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HOUSE BILLS 3337 AND 3856

720 ILCS 5/16-1, 720 ILCS 5/16-25, & 720 ILCS 5/21-1
FELONY DOLLAR VALUES FOR THEFT, RETAIL THEFT, AND CRIMINAL DAMAGE TO PROPERTY
PROJECTED IDOC POPULATION IMPACT: −1,100 INDIVIDUALS ANNUALLY

INSUFFICIENT DATA TO SUPPORT A FULL FISCAL IMPACT ANALYSIS

House Bills 3337 and 3856 (HB3337/HB3856) increase the property value threshold for felony theft, retail theft, and criminal damage to property. HB3337 increases the threshold for theft and retail theft to $2,000 and changes the criminal history enhancements. HB3856 increases the threshold for theft, retail theft, and criminal damage of property to $2,500. These threshold increases would result in fewer felony convictions and fewer admissions to the Illinois Department of Corrections (IDOC) and an increase in misdemeanor convictions.

SPAC used criminal history (CHRI) data from 2013, 2014, and 2015 to calculate the number of arrests, convictions, and probation sentences for theft, retail theft, and criminal damage to property. SPAC used IDOC data from 2014, 2015, and 2016 for IDOC admissions, exits, and prison population. During the past three years, the data show:

Three Years		Retail Theft	Theft	Criminal Damage to Property
Arrests		50,064	35,506	1,620
Convictions		17,681	11,189	60
Withheld Judgment -- charges dismissed or the judgment vacated upon successful completion of 1410, 710, or TASC probation.		2,500	2,725	14
Standard Probation	Class 1	-	88	-
	Class 2	2	367	-
	Class 3	2,234	2,433	-
	Class 4	2,549	622	-
	Total Probation	7,501	4,927	12
IDOC Admissions	Class X	-	8	-
	Class 1	-	63	-
	Class 2	3	129	2
	Class 3	1,123	1,321	43
	Class 4	3,260	826	167
	Total Prison	4,388	2,347	212
June 30, 2016 Prison Population	Class X	-	8	-
	Class 1	-	44	-
	Class 2	-	52	-
	Class 3	331	378	13
	Class 4	521	181	30
	Total Prison Population	959	730	57
Average Sentence Imposed		1.8 yrs	2.8 yrs	2.0 yrs
Average Pretrial Detention Time Served		0.3 yrs	0.4 yrs	0.3 yrs
Average Prison Time Served		0.6 yrs	0.9 yrs	0.6 yrs

The value of the property stolen or damaged is an element of all three of these offenses;[1] however Illinois data do not include these values. SPAC uses the National Incident-Based Reporting System (NIBRS) to analyze the dollar value of property crimes.[2] NIBRS includes data reported from Rockford, Illinois, *the only Illinois jurisdiction that reports into the NIBRS system*, and national data. NIBRS is not a reliable estimate of stolen property in the Chicago area due to a lack of reporting from major metropolitan areas. However, the national data is consistent with neighboring states' and Rockford's stolen property values, indicating the NIBRS dataset is sufficient to estimate property values for the urban areas outside Chicago and its suburbs. SPAC uses this data because (a) the dataset has the best available information on stolen property values and reflect actual crimes reported to law enforcement, (b) enough incidents are reported that outliers or data entry errors are unlikely to bias the results, and (c) the federal government, including the FBI, and the Illinois State Police are committed to further implementing NIBRS reporting across the State. As compliance grows, more Illinois-specific information will be included and eventually SPAC will be able to use these data for full fiscal impact analyses.

SPAC PARTIAL PRISON POPULATION PROJECTION
Note: this projection assumes Illinois stolen property values are consistent with NIBRS values

