

# Historical Data Related to The Imprisonment of Black Inmates: 1842 to 2016

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May 11, 2019 revised May 6, 2020

“Those who do not know history are destined to repeat it.”

Edmund Burke (1729-1797)

## Comments on the Revision

The original version of this report was posted on the web in May of 2019 and was primarily concerned with the history of the over representation of Black prison inmates. In addition prior epochs of sustained growth in the prison population were noted.

The revision takes up the issue of historical norms for imprisonment and provides more detailed information about sustained intervals of both positive and negative growth. The material on female imprisonment was removed and will be presented in a subsequent report.

## Historical Corrections Data Prior to 1850

An external review of the US prison system in 1830 was provided by *On the Penitentiary System in the United State and Its Application in France* by Gustave de Beaumont and Alexis de Tocqueville who had been sent by the King of France to evaluate US penitentiaries. Other old data on prison populations is limited to books and articles by legal historians, reports by prison wardens to their respective legislatures and old jail and prison data that was not discarded.

The legal historians have reported that in colonial times there were harsh penalties for immigrants, excessively harsh penalties for Blacks and lenient penalties for White females. After the revolution some states made major revisions to their criminal code, others made minor changes and others made no changes.

## Sources of Historical Federal and State Prison Data After 1850

- The US Census collected data every decade from institutions (including prisons) starting in 1850. From 1926 to 1946 the census collected annual data from most state prisons. The data was reported in *Prisoners in State and Federal Institutions*.
- Annual data from most state prisons was collected by the Bureau of Prisons from 1950 to 1970.
- From 1971 to 1978 the state data was collected by the Law Enforcement Assistance Administration.
- In 1979 the Bureau of Justice Statistics was reorganized and since then they collect annual data from all state prison systems.
- *State and Federal Prisoners 1925-85* Stephanie Minor-Harper. October 1986, NCJ-102494
- *Historical Corrections Statistics: 1850 – 1984* by Cahalan & Parson. December 1986, NCJ-102529
- *Race of Prisoners Admitted to State and Federal Institutions 1926-86* by Patrick Langan. May 1991, NCJ-125618.

- Two data tables giving federal and state prison populations by gender for 1978-2016. Bureau of Justice Statistics. Generated using the Corrections Statistical Analysis Tool quick tables at [www.bjs.gov](http://www.bjs.gov).
- The University of Iowa Law Library collection of reports by state prisons and other correction related organizations.

### **Sources of Historical Iowa Prison Data**

The first prison in Iowa was the territorial prison built in Fort Madison in 1839 and turned over to Iowa in 1846 when it became a state. Until 1970 Iowa prisons were independent agencies and the wardens submitted biannual reports to the Iowa legislature. The clerk's section of the biannual reports report contained data about the prison inmates. I was able to find copies of the reports in the University of Iowa Law Library, the State Historical Library in Iowa City, the State Library in Des Moines and in the law library in the State Capital. However, I was not able to find all of the reports before 1900.

From 1900 to 1967 the reports from all independent agencies were compiled and edited by the Board of Control. From 1900 to the beginning of WW I the wardens reports were nearly complete. After the war started all of the independent agency reports were abridged and what had been a 450 page report was reduced to about 100 pages. As a consequence there were only a few brief intervals where data about prison inmates was published. One or more unknown individuals were able to save the male and female prison population data from 1893 to 1984 and when the Department of Corrections was created they had it added to the departments historical data file.

In 1967 the Board of Control was terminated and the Board of Parole, juvenile corrections and the prisons were combined with Social Services in the Department of Social Services. About that time the legislature provided funds to hire a Director of Corrections. There were only a few prison reports between 1970 and 1978. In 1983 there was another reorganization the Department was renamed the Department of Human Services and adult Corrections was made a department and the Board of Parole an independent agency. The state training school for juveniles continues to be administered by the Department of Human Services.

