

**For the Record**

# The Prison Paradox: More Incarceration Will Not Make Us Safer

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**Summary\***

Despite two decades of declining crime rates and a decade of efforts to reduce mass incarceration, some policymakers continue to call for tougher sentences and greater use of incarceration to reduce crime.<sup>1</sup> It may seem intuitive that increasing incarceration would further reduce crime: incarceration not only prevents future crimes by taking people who commit crime “out of circulation” (incapacitation), but it also may dissuade people from committing future crimes out of fear of punishment (deterrence).<sup>2</sup> In reality, however, increasing incarceration rates has a minimal impact on reducing crime and entails significant costs:

- › Increases in incarceration rates have a small impact on crime rates and each additional increase in incarceration rates has a smaller impact on crime rates than previous increases.<sup>3</sup>
- › Any crime reduction benefits of incarceration are limited

to property crime. Research consistently shows that higher incarceration rates are not associated with lower violent crime rates.<sup>4</sup>

- › Incarceration may increase crime in certain circumstances. In states with high incarceration rates and neighborhoods with concentrated incarceration, the increased use of incarceration may be associated with increased crime.<sup>5</sup>
- › Incarceration is expensive. The United States is spending heavily on jails and prisons and under-investing in less expensive, more effective ways to reduce and prevent crime.<sup>6</sup>

\* This brief uses the broad term “incarceration,” which can encompass confinement in both prisons and jails. Much of the research conducted to date, however, examines imprisonment only, and not incarceration in America’s jails.

## Why won’t more incarceration reduce crime?

### Incarceration has a marginal impact on crime

There is a very weak relationship between higher incarceration rates and lower crime rates. Although studies differ somewhat, most of the literature shows that between 1980

and 2000, each 10 percent increase in incarceration rates was associated with just a 2 to 4 percent lower crime rate.<sup>7</sup> Since then, only one empirical analysis (a study that requires corroboration) has examined the relationship between incarceration and crime.<sup>8</sup> Overall, the increased use of incarceration through the 1990s accounted for between 6 and 25 percent of the total reduction in crime rates.<sup>9</sup> Since 2000, however, the increased use of incarceration accounted for nearly zero percent of the overall reduction in crime.<sup>10</sup>

This means that somewhere between 75 and 100 percent of

**About these briefs**

Public policy—including decisions related to criminal justice and immigration—has far-reaching consequences, but too often is swayed by political rhetoric and unfounded assumptions. The Vera Institute of Justice has created a series of briefing papers to provide an accessible summary of the latest evidence concerning justice-related topics. By summarizing and synthesizing existing research, identifying landmark studies and key resources, and, in some cases, providing original analysis of data, these briefs offer a balanced and nuanced examination of some of the significant justice issues of our time.

the reduction in crime rates since the 1990s is explained by other factors. Research has shown that the aging population, increased wages, increased employment, increased graduation rates, increased consumer confidence, increased law enforcement personnel, and changes in policing strategies were associated with lower crime rates and, collectively, explain more of the overall reduction in crime rates than does incarceration.<sup>11</sup>

## **Incarceration has a diminishing impact on crime**

The relationship between higher incarceration rates and lower crime rates is weak, and is getting weaker.<sup>12</sup> Research shows that each additional increase in incarceration rates will be associated with a smaller and smaller reduction in crime rates.<sup>13</sup> This is because individuals convicted of serious or repeat offenses receive prison sentences even when overall rates of incarceration are low. To continue to increase incarceration rates requires that prisons be used for individuals convicted of lower-level or infrequent offenses as well. Thus, since the early 1990s, the crime reduction benefits of additional prison expansion have been smaller and more expensive to achieve.<sup>14</sup> This diminishing impact of incarceration also explains the lack of crime reduction benefits of higher incarceration rates through the 2000s. Increases in correctional populations when incarceration rates are already high have less impact on crime than increases in populations when incarceration rates are low.<sup>15</sup>

## **Incarceration has little to no effect on violent crime**

The weak association between higher incarceration rates and lower crime rates applies almost entirely to property crime.<sup>16</sup> Research consistently shows that higher incarceration rates are not associated with lower violent crime rates.<sup>17</sup> This is because the expansion of incarceration primarily means that larger numbers of individuals convicted of nonviolent, “marginal” offenses—drug offenses and low-level property offenses, as well as those who are convicted of “infrequent” offenses—are imprisoned.<sup>18</sup> Those convicted of violent and repeat offenses are likely to receive prison sentences regardless of the incarceration rate. Thus, increasing incarceration rates for those convicted of nonviolent, marginal offenses does nothing to impact the violent crime rate.<sup>19</sup>

## **Incarceration will increase crime in states and communities with already high incarceration rates**

Although it may seem counterintuitive, research has shown that incarceration may actually increase crime. At the state level, there may be an “inflection point” where increases in state incarceration rates are associated with higher crime rates.<sup>20</sup> This state-level phenomenon mirrors a similar occurrence in specific neighborhoods, where communities may reach an incarceration “tipping point” after which future increases in incarceration lead to higher crime rates.<sup>21</sup> The argument is that high rates of imprisonment break down the social and family bonds that guide individuals away from crime, remove adults who would otherwise nurture children, deprive communities of income, reduce future income potential, and engender a deep resentment toward the legal system; thus, as high incarceration becomes concentrated in certain neighborhoods, any potential public safety benefits are outweighed by the disruption to families and social groups that would help keep crime rates low.<sup>22</sup>

At the individual level, there is also some evidence that incarceration itself is criminogenic, meaning that spending time in jail or prison actually increases a person’s risk of engaging in crime in the future.<sup>23</sup> This may be because people learn criminal habits or develop criminal networks while incarcerated, but it may also be because of the collateral consequences that derive from even short periods of incarceration, such as loss of employment, loss of stable housing, or disruption of family ties.<sup>24</sup>

