

REVISED APRIL 2010

# Prison Count 2010

## State Population Declines for the First Time in 38 Years

For the first time in nearly 40 years, the number of state prisoners in the United States has declined. Survey data compiled by the Public Safety Performance Project of the Pew Center on the States, in partnership with the Association of State Correctional Administrators, indicate that as of January 1, 2010, there were 1,404,053 persons under the jurisdiction of state prison authorities, 4,777 (0.3 percent) fewer than there were on December 31, 2008.<sup>1</sup> This marks the first year-to-year drop in the state prison population since 1972.

In this period, however, the nation's total prison population increased by 2,061 people because of a jump in the number of inmates under the jurisdiction of the Federal Bureau of Prisons. The federal count rose by 6,838 prisoners, or 3.4 percent in 2009, to an all-time high of 208,118.

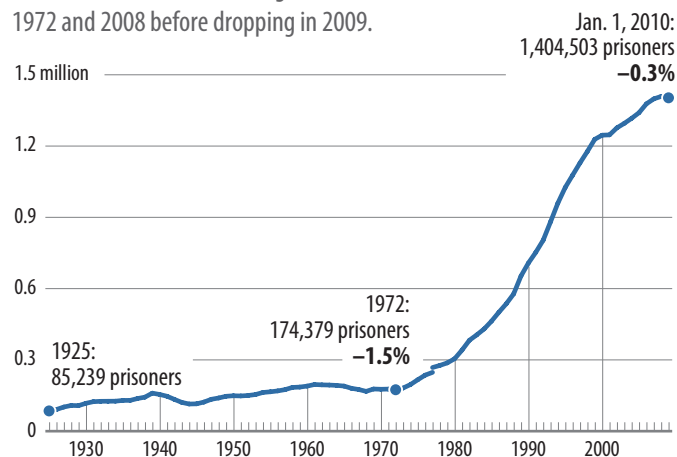
Prior to 1972, the number of prisoners had grown at a steady rate that closely tracked growth rates in the general population. Between 1925 (the first year national prison statistics were officially collected) and 1972, the number of state prisoners increased from 85,239 to 174,379.<sup>2</sup>

Starting in 1973, however, the prison population and imprisonment rates began to rise precipitously. This change was fueled by stiffer sentencing and release laws and decisions by courts and parole boards, which sent more offenders to prison and kept them there for longer terms.<sup>3</sup> In the nearly five decades between 1925 and 1972, the prison population increased by 105 percent; in

the four decades since, the number of prisoners grew by 705 percent.<sup>4</sup> Adding local jail inmates to state and federal prisoners, the Public Safety Performance Project calculated in 2008 that the overall incarcerated population had reached an all-time high, with 1 in 100 adults in the United States living behind bars.<sup>5</sup>

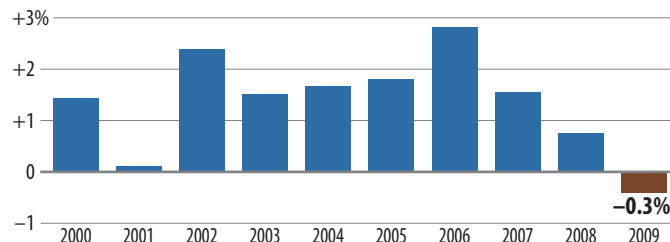
### FIRST STATE DECLINE IN 38 YEARS

The number of state inmates grew 708% between 1972 and 2008 before dropping in 2009.



NOTE: Annual figures prior to 1977 reflect the total number of sentenced prisoners in state custody. Beginning in 1977, all figures reflect the state jurisdictional population as reported in the Bureau of Justice Statistics' "Prisoners" series. Data for both sentenced prisoners in custody and the jurisdictional population are reported for 1977 to illustrate the transition.

### Annual percent change in state prison populations



SOURCE: U.S. Department of Justice, Bureau of Justice Statistics; Pew Center on the States, Public Safety Performance Project

## State Trends Vary Widely

While the overall state prison population has declined, the Pew survey revealed great variation among the states. In 26 states, the population dropped, with some posting substantial reductions. Meanwhile, the number of prisoners continued to grow in the other 24 states, several with significant increases.

