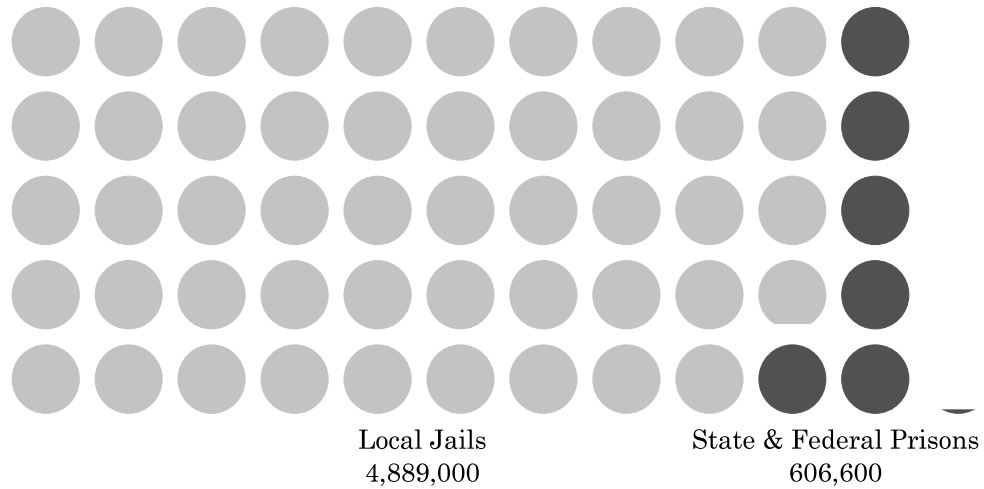


Schlanger, Bedi, Shapiro & Branham
Incarceration and the Law, 5th ed., 2020
Notes on casebook figures
Updated August 28, 2020

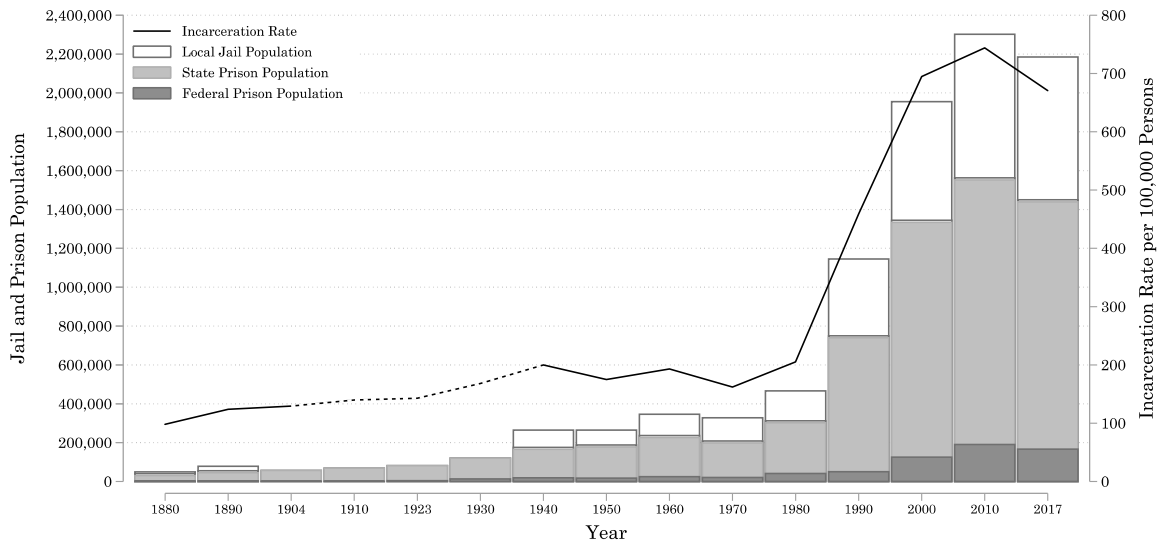
Figure 1.1: U.S. Adult Jail and Prison Annual Admissions, 2017



Note: Each circle represents 100,000 individuals.

Data sources: Local jail data from Wanda Bertram & Alexi Jones, Prison Policy Institute, How many people in your state go to local jail every year? (Sept. 18, 2019), <https://perma.cc/7RPD-RJ9Y>; State and federal prison data from U.S. Dep't of Justice, Prisoners in 2017 (Apr. 2019).

Figure 1.2: U.S. Jail and Prison Population and Incarceration Rate by Decade, 1880–2017

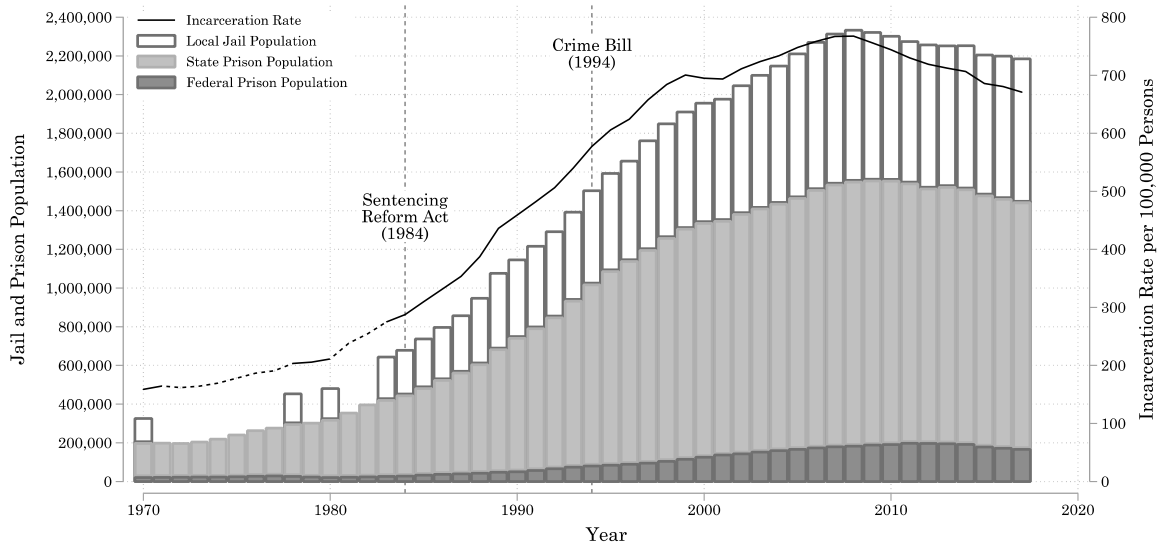


Note: Incarceration rate from authors’ calculations using incarceration and Census data. Local jail incarceration numbers are missing for years 1904, 1910, 1923, and 1930.