## **Incarceration is an expensive way to achieve little public safety**

The United States incarcerated 1.2 million more people in prison in 2000 than in 1975 to achieve little public safety benefit. By 2000, the incarceration rate was 270 percent higher than in 1975, but the violent crime rate was nearly identical to the rate in 1975 and the property crime rate was nearly 20 percent lower than in 1975. Put another way, the United States was spending roughly \$33 billion on incarceration in 2000 for essentially the same level of public safety it achieved in 1975 for \$7.4 billion—nearly a quarter of the cost.<sup>25</sup> But the costs of high incarceration rates go well beyond the financial costs to government. Mass incarceration also imposes significant social, cultural, and political costs on individuals, families, and communities.<sup>26</sup> Incarceration reduces employment opportunities, reduces earnings, limits

economic mobility and, perhaps more importantly, has an intergenerational impact that increases the chances that children of incarcerated parents will live in poverty and engage in delinquent behavior.<sup>27</sup>

## What can policymakers do to reduce crime without the use of incarceration?

Prior research indicates several factors associated with lower crime rates: aging population, increased wages, increased employment, increased graduation rates, increased consumer confidence, increased law enforcement personnel, and changes in policing strategies.<sup>28</sup> Policymakers have many tools at their disposal to address crime rates based on these factors in the long term. They can implement policies that require investment outside the criminal justice system to increase graduation rates, employment, income, or consumer confidence. But there are short-term solutions to reducing crime as well. Research points to several criminal justice practices that policymakers can adopt that are more effective and less expensive than incarceration at reducing crime.

### Use community crime prevention strategies

Several policing and community-engagement strategies can reduce the incidence of crime in local jurisdictions.<sup>29</sup> Place-based problem-oriented policing approaches, for example, significantly reduce crime rates; such approaches involve carefully analyzing crime and disorder in small geographic areas and addressing such problems through tailor-made solutions, such as situational crime prevention measures (repairing fences, improving lighting, erecting road barriers) and community improvements (removing graffiti, nuisance abatement).<sup>30</sup> Similarly, several jurisdictions also have renewed efforts to implement and improve community policing approaches—such as working with business owners to identify neighborhood problems, conducting citizen surveys and outreach, and improving recreational opportunities for youth—in order to engage more closely with communities to identify and solve crime problems. Evaluations show that such programs can reduce both violent and property crimes.<sup>31</sup>

To address violent crime, several jurisdictions have implemented focused deterrence strategies that 1) identify high-risk individuals who are responsible for a disproportionate

share of violent crime, 2) advise such individuals that they will be subjected to intensified enforcement if they continue to engage in violence, and 3) provide targeted individuals with access to social services. Evaluations of such programs have shown significant reductions in violent crime, including homicides and gun-related offenses.<sup>32</sup> Finally, several studies also have shown that jurisdictions working with residents to increase collective crime prevention techniques or to implement situational crime prevention techniques can reduce property crimes in targeted neighborhoods.<sup>33</sup>

### Increase the availability and use of alternative-to-incarceration programs

Several types of alternative-to-incarceration programs that offer supportive services (like mental health, substance abuse, employment, housing, Medicaid, public benefits, and community health centers) can reduce criminal activity among participants.<sup>34</sup> For example, law enforcement-led diversion programs that divert individuals at the point of arrest and prosecution-led diversion programs that divert individuals either pre-charge or defer prosecution post-charge have been shown to reduce future criminal activity of program participants.<sup>35</sup> Several meta-analyses show that participation in drug courts—specialized courts that combine drug treatment with supervision to reduce drug use and drug-related crime—can significantly reduce recidivism among participants.<sup>36</sup> Research also suggests that other specialty courts may reduce criminal activity of targeted groups. Mental health courts, for example, combine treatment-oriented and problem-solving strategies to reduce recidivism and contact with the criminal justice system among individuals with mental health issues.<sup>37</sup> Juvenile diversion programs divert youth out of traditional criminal case processing and into a variety of alternatives, including restorative justice programs, community service, substance abuse treatment, skills-building programs, or family treatment.<sup>38</sup>

### Employ community corrections approaches

Several community corrections approaches, which provide supervision and services to individuals in the community post-conviction, can reduce criminal activity among participants without the use of incarceration.<sup>39</sup> Reducing caseloads for probation officers and focusing on evidence-based practices like risk/needs assessments, separate specialized caseloads, intensive wraparound services, and comprehensive case management can significantly reduce re-arrest rates