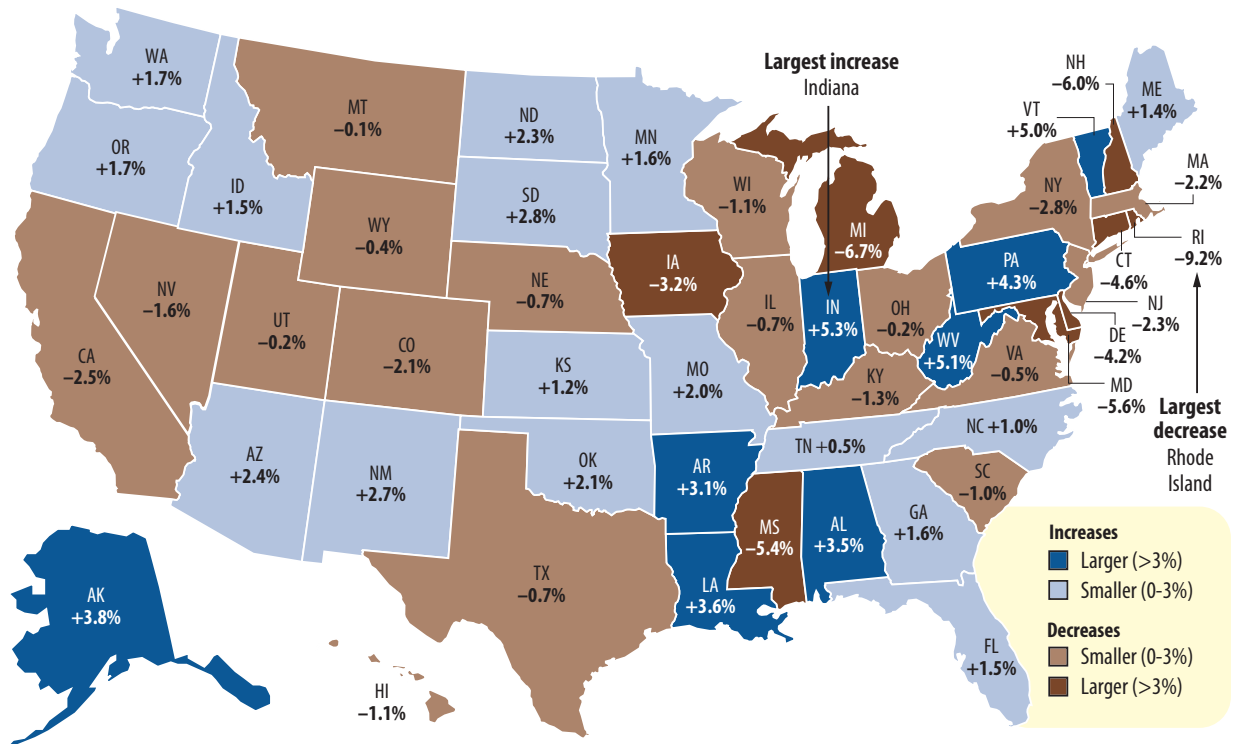
In proportional terms, the steepest decline occurred in Rhode Island, where the prison population tumbled 9.2 percent. Other states with substantial declines included Michigan (6.7 percent), New Hampshire (6.0 percent), Maryland (5.6 percent) and Mississippi (5.4 percent). Michigan's contraction follows a three percent drop during 2008.

In absolute numbers, California's state inmate count fell the most, with the state shedding 4,257 prisoners in 2009. This follows a decline of 612 prisoners in 2008. Five other states experienced total reductions of more than 1,000 prisoners in 2009: Michigan (3,260), New York (1,699), Maryland (1,315), Texas (1,257) and Mississippi (1,233).