We calculate the estimated total incarceration rate during those years by imputing the jail population numbers between 1890 and 1940—in particular, we assume that jail population grew at a linear rate during this period. The estimated portion of the total incarceration rate is represented by the dotted portion of the incarceration rate line in the figure.

Data sources: 1880–1980 jail incarceration data and 1880–1960 prison incarceration data from U.S. Dep’t of Justice, Historical Corrections Statistics in the United States, 1850–1984 (Dec. 1986); 1970–80 prison incarceration data from U.S. Dep’t of Justice, Historical Statistics on Prisoners in State and Federal Institutions, Yearend 1925–86 (May 1988); 1990–2010 prison incarceration data from U.S. Dep’t of Justice, Sentenced Prisoners Under the Jurisdiction of State or Federal Correctional Authorities, December 31, 1978–2016 (Mar. 2018); 2017 prison incarceration data from U.S. Dep’t of Justice, Prisoners in 2017 (Apr. 2019); 1990 jail incarceration data from U.S. Dep’t of Justice, Jail Inmates, 1990 (Jun. 1991); 2000 & 2010 jail incarceration data from U.S. Dep’t Justice, Jail Inmates at Midyear 2014 (Jun. 2015); 2017 jail incarceration data from U.S. Dep’t Justice, Jail Inmates in 2017 (Apr. 2019).

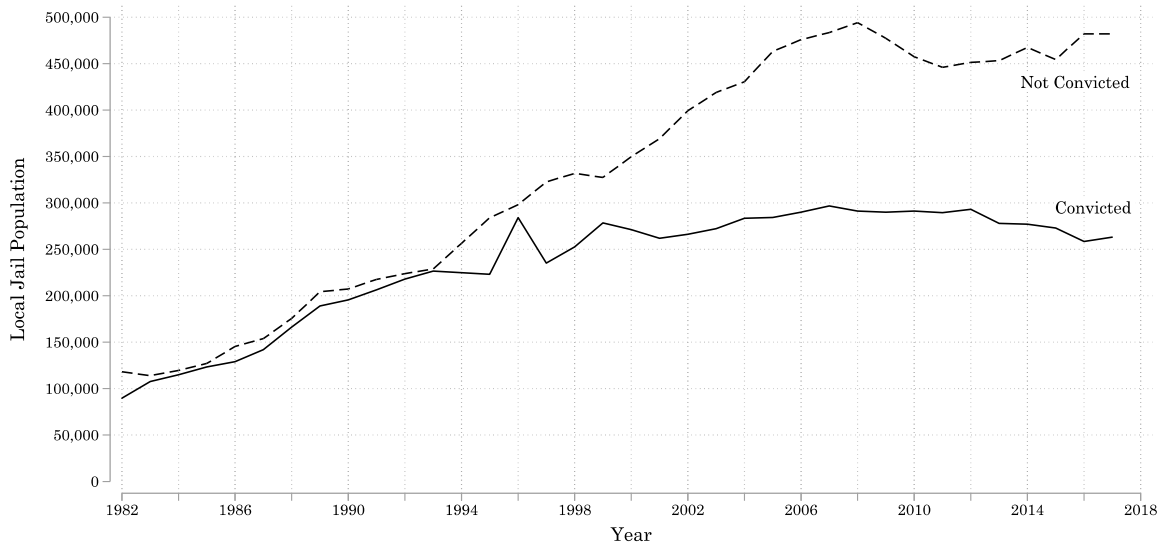
Figure 1.3: U.S. Jail and Prison Population and Incarceration Rate, 1970-2017



Note: Incarceration rate from authors' calculations using incarceration and Census data. Local jail incarceration numbers are missing for years 1971–77, 1979, and 1981–82. We calculate the estimated incarceration rate during these periods (denoted by the dotted portions of the line) by imputing the missing jail population numbers—in particular, we assume that jail populations grew at linear rates determined by the weighted averages of the jail population numbers before and after each respective period.

Data sources: 1970–86 prison incarceration data from U.S. Dep't of Justice, Historical Statistics on Prisoners in State and Federal Institutions, Yearend 1925–86 (May 1988); 1986–2016 prison incarceration data from U.S. Dep't of Justice, Sentenced Prisoners Under the Jurisdiction of State or Federal Correctional Authorities, December 31, 1978–2016 (Mar. 2018); 2017 prison incarceration data from U.S. Dep't of Justice, Prisoners in 2017 (Apr. 2019); 1970–84 local jail incarceration data from U.S. Dep't of Justice, Historical Corrections Statistics in the United States, 1850–1984 (Dec. 1986); 1985–99 local jail incarceration data from U.S. Dep't of Justice, Sourcebook of Criminal Justice Statistics 1999 (2000) <https://www.hsdl.org/?view&did=711188>; 2000–14 local jail incarceration data from U.S. Dep't of Justice, Jail Inmates at Midyear 2014 (Jun. 2015); 2015–16 local jail incarceration data from U.S. Dep't of Justice, Jail Inmates in 2016 (Feb. 2018); 2017 local jail incarceration data from U.S. Dep't of Justice, Jail Inmates in 2017 (Apr. 2019).

