

Despite signs of less punitive policing and incarceration policies, 2014 will be remembered for Michael Brown and Eric Garner

*This year saw the trend away from mass incarceration continue and signs of what might be the emergence of an end to the ‘War on Drugs’. In his review of the year in criminal justice and policing policy, **Tim Newburn** writes that while there have been some encouraging signs of a less punitive and exclusionary means of dealing with crime, the killings of Michael Brown in Ferguson, Missouri and Eric Garner in New York by police, and the protests that followed, are likely to be the most memorable events of 2014.*



It is fair to say that it has been something of a mixed year for American criminal justice. There are small but significant signs of the beginnings of progressive change, most notably in attitudes towards drugs and in the use of imprisonment. But the year ended with riots and mass demonstrations as the deaths of Michael Brown and Eric Garner galvanised popular protest.

In the background, and perhaps less commented upon than might be expected, are continuing declines in American crime levels. Although the lag in the release of crime statistics means the most recent year for which we have comprehensive information is 2013, both the most recent Uniform Crime Reports, shown in the Figures below, supported by victimization survey data, show the long-term trend in declining violent and property crime has not been interrupted.

Figure 1 – Violent Crime Offense Figures, 2009 – 2013

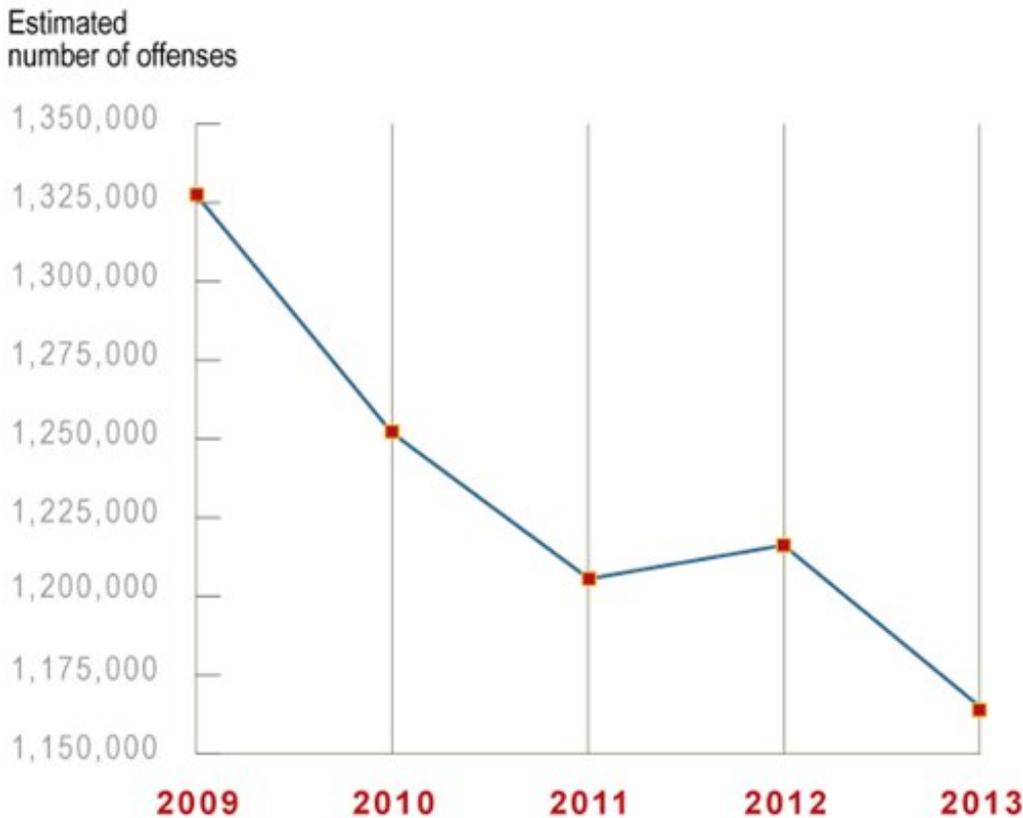
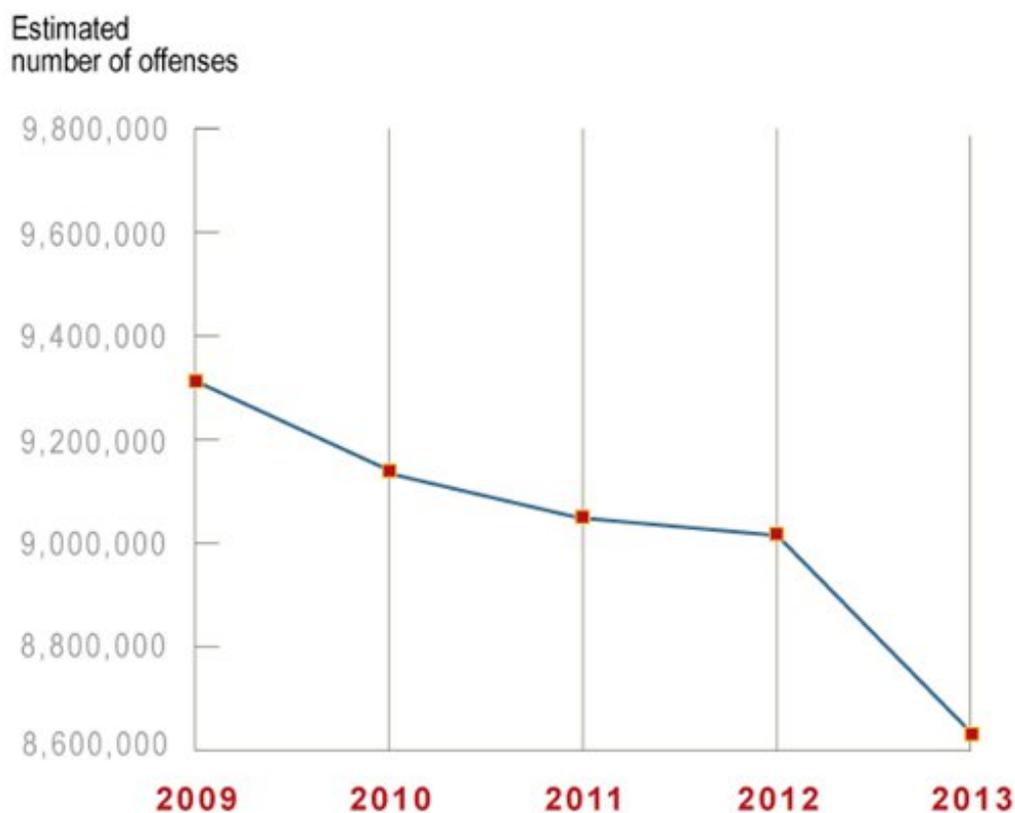


