

CHAPTER 1

The Emergence of Mass Incarceration

Between 1970 and the present, a form of American exceptionalism has emerged that stands in stark contrast to the conventional sense of this phrase. Alexis de Tocqueville described an American exceptionalism based on the egalitarian nature of the American political system and the public institutions that ensure political competition and that balance and check the powers of each branch of government, whereas the exceptionalism that is the subject of this book lies in the large and unprecedented expansion of the police power of the state. This exceptionalism suppresses the liberty of literally millions of adult Americans, mostly minority men, in exchange for enhanced public safety and the satisfaction of public demands for just deserts. This new exceptionalism has been driven largely by reactive policy changes induced in large part by political competition rather than deliberative and measured policy-making regarding crime control and corrections. This exceptionalism has a disproportionate impact on the poorest segments of society, in terms of both costs and benefits.

The United States currently incarcerates people in the nation's state and federal prisons and local jails at a rate higher than any other country in the world. This incarcerated population is relatively fluid, with hundreds of thousands being released each year as similar numbers are admitted, though the stock of inmates serving very long sentences has increased steadily. Since nearly all people who are admitted to prison are eventually released, the high

U.S. incarceration rate has left in its wake a large population of former prisoners residing among the non-institutionalized population.

The large increases in the U.S. incarceration rate have certainly had a great impact on the social welfare of many U.S. residents along multiple dimensions. On the positive side, today's crime rates are appreciably lower than in the past, owing in some part to the higher incarceration rate. Crime rates have declined for all serious felony crimes, with pronounced decreases in the most serious violent offenses. Moreover, victimization rates have declined the most among low-income households and in the poorest neighborhoods of the nation's cities. To the extent that the prison boom of recent decades is responsible for these crime trends, one can argue that the increasing prison and jail populations have generated a tangible and progressively distributed benefit.

However, incarcerating so many people also generates a number of direct as well as indirect social costs. Perhaps the most visible costs are direct corrections expenditures. Surely there are many competing priorities (for example, public education or tax relief) that are to some degree displaced by corrections expenditures. Moreover, in light of the severe contraction in state and local government revenues caused by the Great Recession of 2007 to 2009, state governments across the country are keenly aware of the fiscal impacts of corrections spending and are exploring alternatives to incarceration in an attempt to save money while not compromising public safety.

Less obvious are the collateral consequences of incarceration for former inmates, their families, and the communities from which they come. A sizable fraction of men have prior prison time on their increasingly publicly available criminal history records, a fact that is likely to harm their employment prospects (Western 2002; Holzer, Raphael, and Stoll 2006; Raphael 2011). Additional consequences suggested by recent research include an erosion of family stability among high-offending demographic groups (Wildeman 2009; Johnson 2009; Wakefield and Wildeman 2012), the legal disenfranchisement of current and former inmates in a number of states (Uggen et al. 2006), and the acceleration of the transmission of communicable diseases such as AIDS among inmates and their non-incarcerated intimates (Johnson and Raphael 2009). Moreover, each of these collateral consequences of incarceration has a disproportionate impact on minority communities, perpetuating and most likely exacerbating racial inequality in the United States. The racially disparate nature of the rise in U.S. incarceration rates has led to what the legal scholar Michelle Alexander (2010) characterizes as a new, redesigned racial

caste system akin to the pre–civil rights era Jim Crow laws that governed all manner of interracial interactions and that subjugated African Americans in the U.S. South.

Less well studied are the effects of the extreme geographic concentration of former prison inmates in communities that disproportionately send people to prison. We might hypothesize that the children in such communities have distorted expectations about their own futures and change their behavior accordingly. For example, the perceived benefits from joining a gang may be enhanced by the expectation that one will eventually do time. Similarly, the perceived benefits from formal education may be diminished by such an expectation. Moreover, the connections between criminal gangs on the street and prison gangs may be strengthened by the large inflows and outflows between specific sending communities and state prisons. Again, such factors have a disproportionate impact on minority, and in particular African American, communities given the racial composition of the U.S. prison population and the persistent racial residential segregation of U.S. metropolitan areas.

Why are so many Americans in prison? What do we gain from incarcerating millions of people? What are the fiscal and social costs of incarceration, and how are they distributed among different segments of the American public? Answering these questions is the central aim of this book.

HOW MANY, WHO, AND HOW MUCH DOES IT COST?

U.S. corrections policy is best characterized as fifty largely independent state correctional systems and a system of federal prisons. Each state has its own criminal code, violations of which are adjudicated in county and state courts. Those individuals awaiting trial who are denied or cannot make bail are held in local jails, as are those who have been arrested and are awaiting arraignment. Those found guilty and sentenced to serve time are sent to either local county jails (usually for misdemeanor and felony sentences of less than one year) or state prison (for felony offenders sentenced to a year or more). The federal prison system houses those who have violated federal law and been tried, convicted, and sentenced to prison in federal court.

Once an individual enters a state prison system, the nature of the actual institution where the inmate will be housed can vary considerably. Those with relatively short sentences and little history of violence or escape may be housed in unfenced work camps where inmates have a fairly high degree of liberty. Inmates facing long sentences or those deemed at high risk for escape

or misconduct are housed in more secure facilities, often enclosed by electrified fences and monitored by armed correctional officers. Housing conditions in these more secure facilities vary from dorm housing with frequent and regular access to common prison yards to celled housing with very little time outside one's cell.

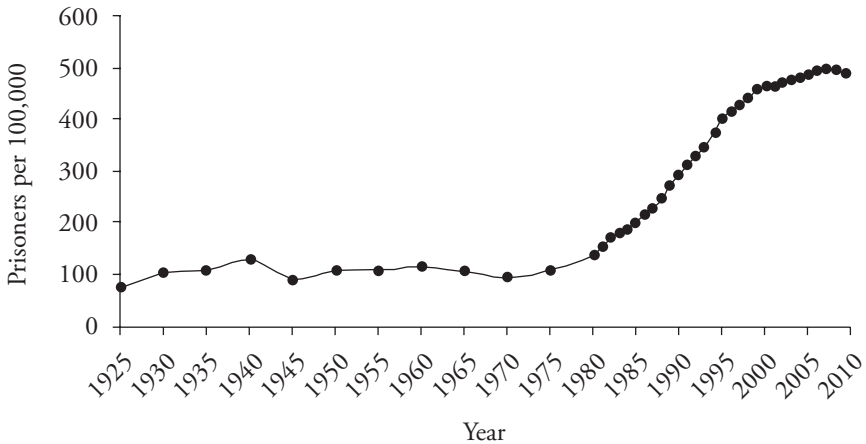
The size of a state's prison population is governed largely by sentencing policy and state crime rates. With fifty state criminal codes, differential levels of discretion afforded to local and state judges in sentencing criminal offenders, cross-state variation in parole policies, and cross-state differences in underlying crime rates, it is difficult to describe a uniform U.S. system of corrections. Nonetheless, trends in sentencing and parole reforms have been similar in all states to varying degrees in the last few decades, and all states have consequently experienced great increases in their state incarceration rates. These state changes in incarceration rates have combined with changes to federal sentencing to increase the nation's overall incarceration rate.

How Large Is the Incarcerated Population?

At year-end 2009, approximately 2.3 million people were incarcerated in U.S. prisons and jails. Roughly 1.52 million of these individuals were held in either the federal prison system or one of the state prison systems, while 760,000 were held in local jails. The population under the jurisdiction of either a state or the federal prison system was somewhat larger (1.61 million). The 90,000 inmates under state or federal jurisdiction who were not in prison were often being held in local jails, sometimes for court proceedings or in transit between institutions, but often owing to overcrowding in state prisons.