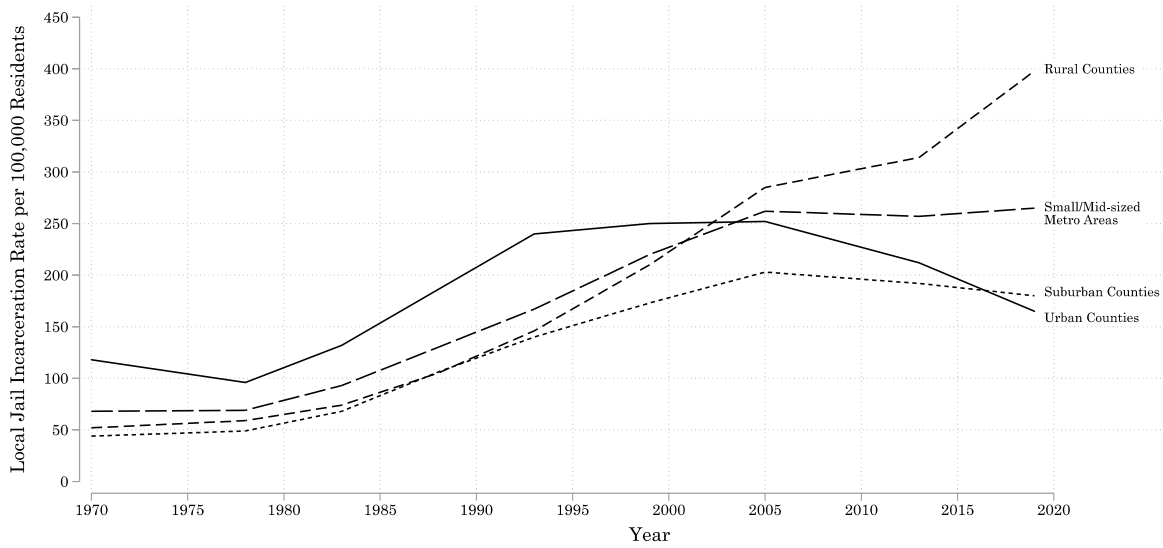
Figure 1.4: U.S. Local Jail Population by Conviction Status, 1982–2017



Note: Populations are the adult inmate counts on June 30 of each year.

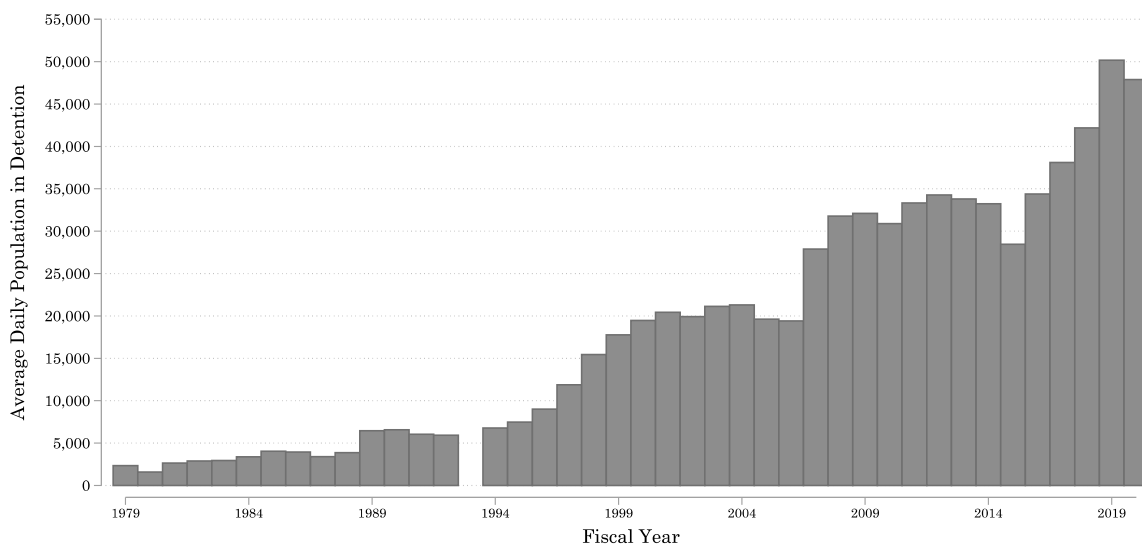
Data source: 1982 data from U.S. Dep't of Justice, Jail Inmates 1982 (Feb. 1983); 1983 & 1988 data from U.S. Dep't of Justice, Jails and Jail Inmates 1993–94 (Apr. 1995); 1984 data from U.S. Dep't of Justice, Jail Inmates 1984 (May 1986); 1985 & 1990–95 data from U.S. Dep't of Justice, Prison and Jail Inmates, 1995 (Aug. 1996); 1986 data from U.S. Dep't of Justice, Jail Inmates 1986 (Oct. 1987); 1987 data from U.S. Dep't of Justice, Jail Inmates 1987 (Dec. 1988); 1989 data from U.S. Dep't of Justice, Profile of Jail Inmates 1996 (Apr. 1998); 1996 data from U.S. Dep't of Justice, Prison and Jail Inmates at Midyear 1996 (Jan. 1997); 1997 data from U.S. Dep't of Justice, Prison and Jail Inmates at Midyear 1997 (Jan. 1998); 1998 data from U.S. Dep't of Justice, Prison and Jail Inmates at Midyear 1998 (Mar. 1999); 1999 data from U.S. Dep't of Justice, Prison and Jail Inmates at Midyear 1999 (Apr. 2000); 2000 & 2005–14 data from U.S. Dep't of Justice, Jail Inmates at Midyear 2014 (Jun. 2015); 2001–02 data from U.S. Dep't of Justice, Prison and Jail Inmates at Midyear 2002 (Apr. 2003); 2003–04 data from U.S. Dep't of Justice, Prison and Jail Inmates at Midyear 2004 (Apr. 2005); 2015–17 data from U.S. Dep't of Justice, Jail Inmates in 2017 (Apr. 2019).

Figure 1.5: Local Jail Incarceration Rates by Urbanicity, 1970–2019



Data source: Vera Institute of Justice, People in Jail in 2019 (2019), <https://perma.cc/65MT-MGPK>, and private communication.