### **The Erie Penitentiary Data**

The University of Iowa Law Library collection included old journals and one was the Journal of the New York Correction Association. The data from 1842 to 1872 shown in figure 1 for the Erie NY Penitentiary was from that journal as an appendix to a discussion about the use to prison wardens of statistical data about prison inmates. The wardens did not agree on that issue. The data in the appendix was included because the authors thought it might be of use to someone in the future. A 150 years later it turned out to be very useful.

The Erie Penitentiary was located near Buffalo at the West end of the Erie Canal and at that time there was a large flow of immigrants who entered via the port of New York, traveled by boat up the Hudson River to Albany and then by boat on the Erie Canal to Buffalo. They then completed their travels by taking a ship to a port on one of the Upper Great Lakes. At that time there were very few Black residents in the state of New York. However, there was an concentration of escaped slaves in Buffalo area because there was work there and if slave hunters came they could avoid them by crossing the Niagara River to Canada. A reasonable supposition is a high percentage of the prison inmates at that time were not residents of New York.

## Mass Imprisonment

The term mass imprisonment was first used by David W. Garland during a meeting at New York University in 2000. What the term means was excessive use of prison with respect to historic norms. Since then others have included jails and other facilities legally authorized to confine people and the term for that is mass incarceration. Historic norms were not defined by Garland at that time. How they can be determined will be discussed in this report.

## Discussion of Figures

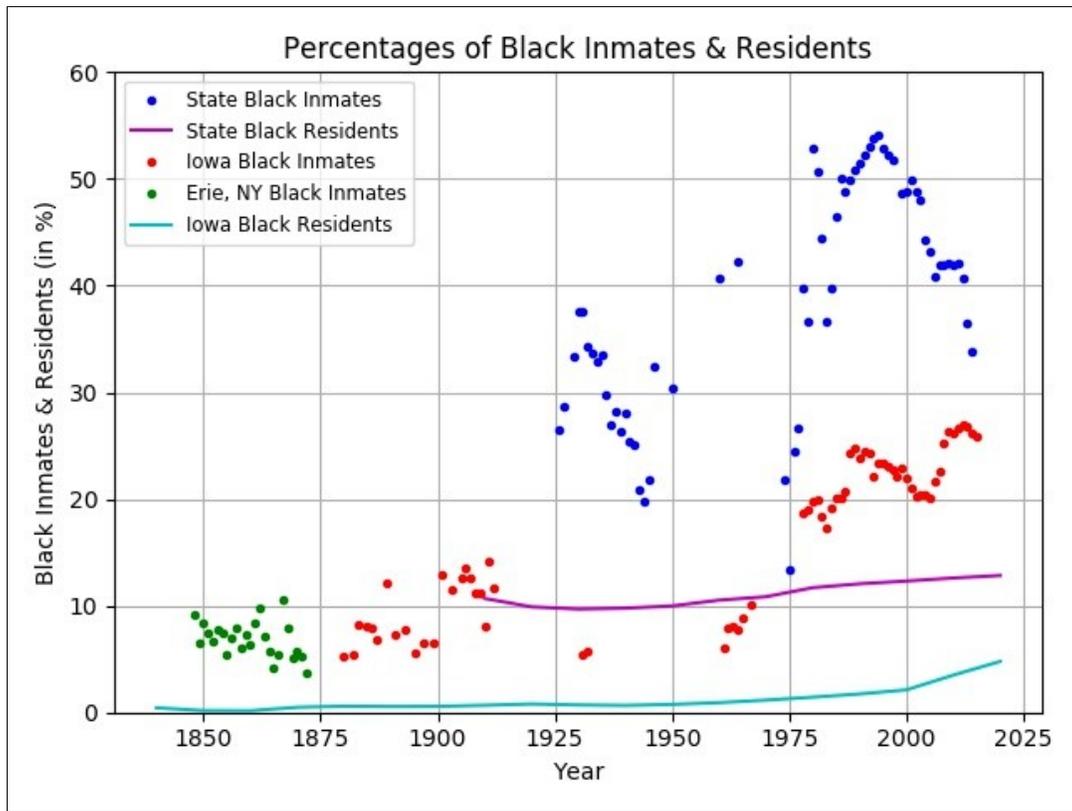


Figure 1: Percentages of Black inmates and residents vs year for Erie Penitentiary in New York, combined state prisons and Iowa prisons.

