Mass Incarceration: The Whole Pie

Wait, does the United States have 1.4 million or more than 2 million people in prison? And do the 688,000 people released every year include those getting out of local jails? Frustrating questions like these abound because our systems of federal, state, local and other types of confinement – and the data collectors that keep track of them – are so fragmented. There is a lot of interesting and valuable research out there, but definitional issues and incompatibilities make it hard to get the big picture for both people new to criminal justice and for experienced policy wonks.

On the other hand, piecing together the available information offers some clarity. This briefing presents the first graphic we’re aware of that aggregates the disparate systems of confinement in this country, which hold more than 2.4 million people in 1,719 state prisons, 102 federal prisons, 2,259 juvenile correctional facilities, 3,283 local jails and 79 Indian Country jails as well as in military prisons, immigration detention facilities, civil commitment centers and prisons in U.S. territories.1

While the numbers in each slice of this pie chart represent a snapshot cross section of our correctional system, the enormous churn in and out of confinement facilities underscores how naive it is to conceive of prisons as separate from the rest of our society. In addition to the 688,000 people released from prisons each year,2 almost 12 million people cycle through local jails annually.3 Jail churn is particularly high because at any given moment most of the 722,000 people in local jails have not been convicted and are incarcerated because they are either too poor to make bail and are being held before trial, or because they’ve just been arrested and will make bail in the next few hours or days. The remainder of the people in jail – almost 300,000 – are serving time for minor offenses, generally misdemeanors with sentences under a year.

So now that we have a sense of the bigger picture, a natural follow-up question might be something like: how many people are locked up in any kind of facility for a drug offense? While the data don’t give us a complete answer, we do know that it’s 237,000 people in state prison, 95,000 in federal prison and 5,000 in juvenile facilities, plus some unknowable portion of the population confined in military prisons, territorial prisons and local jails.

Offense figures for categories such as “drugs” carry an important caveat here, however: all cases are reported only under the most serious offense. For example, a person who is serving prison time for both murder and a drug offense would be reported only in the murder portion of the chart. This methodology exposes some disturbing facts, particularly about our juvenile justice system. For example, there are nearly 15,000 children behind bars whose “most serious offense” wasn’t anything that most people would consider a crime. Almost 12,000 children are behind bars for “technical violations” of the requirements of their probation or parole, rather than for a new criminal offense, and more than 3,000 children are behind bars for “status” offenses, which are, as the U.S. Department of Justice explains, “behaviors that are not law violations for adults, such as running away, truancy, and incorrigibility.”4

Turning finally to the people who are locked up because of immigration-related issues, more than 22,000 are in federal prison for criminal convictions of violating federal immigration laws. A separate 34,000 are technically not in the criminal justice system but rather are detained by U.S. Immigration and Customs Enforcement (ICE), undergoing the process of deportation, and are physically confined in immigration detention facilities or in one of hundreds of individual jails that contract with ICE.5 (Notably, those two categories do not include the people represented in other pie slices who are in some early stage of the deportation process due to non-immigration-related criminal convictions).

Now that we can, for the first time, see the big picture of how many people are locked up in the United States in the various types of facilities, we can see that something needs to change. Looking at the big picture requires us to ask if it really makes sense to imprison 2.4 million people on any given day, giving us the dubious distinction of having the highest incarceration rate in the world. Both policy makers and the public have the responsibility to carefully consider each individual slice of the pie chart in turn, to ask whether legitimate social goals are served by putting each category behind bars and whether any benefit really outweighs the social and fiscal costs. We’re optimistic that this whole-pie approach6 can give Americans, who seem increasingly ready for a fresh look at the criminal justice system, some of the tools they need to demand meaningful changes to how we do justice.

Notes on the Data

This briefing draws the most recent data available as of March 13, 2014 from:


Territorial Prisons, Prisons in U.S. territories (American Samoa, Guam and the U.S. Virgin Islands) and U.S. commonwealths (Northern Mariana Islands and Puerto Rico): Correctional Populations in the United States, 2012, Appendix Table 2, reporting data for 2012 – includes both territorial prisons and jails.