Among those states where the prison population increased, Indiana led the nation in proportional terms, growing by 5.3 percent. Other states with significant increases were West Virginia (5.1 percent), Vermont (5.0 percent), Pennsylvania (4.3 percent) and Alaska (3.8 percent). In the 23 states where the state prison population grew, more than half of the increase occurred in just five states: Pennsylvania (2,122), Florida (1,527), Indiana (1,496), Louisiana (1,399) and Alabama (1,053).

### STATES MOVE IN DIFFERENT DIRECTIONS

Percent change in state prison populations, 2008–2009.



NOTE: Percent change is from December 31, 2008 to January 1, 2010 unless otherwise noted in the jurisdictional notes.

SOURCE: Pew Center on the States, Public Safety Performance Project

The tremendous variation among growth rates in the states shines a bright light on the role that state policy plays in determining the size and cost of the prison system.

## What Is Driving the Decline?

As recently as 2006, states were anticipating faster growth in prison populations. A survey of state projections that year forecast a five-year increase of 162,725 inmates and a jump of 104,515 by year-end 2009.<sup>6</sup> However, the actual increase was 38,332 fewer than projected.<sup>7</sup>

What happened? Conventional wisdom holds that states are facing such large budget deficits that they are simply shedding inmates in a rush to save money. While the fiscal crisis certainly has prompted many states to revisit their sentencing and release policies, financial pressures alone do not explain the decline in state prison populations.

The number of inmates in prison is determined by the flow of admissions and releases. Indeed, total state admissions to prison declined in 2007, well before the economic collapse, and again in 2008.<sup>8</sup> The admissions decline was driven exclusively by a reduction in the number of people sent to prison for new crimes, as the other type of admission, those for violations of probation or parole, increased for the fifth year in a row.<sup>9</sup> On the release side of the equation, the number of inmates released from state prison grew for the seventh year in a row in 2008 and reached an all-time high of 683,106.<sup>10</sup> Taken together, the rate of state prison growth began to slow in 2007, dropping from 2.8 percent in 2006 to 1.5 percent in 2007, and then to 0.7 percent in 2008 before declining 0.3 percent in 2009.<sup>11</sup>

Admissions began to decline and releases started to rise for a variety of reasons, but an important contributor is

that states began to realize they could effectively reduce their prison populations, and save public funds, without sacrificing public safety. In the past few years, several states, including those with the largest population declines, have enacted reforms designed to get taxpayers a better return on their public safety dollars:

**California.** One of the primary reasons for California's past prison growth has been its high rate of parole revocations.<sup>12</sup> Over the past two years, the state has sought to cut the number of low-risk parolees returning to prison for technical violations by expanding use of intermediate sanctions to hold violators accountable without a costly return to prison.<sup>13</sup> Despite the significant overall population decline during 2009, California's problems with prison overcrowding remain far from resolved. In August 2009, a federal court ordered the state to cut its prison population by more than 40,000 prisoners, or about 30 percent, in two years.<sup>14</sup> The state is struggling to develop a plan to meet this requirement.

**Michigan.** In March 2007, Michigan's prison population reached an all-time high of 51,554.<sup>15</sup> Less than three years later, the state has reduced its population by more than 6,000 inmates to 45,478. This reduction has come about largely by reducing the number of inmates who serve more than 100% of their minimum sentence, decreasing parole revocation rates, and enhanced reentry planning and supervision through the Michigan Prisoner Reentry Initiative.<sup>16</sup>

**Texas.** In January 2007, Texas faced a projected prison population increase of up to 17,000 inmates in just five years.<sup>17</sup> Rather than spend nearly \$2 billion on new prison construction and operations to accommodate this growth, policy makers reinvested a fraction of this amount—\$241 million—in a network of residential and community-based treatment and diversion programs.<sup>18</sup> This strategy has greatly expanded sentencing options for new offenses and sanctioning

options for probation violators. Texas also increased its parole grant rate and shortened probation terms. As a result, this strong law-and-order state not only prevented the large projected population increase but reduced its prison population over the three years since the reforms were passed.<sup>19</sup>