### Figure 1

I want to start with what was observed by prison inmates and prison staff as well as by persons who visited prisons. By simply viewing the prison inmates they could tell the the percentage of Black inmates was larger than the percentage of Blacks in the general population. In other words it has been known for a long time that Blacks were over-represented in prison and the legal historians reported that was the case.

- To illustrate that trend I computed whenever I had the necessary data the percentage of Black inmates and and then plotted their values vs year in figure 1.
- Census data was used to compute the percentage of Black residents for the combined states and Iowa. There was no available data for Black residents in the jurisdiction of the Erie Penitentiary.
- At a time when the percentage of Blacks in the New York and Iowa general populations was  $\leq 1\%$  the percentage of Black inmates was between 5% and 15%.

- Although the scatter in the combined state percentages was large they were all larger than the Iowa prison percentages.
- State with small percentages of Black residents will have high Black disparities because if the denominator is small the quotient will be large.

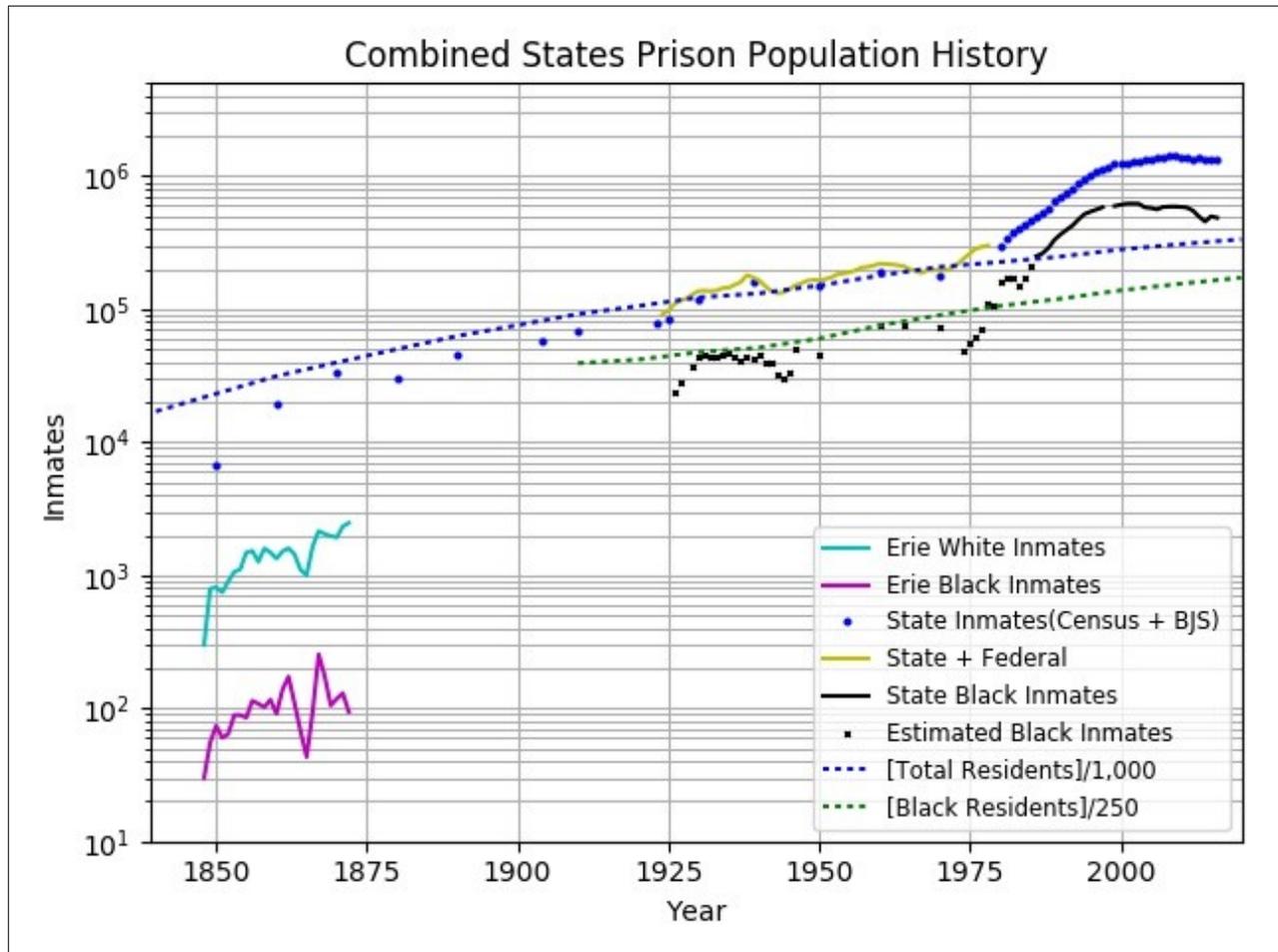


Figure 2: Historical prison population data for combined state prisons and the Erie Penitentiary in New York.

**Figure 2**

- A semi log scale was used because the population range was from 60 to more than a million.
- The blue filled circles are total combined state prison populations collected by the US Census before 1980 and after 1977 by the Bureau of Justice Statistics (BJS).
- The yellow line is the sum of the federal and combined state prison inmates data collected by the Census and other federal agencies.
- The black solid line is combined state Black inmate populations collected by BJS.
- The black crosses are estimated populations based on Black prison admissions for combined state collected by the US Census and other agencies.
- The solid cyan line is the number of White prison inmates listed for the Erie Penitentiary.
- The solid magenta line is the number of Black prison inmates listed for the Erie Penitentiary.

- The blue dotted line denotes residents of the combined states served by the prison system divided by 1,000. In this discussion the blue dotted line is my best estimate of the historical norm for combined state prisons. In other words the historical norm is one inmate per 1,000 residents.
- The green dotted line is the census data for the number of Black residents served by the combined states divided by 250.

