

The Case for Incarceration

America's cities are suffering under failed progressive policies. Random acts of violent crime, persistent disorder, and the continued destruction of the poorest communities and shared downtowns are the result of decades of bad choices by policymakers. It is time to return to a proven method of reducing crime and disorder: increasing rates of incarceration.

There are four essential findings that policymakers and the public must know:

- (1) Most crime is committed by a small percentage of people.
- (2) A small percentage of criminals account for almost all crime.
- (3) There is no such thing as a "non-violent" or "low-level" offender. A property offender is statistically more likely to commit a new violent offense than a violent offender.
- (4) Incarceration works by preventing criminals from continuing to victimize their communities, and is a proven strategy in reducing overall crime rates.

Policies must be enacted that adopt automatic persistent-offender enhancements and hold prosecutors and judges accountable for failing to uphold the law.

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Introduction

John MacDonald, Ph.D., Professor of Criminology and Sociology at University of Pennsylvania, wrote a treatise in *Vital City* on the role criminology research should play in developing public safety policy, lamenting the lack of applied research findings to most reformers' ideologically-driven approaches. Dr. MacDonald highlighted what he called "seven indisputable facts about crime and offenders" derived from decades of criminology research.

These seven indisputable facts are the following:

1. **Crime is highly concentrated by place.** As little as 3% of addresses and 5% of street blocks account for more than 50% of crimes reported by citizens to the police.¹
2. **Crime is also concentrated by times of day, days of the week, and months.** Summers, nights, and weekends are peak times for violence.²
3. **Crime is highly concentrated among active offenders.** Most of the criminal offending in the population is generated by a small fraction of chronic offenders, such that the incapacitation of one high-volume offender abates an estimated 9.4 felony offenses.³
4. **Just as crimes are highly concentrated among places and people, so are the social costs of crime.**⁴
5. **Among criminal offenders, the rate of offending peaks in early adulthood,** consistent with the "age-crime curve."⁵
6. **Offenders do not specialize in specific offense patterns.** Rather, active offenders tend to engage in what could be called a "cafeteria style" of offending. While some offenders show repeat behaviors, even the most optimistic approaches to estimating offense specialization can only find some modest evidence of offending preferences.⁶
7. **Criminal offending occurs within social networks,** and the most active offenders tend to be clustered within dense criminal networks.⁷

Dr. MacDonald writes that "evidence-based crime policy should be guided by programs that confront these basic facts."⁸

This review is focused on the utility of incapacitating high-rate offenders. The reality of a small set of offenders committing the clear majority of crimes requires a carceral response to keep communities safe.

High-Rate Offenders

It should be no surprise that five of MacDonald’s “seven indisputable facts” are related to the concentration of crime. Criminology research has long recognized that **a select few offenders account for almost all crime commission.**

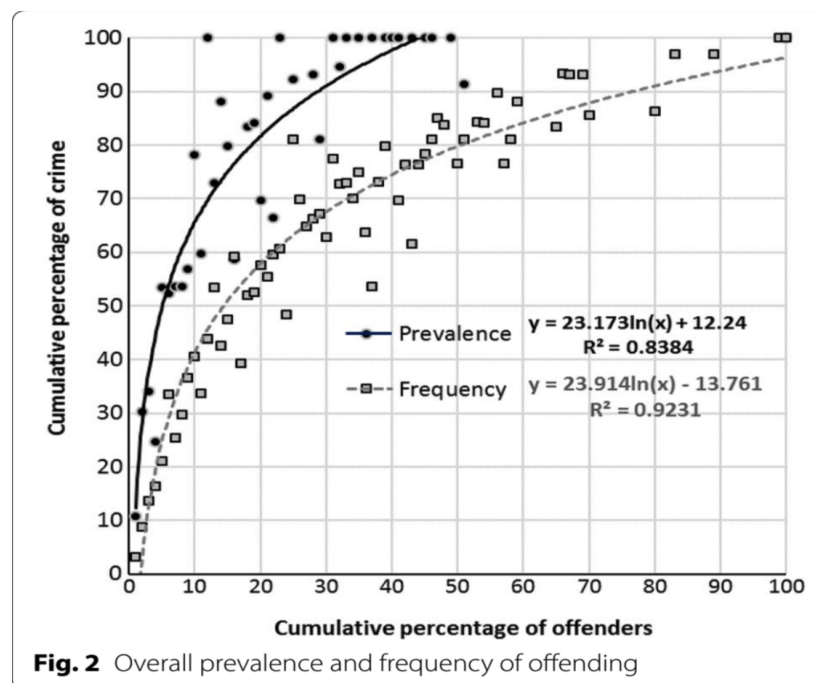
This split, between the offending population and the nonoffending population, is crucial for actors in the criminal justice system responsible for public safety to recognize and accept.