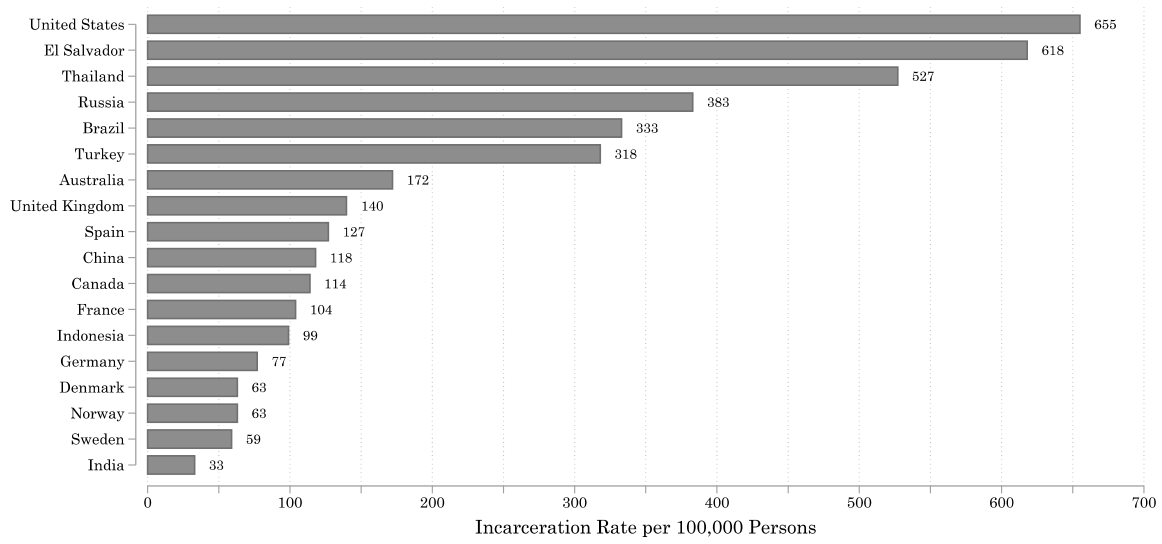
Figure 1.6: Immigration Detention, Average Daily Population, 1979–2020



Notes: Fiscal years run from October of the previous calendar year through September (e.g., FY 1979 indicates Oct. 1, 1978–Sep. 30, 1979). FY 1979–FY 1992 average daily populations are calculated using the annual total number of detentions and the average length of detention—we multiply these two numbers for each respective year and divide by 365. Data missing for FY 1993.

Data sources: FY 1979–FY 1992 total detentions and average length of detention data from INS budgets in House Committee on Appropriations reports, as presented by Timothy J. Dunn, *The Militarization of the U.S.-Mexico Border, 1978–1992: Low-Intensity Conflict Doctrine Comes Home*, Appendix 2, p. 182 (1996). FY 1994–FY 2000 data from Congressional Research Service, *Immigration-Related Detention: Current Legislative Issues*, p. 12 (Apr. 2004), https://www.everycrsreport.com/files/20040428_RL32369_77874a3cf7c9d27cd54bae1d9af93f1519de940a.pdf; FY 2001–FY 2012 data from Congressional Research Service, *Immigration-Related Detention*, p. 13 (Jan. 2013), https://www.everycrsreport.com/files/20130118_RL32369_bdd7d0012b9f9418c8a2e52e30565b83ceb87423.pdf; FY 2013–FY 2016 data from U.S. Immigration and Customs Enforcement, *Budget Overview: Fiscal Year 2018*, p. 14 (2017), <https://www.dhs.gov/sites/default/files/publications/ICE%20FY18%20Budget.pdf>; FY 2017–FY 2018 data from U.S. Immigration and Customs Enforcement, *Budget Overview: Fiscal Year 2020*, p. 4 (2019), https://www.dhs.gov/sites/default/files/publications/19_0318_MGMT_CBJ-Immigration-Customs-Enforcement_0.pdf; FY 2019 data from U.S. Immigration and Customs Enforcement, *Fiscal Year 2019 Enforcement and Removal Operations Report*, p. 5 (2019), <https://www.ice.gov/sites/default/files/documents/Document/2019/eroReportFY2019.pdf>; FY 2020 data from ICE Detention Management website, <https://www.ice.gov/detention-management> (accessed December 17, 2019), and consists of data from October through December 2019.

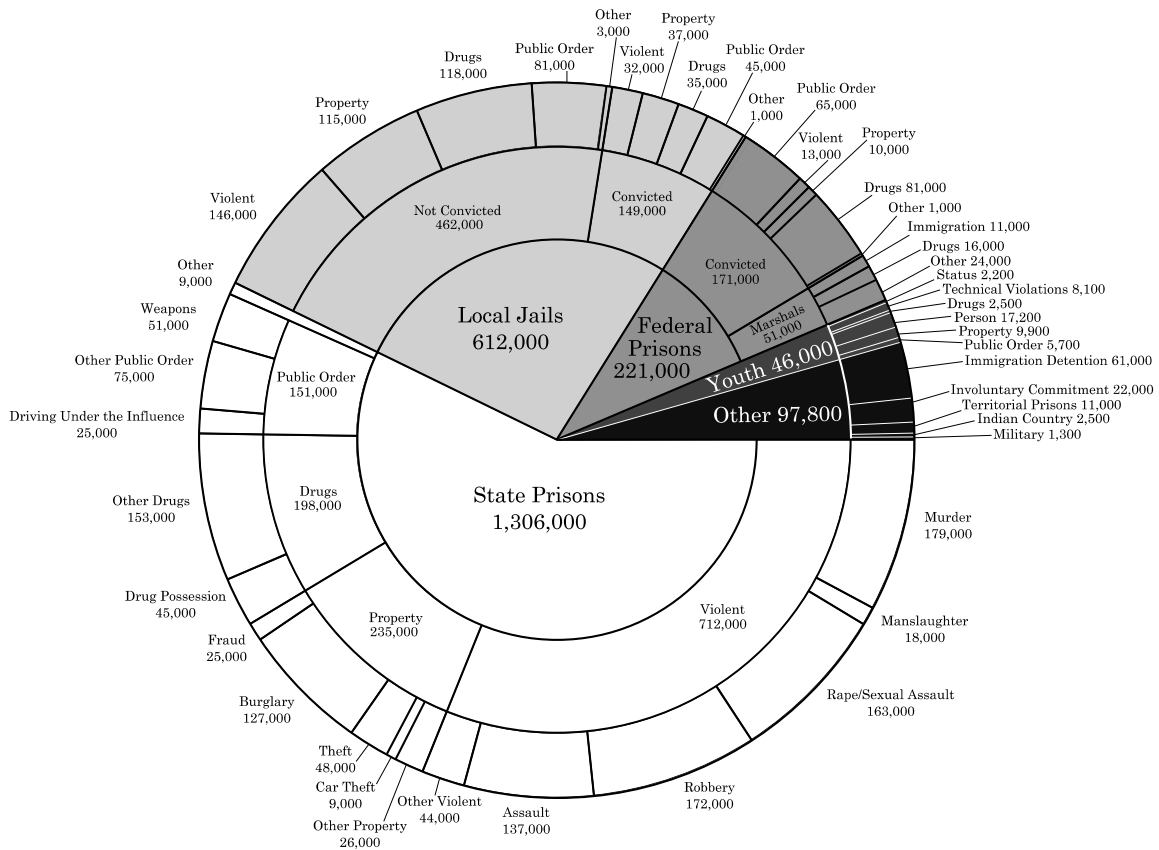
Figure 1.7: International Incarceration Rates