Figure 2 – Property Crime Offense Figures, 2009 – 2013



Source: *FBI*

There was mixed news in relation to incarceration rates. Although the three years to 2012 saw the long-term trend of ever-increasing use of imprisonment begin to level off and decline, 2013 (again the last year for which reliable statistics are available) saw a slight increase in the numbers incarcerated in Federal and State prisons (0.7 percent), though because of general US population growth the overall incarceration *rate* dropped very slightly. Those campaigning to reduce mass incarceration were given a significant boost when, late in 2014, it was announced that the Soros-funded Open Society Foundations had [awarded](#) the American Civil Liberties Union a grant of \$50m to continue its work in this field.

The US continued as the only developed economy (aside from Japan) still to retain the death penalty - though, in truth, it is now only seven or eight states that continue actively to use capital punishment. The number of executions – 39 in all by December 20th – was the lowest since 2008 and continues the very gradual decline that has been underway since the turn of the century. Considerable controversy continued to rage, with the deaths of Dennis McGuire, Clayton Lockett and [Joseph R. Wood](#) – all by lethal injection – continuing a [long and unhappy history of 'botched' executions](#).

Perhaps the greatest shift of all concerns attitudes toward, and the control of illegal drugs. The 'war on drugs', announced in the early 1970s and continued with vigour by every administration for the following four decades, has arguably been the greatest contributor to mass imprisonment and the extraordinary growth and impact of the American criminal justice and penal systems. Recent years have seen the beginnings of the emergence of a different zeitgeist, signalling, some think, the beginning of the end of the War on Drugs (though no-one imagines the journey will be a quick one).