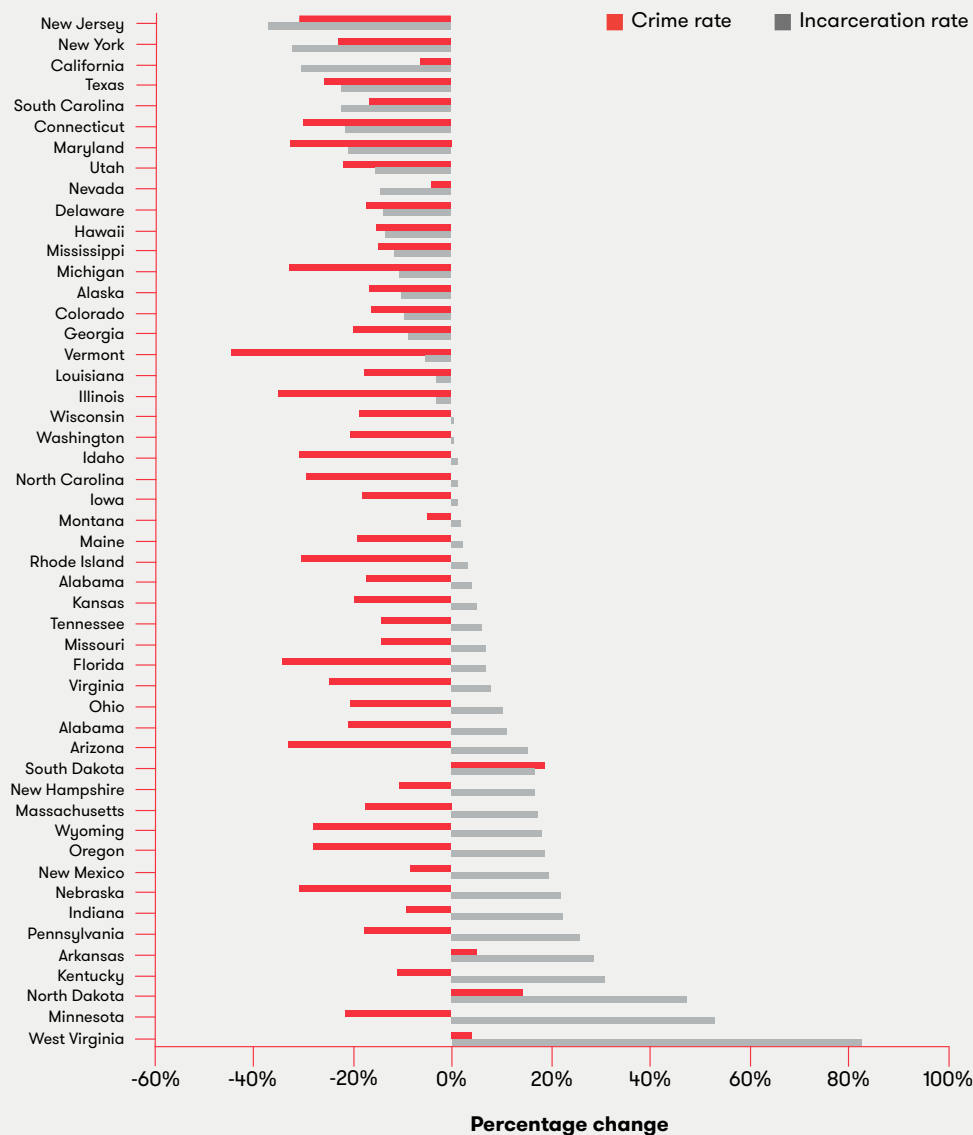
among high-risk probationers.<sup>40</sup> In addition, community supervision programs that target moderate- and high-risk adults and incorporate cognitive behavioral therapy have been shown to reduce recidivism rates among program participants.<sup>41</sup> Investment in reentry programs for those already incarcerated, such as pre-release programming and aftercare services, in-prison therapeutic communities, and transitional planning, can significantly reduce criminal activity of those released from incarceration.<sup>42</sup>

## It is possible to reduce incarceration and crime

Experiences in several states offer evidence that policy-makers can reduce crime without increasing imprisonment. In fact, 19 states reduced both imprisonment and crime rates over the last 15 years.<sup>43</sup> (See Figure 1 below.) These states represent a diverse cross-section of the United States, including large states like Texas and small states like Alaska; Northeastern states like Connecticut and Midwestern states like Michigan; Southern states like Louisiana and Western states like Hawaii. Socially liberal states like New York,

Figure 1

Percent change in state crime rates and imprisonment rates, 2000-2015.



wealthy states like Maryland, and states with low crime rates like Vermont simultaneously reduced incarceration and crime rates, but so did socially conservative states like Utah, economically distressed states like Mississippi, and states with high crime rates like Nevada.

The experiences across states also indicate that the relationship between incarceration and crime is neither predictable nor consistent. The state with the largest decrease in incarceration rates—New Jersey (with a 37 percent decrease between 2000 and 2015)—also experienced a 30 percent decrease in crime rates during the same period. The state with the largest increase in incarceration rates—West Virginia (with an 83 percent increase between 2000 and 2015)—also experienced a 4 percent increase in crime rates. Among the 10 states with the largest decreases in crime rates between 2000 and 2015, five also reduced incarceration rates.<sup>44</sup> Indeed, the state with the largest decrease in crime rates—Vermont—also reduced incarceration rates. Between 2000 and 2015, only four states—Arkansas, North Dakota, South Dakota, and West Virginia—experienced increases in crime rates, and all four also experienced increased incarceration rates.

The practices and programs adopted at the state and local levels in many of these states—community-based crime prevention, innovative policing strategies, diversion, and community corrections programs—likely explain these

disparate trends in incarceration rates and crime rates over the last 15 years. As national policymakers call for increased incarceration and many state and local policymakers feel pressure to introduce measures to keep crime rates low, officials would do well to look toward states that have reduced both incarceration and crime for examples of innovation.

## Conclusion

After 25 years of consistently declining crime rates, policymakers continue to feel pressure to introduce measures to address even small upticks in crime. This is understandable—policymakers should seek solutions to the problems of violence and embrace practices and policies that can keep crime rates low. Filling the nation's prisons is not one of them. The impact of incarceration on crime is limited and has been diminishing for several years. Increased incarceration has no effect on violent crime and may actually lead to higher crime rates when incarceration is concentrated in certain communities. Instead, policymakers can reduce crime without continuing to increase the social, cultural, and political costs of mass incarceration by investing in more effective and efficient crime reduction strategies that seek to engage the community, provide needed services to those who are criminally involved, and begin to address the underlying causes of crime.

### Resources

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**Lee, Stephanie, Steve Aos, Elizabeth Drake, Annie Pennucci, Marna Miller, and L. Anderson.** *Return on Investment: Evidence-Based Options to Improve Statewide Outcomes*. Olympia, WA: Washington State Institute for Public Policy, 2012.