Projection 1. SPAC Prison Population Projection, HB3337 and HB3856 Projection
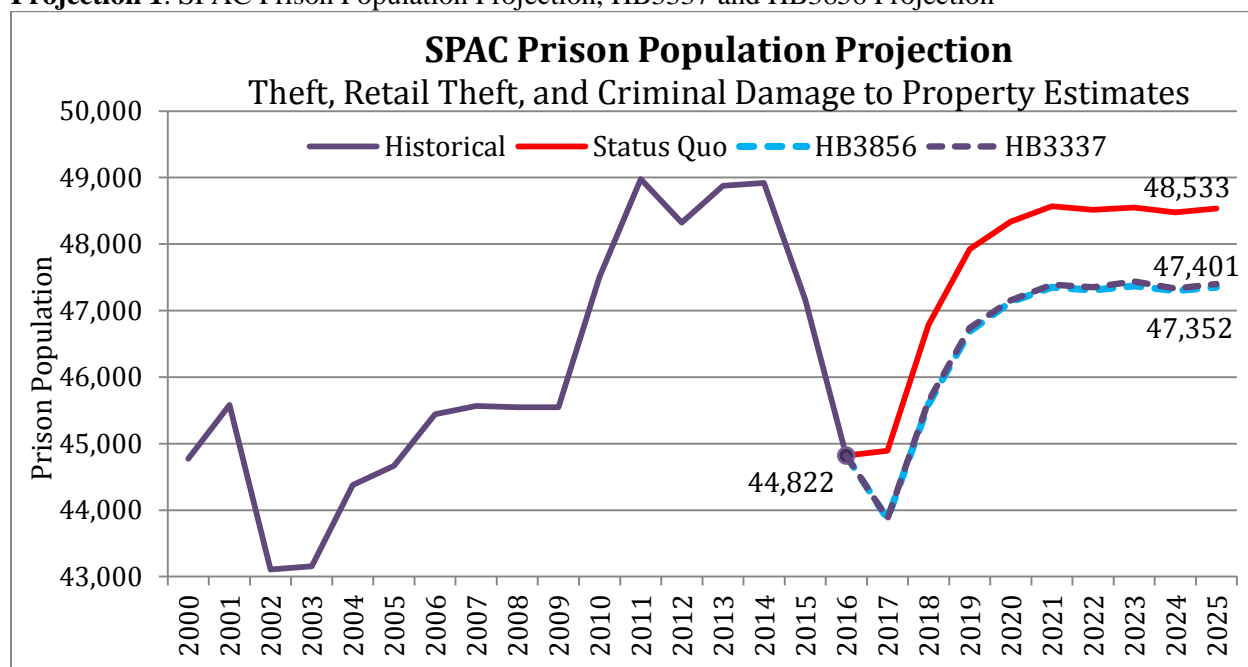
A population projection asks the question "What if these policies were enacted?" To answer the question, the projection first models the estimated prison population without any change to the current policy. In the graph above, the red line in the projection shows the status quo projection of the prison population estimated for June 30th of each year. On June 30, 2025, the status quo projection estimates 48,533 individuals would be held in prison.

The dotted lines answer the what if question: If the felony dollar value thresholds were raised and national incident-based data approximate the value of thefts and damage to property, a net decrease of about 1,100 inmates each year would be expected as a result. The impact of HB3856 would have a slightly larger impact than HB3337 because a higher percentage of felonies would become misdemeanors and it includes criminal damage to property offenses.

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[1] 720 ILCS 5/16-1(c), 720 ILCS 5/16-25(f)(3), and 720 ILCS 5/21-1.

[2] National Archive of Crime Justice Data, Uniform Crime Reporting Program Data: National Incident-Based Reporting System, 2014 (ICPSR 36398), available at https://www.icpsr.umich.edu/icpsrweb/NACJD/studies/36398.

The status quo projection relies on the assumption that admissions, sentences, and IDOC sentence credit awards remain consistent with the recent past, FY2014-16. The two scenario projections are the result of altering that assumption by reducing prison admissions by the percent of felony cases that fall between the current felony thresholds and the proposals, based on the national data. Changes to crime or recidivism rates are not accounted for in the projection.