The first Philadelphia Birth Cohort report, a series of studies following several cohorts of thousands of Philadelphia-born males across decades, found that only **six percent of the cohort committed 52 percent of all juvenile criminal activity.**⁹ Follow-up studies of later cohorts found that **criminal continuity was very common**, meaning delinquent juveniles went on to become adult criminals, while nondelinquent juveniles remained noncriminal throughout their lifetimes.¹⁰ Elliot (1994), using the National Youth Survey (NYS), found that minor transgressions were followed-on by serious violent crime.¹¹

Prevalence and Frequency

A 2017 meta-analysis found **prevalence of offenders** (the proportion of people who engage in crime) and **frequency of offending** (the number of times an individual offends) **are both highly concentrated among a select few.**¹²

[“Fig. 2: Overall prevalence and frequency of offending” below]¹³



Specifically, the meta-analysis found that **10 percent of the general population accounts for 65 percent of crime**, and **20 percent account for over 80 percent of all crime**.

Practically, this supports a priority of clearly (or as clearly as practicable) delineating the criminal population from the non-criminal population.

A study following D.C. cohorts of arrestees found that individual frequencies of crime commission were independent of the number of prior convictions, and that **active offenders committed an average of nine to 17 Index offenses per year**.¹⁴ Surveys of prisoners found **self-reported frequencies of an average of 115 drug deals, 14 burglaries, and up to 22 robberies per person per year**.¹⁵

When measuring frequency, **20 percent of all offenders commit nearly 60 percent of all crime**.¹⁶

The prisoner survey found the **highest-rate offenders self-reported committing more than 10 crimes per week**, with peak offenders reporting an average of 70 robberies, 144 burglaries, and 229 thefts per year.¹⁷

Still, this means that among the general population, **the proportion of people who commit crimes is more concentrated than the concentration of high-rate offenders among all offenders**. This means the distinction *among* the criminal offender population is much less important than the distinction between the subset of offenders and the general population.

This is especially true given that, generally, offenders tend to simply commit crime, lacking focus or specialization. Elliot (1994) found that **serious offenders “exhibited versatile offending patterns.”**¹⁸ Farrington (2002) found that most males convicted for a violent offense were convicted of a nonviolent offense as well, and **violent crimes “occurred almost at random” in a criminal career**, discrediting a “non-violent offender” mythology.¹⁹

Bureau of Justice Statistics

BJS data corroborate these findings.

Rearrest rates:

- Prisoners who were released after serving time for a property crime conviction were nearly **just as likely to be rearrested for a violent crime** as those who were incarcerated for a violent crime (29.6% vs. 32.4%, respectively).²⁰
- Property-crime convicts were **just as likely to be rearrested for robbery** (5.4% vs. 6.2%), and more likely to be rearrested for burglary (17.1% vs. 6.7%), and larceny/motor vehicle theft (35.3% vs. 15.8%) than violent-crime convicts.²¹

- Shockingly, property-crime convicts were **rearrested for homicide at similar rates as violent-crime convicts** (0.7% vs. 1.0%, respectively).²²

Violent recidivism:

- Those who were **incarcerated for a drug offense were more likely to commit homicide** than those who had been incarcerated for homicide, rape/sexual assault, robbery, or assault.²³
- Similarly, those who had been **incarcerated for burglary were more likely to commit homicide, rape/sexual assault, and robbery** than individuals who had been released following a conviction of one of these offenses.²⁴

The idea of an offender being “low-level” or “non-violent” is just plainly false. These offenders will go on to commit violent crime at rates similar to or greater than other “more dangerous” offenders, and, given the prisoner surveys, likely already have committed several of these more serious offenses.