**Mississippi.** In 2008, Mississippi rolled back to 25 percent, from 85 percent, the portion of sentences that nonviolent offenders are required to serve prior to parole eligibility.<sup>20</sup> Between July 2008, when the law took effect, and August 2009, Mississippi paroled 3,076 inmates a median of 13 months sooner than they would have under the 85 percent law, which was passed in 1995.<sup>21</sup> Through August 2009, only 121 of those paroled offenders have been returned to custody—116 for technical violations of parole and five for nonviolent offenses.<sup>22</sup> This initial recidivism rate of 0.2% (return for a new offense) in the first year is a fraction of the national rate of 10.4%.<sup>23</sup> Officials attribute the low recidivism rate to the use of a new risk assessment tool, which is helping distinguish between inmates who can be safely paroled and those who need to remain behind bars.

**Nevada.** Three years ago, Nevada projected a prison population increase of more than 60 percent by 2012 at an estimated cost to taxpayers of more than \$2 billion.<sup>24</sup> The 2007 legislature voted nearly unanimously to enact several policy measures that increased program credits awarded for in-prison education, vocational and substance abuse treatment; expanded the number of credits people in prison and on community supervision can earn for “good time” and compliance with conditions, respectively; and reinstated an advisory commission to review sentencing and corrections policies for effectiveness and efficiency. The combination of these measures and other reforms saved Nevada \$38 million in operating expenditures by FY 2009 and helped avert \$1.2 billion in prison construction costs.<sup>25</sup>

In addition to changes in policy and practice at the state level, trends in crime and other demographic changes are potential contributing factors to the prison decline. In 2008, the index crime rate was 763 serious offenses per 100,000 persons.<sup>26</sup> That figure is 13 percent lower than in 1972, the last year in which the state prison population declined, and 37 percent lower than the historic high of 1990.<sup>27</sup> Indeed, the nation’s crime rate has been declining steadily since the early 1990s, but the prison population has not reflected this trend. If the crime trend was an explanatory factor for this year’s state prison decline, why were the results not apparent until nearly 20 years after the beginning of the crime drop?

One possible explanation for this delayed effect lies in the expanding population of people on community supervision. Currently, more than five million offenders are on probation or parole, an increase of 59 percent since 1990.<sup>28</sup> During the 1990s, admissions to prison for new crimes were growing by less than one percent a year (potentially a reflection of declining crime), while admissions for violations of parole rose by four percent a year.<sup>29</sup> During that decade, parole violations, as a proportion of all prison admissions, more than doubled.<sup>30</sup> Because parolees and probationers are subject to revocation to prison for violating the terms of their supervision, they are more likely to return to prison than people from the general population are likely to enter prison. It may be that the growing parole and probation population, and the recycling of these offenders back into prison for violations, kept the prison population increasing during a time when crime declined. It is only during recent years, as new court commitments (admissions to prison for new crimes) have decreased and the growth in revocations has stabilized, that the number of prison inmates has dropped.

Changes in the general population can also affect the size and make-up of the prison population. Research shows that criminal offending peaks in late adolescence and then

declines throughout adulthood.<sup>31</sup> As baby boomers age and the general population becomes older, crime rates can be expected to decrease as well.

## Federal Growth Continues

The federal prison population has grown at a far faster rate than has the state prison population, more than doubling since 1995.<sup>32</sup> Despite the decline in the state prison population in 2009, the number of prisoners under the jurisdiction of the Federal Bureau of Prisons continued to increase rapidly, rising to 208,118. On balance, the federal system has tougher sentencing laws, more restrictive supervision policies and fewer opportunities for diversion of defendants. All of these factors are likely contributing to the continued increase in the number of prisoners in the federal system. More specifically, expanding federal jurisdiction over certain offenses and increased prosecutions of immigration offenses help explain the divergence in trends between most states and the federal system. Prior to 1994 there were relatively few immigration cases sentenced in federal courts, but in 2008 they accounted for 28.2 percent of all federal sentences, more than 21,000 individuals.<sup>33</sup>

