

The data is clear: America will not significantly reduce incarceration unless the justice system changes its approach to violence. But addressing how the justice system works when someone engages in serious behavior that can harm someone else is a complicated issue.

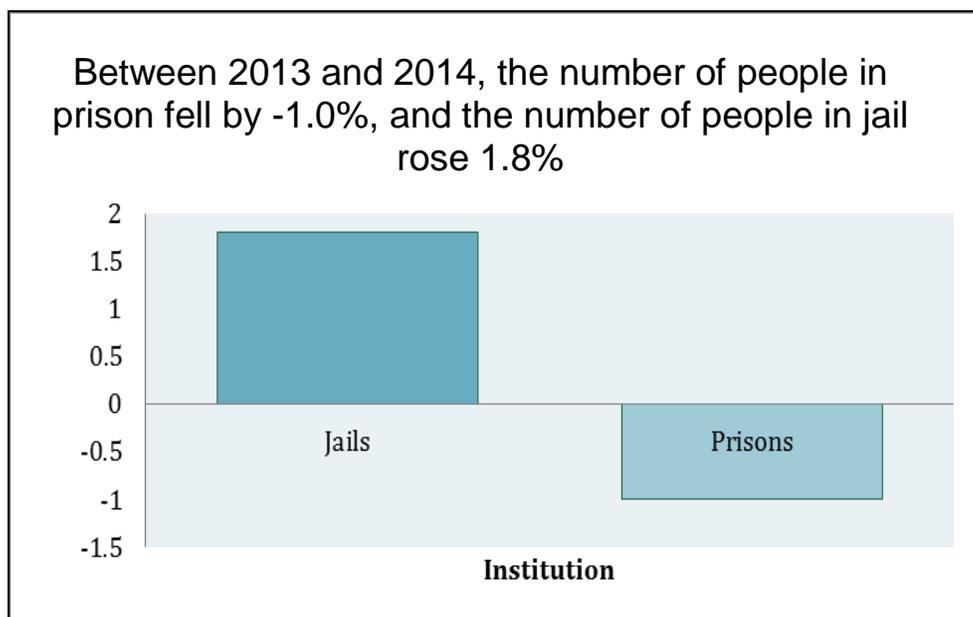
Key facts and figures from *Defining Violence: reducing incarceration by rethinking America's approach to violence* spell out how complicated some of these issues are, and why we need a different justice system approach to violent crimes.

The focus on nonviolent offenses has not substantially cut incarceration.

- The latest prisoner survey showed the nation has experienced the second largest decline in prison populations in 35 years. But of the 23 jurisdictions, including the Federal Bureau of Prisons, 14 states and federal system saw their prison population decline by 2 percent, or less, with the overall number of people held in a correctional facility dropping by only 1 percent, and two thirds of the places that saw a prison population decline saw reductions of 2 percent or less.

During the same time, the number of people in jail either as pretrial defendants or people sentenced to jail rose by 1.8 percent.

- If the country were to reduce its incarceration rate to what European nations currently experience, the U.S. would have to reduce its prison population by 80 percent, or about 1.2 million fewer people in prison and jail— something that couldn't happen unless we reduce the incarceration of people convicted of violent crimes.
- There are approximately 718,000 people in prison whose most serious offense that led to their imprisonment is a violent crime.¹



Source: Prisoners in 2014 (2015); Jail Inmates at Midyear 2014 (2015). Bureau of Justice Statistics.

Violent offenses are categorized differently from place-to-place.

An act may be defined as a violent crime in one place, and a nonviolent crime somewhere else.

- **Burglary** rarely involves person-to-person behavior, but can lead to a long prison sentence. One U.S. Justice Department survey showed that 7.6 percent of all burglaries between 1998 and 2007 involved a burglary and a violent crime, and only 2.7 percent resulted in actual physical injury.
- Washington, D.C.'s **assaulting a police officer (APO)** law once covered a wide range of behaviors, like wiggling in handcuffs. A study of APO in Washington, D.C. found that prosecutors declined to press charged in more than 40 percent of the arrests under this law, and 90 percent of people charged with APO were African American.

Context matters in the way violent or nonviolent crimes are treated by the justice system:

Sometimes, a behavior that would not normally be defined as violent or result in a long prison term can mean much longer terms of imprisonment when a gun is involved.

- According to a study by the U.S. Justice Department's correctional statistics division, among prisoners carrying a firearm during their crime, 40 percent of State inmates and 56 percent of Federal inmates received a sentence enhancement because of a firearm.
- About 35 percent of people serving time for robbery in state prisons and 40 percent in the federal prison system had a gun at the time of the offense;
- According to the U.S. Justice Department, seven-and-a-half million *more guns* are

produced every year than were a decade ago. One study found that gun availability influenced rates of assault, gun assaults, robbery and gun robberies, and that *"increasing gun availability provides an incentive for city residents to commit crime that they normally would not commit if guns were not available."*

- While most gun owners in American are white, more than 7 in 10 people in state prison for weapons offenses are African American and Latino.

There is a disconnect between the evidence of what works to make us safer, and our current policies.

People convicted of some of the most serious offenses – such as homicide or sex offenses – can have the lowest recidivism rates, but still end up serving long prison terms.

- In **Maryland**, of the 100-plus people convicted of homicide that were released under a judicial decision, *none* have been convicted of a new felony offense.
- In **New York State**, of the 987 people convicted of homicide who were granted parole between 2009 and 2012, only two were re-imprisoned within three years for a new felony conviction.
- People leaving prison for sex offenses can be considerably less likely to be re-arrested for any offense compared to people convicted of other offenses, and their re-arrest rate within the first three years of discharge are still relatively low – 5.3 percent according to one account. In **Michigan**, 99 percent of people released from prison through parole between 2007 and 2009, after serving a sentence for sex offense, did not return to prison for a sex offense.

- A sex offense conviction carries significant consequences after someone leaves prison, but it isn't clear that these laws work to make communities safer. While there are about 850,000 people convicted of sexual

offenses registered across the United States, a National Institute of Justice study of the **major federal law requiring community notification** found “no demonstrable effect in reducing sexual re-offenses.”

In *Defining Violence*, JPI recommends a series of strategies for policymakers that would help shift the approach to violence and achieve more significant reductions in the use of incarceration. JPI recommends that policymakers build their justice reform proposals around these principles:

- Increase prevention and intervention approaches to violence;
- Expand diversion without stringent offense prohibitions;
- Reduce the number of offenses that can result in incarceration;
- Reduce the number of offenses that result in criminal and delinquency proceedings;
- Reduce the number of people on community supervision;
- Change laws, policies, and practices that affect length of stay;
- Increase restorative justice and trauma-informed approaches to violence;
- Use risk assessment tools in decision-making;
- Make prison and jail closures part of justice reform proposals; and
- Reduce gun availability.

¹ Most prisoners in prison for violent offenses are in state facilities, which in 2014 included, 185,000 people convicted of robbery, 169,000 convicted of rape or sexual assault, 169,000 convicted of homicide (and 18,000 people convicted of manslaughter), and 135,500 and aggravated/simple assault. There are also the 15,000 people in federal prison whose most serious offense violent offense, 140,000-plus people are who are awaiting trial, and the 42,000-plus people who were convicted of a violent offense in jail. See Prison Policy Initiative, Mass Incarceration: The Whole Pie 2016. See <http://www.prisonpolicy.org/reports/pie2016.html>