Note: China data from 2015; U.S. data from 2016; India and Sweden data from 2017; Denmark, Norway, and Turkey data from 2018; Australia, Brazil, El Salvador, France, Germany, Indonesia, Russia, Rwanda, Spain, Thailand, and United Kingdom data from 2019.

Data source: World Prison Brief, <https://perma.cc/8XWN-4SA8>.

Figure 1.8: U.S. Incarcerated Population, 2019

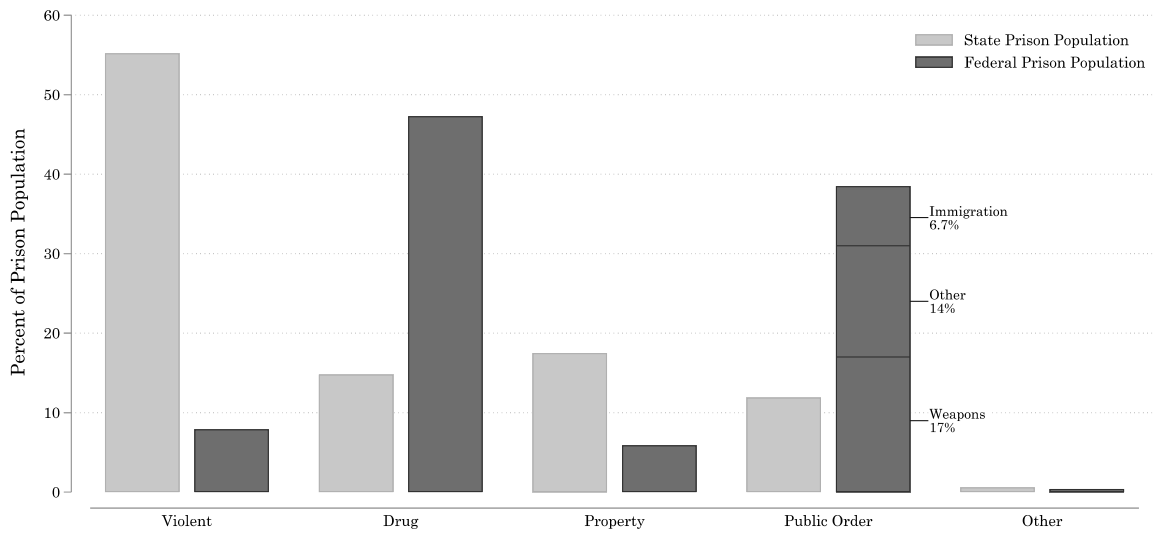


Source: Prison Policy Initiative, Mass Incarceration: The Whole Pie 2019, <https://perma.cc/UK7M-NTDW>. Reformatted with permission.

Figure 1.8 Errata

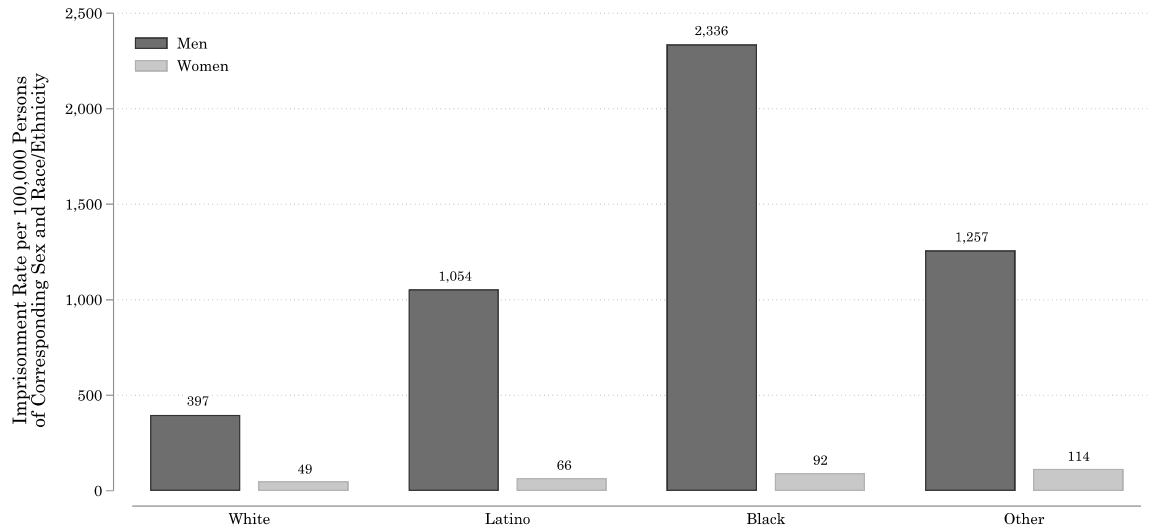
- Printed version incorrectly stated that the “Other” category of incarcerated populations (i.e., the counterpart of state prisons, local jails, federal prisons, and youth populations) included 143,800 people. In fact, this category includes 97,800 people; the sum of the “Youth” and “Other” categories is 143,800 in the Prison Policy Initiative illustration.
- Printed version omitted the “Other” category of the “Convicted” population in local jails, totaling 1,000 people.