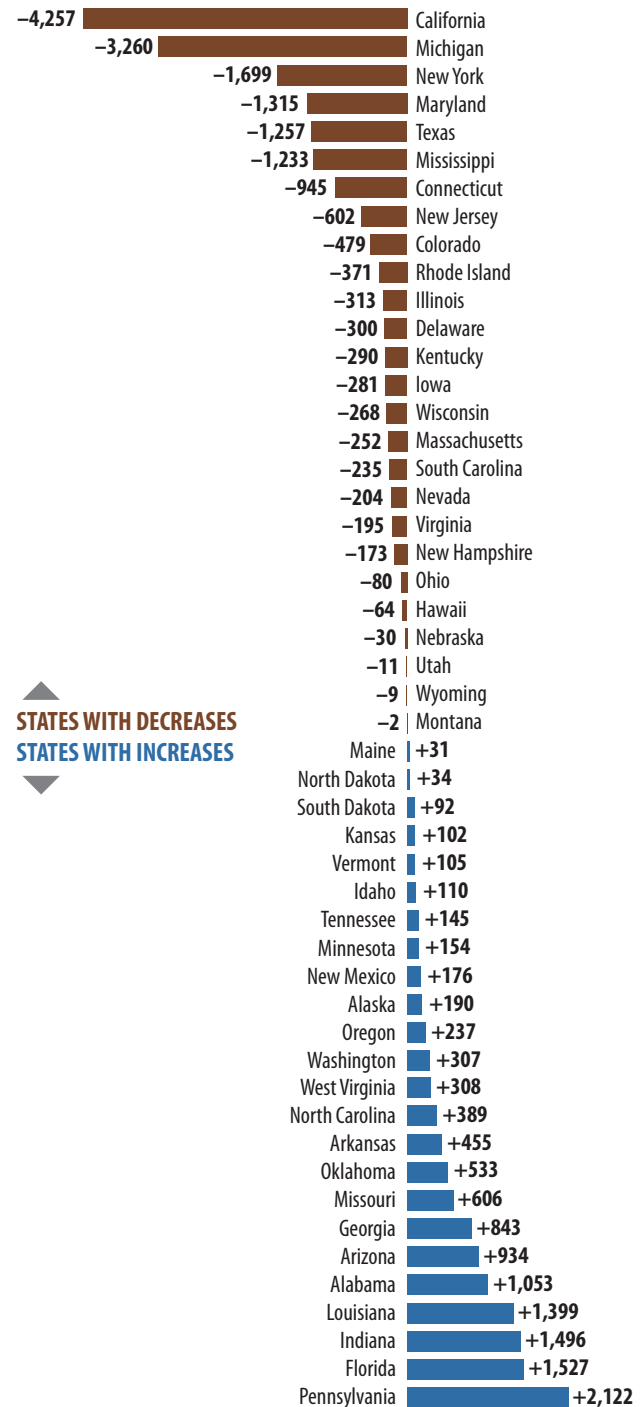
## Will the Decline Continue?

After nearly four decades of uninterrupted growth, an annual drop in the state prison population is worthy of note, no matter the scale of decline. However, it is too soon to say whether the 2009 decline will be a temporary blip or the beginning of a sustained downward trend.

It is possible that this narrow decline is simply seasonal and may adjust upward in the first half of 2010. The nation's prison population can experience seasonal patterns, with growth tending to be clustered in the first half of the calendar year.<sup>34</sup> The decline in 2009

## PRISON COUNT DROPS IN 26 STATES

Absolute change in state prison populations, 2008-2009.



NOTE: Change is from December 31, 2008 to January 1, 2010 unless otherwise noted in the jurisdictional notes.

SOURCE: Pew Center on the States, Public Safety Performance Project

could be part of a seasonal downward adjustment and an increase in the first six months of 2010 could eliminate the 4,777-person drop. With a decline this narrow, *when* the population is measured may affect the outcome.