**Liedka, Raymond V., Anne Morrison Piehl, and Bert Useem.** “The Crime-Control Effect of Incarceration: Does Scale Matter?” *Criminology & Public Policy* 5, no. 2 (2006), 245-76.

**National Institute of Justice.** CrimeSolutions.gov. <https://www.crimesolutions.gov>.

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sion.” In *The Crime Drop in America*, edited by A. Blumstein and J. Wallman. Cambridge: Cambridge University Press, 2000.

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**Travis, Jeremy and Bruce Western (eds.).** *The Growth of Incarceration in the United States: Exploring Causes and Consequences*. Washington, DC: The National Research Council, 2014.

**Visher, Christy, Jennifer Yahner, and Nancy La Vigne.** *Life After Prison: Tracking the Experiences of Male Prisoners Returning to Chicago, Cleveland, and Houston*. Washington, DC: The Urban Institute, 2010.

**Western, Bruce.** *Punishment and Inequality in America*. New York: Russell Sage Foundation, 2006.

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## Endnotes

- 1 The crime rate is defined as the number of crimes reported to police per 100,000 people, based on the Uniform Crime Reports produced annually by the Federal Bureau of Investigation. When analysts or the media refer to the “crime rate,” they generally mean the index crime rate, which is based on a set of seven violent and property crimes—murder and non-negligent manslaughter, forcible rape, aggravated assault, robbery, burglary, larceny-theft, and motor vehicle theft. Analysts may also use the violent crime rate (which is based only on the crimes of murder and non-negligent manslaughter, forcible rape, aggravated assault, and robbery) or the property crime rate (which is based only on the crimes of burglary, larceny-theft, and motor vehicle theft). See Federal Bureau of Investigation, “UCR Offense Definitions,” <https://perma.cc/SF7A-SM9F>. Violent and property crime rates both declined roughly 50 percent between their peak in 1992 and 2015. For crime rates through 2013, see Federal Bureau of Investigation, “Uniform Crime Reporting Statistics, State and National Estimates by Year,” <https://perma.cc/LHV6-2G3R>. For crime rates in 2014 and 2015, see Federal Bureau of Investigation, “2015 Crime in the United States,” Table 1, <https://perma.cc/BW2M-JBC6>. For a review of state sentencing and corrections reforms aimed at reducing the size of state prison populations, see Rebecca Silber, Ram Subramanian, and Maia Spotts, *Justice in Review: New Trends in State Sentencing and Corrections 2014-2015* (New York: Vera Institute of Justice, 2016), <https://perma.cc/RX3U-K9R3>; Ram Subramanian, Rebecka Moreno, and Sharyn Broomhead, *Recalibrating Justice: A Review of 2013 State Sentencing and Corrections Trends* (New York: Vera Institute of Justice, 2014), <https://perma.cc/L2D2-YUAA>; Ram Subramanian and Rebecka Moreno, *Drug War Détente? A Review of State-level Drug Law Reform, 2009-2013* (New York: Vera Institute of Justice, 2014), <https://perma.cc/N2SF-LH86>; and Christine S. Scott-Hayward, *The Fiscal Crisis in Corrections: Rethinking Policies and Practices* (New York: Vera Institute of Justice, 2009), <https://perma.cc/AMT6-6U44>. For policymaker statements on crime, see, e.g., Jeff Sessions, “Being soft on sentencing means more violent crime. It’s time to get tough again,” *Washington Post*, June 16, 2017 (arguing for the use of mandatory sentences and prison for drug offenses), <https://perma.cc/7GJA-A6ZU>; see also Rachel Weiner and Sari Horwitz, “Sessions Vows Crackdown on Drug Dealing and Gun Crime,” *Washington Post*, March 15, 2017, <https://perma.cc/Z28L-Y8TR>; Office of the Attorney General, Memorandum for All Federal Prosecutors, “Department Charging and Sentencing Policy,” May 10, 2017 (directing federal prosecutors to “charge and pursue the most serious, readily provable offense...[defined as] those that carry the most substantial guidelines sentence, including mandatory minimum sentences” and requiring prosecutors to “disclose to the sentencing court all facts that impact the sentencing guidelines or mandatory minimum sentences”), <https://www.justice.gov/opa/press-release/file/965896/download>.
- 2 For a review of research examining the incapacitative and deterrent effects of incarceration, see Jeremy Travis and Bruce Western (eds.), *The Growth of Incarceration in the United States: Exploring Causes and Consequences* (Washington, DC: The National Research Council, 2014), <https://perma.cc/D2Q6-7HEJ>.
- 3 The incarceration rate is defined as the number of sentenced persons in prison per 100,000 people. Analysts use either the national incarceration rate (the number of sentenced persons in state or federal prison per 100,000 U.S. population) or state incarceration rates (the number of sentenced persons in a particular state’s prisons per 100,000 state population). By definition, this figure does not include the nation’s jail populations. For more information about the U.S. jail population, see Bureau of Justice Statistics, “Data Collection: Annual Survey of Jails,” <https://perma.cc/D7QZ-CM46>. For the impact of increased incarceration rates on crime rates, see, generally, James Austin and Tony Fabelo, *The Diminishing Returns of Increased Incarceration: A Blueprint to Improve Public Safety and Reduce Costs* (Washington, DC: JFA Institute, 2004), <https://perma.cc/N9K7>; Jenni Gainsborough and Marc Mauer, *Diminishing Returns: Crime and Incarceration in the 1990s* (Washington, DC: The Sentencing Project, 2000), <https://perma.cc/HV5E-J4YQ>; Steven Raphael and Michael A. Stoll, *A New Approach to Reducing Incarceration While Maintaining Low Rates of Crime* (Washington, DC: The Hamilton Project, 2014), <https://perma.cc/46B2-6G4M>.
- 4 For reviews of studies examining the relationship between incarceration and crime in the 1990s, see Don Stemen, *Reconsidering Incarceration: New Directions for Reducing Crime* (New York: Vera Institute of Justice, 2007), 4 (describing studies that showed no relationship or a very weak relationship between incarceration rates and violent crime rates through the 1990s), <https://perma.cc/T8PJ-QBCD>; Oliver Roeder, Lauren-Brook Eisen, and Julia Bowling, *What Caused the Crime Decline?* (New York: Brennan Center for Justice, 2017) (analyzing incarceration rates and crime rates through 2015 and showing no relationship between incarceration rates and crime rates in the 2000s), <https://perma.cc/NL9-5Z24>.
- 5 For a review of research on the effects of incarceration at the local level, see Todd R. Clear, “The Effects of High Imprisonment Rates on Communities,” *Crime and Justice* 37, no. 1 (2008), 97-132 (describing several studies that find high incarceration rates associated with higher crime rates at the neighborhood level), <https://perma.cc/5L73-2DGT>; see also Raymond V. Liedka, Anne Morrison Piehl, and