Similarly, the idea of an offender being down on his luck or a low-propensity, one-off offender is equally false:

- **Over seven in 10 released prisoners were rearrested within five years**, and, of those rearrested, the average number of rearrests within five years was 3.78.²⁵
- Seventy-nine percent of prisoners released in 2012 had been admitted for a new court commitment, while **only 18 percent had been admitted for a supervision violation**.²⁶
- **Forty-six percent returned to prison within five years** for a new sentence or a supervision violation.²⁷
- Almost **three-quarters (74.4 percent) of prisoners had five or more prior arrests**, and nearly half (43.3 percent) **had 10 or more prior arrests**.²⁸
- The **median offender had four prior convictions**, while the **mean offender had 5.4**, indicating that there is an upper bound of **especially high-rate offenders with significant incarceration history**.²⁹
- Those with **10 or more prior arrests** were **rearrested** within five years at a **rate of 81 percent**, while those with **two or fewer arrests** were **rearrested** at a **rate of 47.6 percent**.³⁰
- **Violent offenders** were **rearrested** within five years at a rate of **65.2 percent**; **drug offenders** were **rearrested** at a rate of **69.8 percent**; and **property offenders** were **rearrested** at a rate of **78.3 percent**.³¹

Group Concentration

The unfortunate reality is that the **criminal population is distinct from the nonoffending population** and is **responsible for the vast majority of crime**, and that an even smaller subpopulation of **very high-rate offenders is responsible for nearly all crime**, though all offenders present a propensity for indiscriminate crime commission.

This is in line with the findings touted even by progressive activist groups such as Giffords, the anti-gun lobbying coalition.

- In a 2019 report, Giffords highlighted the findings of the California Partnership for Safe Communities, which found only **0.1 percent of Oakland’s population committed the majority of homicides**.³²
- Further, the report dispels the belief that the majority of offenders are youths (the average suspect age was 28).
- Perhaps most importantly, the report highlighted that **84 percent of homicides were “group member-involved,”** a benevolently polite euphemism for gang violence.
- **Gang members** are also **200 percent more likely to return to prison** than non-gang members.³³
- Like all crime, even gun-related crimes are highly concentrated among a very small number of active, high-rate offenders. Compare the Oakland statistic of **84 percent of homicides being gang-related** to 2021 data from Texas showing licensed **concealed weapons holders accounted for just 0.141 percent of all crime**.³⁴

There is a demonstrated need for incarceration. These offenders, only comprising a **small percentage** of the **overall population**, are responsible for the **vast majority of crime**, and in turn, the vast majority of pain and suffering inflicted on communities, with particular exposure to the poorest and least advantaged of the community. **Incapacitation is a worthy end in itself**. By incapacitating the high-rate criminal, he is rendered unable to commit additional crimes.

There is even support for incarceration being positive for the offender, their immediate family, and of course (through the reduction in crime commission), their community at large.

The (Traditional) Criminal Justice System Works

MacDonald’s review of extant criminology research boils down to the following: **to reduce crime, police should focus resources in crime-concentrated places, arrest high-volume offenders, and prosecutors should incapacitate those offenders in prison**. This is the singular proven model for keeping communities safe from predation and fear of harm and allowing economic prosperity to flourish. Any rejection of this tradition leaves already-vulnerable communities unprotected.

1990s Crime Decline

In the 1990s, the United States experienced a substantial reduction in crime, in all categories of crime and across all parts of the nation.³⁵ Homicide rates fell 43 percent from 1991 to 2001 to 35-year lows, with similar reductions in violent and property crime indexes.

Steven D. Levitt, Ph.D., determined in a now-ubiquitous paper the four reasons for this (unexpected) decline in crime that was unique to the United States.