Initially Colorado and Washington states legalized the sale of Marijuana. Later in 2014 they were followed by Oregon, Alaska and Washington DC which, in slightly differing ways, effectively legalized the possession and use of marijuana by people aged 21 or older. Both Oregon and Alaska introduced tax and regulatory systems for the control of marijuana, adding to a general shift in mood toward drug control. Earlier in the year, Attorney General, Eric Holder, had [urged changes](#) in Federal sentencing guidelines for the punishment of drug offenders, building

on his 2013 initiatives to begin the process of [reducing the prison population](#). Finally, in early November, again by popular vote, California passed [Proposition 47](#), an initiative to reduce a number of drugs and property crimes from potential felonies to misdemeanours, thereby aiming to reduce the likelihood of imprisonment, or to reduce sentence lengths in cases where incarceration was deemed necessary.

Small, but significant signs of the potential for a more enlightened, less punitive and less exclusionary means of dealing with crime appeared regularly in 2014. But that is not how the year will be remembered. The top story, almost certainly, was the fatal shooting of a young African American man, Michael Brown, in Ferguson, Missouri in August 9th by a white police officer. Such deaths are hardly unknown in the United States, but it was what followed the shooting that was unusual. The day after the shooting rioting broke out and continued for several days, television screens being filled night after night with pictures of burning buildings, angry relatives and residents, and a huge, highly militarized police presence attempting to enforce order. Though things quietened after a few days, a state of emergency was called once again in mid-November, in anticipation of the outcome of the grand jury deliberations over whether the police officer concerned would be indicted. The eventual decision not to bring charges led to further, very significant unrest and the beginnings of nationwide protest. From Oakland to New York, protestors took to the streets to campaign for justice.



Credit: [The All-Nite Images](#) (Flickr, [CC-BY-SA-2.0](#))

As the Ferguson protests were gathering pace, a special grand jury in New York City determined that a police officer would not face charges relating to the death of Eric Garner, an unarmed African American man, who died as a result of a chokehold during his arrest. His alleged offence was selling untaxed 'loose' cigarettes, something for which he had a previous conviction. A [video](#) of the incident, shot by a bystander, showed the officer using the banned chokehold, and Garner saying "I can't breathe" before collapsing. Protests began immediately, using either the "I can't breathe" slogan or "It stops today", taken from Eric Garner's plea to the police at the time of his arrest: "Every time you see me you want to mess with me. I'm tired of it. It stops today! I'm minding my business, please just leave me alone." Cities across the US saw non-violent protest, and by mid-December protests in sympathy had occurred as far away as Tokyo, Melbourne, and the Westfield shopping centre in Shepherds Bush, London.

Time will tell what impact these two failures of justice will have on American policing and penal policy. Influenced by the growing popular feeling, in early December President Obama [announced a \\$263m package](#) to introduce body-worn cameras, improve police training, and introduce other reforms to US police departments. He also signed into force a [new taskforce on '21st Century Policing'](#), designed to focus on improving trust between local communities and the police. Positive as such developments undoubtedly are, they are relatively small matters

when set against the war of drugs, and the decades of mass incarceration whose effects, as the [most recent systematic overview put it](#), 'extend far beyond the millions of people who have served time in jail or prisons and the families and communities they have left behind... [and have] broader effects on U.S. society—on civic and political participation, on fundamental notions of citizenship, on the allocation of public resources, and on the functioning of the polity and government'.

Whichever way one comes at it, 2015 is likely to be an important year for American criminal justice and penal policy.

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Note: This article gives the views of the author, and not the position of USApp— American Politics and Policy, nor of the London School of Economics.

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About the author

Tim Newburn - *LSE Social Policy Department*

Tim Newburn is Professor of Criminology and Social Policy, London School of Economics. He is the author or editor of over 30 books, including: [Handbook of Policing](#) (Willan, 2008); [Policy Transfer and Criminal Justice](#) (with Jones, Open University Press, 2007); and, [Criminology](#) (Routledge, 2013). He is currently writing an Official History of post-war criminal justice, and was the LSE's lead on its joint project with Guardian: Reading the Riots. He tweets at [@TimNewburn](#).



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