- Bert Useem, "The Crime-Control Effect of Incarceration: Does Scale Matter?" *Criminology & Public Policy* 5, no. 2 (2006), 245-76.
- 6 John J. Donohue III, "Assessing the Relative Benefits of Incarceration: The Overall Change over the Previous Decades and the Benefits on the Margin," in *Do Prisons Make Us Safer? The Benefits and Costs of the Prison Boom*, edited by Steven Raphael and Michael Stoll (New York: Russell Sage Foundation, 2009) [arguing that "social spending" on programs such as preschool and early-childhood education, family therapy, programs for juvenile delinquents, and labor-market interventions could generate greater reductions in crime at a lower social cost than incarceration].
  - 7 See Don Stemen, *Reconsidering Incarceration* (2007); and Oliver Roeder, Lauren-Brook Eisen, and Julia Bowling, *What Caused the Crime Decline?* (2017).
  - 8 Ibid. Roeder, Eisen, and Bowling, 2017.
  - 9 William Spelman, "The Limited Importance of Prison Expansion," in *The Crime Drop in America*, edited by Alfred Blumstein and Joel Wallman (Cambridge, England: Cambridge University Press, 2000) [finding that 25 percent of the decrease in index crime rates in the 1990s was explained by higher incarceration rates]; in contrast, see Oliver Roeder, Lauren-Brook Eisen, and Julia Bowling, *What Caused the Crime Decline?* (2017), 23 [arguing that once the diminishing returns of incarceration are accounted for, only 6 percent of the decrease in property crime rates and 0 percent of the decrease in violent crime rates in the 1990s were explained by higher incarceration rates; however, the authors note that even for property crime, higher incarceration could account for anywhere from 0 to 12 percent of the decline].
  - 10 Ibid. Roeder, Eisen, and Bowling, 2017, 23 [stating that "increased incarceration accounted for less than one one-hundredth of the decline of property crime in the 2000s...[and] had no observable effect on the violent crime decline ... in the 2000s"].
  - 11 For reviews of studies examining the relationship between these factors and crime, see Don Stemen, *Reconsidering Incarceration* (2007). For a review and reanalysis of these factors see Oliver Roeder, Lauren-Brook Eisen, and Julia Bowling, *What Caused the Crime Decline?* (2017) [finding that lower unemployment rates, higher per capita income, higher consumer confidence, lower alcohol consumption, aging population, and the introduction of COMPSTAT were associated with lower crime rates]. For the results of specific studies, see, e.g., Hope Corman and H. Naci Mocan, "A Time-Series Analysis of Crime, Deterrence, and Drug Abuse in New York City," *American Economic Review* 90, no. 3 (2000), 584-604 [finding a significant effect of increased numbers of law enforcement officers on lower burglary and robbery rates]; Steven D. Levitt, "Using Electoral Cycles in Police Hiring to Estimate the Effect of Police on Crime: Reply," *American Economic Review* 92, no. 4 (2002), 1244-50 [finding a significant effect of increased numbers of law enforcement officers on property and violent crime rates], <https://perma.cc/XZ87-5849>; Steven Raphael and Rudolf Winter-Ebmer, "Identifying the Effect of Unemployment on Crime," *Journal of Law and Economics* 44, no. 1 (2001), 259-83 [finding that higher unemployment rates were associated with higher property crime rates and that higher per capita income was associated with lower violent crime rates]; Steven D. Levitt, "Alternative Strategies for Identifying the Link between Unemployment and Crime," *Journal of Quantitative Criminology* 17, no. 4 (2001), 377-90 [finding that higher unemployment rates were associated with higher property crime rates]; Raymond V. Liedka, Anne Morrison Piehl, and Bert Useem, "The Crime-Control Effect of Incarceration" (2006) [finding that higher per capita income was associated with lower crime rates]; Richard Rosenfeld and Robert Fornango, "The Impact of Economic Conditions on Robbery and Property Crime: The Role of Consumer Sentiment," *Criminology* 45, no. 4 (2007), 735-69 [finding that increased consumer confidence was associated with lower rates of robbery, burglary, larceny, and motor vehicle theft rates]; Sara Markowitz, *An Economic Analysis of Alcohol, Drugs, and Violent Crime in the National Crime Victimization Survey* (Cambridge, MA: National Bureau of Economic Research, 2000) [finding that increases in the number of alcohol distribution outlets is associated with increased probability of assault], <https://perma.cc/4XUB-L3A4>; Lance Lochner and Enrico Moretti, "The Effect of Education on Crime: Evidence from Prison Inmates, Arrests, and Self-Reports," *American Economic Review* 94, no. 1 (2004), 155-89 [finding that increases in individuals' education levels are associated with lower crime rates].
  - 12 This is generally referred to as the "diminishing marginal returns" of incarceration. See, e.g., James F. Austin and Tony Fabelo, *The Diminishing Returns of Increased Incarceration* (2004); Jenni Gainsborough and Marc Mauer, *Diminishing Returns* (2000); Steven Raphael and Michael Stoll, *A New Approach to Reducing Incarceration* (2004); Franklin Zimring and Gordon Hawkins, *Crime Is Not the Problem: Lethal Violence in America* (Oxford, England: Oxford University Press, 1997).
  - 13 See, e.g., Oliver Roeder, Lauren-Brook Eisen, and Julia Bowling, *What Caused the Crime Decline?* (2017), 18-19 [the authors look across states and demonstrate the diminishing marginal returns of increases in incarceration over time]; see also Steven D. Levitt, "Understanding Why Crime Fell in the 1990s: Four Factors that Explain the Decline and Six that Do Not," *Journal of Economic Perspectives* 18, no. 1 (2004), 163-90; Ilyana Kuziemko and Steven D. Levitt, "An Empirical Analysis of Imprisoning Drug Offenders,"