Levitt's data point to (1) **increases** in the number of **police**, (2) **increases** in the **incarcerated population**, (3) the **decline** of the **crack epidemic**, and (4) the **legalization** of **abortion** as the four highest-impact causes of the crime decline.

Of all of Levitt's findings, the increase in the prison population is found to have the highest certainty level of its estimated impact.³⁶ Levitt finds the **increase in the prison population** accounting for about **a third of the decline in homicides** (33%) and **all violent crime** (36%), and **a quarter of the decline in property crime** (25%). This determination is generally supported by other researchers³⁷, including Franklin Zimring in *The Great American Crime Decline*, though Zimring estimates the high-end impact of incarceration to be slightly less than Levitt.³⁸ Both Levitt and Zimring note the marginal elasticity of crime declines as incarceration increases, which is consistent with findings on the concentration of crime among offenders.

The Overincarceration Myth

It is oft-repeated that the United States incarcerates too many people—yet the truth is that the U.S. has an *underincarceration* problem.

Compared to peer nations, the United States is much more violent. The nation's capital city had a homicide rate that was 35 times higher than London.³⁹ The U.S.' violent incarceration rate is fifty percent larger than that of the European Union.⁴⁰ Overall, the homicide rate in the United States is five times that of Europe's rate.⁴¹⁻⁴²

- St. Louis alone has a **higher homicide rate** than Haiti.⁴³
- In 2018, just a few blocks in three American cities (Chicago, Baltimore, and Detroit) saw a number of **homicides equivalent to 10 percent of the combined homicide rate of the United Kingdom and Germany** despite housing just 0.33 percent of the combined population.⁴⁴
- This is all not to leave out that mass numbers of crimes go unreported in the United States, as only **40 percent of violent victimizations and 33 percent of property victimizations were reported** in 2020.⁴⁵

With this in mind, it should come as no surprise that while Europe's incarceration rate is 111 per 100,000, in the U.S., it is 374 per 100,000.⁴⁶⁻⁴⁷ Still, per homicide, the incarceration rate in the United States is lower than almost all peer nations.

Incarceration and Future Crime

Not only does incapacitation reduce crime commission by removing high-rate offenders, studies disprove the socialization myth that incarceration generally will lead to increased criminality. **Research finds a neutral or negative (reductive) effect on future crime commission as a result of imprisonment.** BJS data even show that the longer the term of incarceration, the lesser likelihood of recidivism.

In fact, some studies and pure BJS data show that increasing time served reduces the likelihood of reincarceration.

A 2013 study of sentencing disparities in Cook County, Illinois found **no measurable increase of future re-offending as a result of imprisonment.**⁴⁸ Another 2013 study in Pennsylvania found the same, as did a 2017 study in Michigan.⁴⁹⁻⁵⁰ In fact, the Michigan study found that **imprisonment** (as opposed to community supervision) **reduced the likelihood of a new felony conviction** within five years by nearly **15 percentage points for non-Whites** and nearly **nine percentage points for Whites**, with medium- or high-severity felonies decreasing by 10.6 percentage points and 5.4 percentage points within five years, respectively.⁵¹ These results were highly statistically significant, especially the “any new felony” finding, which had a *p*-value of < 0.001.

According to **BJS data**, **for every type of offense**, the percentage of **released prisoners** who were **re-arrested** within five years was **less for those who served more** than the median time served before first release, as compared to those who served less than the median time served.⁵²

- Those who served more than the median time for **homicide** were rearrested **17.6 percentage points (37.16 percent) less**⁵³
- Those who served more than the median time for **rape or sexual assault** were rearrested **11.5 percentage points (22.37 percent) less**⁵⁴
- Those who served more than the median time for **robbery** were rearrested **9.2 percentage points (11.98 percent) less**⁵⁵
- Those who served more than the median time for **assault** were rearrested **12.2 percentage points (15.97 percent) less**.⁵⁶
- Overall, **each additional 6 months served** for a violent offense **reduces the likelihood of rearrest** within 5 years of release by **2.7 percent, or 2 percentage points**.⁵⁷

For property crimes, the effect of serving more than the median time served was not as strong, but still reduced the likelihood of rearrest.