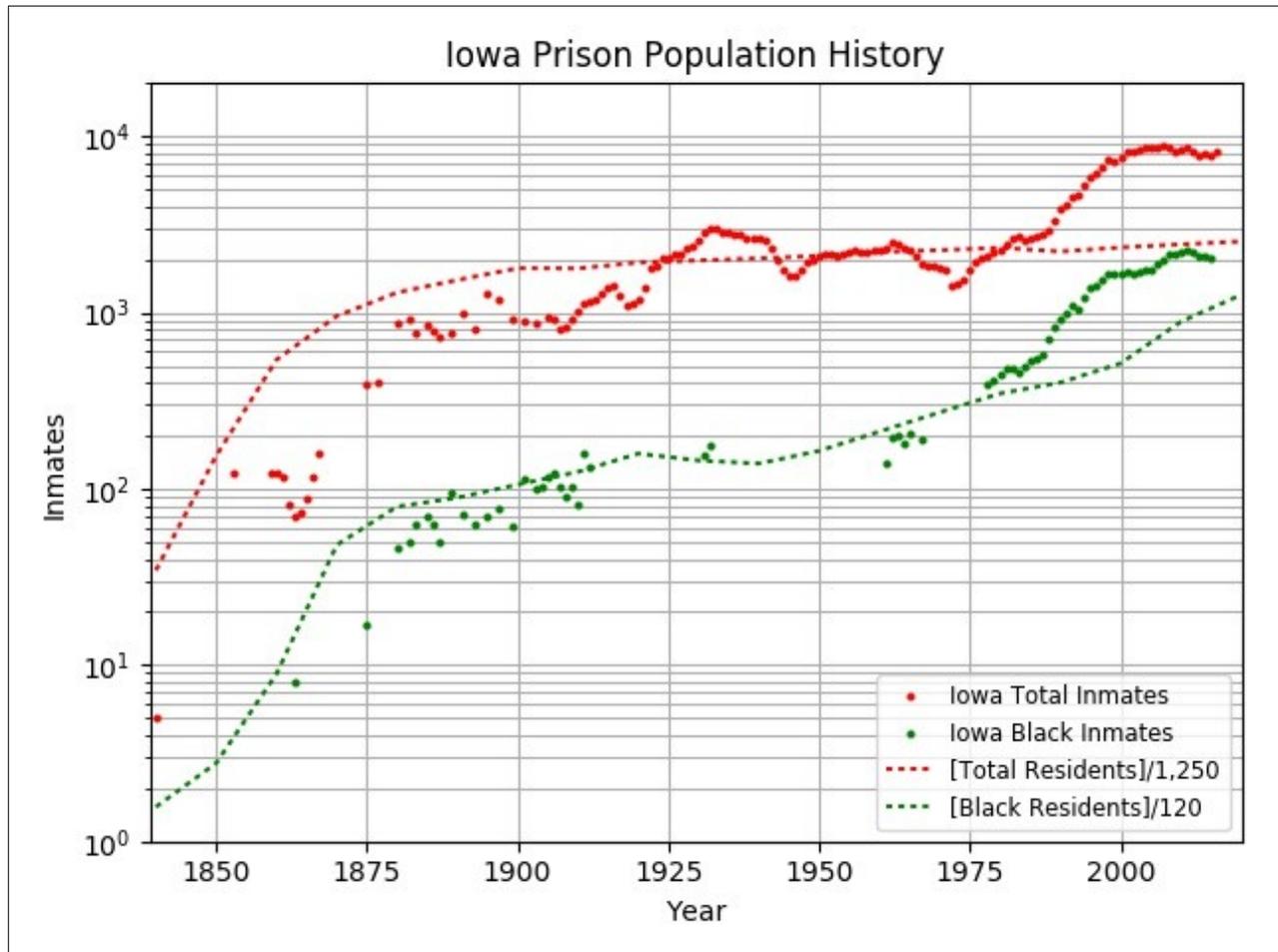


Figure 3: Historical prison population data for Iowa prisons.

**Figure 3**

- A semi log scale was used because the number of inmates ranged from 6 to almost 9,000.
- The total inmates population for Iowa prisons is denoted by red filled circles.
- The red dotted line is the number of Iowa residents as determined by the census divided by 1,250.
- The Black inmate population for Iowa prisons is denoted by green filled circles.
- The green dotted line is number of Black Iowa residents as determined by the census divided by 120.

The total population of Iowa grew rapidly before the Civil War and then gradually slowed until 1900 when the rate of increase was very small and on occasion negative. The Black population growth curve is more complex at first it was rapid, then moderate, then negative, then moderate after WW II. The

most recent change in 2000 was an increase to between moderate and rapid and the recent decrease in the Black incarceration rate was primarily caused by increase in the number of Black residents.

There is sufficient data to show that there were dips in the prison populations during the Civil War, WW I, WWII and the Vietnam War. The dips have been known to people who work on corrections for many years but do not seem to be known to many outsiders. The minimum caused by the Vietnam War was in 1972 and most of the increase between 1972 and 1976 was caused by the recovery from the war.