- Journal of Public Economics* 88, no. 9-10 (2004), 2043-66; Raymond V. Liedka, Anne Morrison Piehl, and Bert Useem, "The Crime-Control Effect of Incarceration" (2006); Anne Morrison Piehl and John J. Dilulio, "'Does Prison Pay?' Revisited" *The Brookings Review* 13, no. 1 (1995) (findings indicate that when those convicted of drug offenses are included in calculations, continued prison expansion is not cost effective); Tomislav V. Kovandzic and Lynne M. Vieraitis, "The Effect of County-Level Prison Population Growth on Crime Rates," *Criminology & Public Policy* 5, no. 2 (2006), 213-44; Washington State Institute for Public Policy, *The Criminal Justice System in Washington State: Incarceration Rates, Taxpayer Costs, Crime Rates, and Prison Economics* (Olympia, WA: Washington State Institute for Public Policy, 2003) <https://perma.cc/WP6A-XN3J>; William Spelman, "Jobs or Jails? The Crime Drop in Texas," *Journal of Policy Analysis and Management* 24, no. 1 (2005), 133-65.
- 14 Washington State Institute for Public Policy, *The Criminal Justice System in Washington State* (2003). Washington State, for example, concluded that while more incarceration had led to less crime in the state in the 1990s, the benefits of additional prison expansion would be smaller and more expensive to achieve. Specifically, the state concluded that an increase in the incarceration rate in 2003 prevented considerably fewer crimes than did previous similar size increases in the state's prison population. The state further concluded that while incarcerating individuals convicted of violent and high-volume property offenses continued to generate more benefits than costs, each additional person incarcerated for these crimes would result in fewer prevented crimes than previous persons. Washington even found that increasing the incarceration rate for people convicted of drug offenses in the 1990s actually cost more than the average value of the crimes prevented by their imprisonment and was, thus, no longer cost-effective.
- 15 Raymond V. Liedka, Anne Morrison Piehl, and Bert Useem, *The Crime-Control Effect of Incarceration* (2006) (finding that increases in prison populations in states with already large prison populations have less impact on crime than increases in states with smaller prison populations; states experience "accelerating declining marginal returns"—meaning that the percent reduction in crime gets ever smaller with larger prison populations. The authors concluded that increases in incarceration rates are associated with lower crime rates at low levels of imprisonment, but the size of that association shrinks as incarceration rates get bigger).
- 16 See, e.g., Oliver Roeder, Lauren-Brook Eisen, and Julia Bowling, *What Caused the Crime Decline?* (2017) (re-analyzing data from previous studies and analyzing data from 2000 to 2015; finding either no relationship between incarceration rates and violent crime rates or a very small relationship).
- 17 See, e.g., Thomas B. Marvell and Carlisle E. Moody, "Prison Population Growth and Crime Reduction," *Journal of Quantitative Criminology* 10, no. 2 (1994), 109-40 (finding that higher incarceration rates were generally related to lower index crime rates but had little or no impact on murder, rape, or assault); Steven D. Levitt, "Alternative Strategies for Identifying the Link between Unemployment and Crime" (2001) (finding a very modest association between incarceration rates and property crime rates but no association between incarceration rates and violent crime rates); Robert H. DeFina and Thomas M. Arvanites, "The Weak Effect of Imprisonment on Crime: 1971-1998," *Social Science Quarterly* 83, no. 3 (2002), 635-53 (finding that higher incarceration rates were associated with lower crime rates for burglary, larceny, and motor vehicle theft, but not for murder, rape, assault, or robbery), [http://www.antonioacasella.eu/nume/DeFina\\_Arvanites\\_2002.pdf](http://www.antonioacasella.eu/nume/DeFina_Arvanites_2002.pdf); Tomislav V. Kovandzic and Lynne M. Vieraitis, "The Effect of County-Level Prison Population Growth on Crime Rates" (2006) (finding no association between incarceration rates and crime rates); Oliver Roeder, Lauren-Brook Eisen, and Julia Bowling, *What Caused the Crime Decline?* (2017).
- 18 See, e.g., Franklin Zimring and Gordon Hawkins, *Crime Is Not the Problem* (1997). Zimring and Hawkins argue that by the late 1980s U.S. prisons already housed those convicted of the most serious, violent offenses and did not need to expand to get more such individuals off of the streets; the prison expansion since the 1980s resulted in nothing more than the imprisonment of large numbers of people convicted of nonviolent, "marginal" offenses. Thus, the authors argue that increasing incarceration rates does nothing to impact the crime rate since those convicted of the most serious offenses were already incarcerated.
- 19 Ibid.
- 20 Raymond V. Liedka, Anne Morrison Piehl, and Bert Useem, "The Crime-Control Effect of Incarceration" (2006). Liedka, Piehl, and Useem argue that there is an "inflection point" where increases in incarceration rates are associated with higher crime rates. According to the authors, this inflection point occurs when a state's incarceration rate reaches some point between 325 and 429 inmates per 100,000 people. In other words, states with incarceration rates above this range can expect to experience higher crime rates with future increases in incarceration rates.
- 21 For a theoretical discussion of this phenomenon, see Dina R. Rose and Todd R. Clear, "Incarceration, Social Capital, and Crime: Implications for Social Disorganization Theory," *Criminology* 36, no. 3 (1998), 441-80. For empirical studies confirming an association between higher incarceration rates and higher crime rates, see, e.g., Todd R. Clear et al., "Coercive Mobility and Crime:



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- 22 See generally Todd R. Clear, “The Effects of High Imprisonment Rates on Communities” (2008).
- 23 See, e.g., José Cid, “Is Imprisonment Criminogenic? A Comparative Study of Recidivism Rates between Prison and Suspended Prison Sanctions,” *European Journal of Criminology* 6, no. 6 (2009), 459-80 (finding that individuals given suspended sentences had a lower risk of reconviction than those given custodial sentences); Cassia Spohn and David Holleran, “The Effect of Imprisonment on Recidivism Rates of Felony Offenders: A Focus on Drug Offenders,” *Criminology* 40, no. 2 (2002), 329-58 (finding that individuals sentenced to prison had higher recidivism rates and recidivated more quickly than individuals sentenced to probation); Lynne M. Vieraitis, Tomislav V. Kovandzic, and Thomas B. Marvell, “The Criminogenic Effects of Imprisonment: Evidence from State Panel Data, 1974-2002,” *Criminology & Public Policy* 6, no. 3 (2007), 589-622 (finding that increased prison releases are associated with higher crime rates and arguing that this is due to the criminogenic effects of prison). Some research suggests that even short terms of incarceration in jail can increase an individual’s likelihood of engaging in future criminal activity. See, e.g., Paul S. Heaton, Sandra G. Mayson, and Megan Stevenson, “The Downstream Consequences of Misdemeanor Pretrial Detention,” *Stanford Law Review* 69, no. 3 (2017), 711-96 (finding those individuals detained pretrial were more likely than individuals not detained to commit future crime, suggesting that detention may have a criminogenic effect); Arpit Gupta, Christopher Hansman, and Ethan Frenchman, “The Heavy Costs of High Bail: Evidence from Judge Randomization,” *Journal of Legal Studies* 45, no. 2 (2016), 471-505 (finding that pretrial detention increases the likelihood of recidivism); and Christopher T. Lowenkamp, Marie VanNostrand, and Alexander Holsinger, *The Hidden Costs of Pretrial Detention* (New York: Laura and John Arnold Foundation, 2013) (finding that pretrial detention increases the likelihood of future criminal activity for low- and moderate-risk individuals), <https://perma.cc/PP44-T5CN>.
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- 26 See, e.g., The Pew Charitable Trusts, *Collateral Costs: Incarceration’s Effect on Economic Mobility* (Washington, DC: Pew Charitable Trusts, 2010), <https://perma.cc/XHL8-KHVA>
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- 28 For reviews of studies examining the relationship between these factors and crime, see Don Stemen, *Reconsidering Incarceration* (2007); and Oliver Roeder, Lauren-Brook Eisen, and Julia Bowling, *What Caused the Crime Decline?* (2017).
- 29 For a list of community crime prevention programs that have been evaluated and reviewed to be effective, see National Institute of Justice, Office of Justice Programs, *CrimeSolutions.gov*, <https://www.crimesolutions.gov>.
- 30 Such approaches fall under the general category of “hot spots” or place-based policing. However, place-based policing can involve either traditional policing strategies, such as increased patrols and aggressive enforcement, or problem-oriented policing approaches, which involve efforts by police to address the underlying causes of crime in targeted areas by relying on non-traditional problem-solving policing strategies. Research indicates that place-based problem-oriented approaches are much more effective than place-based traditional policing approaches. For a meta-analysis of 10 hot spot policing programs, see, Anthony A. Braga, Andrew V. Papachristos, and David M. Hureau, “The Effects of Hot Spots Policing on Crime: An Updated Systematic Review and Meta-Analysis,” *Justice Quarterly* 31, no. 4 (2014), 633-63. Braga et al., found that problem-oriented policing approaches (police-led efforts to change the underlying conditions at hot spots that lead