For purposes of comparison over time or across states or nations, the raw number of prison and jail inmates is not particularly informative, since more populous regions will have larger prison populations as a result of size alone. For example, at year-end 2009 the California prison population (171,275) was nearly five times that for Alabama (31,874), despite the fact that the proportion of residents incarcerated in Alabama was nearly one and a half times that for California. Hence, throughout this book, in characterizing the size of incarcerated populations, we present either incarceration rates expressed as the number of inmates per 100,000 residents or the proportion of specific populations that are incarcerated at a given point in time. This effectively adjusts for population growth in overtime comparisons and for differences in population size for cross-area comparisons.

Figure 1.1 State and Federal Prison Inmates per 100,000 U.S. Residents, 1925 to 2009

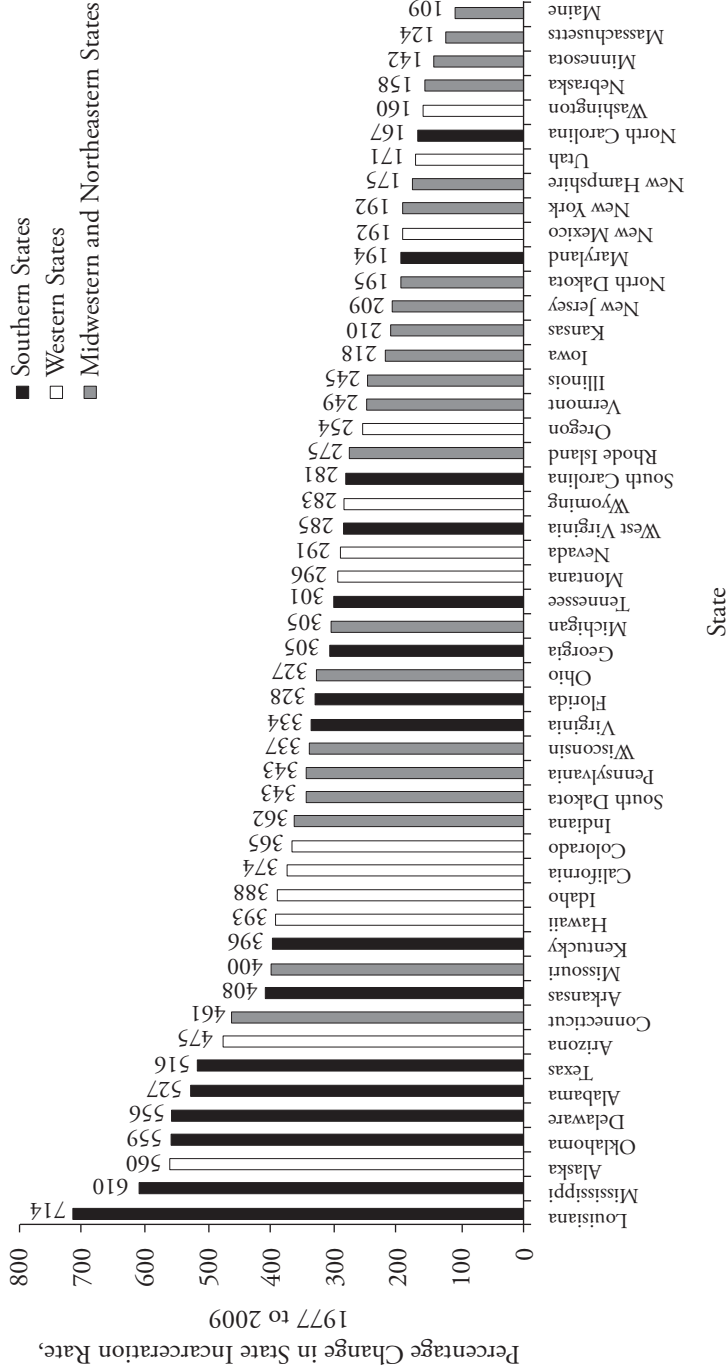


Source: Authors' compilation based on Bureau of Justice Statistics, *National Prisoner Statistics* (various years).

Figures 1.1 to 1.3 display long-term trends in U.S. prison and jail incarceration rates.¹ For prison incarceration rates, we are fortunate to have data covering the relatively long period from 1925 through 2009. The prison incarceration rate exhibited remarkable stability for the first fifty or so years (figure 1.1). Between 1925 and 1940, we observe the tail end of an earlier incarceration boom, associated largely with Prohibition and a greater propensity to police and punish public-order crimes, such as drug abuse and prostitution.² From 1940 through 1975, however, the nation's prison incarceration rate stabilized between 100 and 110 per 100,000 residents. After 1975, the prison incarceration rate increased nearly fivefold, peaking at 503 per 100,000 in 2007 and then declining slightly to a rate of 497 by 2009. In 2009 federal prisons contributed about 67 inmates per 100,000 U.S. residents, while the state prisons contributed the remainder.

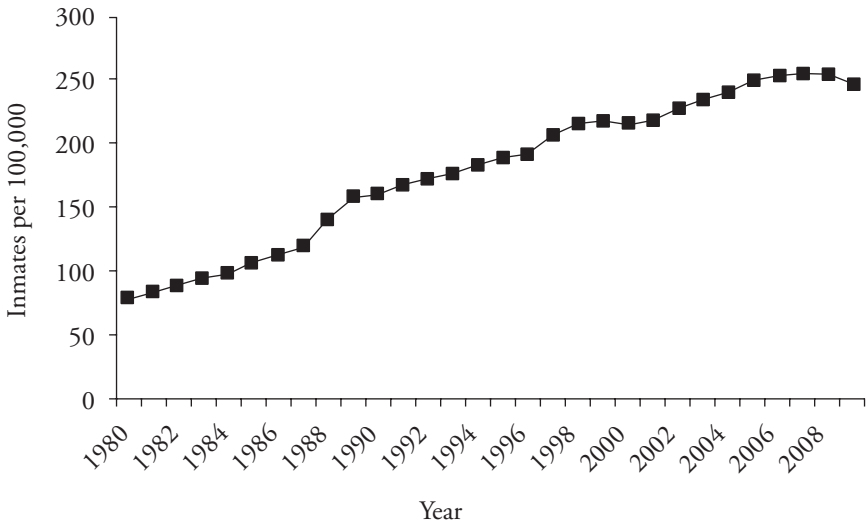
Given the independence of state criminal justice systems, we would expect the incarceration trends for individual states to vary greatly, and indeed they do. Figure 1.2 presents the change in prison incarceration rates between 1977 and 2009 by state. The figure ranks states in descending order by the change in the state rate, with Southern states shaded in black, Western states shaded in white, and Midwestern and Northeastern states shaded in gray. The average

Figure 1.2 Change in Prison Populations per 100,000 U.S. Residents from 1977 to 2009, by State



Source: Authors' compilation based on Bureau of Justice Statistics, *National Prisoner Statistics* (various years).

Figure 1.3 Inmates in County Jails per 100,000 U.S. Residents, 1980 to 2009



Source: Authors' compilation based on Bureau of Justice Statistics, *Annual Survey of Jails* (various years).

increase across all states over this twenty-two-year period is 316 inmates per 100,000 U.S. residents. However, there is great variation around this average. In general, Southern states and states in the Southwest experienced the largest increases in prison growth, while states in the Northeast and the Midwest experienced the smallest increases. Nonetheless, all states registered marked increases in the relative sizes of their prison populations. In the federal prison system, there were approximately 15 federal prisoners per 100,000 U.S. residents in 1977. By 2009, this figure had increased by four and a half times over, to 68 per 100,000 residents.

Figure 1.3 presents comparable information for incarceration in the nation's jails. For the total jail population, we have data only for the post-1980 period. Not surprisingly, the increase in the nation's prison incarceration rate corresponds to a threefold increase in the nation's jail incarceration rate (from 80 per 100,000 in 1980 to 247 per 100,000 in 2009). This reflects in part an increase in the number of individuals held in local jails while their cases were being adjudicated as well as an increase in the number of convicted individuals serving their sentences in jail.

With the number of prison and jail inmates combined, the United States currently incarcerates 743 individuals per 100,000 residents. How does this compare to other nations? Fortunately, the International Centre for Prison Studies at the University of Essex regularly collects and disseminates international incarceration statistics, permitting us to compare the United States to the rest of the world. Table 1.1 displays total incarceration rates (prisons plus jails) for various groups of countries. The United States is first among the five countries with the highest incarceration rates in the world, followed by the central African nation of Rwanda, Russia, the Republic of Georgia, and the Virgin Islands. The U.S. incarceration rate is several times larger than those of our North American neighbors (6.4 times that of Canada and 3.7 times that of Mexico). Incarceration rates among the fifteen original members of the European Union range from 59 to 159 per 100,000; these rates are roughly comparable to U.S. incarceration rates prior to 1980. The bottom of the table presents selected percentiles of the distribution of incarceration rates for all nations of the world. The figures indicate that half of all nations have an incarceration rate of 133 per 100,000 or less; that 75 percent of nations have incarceration rates of 225 per 100,000 or less; and that 90 percent of all nations have incarceration rates of 343 per 100,000 or less. The U.S. incarceration rate is more than double the incarceration rate for the nation at the ninetieth percentile of the global distribution of incarceration rates.

Thus, the U.S. incarceration rate is exceptionally high. The nation's incarceration rate is many times what it was in years past, especially when compared to levels in the pre-1980 period. Moreover, the nation's incarceration rate is high relative to other nations of the world, especially when compared with high-income countries in Western Europe and elsewhere.

Who Does Time in the United States?

Those who serve time are far from a representative cross-section of the U.S. adult public. In general, the majority of prison and jail inmates are men, racial and ethnic minorities, and those with very low levels of educational attainment. Consequently, the probability of doing time as well as the probability of having served a prison term varies considerably across demographic subgroups. We can employ data from the U.S. census as well as data from surveys of jail and prison inmates to characterize the incarcerated population and assess the scope of incarceration among specific subpopulations.

Table 1.2 presents our tabulations from the nationally representative Sur-

Table 1.1 International Comparison of Incarceration Rates Inclusive of Pretrial Detentions and Jail, 2008 to 2011

	Total Incarceration Rate (per 100,000)	Year
Top five countries		
United States	743	2009
Rwanda	595	2010
Russian Federation	568	2011
Republic of Georgia	547	2011
Virgin Islands	539	2011
Other North American		
Canada	117	2008
Mexico	200	2010
Original fifteen members of the European Union		
Austria	104	2011
Belgium	97	2010
Denmark	74	2011
Finland	59	2011
France	102	2011
Germany	85	2010
Greece	101	2010
Ireland	99	2011
Italy	111	2011
Luxembourg	139	2010
Netherlands	94	2010
Portugal	116	2011
Spain	159	2011
Sweden	78	2010
United Kingdom	152	2011
Percentiles of distribution across all countries		
Twenty-fifth	77	—
Fiftieth	133	—
Seventy-fifth	225	—
Ninetieth	343	—
Ninety-fifth	423	—

Source: Authors' compilation based on International Centre for Prison Studies (n.d.)

vey of Inmates in State and Federal Corrections Facilities (SISFCF) for 2004 (the most recent year from this survey series). The table presents average characteristics for state and federal prison inmates for basic demographic and educational attainment outcomes, criminal history, and health and mental health characteristics, as well as characteristics of the conviction offense resulting in their admission to prison. Although the majority of inmates are in one of the fifty state prison systems (90.4 percent), the federal prison system is quite large: in 2008 the number of federal prisoners (roughly 208,000) exceeded the prison populations of the largest states.

The table reveals several stark patterns. First, the prison population in 2004 was overwhelmingly male (93 percent of inmates in both the state and federal systems were male), a pattern that describes U.S. prison populations throughout most of the twentieth century. Educational attainment prior to prison admission was quite low. Among state prison inmates, fully two-thirds had less than a high school education prior to admission on the current prison term. Among federal inmates, 56 percent had less than a high school degree. By comparison, 19 percent of the adult resident population of the United States had less than a high school degree.³

Racial and ethnic minorities are heavily overrepresented among the incarcerated. In 2004 approximately one-fifth of state prison inmates were Hispanic, as were one-quarter of federal prisoners. Slightly less than half of both state and federal prisoners were African American. By comparison, blacks and Hispanics constituted 11 and 13 percent of the general adult population.

Prison inmates tend to be older than one might expect given the age trajectory of criminal offending. In particular, numerous researchers have demonstrated a sharp drop-off in offending after eighteen years of age, with greater proportions of those who are criminally active as youth desisting as their cohort ages through its twenties (Grogger 1998; Sampson and Laub 2003). Table 1.2 reveals that the inmate at the median of the age distribution is in his midthirties, suggesting that for many prison is the lasting result of crime committed in their earlier years. However, the median prisoner age is certainly younger than the median U.S. adult age (forty-four). These survey data reveal relatively early criminal initiation among those serving time. The median age at first arrest is seventeen, while the comparable median age for federal prison inmates is eighteen. Moreover, when asked when they started engaging in various criminal activities, median inmates indicate that they

were fourteen years of age. Fully 75 percent indicate that they were criminally active by age sixteen.

The SISFCF also permits characterization of the physical and mental health of prison inmates. In particular, inmates were asked whether they had ever been diagnosed with a series of physical and mental health conditions. It is difficult to assess whether prison inmates are more likely to suffer from the health conditions listed in the table, since the survey asks whether they have ever been diagnosed but does not measure the annual incidence or prevalence of the condition in question. Moreover, we would want to age-adjust in drawing comparisons to the general population. Nonetheless, there are some conditions for which the lifetime cumulative risk for inmates appears to be particularly high. For example, 9.5 percent of state inmates indicated in 2004 that they had been diagnosed with hepatitis at some point in time. The combined annual incidence of hepatitis A, B, and C in 2006 among the U.S. population was approximately 3.1 per 100,000 (Wassley, Grytdal, and Gallagher 2008). Thus, the lifetime risk for state inmates is over three thousand times the annual incidence of the disease. For other conditions, such as diabetes, in which having ever been diagnosed is likely to be quite close to the prevalence rate, the proportion of inmates indicating that they were diabetic does not appear to be particularly high (4.7 percent of state inmates and 6.1 percent of federal inmates, compared with 11.2 for all U.S. men age twenty or older).

It is perhaps easier to compare the prevalence of chronic mental health conditions to those of the general adult population. For example, the inmate survey reveals that 9.7 percent of state inmates reported in 2004 that they had been diagnosed with manic depression, bipolar disorder. The comparable figure for all U.S. adults is roughly 2.6 percent. While 4.6 percent of state prison inmates and 1.9 percent of federal prison inmates indicated that they had been diagnosed with schizophrenia, the comparable figure for U.S. adults is 1.1 percent.⁴ Prison inmates certainly have high rates of current and prior substance abuse issues. Over 60 percent of both state and federal prison inmates indicated that they had participated in an alcohol or drug treatment program while incarcerated.

A key difference between state and federal inmate populations lies in the offenses for which inmates are incarcerated. Roughly half of state prisoners are incarcerated for violent offenses, while one-fifth of state inmates are in for

Table 1.2 Characteristics of State and Federal Prisoners, 2004

	State Prisoners	Federal Prisoners
Proportion of prison population	0.904	0.096
Proportion male	0.932	0.929
Education attainment prior to admissions		
Elementary school	0.029	0.040
Middle school	0.165	0.143
Some high school, no degree	0.472	0.374
High school graduate	0.195	0.214
More than high school	0.139	0.227
Proportion Hispanic	0.182	0.251
Race		
White	0.487	0.433
Black	0.430	0.460
Other	0.083	0.107
Age distribution		
Twenty-fifth percentile	27	29
Fiftieth percentile	34	35
Seventy-fifth percentile	42	44
Age at first arrest		
Twenty-fifth percentile	15	16
Fiftieth percentile	17	18
Seventy-fifth percentile	21	23
Age first engaged in criminal activity		
Twenty-fifth percentile	12	12
Fiftieth percentile	14	14
Seventy-fifth percentile	16	16
Health conditions		
Diabetes	0.047	0.061
Heart problems	0.093	0.086
Kidney problems	0.061	0.057
Asthma	0.144	0.115
Hepatitis	0.095	0.076
Indicators of mental health issues or substance abuse		
Participated in alcohol/drug treatment program	0.605	0.649
Manic depression, bipolar	0.097	0.041

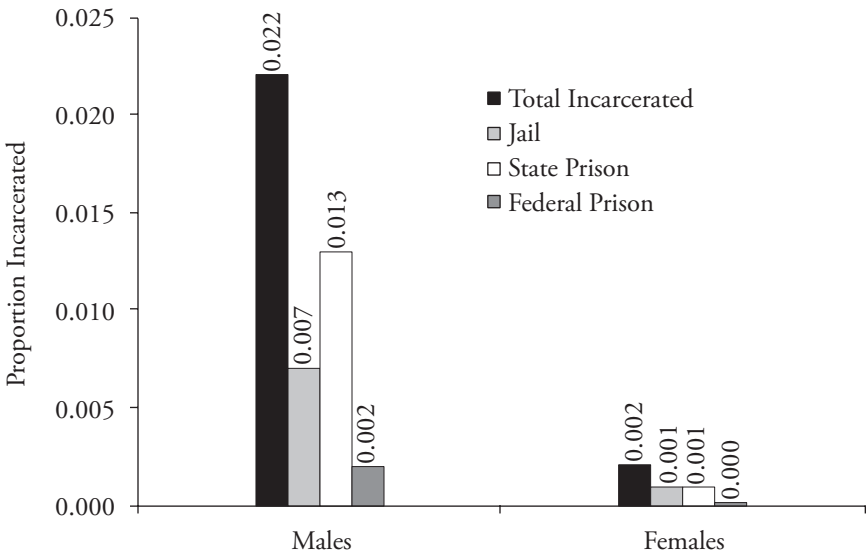
Table 1.2 (Continued)

	State Prisoners	Federal Prisoners
Schizophrenia	0.046	0.019
Post-traumatic stress disorder	0.057	0.031
Anxiety disorder	0.071	0.046
Personality disorder	0.059	0.032
Other mental health problem	0.019	0.008
Any diagnosed mental health problem	0.248	0.144
Ever attempted suicide	0.129	0.059
Have a definite date of release	0.660	0.842
Year of expected release		
2003 or 2004	0.459	0.266
2005	0.159	0.147
2006	0.091	0.111
2007	0.061	0.084
2008 or later	0.190	0.323
Expect to eventually be released conditional on not having a definite release date	0.872	0.863
Offense		
Murder, homicide, or manslaughter	0.139	0.029
Sexual assault	0.107	0.009
Robbery	0.127	0.085
Assault	0.086	0.017
Other violent crime	0.020	0.006
Burglary	0.082	0.005
Fraud or larceny	0.078	0.034
Auto theft	0.012	0.001
Other property crime	0.010	0.001
Drugs	0.213	0.552
Weapons	0.025	0.110
Other	0.101	0.150

Source: Authors' tabulations based on the Bureau of Justice Statistics (2004b).

drug offenses. As we will see in subsequent chapters, the proportion incarcerated for drug offenses has increased considerably and represents an important contribution to growth in state incarceration rates. For federal inmates, over half (55.2 percent) are incarcerated for drug law violations, while fewer than 15 percent are in for a violent offense.

Figure 1.4 Point-in-Time Estimates of the Proportion of Adults Age Eighteen to Sixty-Five Incarcerated in 2007, by Gender: Total and by Type of Correctional Facility

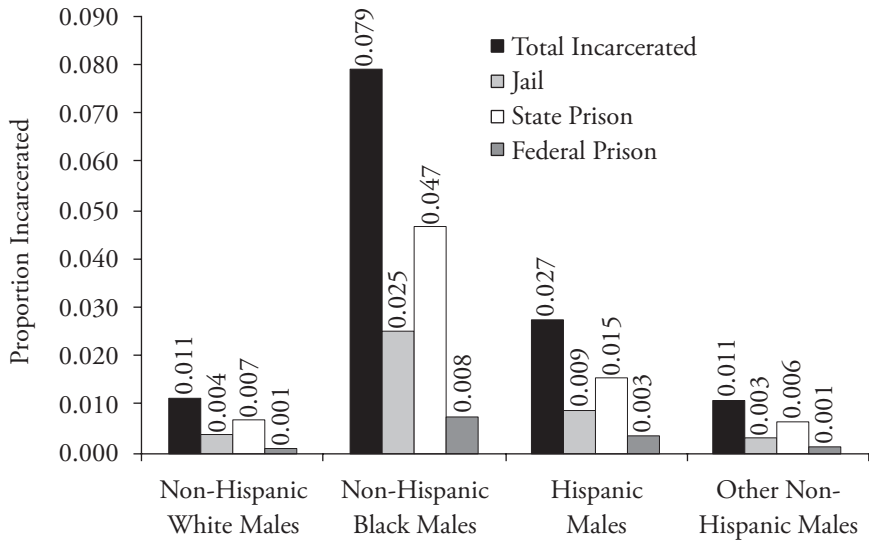


Source: Authors' tabulations from various surveys (see note 5).

The overrepresentation of certain demographic groups among the incarcerated (men, African Americans, those with low educational attainment) necessarily translates into a higher proportion being incarcerated on any given day among these groups. To estimate such proportions, we combine survey data from the U.S. Census Bureau, survey data for prison and jail inmates, and estimates of incarceration totals from the U.S. Bureau of Justice Statistics (BJS).⁵ Figure 1.4 presents our estimates of the proportion of adult men and women, eighteen to sixty-five years of age, who were incarcerated in 2007 in any institution, who were incarcerated in a federal prison, who were incarcerated in a state prison, and who were incarcerated in a local jail. Overall, 2.2 percent of men were incarcerated on any given day, with most incarcerated in a state or federal prison. The percentage of women who were incarcerated was much lower, at 0.2 percent.

Figure 1.5 delves deeper into the incarceration proportion for men, providing separate estimates for four mutually exclusive race-ethnicity categories:

Figure 1.5 Point-in-Time Estimates of the Proportion of Men Age Eighteen to Sixty-Five Incarcerated in 2007, by Race-Ethnicity: Total and by Type of Correctional Facility



Source: Authors' tabulations from various surveys (see note 5).

non-Hispanic whites, non-Hispanic blacks, Hispanics, and other non-Hispanics. The figure reveals enormous racial and ethnic disparities in incarceration rates. On any given day in 2007, nearly 8 percent of African American men were incarcerated in prison or jail, with 70 percent of black incarcerated men being held in a state or federal prison. In contrast, only 1.1 percent of non-Hispanic white men were incarcerated on any given day. Hispanic men occupied a spot between blacks and whites: overall 2.7 percent were incarcerated, with 2.4 percent incarcerated in a federal or state prison.

Our characterization of state and federal prisoners reveals that the less-educated are heavily overrepresented among prison and jail inmates. We have also seen, both in the characterization of prison inmates and in the gender- and race-specific incarceration rates, that minority men are heavily overrepresented among those doing time. To assess the interactions of these three dimensions (education, gender, and race), table 1.3 presents estimates of the proportion of men with less than a high school degree who were incarcerated in 2007, as well as men who were high school graduates or held GEDs, by

race-ethnicity and broad age ranges. The table reveals several salient patterns. First, a comparison of the figures in table 1.3 with those in figure 1.5 reveals the much higher incidence of incarceration among the relatively less educated. Second, within racial-ethnic groups and educational attainment categories, the proportion incarcerated was highest among those age thirty-one to forty. Third, incarceration rates were considerably higher among those without a high school degree relative to those with a high school degree or GED within all race-age groupings.⁶

Perhaps the starkest pattern to emerge from this table is the very large racial and ethnic disparity in incarceration rates among the least-educated males. Roughly 26 percent of non-Hispanic black men between ages eighteen and thirty with less than a high school degree are in prison or jail on any given day, with the majority of these men in prison. Among black male high school dropouts who are thirty-one to forty years old, fully 34 percent are incarcerated on any given day. The comparable two figures for whites in these age and education categories are 5.5 and 6.9 percent, respectively, while the comparable figures for Hispanics are 6.1 and 4.2 percent, respectively. In chapter 6, we will show that the high proportions of the least-educated black men who are incarcerated are comparable in magnitude, and sometimes exceed, the proportion of these men who are not institutionalized and are gainfully employed.