- For **burglary**, serving more than the median time reduced rearrest by **3 percentage points (3.77 percent)**⁵⁸
- For **larceny or motor vehicle theft**, the reduction was **5 percentage points (6.26 percent)**⁵⁹
- For **all drug crimes**, serving a lengthier sentence reduced rearrest by **5.5 percentage points (7.91 percent)**.⁶⁰

Incarceration and Familial Outcomes

Incarceration is also good for the offender's immediate family, especially his children or younger siblings.

A 2021 study on the effects of incarceration on young family members highlighted the intuitive benefits of incapacitation: a reduction in instances of domestic abuse, the deterrent effect of witnessing incarceration of a close family member, and the removal of an adverse influence.⁶¹

The authors, using 30 years of Ohio court data, find **parental incarceration**:

- **Decreases** the likelihood of a **child being incarcerated** before age 25 by **4.9 percent**⁶²
- **Decreases** the likelihood of being **charged with a crime** by **6.6 percent**⁶³
- Has no statistically significant impact on **test scores** or **grade point averages**⁶⁴
- Make children, when grown, **more likely** to live in neighborhoods with **significantly higher socioeconomic status** than that of their childhood neighborhoods⁶⁵

This is in line with findings of parental incarceration improving educational attainment and decreasing future criminality in children, including studies in Sweden, Norway, Finland, and Colombia.⁶⁶

This should come as no surprise, as:

- **Antisocial behavior in fathers**, especially in resident-father families, **is predictive** of both **short- and long-term antisocial behavior in children** (itself predictive of criminal behavior).⁶⁷
- Children who grow up in a single-parent household are at higher risk for antisocial behavior, but **only if the father in a two-parent household does not engage in antisocial behavior** himself.⁶⁸
- When the father *does* engage in antisocial behavior, the **child experiences worse behavioral outcomes in proportion to the amount of time the father spends in the home**.⁶⁹
- This is supported by historical research, including McCord (1991) finding that **paternal interaction** with the family has a **direct influence** on a **child's adult criminal behavior**, and McCord's later (1999) finding that **criminal men** were **disproportionately likely** to be **aggressive** in their **families**.⁷⁰

Progressive Prosecution and Crime

Despite the wealth of literature demonstrating that crime is highly concentrated and that traditional sanctions work, the progressive view of prosecution is committed to decarceration and non-sentencing of criminal defendants. This leaves this high-volume subset of offenders free to continue committing crime.

The most prominent study (that is not flawed by misguided research methods or suspicions of biases from grantee motivations) was conducted by criminologist Thomas Hogan (2022). In his study, Hogan tested whether progressive prosecutorial policies had an effect on the number of homicides.⁷¹

Hogan's Synthetic Philadelphia

Using Philadelphia (and District Attorney Larry Krasner) as a test case, Hogan's synthetic control analysis determined the city experienced an **increase of nearly 75 homicides per year as a result of Krasner's progressive policies.**

Under DA Krasner, the Philadelphia District Attorney Office saw:

- New prosecutions **fall 51 percent**⁷²
- New sentencings **fall 70 percent**⁷³
- Drug felony convictions **fall 73 percent**⁷⁴
- Drug misdemeanor convictions **fall 43 percent**⁷⁵
- Felon firearms convictions **fall 54 percent**⁷⁶

In comparison to a non-treated synthetic Philadelphia, the real Philadelphia had an **additional 74.79 homicides per year**.⁷⁷ The difference-in-differences analysis had a statistically significant p value of 0.012. The rate of increase in homicides accelerated the longer the de-prosecution policies were in place, with the experiment finding these policies resulted in an additional > 100 homicides by 2019.⁷⁸

Hogan also tested **Chicago**, which was found to have an **increase of 169.60 homicides per year** as a result of progressive prosecution policies ($p = < 0.01$), and **Baltimore**, which was found to have an **additional 70.62 homicides per year** under the same approach ($p = 0.01219$).⁷⁹

Given what we know about prevalence of and frequency among offenders, this is not a surprise, though the lack of surprise makes it no less disturbing.