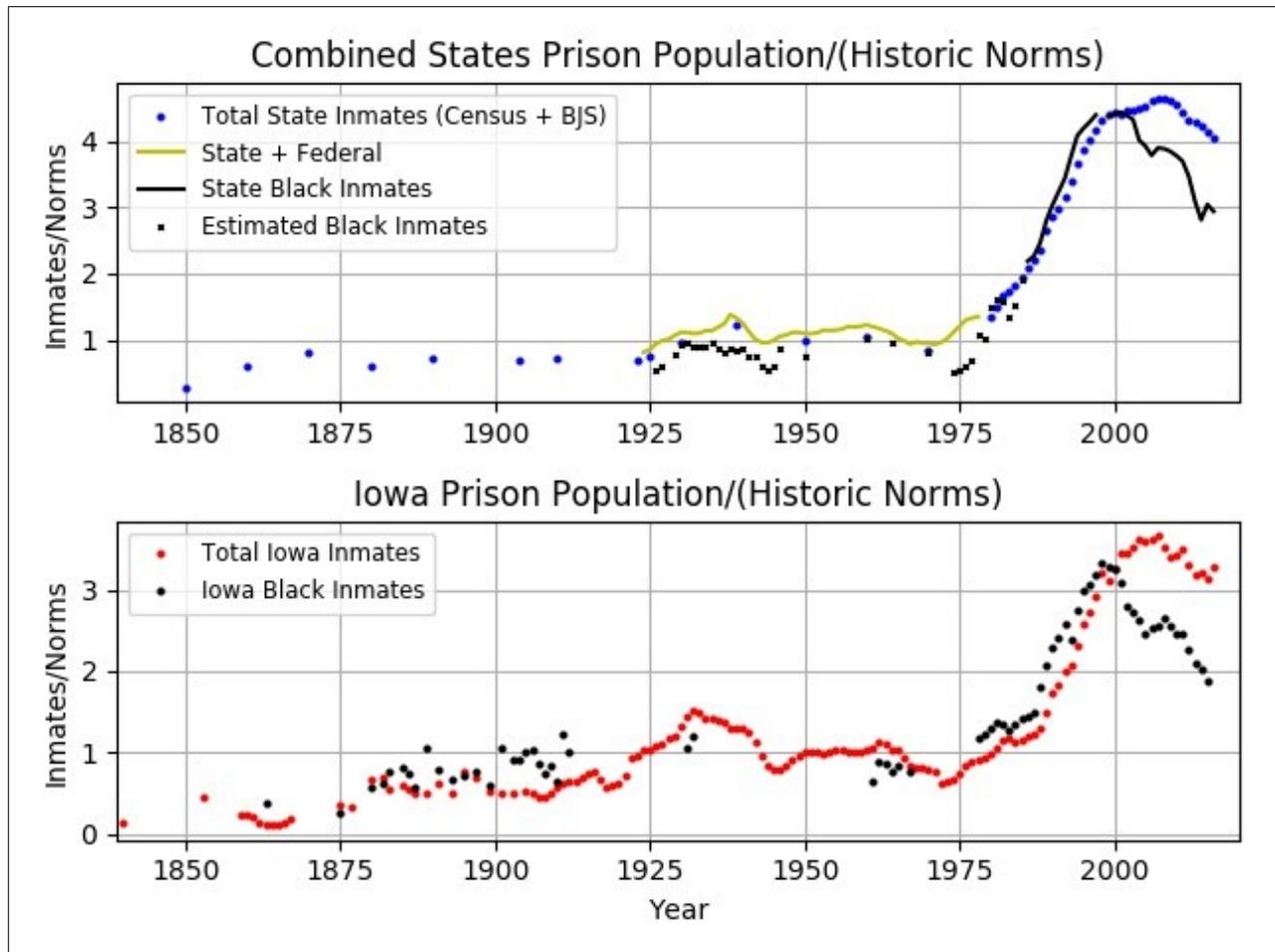


Figure 4: The upper panel it the growth history relative to historic norms for the total and Black inmate populations for the combined state prisons. The lower panel is the same plot for Iowa prisons.

**Figure 4**

- The historic norm for total inmates in combined state prisons is 1 inmate per 1,000 residents and it had a maximum of about 4.5 inmates per 1,000 residents. In percent the historic norm was that the total prison population was 0.1% of the residential population and the peak percentage was about 0.45%.
- The historic norm for Black inmates in combined state prisons is not well determined and the best estimate is one Black inmate per 250 Black residents. In percent that would be 0.4% for the historic norm and 1.8% for the peak percentage.

- The historic norm for total inmates in Iowa prison is 1 inmate per 1250 residents and the maximum was 3.7 inmates per 1250 residents. In percent the historic norm for the total population was 0.08% and the peak percentage was 0.3% of the residential population.
- The historic norm for Black inmates in Iowa prison is also not well determined. The estimate is 1 inmate per 120 Black residents with a peak of 3.5 inmates per 120 residents. In percent the historic norm was 0.83% and the maximum was 2.9% of the residential Black population.