Figure 1.9: State and Federal Prison Population by Criminal Offense, 2016/2017



Note: State data from 2016, federal data from 2017. Data source: Sentencing Project, Trends in U.S. Corrections (2019), <https://perma.cc/N2BE-9TH5>; original data from U.S. Dep't of Justice, Prisoners in 2017 (Apr. 2019).

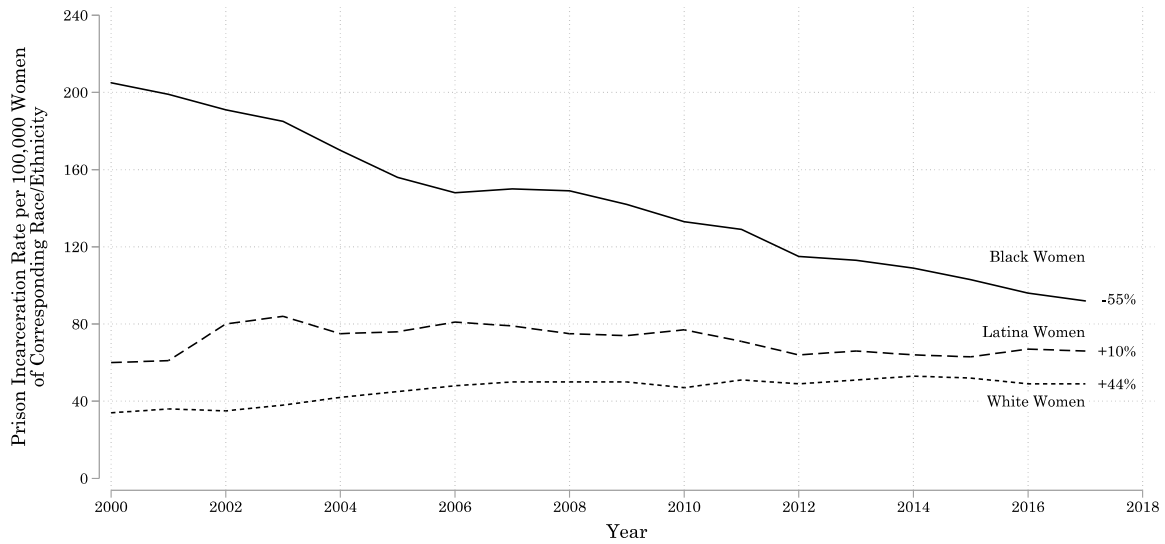
Figure 1.10: U.S. Prison Incarceration Rates by Gender and Race/Ethnicity, 2017



Note: “White” means non-Hispanic white. “Latino” includes Hispanic prisoners of all races. “Black” means non-Hispanic Black. “Other” includes Asian, Native American, and anyone who is not Hispanic or white or Black.

Data source: Sentencing Project, *Incarcerated Women and Girls* (2019), <https://perma.cc/T727-ED9U>. Original data from U.S. Dep’t of Justice, *Prisoners in 2017* (Apr. 2019).

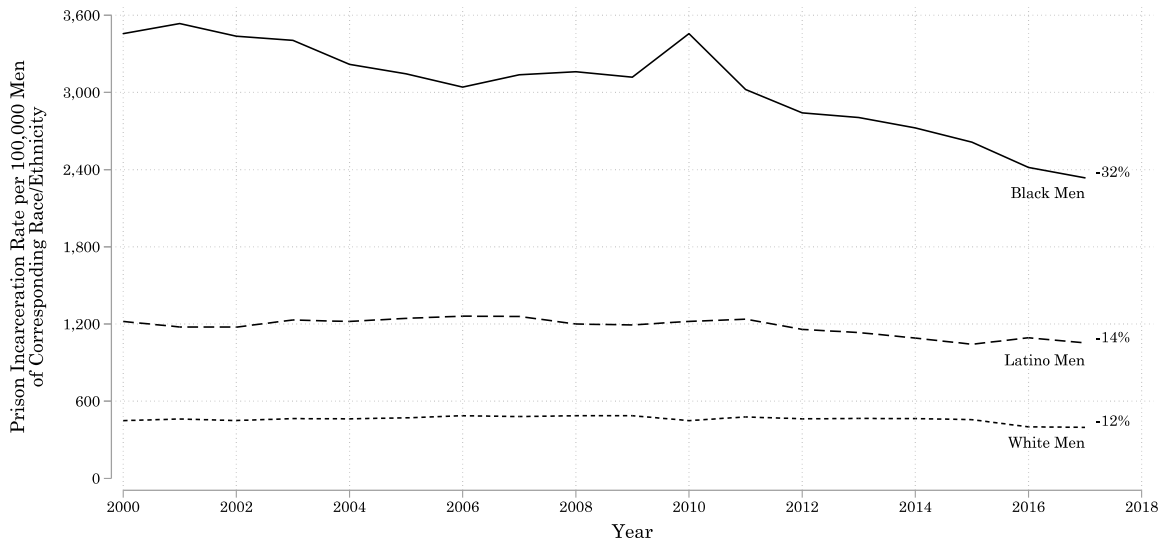
Figure 1.11: U.S. Female Prison Incarceration Rate by Race/Ethnicity, 2000–2017



Note: Percentages on the right indicate the percent change from 2000–2017. “White” means non-Hispanic white. “Other” includes Asian, Native American, and anyone who is not Hispanic or white or Black.

Data source: Sentencing Project, *Incarcerated Women and Girls* (2019), <https://perma.cc/T727-ED9U>. Original data from U.S. Dep’t of Justice, Prisoners series (2000–2019).