Preventable Baltimore Homicides

In a real-world study, the Maryland Public Policy Institute corroborated Hogan's findings.

From 2015 to mid-2022, Baltimore suffered over 2,500 homicides, consistently making Baltimore one of, if not the, most dangerous cities in the United States.⁸⁰

In a limited time period review (January 2019 – July 2020), of 110 homicide suspects⁸¹:

- **82 percent** had **serious criminal convictions** prior to the homicide⁸²
- **59 percent** had previously **committed a weapons crime** or **used a firearm** in another offense⁸³
- **44 percent** had **prior violent crime convictions**⁸⁴

Seventy-seven of the 110 homicide defendants had been convicted of serious offenses prior to the murder under Baltimore City State's Attorney Marilyn Mosby.⁸⁵ **Fully 79 percent (61 of 77) of homicide defendants** convicted since 2015 **should have been incarcerated at the time of the homicide incident.** These defendants, convicted under CA Mosby, had faced incarceration terms that exceeded the time period from their disposition to the homicide incident.

If the alleged killers had been incarcerated for their eligible sentence, they would not have been free to commit the alleged homicide.⁸⁶

The fact that authorities had the **opportunity to incapacitate** these serious, often violent, offenders **before they committed a homicide**, yet did not in the name of justice, is a reflection of the **short-sightedness** of the progressive prosecutorial philosophy.

Shifting Public Sentiment

San Francisco

In San Francisco, **progressive prosecutor Chesa Boudin** was successfully **recalled**.⁸⁷ Voters felt his lenient policies resulted in "deteriorating street conditions, particularly around public drug use, retail theft, and car break-ins."⁸⁸

Under **current District Attorney Brooke Jenkins**, San Francisco's criminal justice system is being used properly:

- 2024 had the **highest felony filing rate percentage** (68%) since at least 2011⁸⁹
- The number of **misdemeanor cases filed** was also the **highest in over a decade**⁹⁰
- **Felony convictions** are up over **17 percentage points**, a **37 percent increase**⁹¹
- **Misdemeanor convictions** have **doubled** from Boudin's low⁹²
- Successful weapons convictions have risen from 37 percent to 73 percent⁹³

As a result:

- **Larceny theft, assault, burglary, motor vehicle theft, robbery, and homicide** are all **trending downward**⁹⁴

Police have begun to **bring more arrests** to the district attorney offices, likely out of **confidence** that the arrests and charges would be **handled appropriately**.

As Jenkins, the liberal district attorney, stated, "**Progressive does not mean do away with prosecution, do away with enforcing the law...** It means **being thoughtful** about the way you do it."⁹⁵

Baltimore

Baltimore City State’s Attorney Ivan Bates says he’s been able to **bring down violent crime** by **increasing** the number of people his office **puts behind bars**.⁹⁶

Bates beat out progressive prosecutor Marilyn Mosby in the 2022 Democratic primary.

He’s been able to **convict more than 2,000 people** for **violent crimes**. He says **most are repeat offenders**, and he’s gotten **lengthier sentences, dropped fewer cases**, and enhanced victim and witness support.⁹⁷

All of the criminals his office has convicted in the last two years have been **sentenced for at least five years’** imprisonment **without** the possibility of **parole**.⁹⁸

As a result, the city has experienced **two straight years of declines in homicides** after suffering over 300 homicides annually for over a decade.⁹⁹

Conclusion

- Most crime is committed by a small percentage of people.
- A small percentage of criminals account for almost all crime.
- There is no such thing as a “non-violent” or “low-level” offender. A property offender is statistically more likely to commit a new violent offense than a violent offender.
- Incarceration works by disallowing criminals to continue to victimize their communities and is a proven strategy in reducing overall crime rates.
- Longer sentences have the added bonus of reducing an offender’s likelihood of reoffending.
- Incarceration has a positive effect on the families of criminals.
- Progressive “soft-on-crime” policies are proven disasters and increase crime commission.

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