The incarceration proportions for high school graduates reveal more muted yet still sizable racial disparities. While 12 percent of black men in their thirties with a high school degree or GED are incarcerated on any given day, the comparable figure for white and Hispanic men are 2.9 and 3.1 percent, respectively. Notably, the percentage of black high school graduates who are incarcerated actually exceeds the comparable figures for white and Hispanic high school dropouts.

An alternative characterization of who serves time focuses on the cumulative or lifetime risk of going to prison. Because the U.S. prison population tends to turn over relatively quickly (annual prison admissions and releases are consistently equal to half the prison population), the drastic increases in incarceration rates over the last three decades have left in their wake a large and growing population of former inmates. The distribution of former prisoners across demographic subgroups of the non-institutionalized population is an important determinant of social inequality, since former inmates tend to be scarred and stigmatized by their experience and face substantial hurdles in the labor market. Moreover, given the racial and socioeconomic concentra-

Table 1.3 Point-in-Time Estimates of the Proportion of Prime-Age, Less-Educated Men Incarcerated in 2007, by Race-Ethnicity and Type of Correctional Facility

	Total Incarceration	In Jail	In State Prison	In Federal Prison
Less than a high school degree				
Non-Hispanic white				
Eighteen to thirty	0.055	0.029	0.025	0.001
Thirty-one to forty	0.069	0.029	0.037	0.002
Forty-one to fifty	0.033	0.010	0.021	0.001
Non-Hispanic black				
Eighteen to thirty	0.263	0.111	0.138	0.014
Thirty-one to forty	0.339	0.094	0.209	0.035
Forty-one to fifty	0.183	0.051	0.119	0.013
Hispanic				
Eighteen to thirty	0.061	0.025	0.032	0.004
Thirty-one to forty	0.042	0.013	0.025	0.004
Forty-one to fifty	0.028	0.009	0.016	0.003
Non-Hispanic other				
Eighteen to thirty	0.064	0.026	0.033	0.004
Thirty-one to forty	0.055	0.017	0.032	0.007
Forty-one to fifty	0.025	0.009	0.014	0.002
High school graduate/GED				
Non-Hispanic white				
Eighteen to thirty	0.019	0.007	0.012	0.001
Thirty-one to forty	0.029	0.008	0.019	0.002
Forty-one to fifty	0.015	0.004	0.010	0.001
Non-Hispanic black				
Eighteen to thirty	0.083	0.028	0.047	0.008
Thirty-one to forty	0.121	0.031	0.074	0.016
Forty-one to fifty	0.063	0.015	0.043	0.005
Hispanic				
Eighteen to thirty	0.026	0.009	0.015	0.002
Thirty-one to forty	0.031	0.008	0.018	0.005
Forty-one to fifty	0.024	0.006	0.013	0.005
Non-Hispanic other				
Eighteen to thirty	0.020	0.006	0.012	0.002
Thirty-one to forty	0.024	0.006	0.016	0.003
Forty-one to fifty	0.013	0.002	0.009	0.002

Source: Authors' tabulations based on Bureau of Justice Statistics (2002, 2004b), U.S. Census Bureau (2007a), and Bureau of Justice Statistics, *National Prisoner Statistics* (various years). See note 5 for a description of the estimation methodology.

tion of former inmates among certain groups, prior incarceration is a factor that probably contributes to racial inequality in the United States above and beyond such factors as educational attainment, family background, and racial labor market discrimination.

Two metrics are commonly employed to measure the cumulative risk of incarceration: the proportion of adults who have ever served time, and the projected lifetime likelihood of serving time for a person born in a specific year (that is, a given birth cohort). When incarceration rates are increasing, the projected lifetime risk tends to be greater than the proportion who have ever served time, since a child born during a high-incarceration-rate era faces a different set of risks when passing through the high-risk age ranges than did adults born during periods with lower incarceration rates.

Table 1.4 presents tabulations produced by the Bureau of Justice Statistics for both measures for the years 1974 and 2001 (corresponding to the period of greatest increase in the nation's incarceration rate) (Bonczar 2003). The proportions of U.S. adults who have ever been incarcerated basically double over this time period, with the largest absolute increase for black males. As of 2001, roughly 5 percent of all adult men had served time in a state or federal prison, while the figure for black men stood at 16.6 percent. The Bureau of Justice Statistics does not present such estimates for educational subgroups within these race-gender categories. However, several academic researchers have generated independent estimates that reveal an extraordinarily high prevalence of prior prison experience among the least-educated minority men. In an analysis of administrative records from the California Department of Corrections, Steven Raphael (2005) estimates that at the close of the 1990s over 90 percent of the state's black male high school dropouts and 10 to 15 percent of black male high school graduates had served time in prison.⁷ Becky Pettit and Bruce Western (2004) estimate that for all African American men born between 1965 and 1969, the proportion who had been to prison by 1999 was 20.5 percent for all black men, 30.2 percent for black men without a college degree, and 58.9 percent for black men without a high school degree.

The final two columns of table 1.4 show the BJS estimate of the lifetime risk of incarceration for children born in 1974 and 2001. Not surprisingly, the figures show pronounced increases in the lifetime risk for all groups. Note that the increases in lifetime risk are considerably larger than the increases in the proportion with prior prison time. However, with sufficient time and

Table 1.4 Proportion of U.S. Adults Who Had Ever Served Time and the Predicted Lifetime Risk of Serving Prison Time by Year of Birth, 1974 and 2001

	Proportion of Adults Ever Serving Time in a State or Federal Prison		Lifetime Risk of Serving Time in a State or Federal Prison for a Child Born in . . .	
	1974	2001	1974	2001
Total	0.013	0.027	0.019	0.066
Males	0.023	0.049	0.036	0.113
White	0.014	0.026	0.022	0.059
Black	0.087	0.166	0.134	0.322
Hispanic	0.023	0.077	0.040	0.172
Females	0.002	0.005	0.003	0.018
White	0.001	0.003	0.002	0.009
Black	0.006	0.017	0.011	0.056
Hispanic	0.002	0.007	0.004	0.022

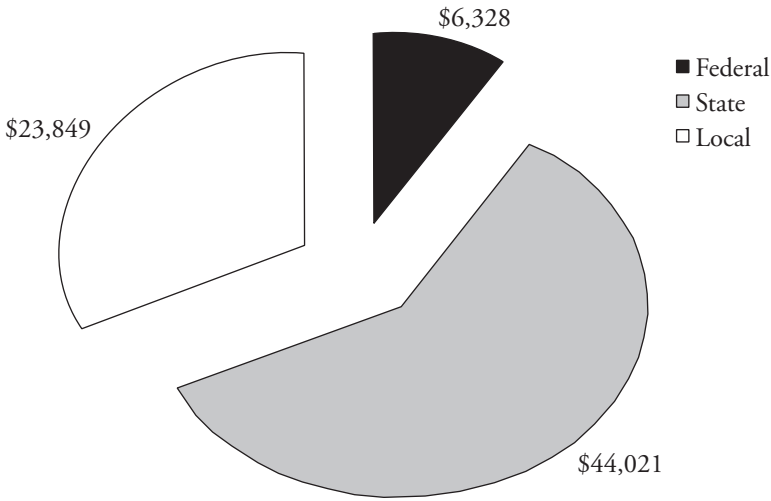
Source: Authors' compilation based on data from Bonczar (2003).

stable incarceration rates at the new higher levels, these two sets of figures will eventually converge.⁸ The lifetime risk of serving prison time for a child born in 2001 stood at 6.6 percent for all children and 11.3 percent for males. For black males born in 2001, the BJS estimates a lifetime risk at the startlingly high level of 32.2 percent, implying that one of every three black male children born in 2001 will do time.