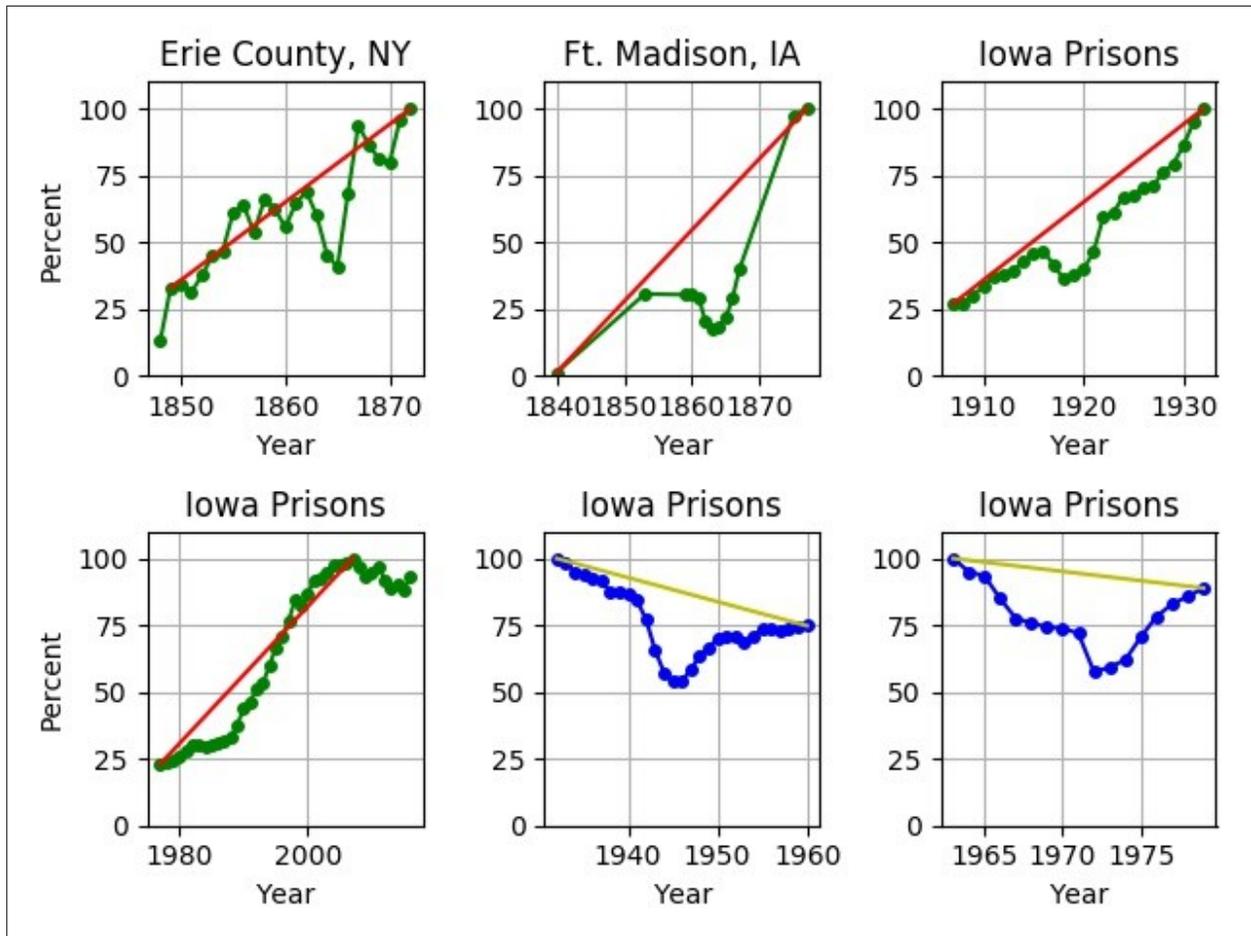


Figure 5: Examples of positive (green filled circles) and negative (blue filled circles) sustained growth in prison populations. The durations of the growth sets were between 15 and 30 years and the average rate is denoted by the slope of the red and yellow lines.