Civil Commitment: Deidre D’Orazio, Ph.D., Sex Offender Civil Commitment Programs Network Annual Survey of Sex Offender Civil Commitment Programs, 2013.

Indian Country (correctional facilities operated by tribal authorities or the Bureau of Indian Affairs): Bureau of Justice Statistics, Correctional Populations in the United States, 2012, Appendix Table 2, reporting data for June 29, 2012.

Several data definitions and clarifications may be helpful to researchers reusing this data in new ways:

• The state prison offense category of “public order” includes weapons, drunk driving, court offenses, commercialized vice, morals and decency offenses, liquor law violations and other public-order offenses.

• The state prison “other” category includes offenses labeled “other/unspecified” (7,900), manslaughter (21,500), “other sexual assault” (90,600), “other violent” (43,400), larceny (45,900), motor vehicle theft (15,000), fraud (30,800) and “other property” (27,700).

• The federal prison “other” category includes people who have not been convicted or are serving sentences of under 1 year (19,312), homicide (2,800), robbery (8,100), “other violent” (4,000), burglary (400), fraud (7,700), “other property” (2,500), “other public order offenses” (17,100) and a remaining 7,850 records that could not be put into specific offense types because the “2011 data included individuals committing drug and public-order crimes that could not be separated from valid unspecified records.”

• The juvenile prison “other” category includes criminal homicide (924), sexual assault (4,638), simple assault (5,445), “other person” (1,910), theft (3,759), auto theft (2,469), arson (533), “other property” (3,029), weapons (3,013) and “other public order” (5,126).

• To minimize the risk of anyone in immigration detention being counted twice, we removed the 22,870 people – cited in Table 8 of Jail Inmates at Midyear 2012 – confined in local jails under contract with ICE from the total jail population and from the numbers we calculated for those in local jails that have not been convicted. (Table 3 reports the percentage of the jail population that is convicted (60.6%) and unconvicted (39.4%), with the latter category also including immigration detainees held in local jails).

• At least 17 states and the federal government operate facilities for the purposes of detaining people convicted of sexual crimes after their sentences are complete. These facilities and the confinement there are technically civil, but in reality are quite like prisons. They are often run by state prison systems, are often located on prison grounds and, most importantly, the people confined there are not allowed to leave.

Acknowledgements

Thanks especially to Drew Kukorowski for collecting the original data for this project and to [PLN managing editor] Alex Friedmann for both identifying ways to update the data and for locating the civil commitment data. We thank Tracy Velázquez and Josh Begley for their insights on how to use color to tell this story. Thanks to Holly Cooper, Cody Mason and Judy Greene for helping untangle the immigration-related statistics. Thanks also to Arielle Sharma and Sarah Hertel-Fernandez for their copy editing assistance.

This briefing was published by the Prison Policy Initiative (www.prisonpolicy.org) on March 12, 2014; it is reprinted with permission.

ENDNOTES

1 The number of state and federal facilities is from Census of State and Federal Correctional Facilities, 2005; the number of juvenile facilities from Census of Juveniles in Residential Placement, 2010; the number of jails from Census of Jail Facilities, 2006 and the number of Indian Country jails from Jails in Indian Country, 2012. We aren’t currently aware of a good source of data on the number of the other types of facilities.

2 U.S. Department of Justice, Prisoners in 2011, page 1, reporting that 688,384 people were released from state and federal prisons in 2011. [Ed. note – the number of releases dropped to 637,400 in 2012]

3 See page 3 of Bureau of Justice Statistics, Jail Inmates at Midyear 2012 - Statistical Tables for this shocking figure of 11.6 million.


5 Of all of the confinement systems discussed in this report, the immigration system is the most fragmented and the hardest to get comprehensive data
6 It is important to remember that the correctional system pie is far larger than just prisons and includes another 3,981,090 adults on probation and 851,662 adults on parole. See Bureau of Justice Statistics, Probation and Parole in the United States, 2012, Appendix Tables 2 and 4.