How Much Do We Spend?

A full accounting of the social costs of incarceration would include both the direct fiscal outlays for correctional services and the value of the indirect social consequences of incarceration, including impacts on the future earnings of a former inmate, effects on family and children, the public health impacts, and so on. In a cost-benefit framework, such direct and indirect costs would be measured against the benefits of incarceration derived from crime reduction and the satisfaction of the public's demand for punishment for those who transgress. We will postpone a more complete discussion of costs and benefits until the final chapter of this book. To start this conversation here, however, we provide an overview of the fiscal impact of correctional expenditures.⁹

Figure 1.6 **Total Direct Expenditures (in Millions of Dollars) on Corrections in 2007, by Level of Government**

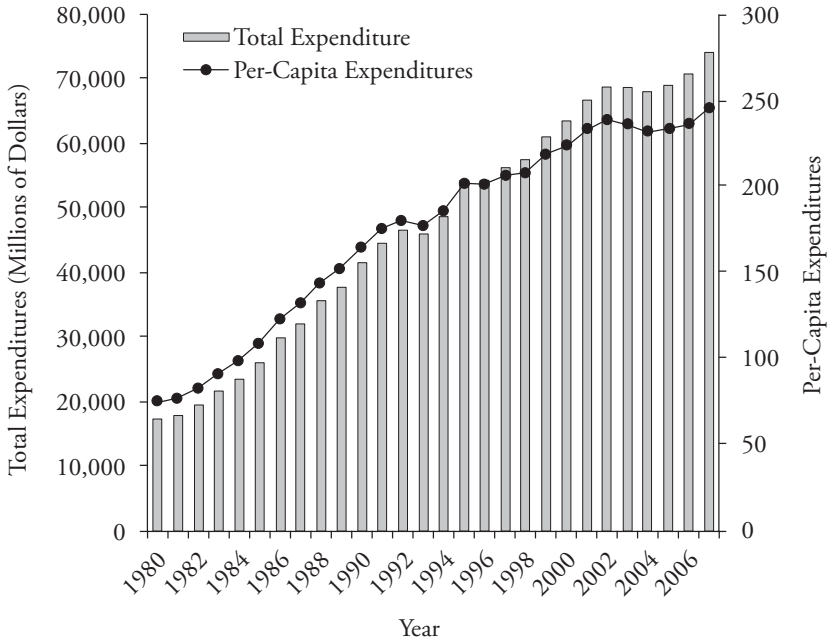


Total corrections expenditures for 2007 = \$74,198 million

Source: Authors' compilation based on Bureau of Justice Statistics, *Justice Expenditures and Employment Extracts* (various years).

Figure 1.6 provides a breakdown of correctional expenditures in fiscal year 2007 according to the level of government where the direct cash outlay occurred.¹⁰ The United States spent \$74 billion in 2007 on corrections, approximately \$250 per resident. The lion's share of correctional expenditures occurs at the state level (roughly 60 percent), while approximately one-third of correctional expenditures are made by local governments throughout the country. As we would expect, the sharp increase in incarceration has resulted in pronounced increases in correctional expenditures. Figure 1.7 displays total correctional expenditures adjusted for inflation to 2007 dollars as well as per-capita annual expenditures for the period from 1980 to 2007. Total correctional expenditures increased 4.3 times over this period, from \$17.3 billion to \$74.1 billion. To be sure, some of this increase reflects the fact that the U.S. resident population increased by roughly 33 percent over this period; with a larger population, we would expect more prison inmates. However, per-capita expenditure also increased, slightly more than tripling between 1980 and 2007.

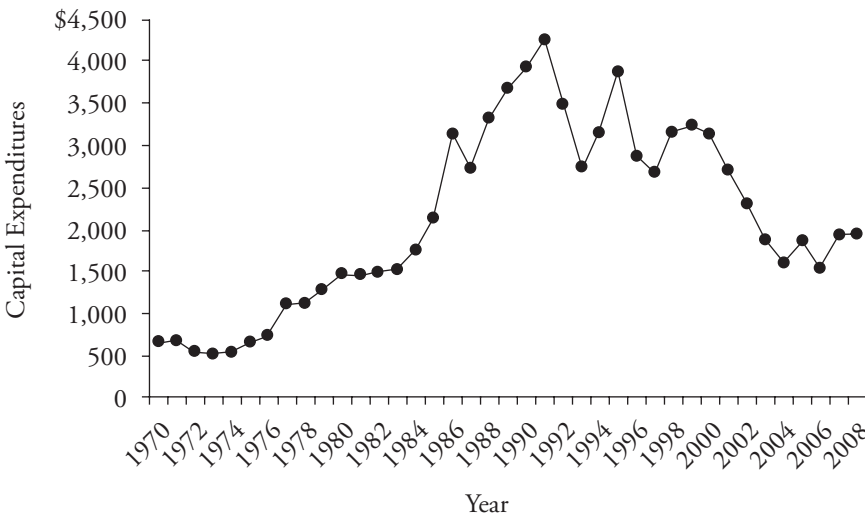
Figure 1.7 Total Corrections Expenditures and Per-Capita Corrections Expenditures (in 2007 Dollars) in All Levels of Government Combined for 1980 to 2007 (Adjusted for Inflation)



Source: Authors' compilation based on Bureau of Justice Statistics, *Justice Expenditures and Employment Extracts* (various years).

In recent years, a relatively small percentage of correctional expenditures has been devoted to new prison construction, with over 95 percent of correctional expenditures attributable to operating costs. However, during the late 1980s and early 1990s, substantial proportions of correctional allocations were devoted to the construction of new facilities. Figure 1.8 presents current and historical data on annual capital expenditures made by the states in the corrections category. Since the data source for this series permits a longer analysis, we present total state capital expenditures for the period from 1970 to 2008, adjusted for inflation to 2008 dollars.¹¹ The figure reveals relatively high capital expenditures in the late 1980s and through the 1990s, with annual capital expenditures peaking in 1991 at \$4.3 billion. In more recent

Figure 1.8 **Total State Capital Expenditures in Corrections, 1970 to 2008 (in Millions of 2008 Dollars)**



Source: Authors' compilation based on U.S. Census Bureau (2009).

years, states have scaled back prison construction, and several have actually begun to close existing facilities.

Annual expenditures per inmate vary greatly across states. Table 1.5 presents estimates of annual expenditures per inmate from 2005 to 2011 culled from searches of the fifty state correctional department websites.¹² Expenditures per inmate vary considerably, from the low of approximately \$15,000 per year in Alabama and Texas to over \$45,000 per year in Alaska, California, Massachusetts, and Rhode Island. Averaging across all states yields an estimate of roughly \$30,000 per year.