However, there are reasons to suspect that the decline in 2009 could be a harbinger of a prolonged pattern. Since the start of the nation's prison expansion, the landscape of sentencing and corrections policy has changed dramatically on several fronts:

**Advances in supervision technology.** Global Positioning System (GPS) monitors, rapid-result drug tests and ATM-like reporting kiosks offer authorities new technologies to monitor the whereabouts and activities of offenders in the community. These capabilities are giving lawmakers, judges and prosecutors greater confidence that they can protect public safety and hold offenders accountable with sanctions other than prison.

**Advances in the science of behavior change.** Research has identified several strategies that can make significant dents in recidivism rates, including cognitive-behavioral therapy, motivational interviewing and the use of swift and certain but proportional sanctions for violations of the rules of probation and parole.

**Development of more accurate risk assessments.** Analyses of huge volumes of data have helped isolate the specific factors that predict criminal behavior, such as antisocial values and thinking patterns. While no risk assessment tools are foolproof, today's "third generation" tools do a good job of distinguishing high-, medium- and low-risk offenders and of pointing the way toward case management plans that will cut the chances of re-offense.

**Polls show support for prison alternatives.** The public is supportive of using community corrections rather than prison for nonviolent offenders. In a 2007 voter poll, for example, 71 percent of Texas respondents

said they preferred "a mandatory intensive treatment program as an alternative to prison," a level of support that went up to 83 percent when respondents were told the diversion of lower-level offenders could help avert \$1 billion in new prison costs.<sup>35</sup>

**Increasing focus on cost-benefit analysis.** Across all areas of government, policy makers are demanding to know what results programs are producing, not just what funding levels are or how many people are being served.

**Budget pressure.** Corrections costs have quadrupled in just the past 20 years, and now account for 1 of every 15 state general fund discretionary dollars.<sup>36</sup> Corrections has been the second fastest-growing category of state budgets, behind only Medicaid, and nearly 90 percent of that spending has gone to prisons.<sup>37</sup>

This is a drastically different policy environment than the one that existed in the 1970s and 1980s, when states decided that building more and more prison cells was the answer to crime, and it helps explain why more than half of the states have seen a reduction in the size of their prison population. No matter what happens in the short term, with more than 1.6 million people currently in state and federal prisons and more than 700,000 additional people in local jails,<sup>38</sup> the United States will continue to lead the world in incarceration for the foreseeable future.<sup>39</sup>

*Launched in 2006, The Public Safety Performance Project seeks to help states advance fiscally sound, data-driven policies and practices in sentencing and corrections that protect public safety, hold offenders accountable and control corrections costs.*

## STATE AND FEDERAL PRISON COUNTS

State	Dec. 31, 2008	Jan. 1, 2010	# Change	% Change
Alabama	30,508	31,561	+1,053	+3.5%
Alaska	5,014	5,204	+190	+3.8%
Arizona	39,589	40,523	+934	+2.4%
Arkansas	14,716	15,171	+455	+3.1%
California	173,670	169,413	-4,257	-2.5%
Colorado	23,274	22,795	-479	-2.1%
Connecticut	20,661	19,716	-945	-4.6%
Delaware	7,075	6,775	-300	-4.2%
Florida	102,388	103,915	+1,527	+1.5%
Georgia	52,719	53,562	+843	+1.6%
Hawaii	5,955	5,891	-64	-1.1%
Idaho	7,290	7,400	+110	+1.5%
Illinois	45,474	45,161	-313	-0.7%
Indiana	28,322	29,818	+1,496	+5.3%
Iowa	8,766	8,485	-281	-3.2%
Kansas	8,539	8,641	+102	+1.2%
Kentucky	21,706	21,416	-290	-1.3%
Louisiana	38,381	39,780	+1,399	+3.6%
Maine	2,195	2,226	+31	+1.4%
Maryland	23,324	22,009	-1,315	-5.6%
Massachusetts	11,408	11,156	-252	-2.2%
Michigan	48,738	45,478	-3,260	-6.7%
Minnesota	9,910	10,064	+154	+1.6%
Mississippi	22,754	21,521	-1,233	-5.4%
Missouri	30,186	30,792	+606	+2.0%
Montana	3,607	3,605	-2	-0.1%
Nebraska	4,520	4,490	-30	-0.7%