**Figure 5**

- The upper and left hand lower charts show three epochs of sustained positive growth in prison populations.
- The upper left and central charts show the first sustained prison population growth epoch from 1840 to 1877 when the upper Great Lakes and Iowa were being settled. The durations were 23 and 27 years and the average growth rates were +2.9%/year and +3.7% per year respectively.
- The upper right chart shows the second epoch of sustained growth from 1907 to 1932 with an average growth rate of +2.9% per year. This epoch was most likely started by an abrupt increase in the homicide rate. In addition there was prohibition and the criminal gangs became

organized. Public backlash to the increase in crime resulted in increases in prison capacity and number of inmates.

- The lower left chart is the most recent epoch of sustained growth between 1977 and 2007 with an average growth rate of +2.6% per year. A large number of factors that were too large to ignore contributed to the sustained growth during this epoch. During this epoch the capacity of the state prisons was increased from about 250,000 to about 1,250,000.
- The lower central chart shows an epoch of sustained negative growth from 1932 to 1960 with a growth rate of -0.9%.
- The lower right hand chart shows the last epoch of sustained negative growth between 1963 and 1979 with a growth rate of -0.7% per year.
- All but one of the charts include prison population dips caused by major wars. People who work in corrections know about the dips but they do not seem to be well known to outsiders.

## List of Findings

### 1) *Persistent Growth in Prison Populations*

- 1) Between 1849 and 1872 the prison population of the Erie NY Penitentiary increased from 330 to 2565 a growth factor of 8.0. The first epoch of persistent growth at high rates of a prison population.
- 2) The US Census of combined state prison populations increased from 6,734 to 32,901 a growth factor of 4.9 between 1850 and 1870 showing that the high persistent growth was shared by other state prisons
- 3) A second epoch of persistent high rate growth was between 1907 and 1932 when the Iowa prison population increased from 815 to 3,015 a growth factor of 3.7.
- 4) The growth factor for the combined states could not be determined because there was no data prior to 1925. However the growth rate after 1925 was similar to the Iowa rate.
- 5) During the third epoch of persistent rapid growth the combined state total population increased from 353,637 in 1981 to 1,615,500 in 2009 a growth factor of 4.6.
- 6) The four epochs of positive growth shown in figure 5 had an average duration of 26 years and an average growth rate of +3.0% per year. The two epochs of negative growth had an average duration of 24 years and an average growth rate of -0.8% per year. The durations are similar but the rates differ by a large factor.

### 2) *Prison Population Dips Caused by Major Wars*

- 1) Stephanie Minor-Harper noted in a 1986 BJS report that there were population dips in the combined federal and state prison populations during WW I and the Vietnam War. However, combining state data tends to fill in the dips.
- 2) The Erie NY data also showed that there was a dip in the prison population for both Black and White inmates at the time of the Civil War.
- 3) The Iowa data showed that there were dips in the prison population during the Civil War, WW I, WW II and the Vietnam War.

### 3) *Overrepresentation of Black Prison Inmates*

- 1) The average percentage of Erie NY Black inmates was 6.9% at a time when the Black population of New York was less than 1% so the large racial disparity existed as early as 1849.
- 2) The Iowa data showed that whenever it was possible to determine incarceration rates the Black rate was larger than the combined rate.
- 3) After 1924 the estimated and observed Black incarceration rates for the combined states were larger than the total rate.

- 4) After 1924 when it was possible to compare Iowa rates to combined state rates Iowa had a larger Black disparity.
- 5) The results from attempting to determine the historical norms were mixed. The historical norms for the total population are reasonably well determined and those for the Black inmates were poorly determined.
- 6) If in the future the incarceration rates return to their historic norms there will still be a very large Black disparity.