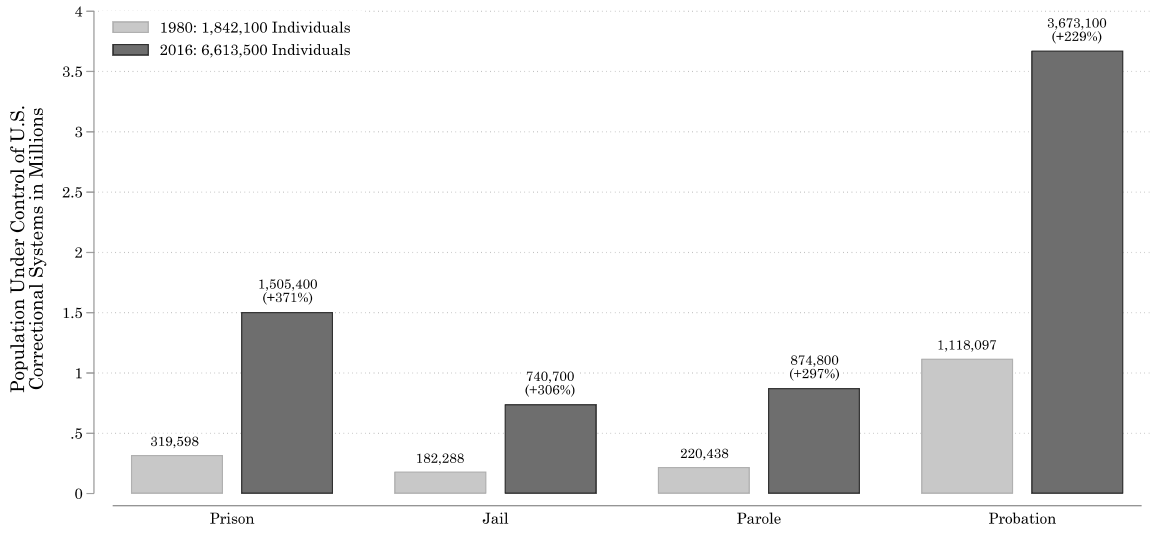
Figure 1.12: U.S. Male Prison Incarceration Rate by Race/Ethnicity, 2000–2017



Note: Percentages on the right indicate the percent change from 2000–2017. “White” means non-Hispanic white. “Other” includes Asian, Native American, and anyone who is not Hispanic or white or Black.

Data sources: 2000 & 2006–07 data from U.S. Dep’t of Justice, Prisoners in 2007 (Dec. 2008); 2001 data from U.S. Dep’t of Justice, Prisoners in 2001 (Jul. 2002); 2002 data from U.S. Dep’t of Justice, Prisoners in 2002 (Jul. 2003); 2003 data from U.S. Dep’t of Justice, Prisoners in 2003 (Nov. 2004); 2004 data from U.S. Dep’t of Justice, Prisoners in 2004 (Oct. 2005); 2005 data from U.S. Dep’t of Justice, Prisoners in 2005 (Nov. 2006); 2008 data from U.S. Dep’t of Justice, Prisoners in 2008 (Dec. 2009); 2009 data from U.S. Dep’t of Justice, Prisoners in 2009 (Dec. 2010); 2010 data from U.S. Dep’t of Justice, Prisoners in 2010 (Dec. 2011); 2011 data from U.S. Dep’t of Justice, Prisoners in 2011 (Dec. 2012); 2012 data from U.S. Dep’t of Justice, Prisoners in 2012: Trends in Admissions and Releases, 1991-2012 (Dec. 2013); 2013 data from U.S. Dep’t of Justice, Prisoners in 2013 (Sep. 2014); 2014 data from U.S. Dep’t of Justice, Prisoners in 2014 (Sep. 2015); 2015 data from U.S. Dep’t of Justice, Prisoners in 2015 (Dec. 2016); 2016 data from U.S. Dep’t of Justice, Prisoners in 2016 (Jan. 2018); 2017 data from U.S. Dep’t of Justice, Prisoners in 2017 (Apr. 2019).

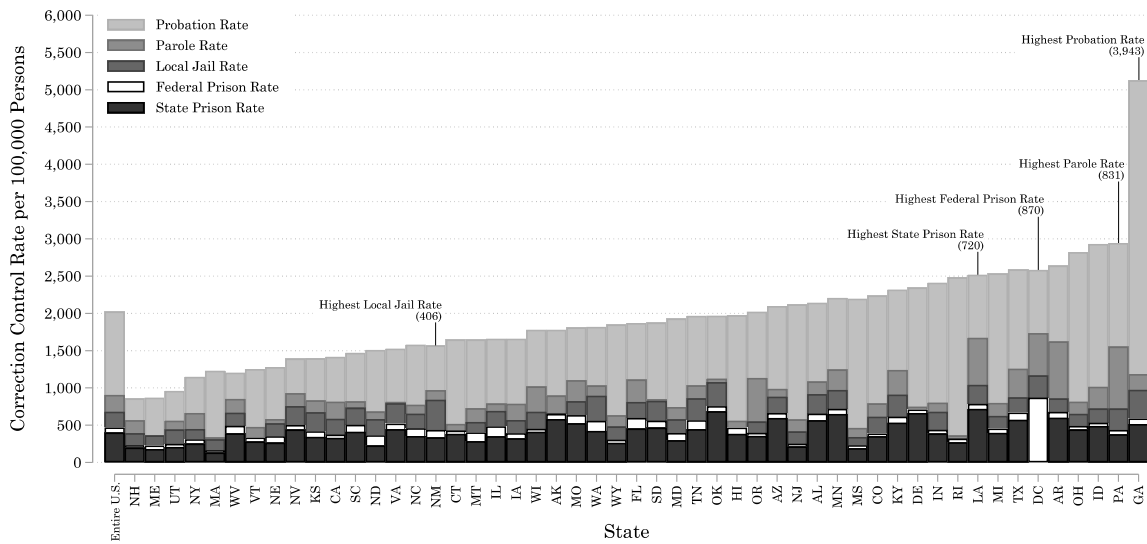
Figure 1.13: U.S. Corrections Systems Populations 1980 & 2016



Note: percentages in parentheses represent the percent change in population size between 1980 and 2016 for each respective corrections system.

Data source: Sentencing Project, Trends in U.S. Corrections (2019), <https://perma.cc/N2BE-9TH5>.