Although few states provide detailed breakdowns of these annual cost estimates, the numbers for the states that do suggest that labor and medical expenditures account for the largest component of correctional operating costs. For example, the California Legislative Analyst's Office estimates that of the \$47,102 spent per inmate per year in fiscal year 2008–2009, \$19,663 was attributable to security expenditures (largely correctional officer salaries), facility operations cost \$7,124 per inmate, and \$12,442 was devoted to inmate health care. Only \$2,562 was spent on food, inmate activities, and clothing,

Table 1.5 Annual Expenditures per Prison Inmate, by State, 2005 to 2011

State	Average Annual Expenditures	Estimate Year
Alabama	\$15,118	2009
Alaska	49,800	2011
Arizona	22,535	2007
Arkansas	21,969	2009
California	48,843	2008
Colorado	32,334	2009
Connecticut	32,733	2009
Delaware	30,000	2010
Florida	19,469	2009
Georgia	16,950	2010
Hawaii	—	—
Idaho	19,060	2010
Illinois	24,899	2009
Indiana	19,203	2010
Iowa	31,383	2009
Kansas	24,953	2010
Kentucky	26,178	2010
Louisiana	20,385	2010
Maine	43,363	2010
Maryland	31,200	2008
Massachusetts	45,917	2010
Michigan	35,285	2010
Minnesota	32,573	2009
Mississippi	17,827	2010
Missouri	17,984	2010
Montana	34,310	2010
Nebraska	33,410	2010
Nevada	—	—
New Hampshire	32,492	2010
New Jersey	34,600	2010
New Mexico	39,000	2010
New York	45,000	2009
North Carolina	27,134	2010
North Dakota	—	—
Ohio	21,659	2005
Oklahoma	19,827	2010
Oregon	30,828	2010
Pennsylvania	32,986	2010

Table 1.5 (Continued)

State	Average Annual Expenditures	Estimate Year
Rhode Island	45,309	2010
South Carolina	16,312	2009
South Dakota	15,330	2009
Tennessee	23,145	2010
Texas	15,527	2008
Utah	—	—
Vermont	54,383	2010
Virginia	24,024	2010
Washington	34,617	2010
West Virginia	24,266	2010
Wisconsin	32,080	2010
Wyoming	—	—

Source: Authors' searches of state department of correction websites or legislation documented from the states that offer annual cost estimates. Exact sources for each state are available from the authors upon request.

while \$1,612 per inmate was attributable to rehabilitation activities.¹³ Hence, security expenditures, facilities operations, and medical expenditures account for roughly 83 percent of per-inmate costs in the state, while basic inmate support and rehabilitation accounts for a relatively small share of costs. Mississippi spends considerably less per inmate than California (\$17,827 per year), yet has a relatively similar cost structure. Food, education, and training account for only 9 percent of per-inmate expenditures. The remaining 91 percent goes to salaries, inmate medical expenditures, allocated administrative expenditures, and annual debt service for prior capital investments.¹⁴

With the recent economic downturn and the contraction in state revenue sources, states throughout the country have been scouring their budgets looking for areas of potential savings. Given the increases in correctional expenditures documented here and the fact that in recent decades growth in corrections spending has outpaced growth in state spending overall, it is not surprising that states are scrutinizing their corrections and sentencing practices with an eye to saving money while not compromising public safety.¹⁵ In general, corrections expenditures consume a relatively small yet increasing share of state general fund expenditures. For example, in fiscal year 2009 cor-

rections accounted for 7.2 percent of state general fund expenditures. By contrast, state expenditures on the Medicaid program accounted for 15.7 percent of state general fund expenditures, higher education expenditures were 11.5 percent, and spending on elementary and secondary education accounted for 35.8 percent.¹⁶ These descriptive statistics for the nation as a whole mask considerable variation across states. The slice of general funds allocated to corrections ranges from 2.7 percent of general funds in Minnesota to 22.8 percent in Michigan. In the two states with the largest prison systems (California and Texas), general fund expenditures on corrections are somewhat above the national average (10.2 percent in California and 7.5 percent in Texas).

There is relatively little research on the question of what types of spending are being displaced by increasing correctional expenditures. The scant research suggests that there has been little displacement effect on higher education spending (Gunter, Orszag, and Kane 2002) and K-12 spending (Ellwood and Guetzkow 2009). However, at least one research team has found that states that devote increasing shares of the general fund to corrections contemporaneously reduce antipoverty expenditures (Ellwood and Guetzkow 2009). This is particularly ironic, as prison inmates are drawn disproportionately from the ranks of the poor, who are the primary recipients of income and in-kind support from the states.

OUTLINE OF THE BOOK

The increase in incarceration rates over the past three decades puts the United States in a league of its own. We are incarcerating more people today than we ever have, and we stand out as the nation that most frequently and intensely uses incarceration to punish those who break the law. We are increasingly locking up larger and larger proportions of young minority men and generating a very large pool of former prison inmates who face considerable difficulties in attempting to establish productive and law-abiding roles for themselves among the non-incarcerated. These correctional practices are expensive, and although they tend to consume a small proportion of state budgets, it is likely that they are displacing discretionary spending in other budgetary domains.

How did we get here? What are the social consequences, positive or negative, of this enormous policy experiment? Are there alternative crime control strategies that would rely less heavily on incarceration yet not compromise public safety? This book is devoted to answering these questions.

We devote the next three chapters to explaining why the incarceration rate grew so much over a relatively short period of time. We begin in chapter 2 by providing a simple framework for thinking about the forces that determine the size of a dynamic population among whom entrances and exits lead to constant churning in who is incarcerated on any given day. In particular, we highlight the role of the prison admissions rate and the fact that higher admissions translate directly into higher incarceration rates. Moreover, we dissect the determinants of prison admissions rates into a behavioral component (the crime rate) and a policy component (clearances by arrest, convictions, and likelihood of being sentenced to prison conditional on arrest and conviction). We document trends in each of these factors for state and federal prison systems and for specific felony offenses. This analysis reveals very large increases in prison admissions rates driven entirely by changes in the propensity to send convicted offenders to prison.

Chapter 2 also lays out the connection between the amount of time an inmate sentenced to prison can expect to serve and the prison population on any given day. Put simply, longer sentences generate larger prison populations. We document substantial increases in the amount of time that those sentenced to prison can expect to serve today relative to years past in both the state and federal prison systems. Because prison time for specific offenses has increased, these empirical facts are indicative of policy changes over the last few decades that have generally enhanced the severity of punishment for certain crimes.

In chapter 3, we seek to answer five questions. First, to what extent does tougher sentencing explain the growth in U.S. incarceration rates since the early 1980s? Second, how important are changes in criminal behavior in explaining these trends? Third, can we identify specific changes in sentencing practices that have been principal drivers of incarceration growth? For example, to what extent are longer sentences to blame as opposed to higher admissions rates? Fourth, are there specific offenses for which we have cracked down particularly hard that bear a disproportionate share of the blame for incarceration growth? Finally, how do the answers to these questions differ for the state and federal prison incarceration rates?

To address these questions we build and calibrate a simple model of incarceration rates. The model takes empirical estimates of prison admissions rates and expected time served and calculates the incarceration rate that will eventually be reached given stable values for these factors and enough time. A

particularly useful feature of this model is that by adjusting the admissions rates and time served to, say, values from 1984, we can simulate what the incarceration rate would be if we were to roll back all sentencing practices or select sentencing practices to those of years past.

Our simulation results yield several findings. First, there is very little evidence supporting the hypothesis that changes in criminal activity have driven up the nation's incarceration rate. Crime rates are currently at all-time lows, and the hypothetically higher crime rates that we might have observed had there been no increase in incarceration since the early 1980s are far from sufficient to have caused the increases in incarceration in recent years.

In contrast, there is overwhelming evidence that the elevated rates of prison admissions per crime and expected time served are the principal drivers of incarceration growth. There are some key differences between the federal and state prison systems. For example, among the states, tougher drug sentences account for one-fifth of incarceration growth over the two-decade period we study, while tougher sentences for violent crime account for half. By contrast, growth in the federal prison system is driven primarily by tougher sentences for drug offenders and other public-order crimes. Nonetheless, in both systems legislatively driven policy changes have driven incarceration growth. In other words, so many Americans are in prison because we are choosing through our public policies to put them there.