As a digital subscriber to Prison Legal News, you can access full text and downloads for this and other premium content.

More from this issue:

1. An Interview with Noam Chomsky on Criminal Justice and Human Rights
2. $2.25 Million Jury Verdict against LCS in Texas Prisoner Death Suit, by Matthew Clarke
3. From the Editor, by Paul Wright
4. Ohio: Attorney General May Not Increase Sex Offenderâ€™s Registration Requirements
5. The Inadequacy of Prison Food Allergy Policies, by Jamie Longazel
6. $15.5 Million Settlement for Mentally Ill Detainee Held in Solitary Confinement
7. U.S. Supreme Court: District Courts Can Make Federal Sentences Consecutive or Concurrent to Future State Sentences
8. Kitchen Supervisor Gets Prison Time for Sexually Abusing Two Prisoners
9. Colorado Prisoner who Murdered Guard Gets Life Without Parole
10. Lowering Recidivism through Family Communication, by Alex Friedmann
11. Iowa: Parole Agreement Does Not Constitute Voluntary Consent that Justifies Warrantless Search
12. No Discipline for Oregon Prosecutor and Defense Counsel for Illegal Confinement of Mentally Ill Defendant
13. Update on Missouri Incarceration Reimbursement Act Case
14. Arkansas Suing Prisoners for Incarceration Costs
15. Montana: Hospitalized Prisoner Entitled to Continuance in Divorce Case
16. California Supreme Court: Challenge to Booking Fee Order Forfeited Due to Failure to Object in Trial Court
17. Texas: False Arrest and Malicious Prosecution Result in $411,865.18 Recovery
18. Study: TASER Shocks May Cause Fatal Heart Attacks, by Matthew Clarke
19. Texas Court Holds CCA is a Governmental Body for Purposes of Public Records Law
20. Mass Incarceration: The Whole Pie, by Peter Wagner
21. New York Prisoner Secures Court Order for Visitation with Child
22. GPS Monitoring System in Los Angeles Plagued by False Alerts, Ignored Alarms, by Christopher Zoukis
23. Placing Rival Gang Members in Same Cell Not Per Se Unconstitutional
24. Qualified Immunity Denied to Michigan Guard for Improper Strip Search of Amputee Prisoner
25. No Death Penalty for Maine Prisoner, by Lance Tapley
27. Court Awards $18,176 in Fees, Costs in PLN Censorship Suit Against Oregon County
28. Oregon Appellate Court Declines to Correct Unpreserved Sentencing Error Related to Restitution, by Mark Wilson
29. Ninth Circuit: Delay in Providing Dental Care May Constitute Deliberate Indifference
30. Burden-Shifting Jury Instruction Requires New Trial in Prisoner's Lawsuit
32. Sexual Abuse by Oregon Jail Guard Nets Probation; Defense Attorney Blames Victim
33. Federal Court Must Give Reasons for Special Conditions of Supervised Release, by David Reutter
34. Idaho Supreme Court Upholds Dismissal of Section 1983 Claims in Jail Suicide Case, by Mark Wilson
35. Washington PRA Violations Result in Costs and Penalties, by Mark Wilson
36. Prisoner Organ Transplants, Donations Create Controversy
37. News in Brief

More from Peter Wagner:

- Mass Incarceration: The Whole Pie, April 15, 2014
- In Memory of Jon E. Yount (1938-2012), Feb. 15, 2013
- Momentum Builds to End Prison-Based Gerrymandering, Dec. 15, 2012
- Prison Town Legislators Represent Prisoners’ Interests? Not Quite, Nov. 15, 2004
- Local Officials Tell Prisoners: “You don't live here”, Aug. 15, 2004
- Thirty Three Years after Attica: Many more Blacks in prison, but not as guards, July 15, 2004
- California's Budget Secret: Prisoners Form Core of Forest Fire Fighting Army, June 15, 2004
- Crime Control as Industry: Towards Gulags, Western Style, Oct. 15, 2003
More from these topics:
