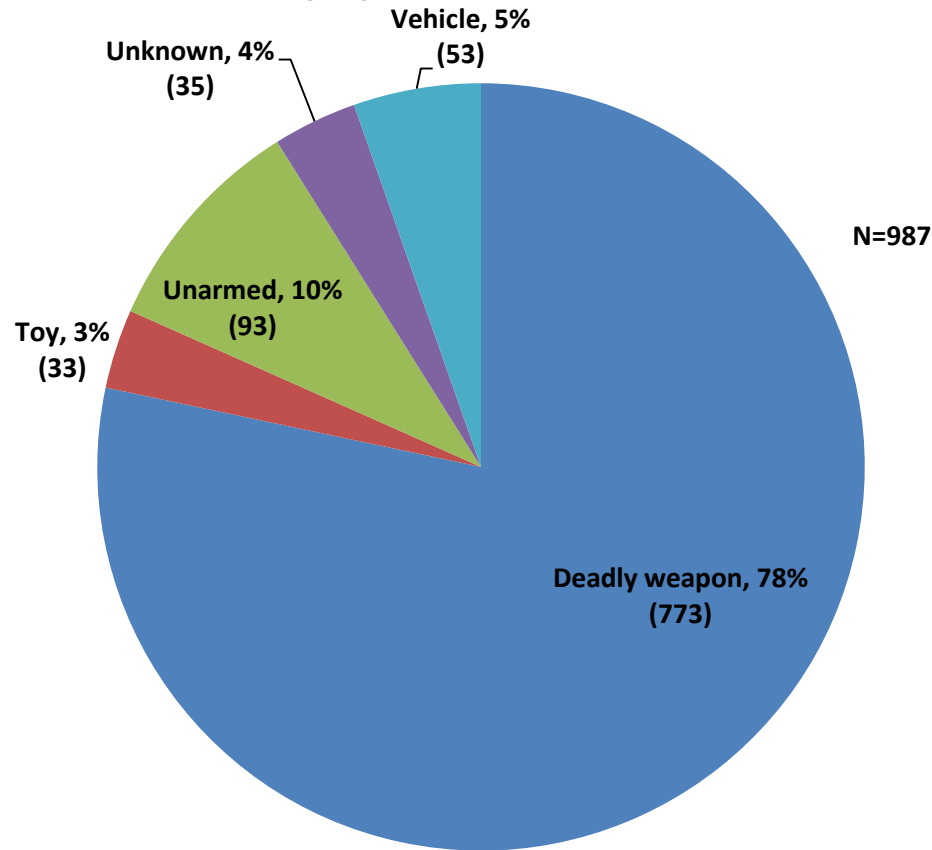
# Federal corrections expenditure, 2013



James, Nathan, "The Bureau of Prisons (BOP): Operations and Budget," Congressional Research Service, March 4, 2014, p.16. <https://www.fas.org/sgp/crs/misc/R42486.pdf>.

# **INDIVIDUALS KILLED BY POLICE**

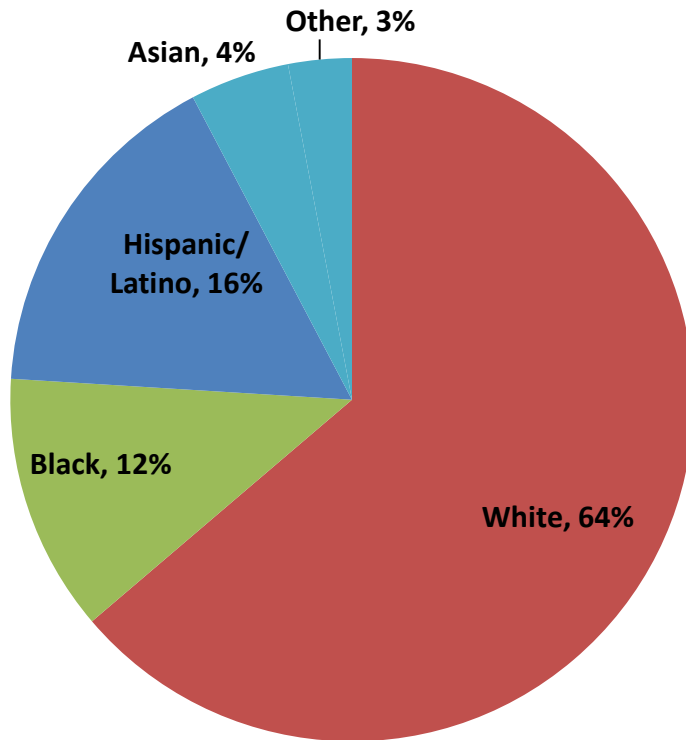
# Weapon possession status of individuals killed by police, 2015



Brookings analysis of Tate, Julie, Jenkins, Jennifer, Kindy, Kimberly, Lowery, Wesley, Alexander, Keith and Rich, "Investigation: People Shot and Killed by Police This Year," The Washington Post, Accessed January 11, 2016, <https://www.washingtonpost.com/graphics/national/police-shootings/>.

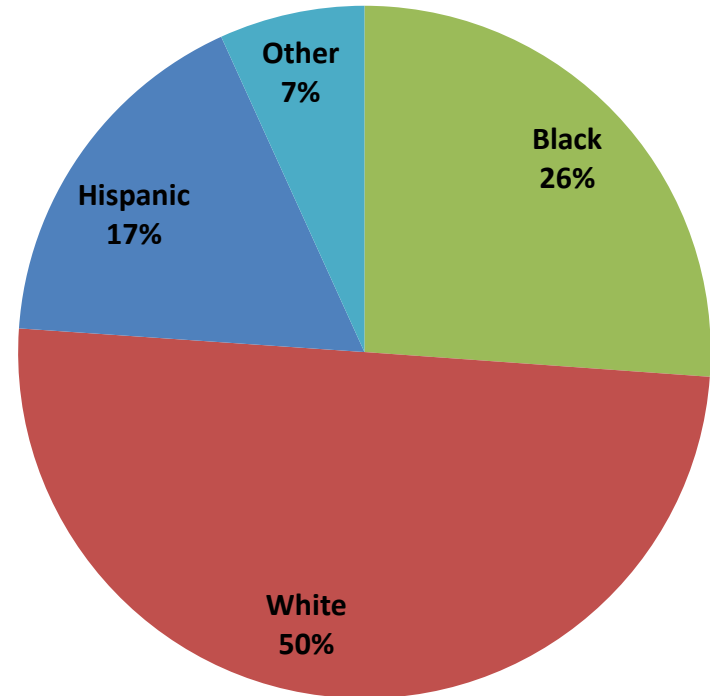
# Racial composition of individuals killed by police

**Population, 2010**



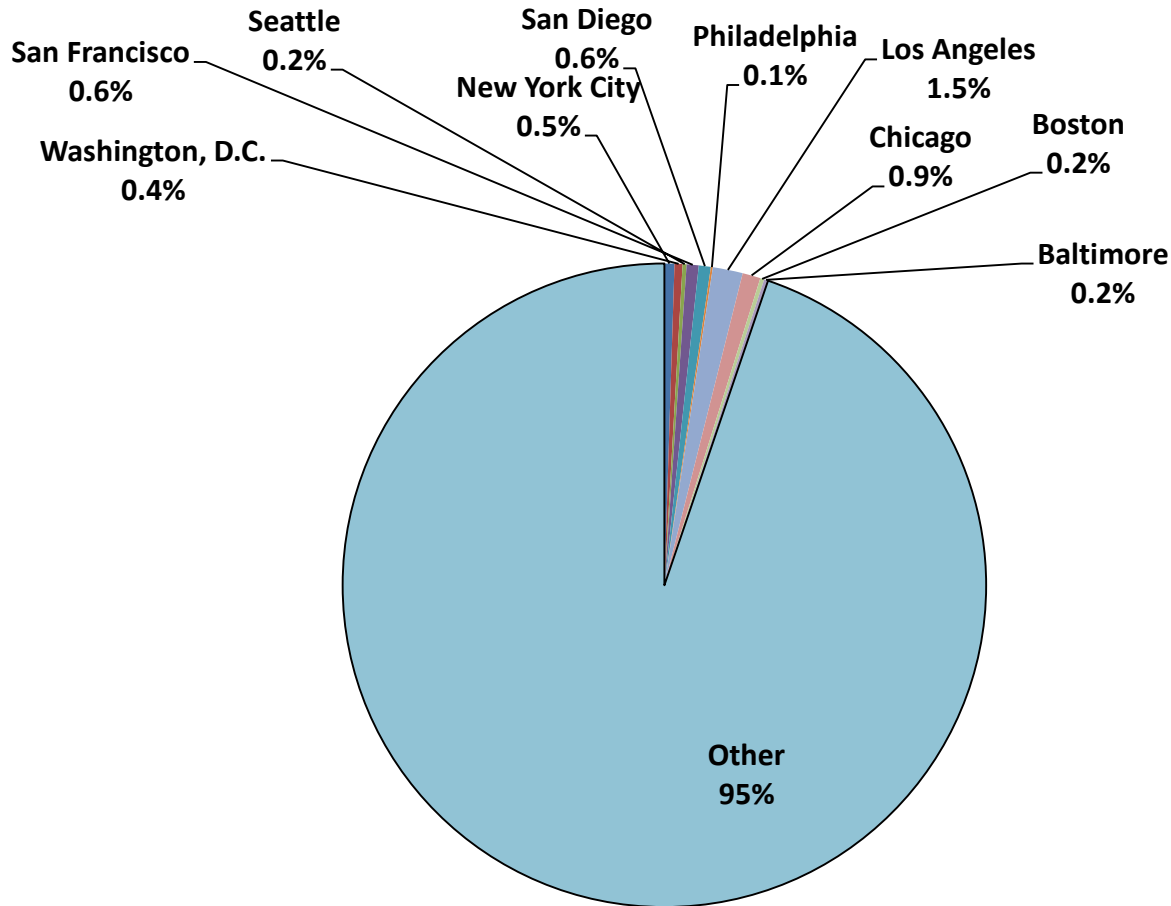
"Census 2010: 50 Million Latinos Hispanics Account for More Than Half of Nation's Growth in Past Decade" Pew Research Center, Pew Hispanic Center, March 24, 2011, p. 5, <http://www.pewhispanic.org/files/reports/140.pdf>