State	Dec. 31, 2008	Jan. 1, 2010	# Change	% Change
Nevada	12,743	12,539	-204	-1.6%
New Hampshire	2,904	2,731	-173	-6.0%
New Jersey	25,953	25,351	-602	-2.3%
New Mexico	6,402	6,578	+176	+2.7%
New York	60,347	58,648	-1,699	-2.8%
North Carolina	39,482	39,871	+389	+1.0%
North Dakota	1,452	1,486	+34	+2.3%
Ohio	51,686	51,606	-80	-0.2%
Oklahoma	25,864	26,397	+533	+2.1%
Oregon	14,167	14,404	+237	+1.7%
Pennsylvania	49,307	51,429	+2,122	+4.3%
Rhode Island	4,045	3,674	-371	-9.2%
South Carolina	24,326	24,091	-235	-1.0%
South Dakota	3,342	3,434	+92	+2.8%
Tennessee	27,228	27,373	+145	+0.5%
Texas	172,506	171,249	-1,257	-0.7%
Utah	6,546	6,535	-11	-0.2%
Vermont	2,116	2,221	+105	+5.0%
Virginia	38,276	38,081	-195	-0.5%
Washington	17,926	18,233	+307	+1.7%
West Virginia	6,059	6,367	+308	+5.1%
Wisconsin	23,380	23,112	-268	-1.1%
Wyoming	2,084	2,075	-9	-0.4%
<b>State total</b>	<b>1,408,830</b>	<b>1,404,053</b>	<b>-4,777</b>	<b>-0.3%</b>
Federal (BOP)	201,280	208,118	+6,838	+3.4%
<b>National total</b>	<b>1,610,110</b>	<b>1,612,071</b>	<b>2,061</b>	<b>+0.1%</b>

NOTE: Percent change is from December 31, 2008 to January 1, 2010 unless otherwise noted in the jurisdictional notes at the end of this brief.

SOURCE: December 31, 2008 count is from "Prisoners in 2008," and reflects Bureau of Justice Statistics jurisdictional count; January 1, 2010 is Public Safety Performance Project jurisdictional count.



## Endnotes

- 1 2010 figures compiled by the Pew Center on the States in partnership with the Association of State Correctional Administrators. 2008 figures are from the U.S. Department of Justice, Bureau of Justice Statistics. See "Jurisdictional Notes" for details.
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- 3 Alfred Blumstein and Allen J. Beck, "Reentry as a Transient State Between Liberty and Recommitment," In Jeremy Travis and Christy Visser (Eds.), *Prisoner Reentry and Crime in America* (Cambridge, UK: Cambridge University Press, 2005), 50–79.
- 4 Langan, Fundis and Greenfeld, "Historical Statistics on Prisoners in State and Federal Institutions, Yearend 1925-86," U.S. Department of Justice, Bureau of Justice Statistics.
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- 6 State projections were reported in *Public Safety, Public Spending: Forecasting America's Prison Population, 2007–2011*, Public Safety Performance Project, Pew Center on the States, The Pew Charitable Trusts (2007), <http://www.pewcenteronthestates.org/uploadedFiles/Public%20Safety%20Public%20Spending.pdf>.
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- 8 William J. Sabol, Heather C. West and Matthew Cooper, "Prisoners in 2008," U.S. Department of Justice, Bureau of Justice Statistics (2009), 16, <http://bjs.ojp.usdoj.gov/content/pub/pdf/p08.pdf>.
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- 10 Ibid.
- 11 U.S. Department of Justice, Bureau of Justice Statistics
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- 14 *Coleman v. Schwarzenegger*, 2009 WL 2430820 (N.D. Cal and E.D. Cal. August 4, 2009).
- 15 Michigan Department of Corrections, "FY 2011 Budget Proposal and Updated Prison Bed Space Projections Trends in Key Indicators and Impact from Proposed Legislative Changes" (presentation to the Senate Appropriations Subcommittee on Judiciary & Corrections, February 16, 2010, Lansing, Michigan).
- 16 Ibid.
- 17 Council of State Governments, "Justice Reinvestment in Texas: Assessing the Impact of the 2007 Justice Reinvestment Initiative" (2009), [http://www.pewcenteronthestates.org/uploadedFiles/TX\\_Impact\\_Assessment\\_April\\_2009\(4\).pdf](http://www.pewcenteronthestates.org/uploadedFiles/TX_Impact_Assessment_April_2009(4).pdf).
- 18 Ibid.
- 19 U.S. Department of Justice, Bureau of Justice Statistics; Public Safety Performance Project, Pew Center on the States, The Pew Charitable Trusts.
- 20 Miss. Code Ann. §§ 47-7-3, 47-5-138 and § 47-5-139 (June 30, 1995) and Miss. Code Ann. § 47-7-3 (April 7, 2008).
- 21 JFA Institute, "Reforming Mississippi's Prison System," Public Safety Performance Project, Pew Center on the States, The Pew Charitable Trusts (2009), <http://www.pewcenteronthestates.org/uploadedFiles/www.pewcenteronthestates.org/Initiatives/PSPP/MDOCPaper.pdf?n=8407>.
- 22 Ibid.
- 23 Langan, Dr. Patrick A., and Dr. David J. Levin, "Recidivism of Prisoners Released in 1994," U.S. Department of Justice, Bureau of Justice Statistics (2002), <http://bjs.ojp.usdoj.gov/content/pub/pdf/rpr94.pdf>.
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- 31 Alex R. Piquero, David P. Farrington and Alfred Blumstein, *Key Issues in Criminal Career Research: New Analyses of the Cambridge Study in Delinquent Development* (Cambridge, UK: Cambridge University Press, 2007), 143–149.
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- 37 Ibid.
- 38 Ibid.
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## Jurisdictional Notes