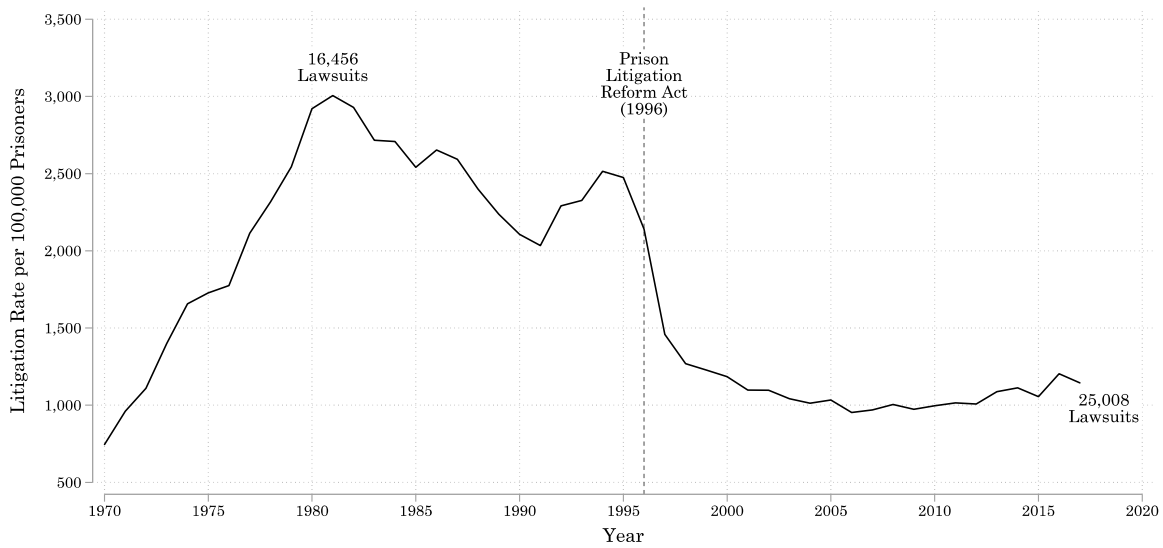
Figure 1.14: Correctional Control Rate by State, 2018



Notes: annotations denote the states with the highest rate of each respective category of correctional control. New Mexico has the highest rate of local jail incarceration (406 per 100,000 persons in NM); Louisiana has the highest rate of state prison incarceration (720 per 100,000 persons in LA); District of Columbia has the highest rate of federal prison incarceration (870 per 100,000 persons in D.C.); Pennsylvania has the highest parole rate (831 per 100,000 persons in PA); Georgia has the highest probation rate (3,943 per 100,000 persons in GA).

Data source: Prison Policy Initiative, Correctional Control 2018: Incarceration and Supervision by State (2018), <https://perma.cc/JAP7-49KB>.

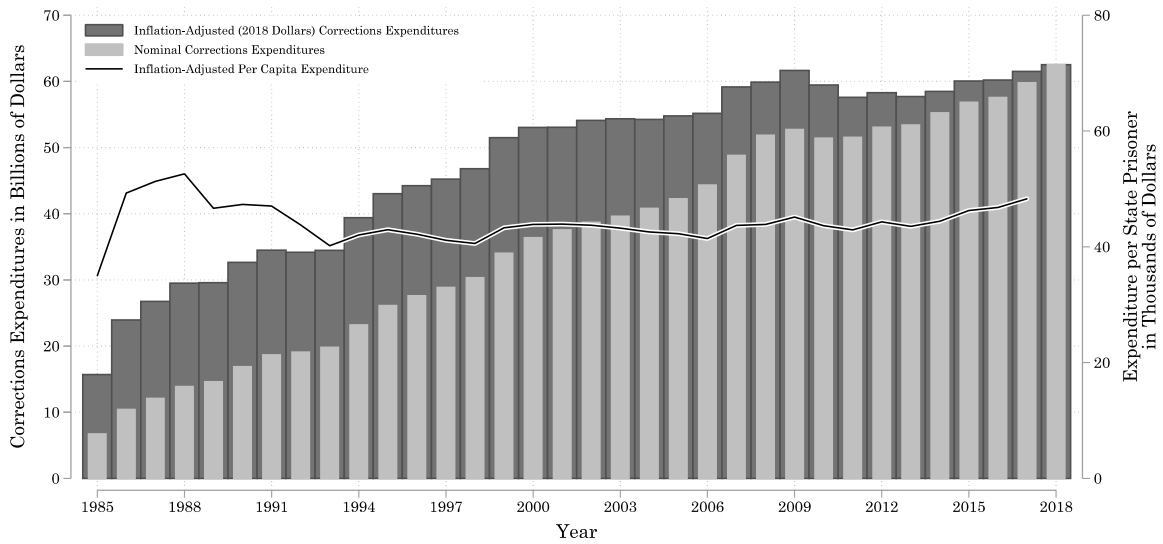
Figure 1.15: Litigation Rate for Prisoner Civil Rights Lawsuits, 1970–2017



Notes: Figure depicts lawsuit filing rates for prisoner civil rights (Nature of Suit code 550) and prison condition (Nature of Suit code 555) cases that are either original proceedings (origin code 1), removed from the state court to the district court (origin code 2), or appeals to a district judge of a magistrate judge’s decision (origin code 7). In an attempt to remove thousands of cases filed by Dale Maisano in and after 2009, we removed all cases with “Maisano” as the plaintiff during that time period.

Data sources: Lawsuits filed from Federal Judicial Center, Civil Integrated Database (IDB), <https://www.fjc.gov/research/idb>; prison incarceration data from U.S. Dep’t of Justice, Prisoners series (see notes from Figure 1.3 for detailed source list).

Figure 14.1: State Expenditures on Corrections, 1985–2018



Note: Inflation-adjusted numbers from authors’ calculations using the Consumer Price Index for all Urban Consumers. Per capita state expenditures from authors’ calculations using state prison population.

Data sources: Nominal corrections expenditures data from National Association of State Budget Officers, State Expenditure Report (1987–2018), <https://perma.cc/E34W-KZDW>; CPI data from Federal Reserve Bank of St. Louis (2019), <https://fred.stlouisfed.org/series/CPIAUCSL>; State prison population data from U.S. Dep’t of Justice, Prisoners series (see notes from Figure 1.3 for detailed source list).