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- 31 See, e.g., Nicholas Corsaro et al., "The Impact of Drug Market Pulling Levers Policing on Neighborhood Violence: An Evaluation of the High Point Drug Market Intervention," *Criminology & Public Policy* 11, no. 2 (2012), 167-99 (finding that a community policing approach to address open air drug markets in High Point, North Carolina reduced violent incidents in target areas; although violent crime decreased in the target areas, it increased city-wide, suggesting limitations with the approach).
- 32 See, e.g., Nicholas Corsaro and Robin S. Engel, "Most Challenging of Contexts," *Criminology & Public Policy* 14, no. 3 (2015), 471-505 (finding that a focused deterrence program in New Orleans that identified high-risk individuals and targeted them for enforcement and services reduced violent crime rates).
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- 34 For a list of diversion programs that have been evaluated and reviewed to be effective, see National Institute of Justice, Office of Justice Programs, [CrimeSolutions.gov](http://CrimeSolutions.gov).
- 35 For an analysis of one law enforcement-led diversion program, see, e.g., Susan E. Collins, Heather S. Lonczak, and Seema L. Clifasefi, *LEAD Program Evaluation: Recidivism Report* (Seattle, WA: University of Washington, 2015), (finding that Seattle's law enforcement-led diversion program (LEAD) reduced both short-term and long-term recidivism among participants) <https://perma.cc/RH4U-VLD4>. The LEAD program in Seattle was established in 2011 to divert individuals suspected of low-level drug and prostitution offenses at arrest into case management and supportive services instead of jail and prosecution. For a description of other law enforcement-led diversion programs, see Center for Health and Justice at TASC, *No Entry: A National Survey of Criminal Justice Diversion Programs and Initiatives* (Chicago: Center for Health and Justice at TASC, 2013), <https://perma.cc/XV5U-VAG2>. For more on prosecutor-led diversion programs, see, e.g., Kit R. Van Stelle, Janae Goodrich, and Stephanie Kroll, *Treatment Alternatives and Diversion (TAD) Program: Participant Outcome Evaluation and Cost-Benefit Report (2007-2013)* (Madison, WI: University of Wisconsin Population Health Institute, 2014), 11, (finding that participation in prosecutorial diversion reduced recidivism rates among program participants) <https://perma.cc/7FNS-8738>; Paul Dynia and Hung-En Sung, "The Safety and Effectiveness of Diverting Felony Drug Offenders to Residential Treatment as Measured by Recidivism," *Criminal Justice Policy Review* 11, no. 4 (2000), 299-311 (finding lower recidivism rates among Drug Treatment Alternative-to-Prison (DTAP) program participants); and Steven Belenko et al., "Recidivism Among High-Risk Drug Felons: A Longitudinal Analysis Following Residential Treatment," *Journal of Offender Rehabilitation* 40, no. 1/2 (2004), 105-32 (finding that participants in DTAP had lower recidivism rates and delayed time to recidivism). Although few evaluations of either prosecutorial diversion or deferral programs exist, such programs are promising alternatives to traditional prosecution. For a description of other prosecution-led diversion programs, see Center for Health and Justice at TASC, *No Entry* (2013).
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- and *Benefit-Cost Findings* (Olympia, WA: Washington State Institute for Public Policy, 2012) (reviewing 55 studies and finding lower recidivism rates among drug court participants compared to individuals not in drug court), <https://perma.cc/LT5N-97GM>; Eric L. Sevigny, Brian K. Fuleihan, and Frank V. Ferdik, “Do Drug Courts Reduce the Use of Incarceration?: A Meta-Analysis,” *Journal of Criminal Justice* 41, no. 6 (2013), 416-25 (reviewing 11 studies and finding lower odds of reincarceration among drug court participants compared to individuals not in drug court); Ojmarrh Mitchell et al., *Drug Courts’ Effects on Criminal Offending for Juveniles and Adults* (Oslo, Norway: The Campbell Collaboration, 2012) (reviewing 92 studies of adult drug courts and finding lower recidivism rates among drug court participants compared to individuals not in drug court), <https://perma.cc/7X8R-J75K>; Shelli B. Rossman et al., *The Multi-Site Adult Drug Court Evaluation: The Impact of Drug Courts, Volume 4* (Washington, DC: U.S. Dept. of Justice, 2011) (finding that drug courts reduced self-reported engagement in criminal activity but did not significantly reduce re-arrest), <https://www.ncjrs.gov/pdffiles1/nij/grants/237112.pdf>. Some, however, have raised a note of caution about over-reliance on drug courts, citing methodological problems in drug court evaluations, eligibility requirements that may bias outcomes, and lack of scalability to accommodate large numbers of participants. See, e.g., Drug Policy Alliance, *Drug Courts Are Not the Answer: Toward a Health-Centered Approach to Drug Use* (Washington, DC: Drug Policy Alliance, 2011), <https://perma.cc/P5UH-TC56>.
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- 39 For a list of community corrections programs that have been evaluated and reviewed to be effective, see National Institute of Justice, Office of Justice Programs, [CrimeSolutions.gov](http://CrimeSolutions.gov).
- 40 See, e.g., Sarah Kuck Jalbert et al., *A Multisite Evaluation of Reduced Probation Caseload Size in an Evidence-Based Practice Setting* (Cambridge, MA: Abt Associates, Inc., 2011) (evaluating programs in Iowa and Oklahoma and finding that reduced caseloads, when combined with other evidence-based supervision practices, can lead to improved recidivism outcomes), <https://www.ncjrs.gov/pdffiles1/nij/grants/234596.pdf>. For a list of such evidence-based practices, see *ibid.* at 21.
- 41 Stephanie Lee et al., *Return on Investment* (2012) (reviewing 32 studies and finding that moderate- and high-risk adults under supervision who received cognitive behavioral therapy were significantly less likely to commit crime, compared with those who did not receive cognitive behavioral therapy); and Washington State Institute for Public Policy, *Cognitive Behavioral Therapy (high and moderate risk adult offenders)* (Olympia, WA: Washington State Institute for Public Policy, 2012), <https://perma.cc/7DB3-KPK8>.
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planning, and post-release services reduced re-arrest rates for participants).

43 For crime rates through 2013, see Federal Bureau of Investigation, “Uniform Crime Reporting Statistics, State and national estimates by year.” For crime rates in 2014 and 2015, see Federal Bureau of Investigation, “2015 Crime in the United States,” Table 1. For state incarceration rates in 2000, see Allen J. Beck and Paige M. Harrison, *Prisoners in 2000* (Washington, DC: Bureau of Justice Statistics, 2001), Table 3, <https://perma.cc/Y4BA-GEK2>; for state incarceration rates in 2015, see E. Ann Carson and Elizabeth Anderson, *Prisoners in 2015* (Washington, DC: Bureau of Justice Statistics, 2016), Table 6, <https://perma.cc/K4ZV-9YTB>.

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