Unless noted below, the state prisoner counts used in this brief for January 1, 2010 were reported to the Association of State Correctional Administrators (ASCA) by each state's Department of Corrections (DOC) in a survey conducted for the Public Safety Performance Project (PSPP) of the Pew Center on the States. Prisoner counts reflect the total standing population under the jurisdiction of the DOC. Unless otherwise noted, state prisoner counts for December 31, 2008 were taken from Appendix Table 2 of the Department of Justice, Bureau of Justice Statistics' (BJS) "Prisoners in 2008" report. Additional follow-up confirmed that the ASCA/PSPP count for January 1, 2010 was made using the same methods as the BJS year-end 2008 count.

Jurisdiction	Notes
Federal (BOP)	1/1/2010 count is from December 2009.
Georgia	Prisoner counts reflect custody population.
Hawaii	1/1/2010 prisoner count is from 12/31/2009.
Kansas	1/1/2010 prisoner count is from 12/31/2009.
Idaho	Prisoner counts include out-of-state inmates held in Idaho.
Indiana	Prisoner counts include juvenile populations.
Maryland	1/1/2010 prisoner count is from 12/31/2009.
Massachusetts	1/1/2010 prisoner count excludes out-of-state, federal, and U.S. Marshall inmates.
Minnesota	1/1/2010 prisoner count is from 7/1/2009. 12/31/2008 count was adjusted, per DOC instruction, due to improper counting methods.
Nebraska	Prisoner counts reflect custody population.
Nevada	1/1/2010 prisoner count is from 1/5/2010.
North Dakota	1/1/2010 prisoner count is from 12/31/2009. Prisoner counts exclude out-of-state and federal inmates.
Oklahoma	1/1/2010 prisoner count is from 12/31/2009. Prisoner counts do not include inmates in early release programs.
Pennsylvania	12/31/2008 prisoner count was adjusted, per DOC instruction, because inmates held in private facilities, local jails, federal facilities, and other states were erroneously double counted.
Rhode Island	1/1/2010 prisoner count is from 12/31/2009.
Texas	1/1/2010 prisoner count is from 12/31/2009.
Virginia	1/1/2010 prisoner count is from 1/6/2010.







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