**Killed by police, 2015**



Brookings analysis of Tate, Julie, Jenkins, Jennifer, Kindy, Kimberly, Lowery, Wesley, Alexander, Keith and Rich, "Investigation: People Shot and Killed by Police This Year," The Washington Post, Accessed January 11, 2016, <https://www.washingtonpost.com/graphics/national/police-shootings/>.

# Individuals killed by police nationwide, by geographical location, 2015



## NOTES

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2. Brookings analysis of "Estimated crime in United States-Total," Generated using the Uniform Crime Reporting Data Tool, Federal Bureau of Investigation, <http://www.ucrdatatool.gov/Search/Crime/State/RunCrimeStatebyState.cfm>.
3. Brookings analysis of Alexia Cooper and Erica L. Smith, "Homicide Trends in the United States, 1980-2008," Bureau of Justice Statistics, November 2011, p. 11-13, <http://www.bjs.gov/content/pub/pdf/htus8008.pdf>.
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5. Brookings analysis of "Estimated crime in United States-Total," Generated using the Uniform Crime Reporting Data Tool, Federal Bureau of Investigation, <http://www.ucrdatatool.gov/Search/Crime/State/RunCrimeStatebyState.cfm>.
6. Travis, Jeremy and Waul, Michelle, "Reflections on the Crime Decline: Lessons for the Future?," Urban Institute, August 2002, [http://www.urban.org/uploadedpdf/410546\\_crimedecline.pdf](http://www.urban.org/uploadedpdf/410546_crimedecline.pdf).
7. Blumstein, Alfred and Wallman, Joel, *The Crime Drop in America* (New York: Cambridge University Press, 2005).
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11. Pfaff, John, "The Myths and Realities of Correctional Severity: Evidence from the National Corrections Reporting Program on Sentencing Practices," *American Law and Economics Review*, 13, no. 2 (Fall 2011): 491-531, <http://aler.oxfordjournals.org/content/13/2/491.short>.

12. Brookings analysis of Carson, Ann, "Prisoners in 2014," Bureau of Justice Statistics, September 2015, p.3 <http://www.bjs.gov/content/pub/pdf/p14.pdf>, and Minton, Todd, and Zeng, Zhen, "Jail Inmates at Midyear 2014," Bureau of Justice Statistics, June 2015, p. 3 <http://www.bjs.gov/content/pub/pdf/jim14.pdf>.
13. See: "Prison Time Surges for Federal Inmates," The Pew Charitable Trusts, November 2015, <http://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2015/11/prison-time-surges-for-federal-inmates>. ; Mallik-Kane Kamala, Parthasarathy Barbara, and Adams, William, "Examining Growth in the Federal Prison Population, 1998 to 2010," The Urban Institute, 2012, <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/412720-Examining-Growth-in-the-Federal-Prison-Population--to--.PDF>. ; Raphael, Steven and Stoll, Michael, "Why Are So Many Americans in Prison?," Social Forces, March 2016, 94 (3), <http://sf.oxfordjournals.org/content/early/2014/05/14/sf.sou052.full.pdf+html>. ; Pfaff, John, "The Myths and Realities of Correctional Severity: Evidence from the National Corrections Reporting Program on Sentencing Practices," *American Law and Economics Review* 13, no. 2 (Fall 2011): 491-531, <http://aler.oxfordjournals.org/content/13/2/491.short>. ; Pfaff, John, "The Causes of Growth in Prison Admission and Population," Social Science Research Network, July 12, 2011, <http://dx.doi.org/10.2139/ssrn.1884674>.
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