This finding, of course, begs the question of what policy choices are driving the harsher sentencing policies. This is the subject matter of chapter 4. Corrections and sentencing policy at the state level has changed considerably. Many states have moved away from indeterminate sentencing regimes, whereby a judge would issue a minimum as well as a maximum sentence and parole boards exercised great discretion in determining the ultimate length of time served. In its place, most states now employ determinate sentencing: a single sentence is handed down, and the amount of time served is determined by the original sentence with time off for good behavior according to administrative formulae. Determinate sentencing has greatly reduced the influence and authority of parole boards. In addition, many states have passed truth-in-sentencing laws that require inmates to serve a specified minimum percentage of their original sentence. Aside from these broader reforms, numerous state laws have enhanced sentences for specific offenses, and many states have passed repeat-offenders statutes—such as California's "three-strikes" law—that greatly enhance the prison terms of newly convicted offenders with prior

violent felony convictions. Collectively, these policy changes have driven the enormous increase in state incarceration rates since the mid-1970s. The increase in the federal prison incarceration rates can be traced largely to the incarceration of drug offenders and the minimum sentences mandated in federal sentencing guidelines. Chapter 4 provides a detailed discussion of each of these developments.

Having identified the root causes of the increase in incarceration rates, we devote the following two chapters to a discussion of the factors that are commonly offered as explanations for increasing incarceration rates yet upon closer inspection do not appear to be the principal driving forces. Chapter 5 explores the contribution of the deinstitutionalization of the mentally ill. At its peak during the 1950s, the number of mental hospital patients per 100,000 U.S. residents stood at roughly 330 (a population over 600,000). By the end of the twentieth century, through a series of policy reforms and changes in legal precedent, the inpatient mental hospital population shrank to trivially small numbers (below 20 per 100,000 by 2000). In conjunction with the very high incidence of severe mental illness among prison inmates as well as research documenting a connection between certain mental illnesses and criminal activity, we can certainly make a circumstantial case that the drastic changes in mental health policy driving deinstitutionalization are in part responsible for increasing incarceration growth.

A careful analysis of U.S. census data from 1950 through 2000 reveals, however, several problems with this hypothesis. First, the composition of the mental hospital population of the 1950s differed greatly from the composition of the prison population, with the elderly heavily overrepresented, women constituting nearly half of the mental hospital population, and racial minorities not overrepresented among mental hospital inpatients. Many of the groups with high institutionalization rates in 1950 did not experience subsequent increases in incarceration. A simple compositional analysis reveals that, at most, deinstitutionalization can explain only a small share of the increase in prison populations. Moreover, direct estimates of the rate at which those individuals most likely to be hospitalized at midcentury have been “transinstitutionalized” from mental hospitals to prisons suggest relatively modest effects for most groups, though the transinstitutionalization rate appears substantial for white men during the 1980s and 1990s. Although deinstitutionalization is not responsible for a large proportion of the overall increase in incarceration, we do find that up to one-quarter of the nearly

300,000 severely mentally ill inmates currently incarcerated would probably have been in mental hospitals in years past.

Chapter 6 explores the potential contribution to incarceration growth of three other factors: the changing demographic composition of the United States, the diminished labor market opportunities for low-skilled men, and the crack epidemic of the 1980s. There have been several demographic changes since 1980 that in isolation should have led to lower crime rates and, by extension, lower incarceration rates. First, the nation has aged. Second, the foreign-born proportion of the population has increased. Finally, the average levels of educational attainment have increased. Since older people, immigrants, and the more educated tend to be less likely to commit crime, demographic forces alone should have reduced crime and incarceration, yet incarceration rates have increased dramatically.

It is indeed the case that the earnings and employment opportunities for low-skilled men—and perhaps for low-skilled minority men in particular—have eroded since the mid-1970s. Although these diminished opportunities may in part reflect the increasing numbers of former prison inmates among low-skilled men, broader forces in the economy that have greatly increased the economic returns to education, increased earnings inequality, and led to absolute declines in the real value of the wages earned by the least skilled may have driven more men into crime and into the criminal justice system. It is difficult to assess directly the impact of diminished legitimate job opportunities on incarceration rates, but there are several findings from existing empirical research that can be used to calculate ballpark estimates. In particular, several economists have analyzed the sensitivity of criminal offending to changes in earnings potential, and there are various sources that can be employed to estimate the likelihood of being incarcerated for committing a crime. Combining this information with data from the U.S. Census Bureau, we estimate the likely effect of earnings trends on crime and incarceration and conclude that this may have had a modest positive effect on incarceration growth, equal in magnitude yet somewhat smaller than the effects of changing demographics, and of opposite sign. In other words, our research suggests that broad demographic changes and declining labor market prospects for less-skilled men have probably had individual impacts on incarceration that largely cancel one another out.

The appearance of crack cocaine in the mid-1980s greatly increased cocaine use in relatively poor minority neighborhoods and is commonly cited as

a key determinant of the spike in violent crime between the mid-1980s and the early 1990s. The timing of the crack epidemic, along with the particular connections between the market for crack and violence, suggests that this particular behavioral shock may have been an important behavioral contributor to the growth in incarceration. Our analysis suggests that the direct role of crack cocaine in explaining prison growth is greatly exaggerated. To start, our earlier analysis of the broad determinants of incarceration growth finds little room for behavior in explaining this increase: nearly all prison growth is explained by policy choices. Hence, the possible contribution of crack cocaine to prison growth operating through behavior is bounded from above by this prior analysis. Second, the crack cocaine epidemic waned considerably during the early 1990s, yet we observe an acceleration of prison growth over the course of this decade. Moreover, we find considerable growth in incarceration prior to the onset of the crack epidemic and not much evidence of an increase in the growth rate following that onset.

To be sure, the crack cocaine epidemic may have had an important indirect effect on the nation's incarceration rate through the policy responses that it elicited. The most salient policy response was federal legislation that enacted mandatory minimum sentences that were particularly tough on those charged with crack-related offenses.

Chapter 7 focuses on the relationship between incarceration and crime rates. Incarceration has an impact on crime through three broad channels. First, incarceration incapacitates the criminally active. Second, the threat of incarceration may deter those who might otherwise commit crime. Finally, an incarceration experience may either straighten someone out (often referred to as "specific deterrence") or enhance the criminal propensity of an incarcerated offender (often referred to as prison's "criminogenic" effect on former inmates). In either case, a specific incarceration spell will have an impact on crime, positive or negative, with a dynamic lag.

Existing empirical research on incarceration and crime for both the United States and other countries provides clear evidence of incapacitation and general deterrence effects on crime rates. However, this research also finds that crime-fighting effects diminish considerably as the incarceration rate increases. Specifically, as incarceration rates grow, the marginal impact on crime rates diminishes. In the United States today, this diminishing return to scale appears to be quite substantial: the marginal incarcerated offender incapacitates very little crime, and that crime is generally of a less serious nature. This

is not too surprising considering that, in the U.S. context, where the incarceration rate has increased nearly fivefold, the average incarcerated offender today is serving a prison term for a considerably less serious crime than the average inmate of years past. This finding also suggests a great heterogeneity among those in prison and the potential for strategically and deliberately scaling back the use of incarceration. We discuss this relationship in great detail in chapter 7, along with what is known regarding the long-term effects of incarceration on a criminal who offends after release.

In our final chapter, we offer our thoughts about whether the United States is overusing incarceration in its national crime control strategy, and we present some ideas regarding alternative policy paths that states might fruitfully pursue. The chapter begins by discussing what an optimal—that is, efficient—crime control strategy would look like in terms of costs relative to benefits. We then provide a fuller accounting of the collateral social costs of the prison boom that have been documented by researchers over the past decade or so. The collateral consequences are many, and they include but are not limited to impacts on the employment prospects of former inmates, on racial education attainment differentials, on the spread of infectious diseases, on the children of the incarcerated, on political participation and the outcomes of electoral competition, and on racial inequality generally. We believe that the diminished crime-fighting effects of incarceration at high rates in conjunction with these high social costs clearly indicate that, as a nation, we're overdoing it. We close by discussing what would need to happen to bring down our incarceration rate and alternative crime control strategies that policymakers could adopt.