The model uses the following assumptions:

- The projection relies on national NIBRS data, which includes only one Illinois jurisdiction. Due to lack of other data sources, SPAC assumes the national data is consistent with Illinois property values to provide an estimate of potential impact. SPAC uses the midpoint between the national average and the average value in Rockford, Illinois. **Because of the NIBRS data gaps for metropolitan areas and Illinois generally, this estimate may either over- or underestimate the impact of these proposals.**
- For individuals convicted of theft, SPAC reduced the number of admissions to account for 70% (for HB3337) or 76% (for HB3856) of offenders receiving misdemeanor rather than felony convictions.
- For individuals convicted of retail theft, SPAC reduced the number of admissions to account for 95% instead receiving misdemeanor convictions for both HB3856 and HB3337.
- For individuals convicted of criminal damage to property, SPAC reduced the number of admissions to account for 69% instead receiving misdemeanor convictions for HB3856.
- SPAC derived all of these percentages from analysis of NIBRS data from 2014.
- For all of these crimes, SPAC assumes no change in arrests, charges, convictions, or sentencing other than the above modifications.

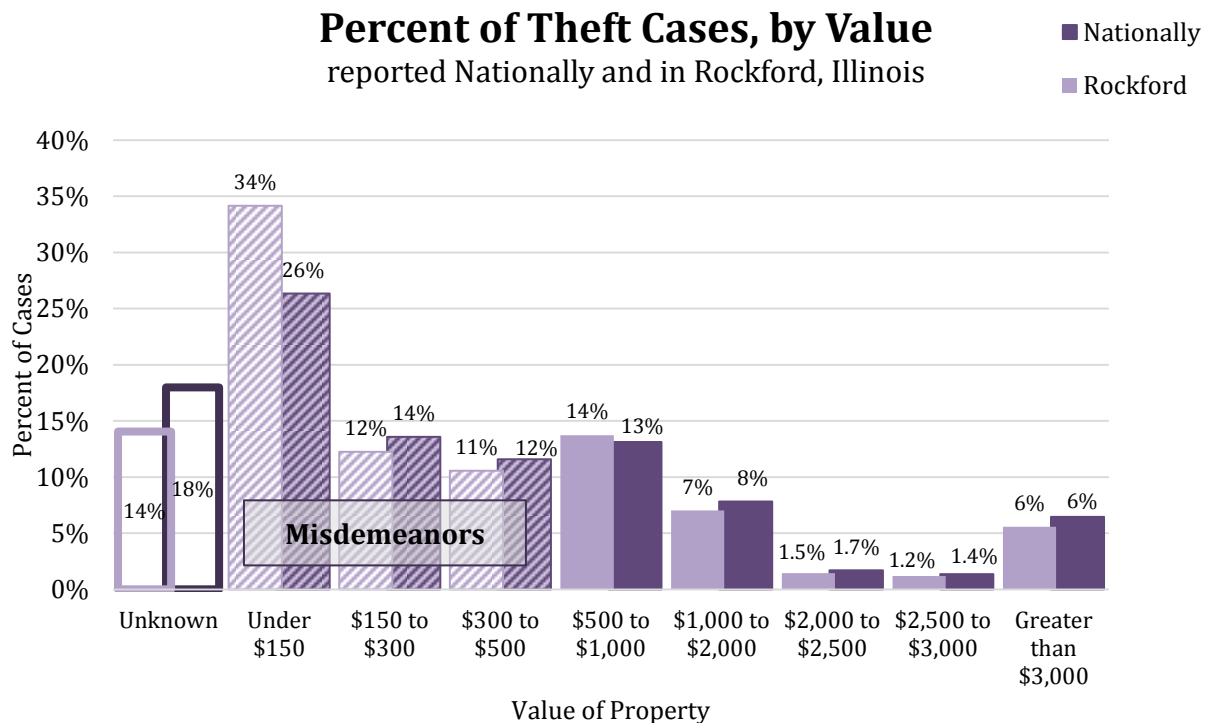The following pages describe each offense in more detail.

Theft
720 ILCS 5/16-1

Under current law, most thefts for items valued at less than $500 are classified as misdemeanors. Analysis of NIBRS data shows that roughly 46% of thefts are for items valued at less than $500. Both HB3337 and HB3856 increase the property value thresholds, which increases the number of offenses that would be classified as misdemeanors and decreases the number of incarcerated individuals convicted under a Class 4 felony. Analysis of NIBRS data reported in Rockford, Illinois shows:

- For HB3337, 21% of known theft incidents fall between $500 and $2,000 in property stolen.
- For HB3856, 22% of known theft incidents fall between $500 and $2,500 in property stolen.
- 14% of cases in the dataset have unknown property values. Unknown cases are due to missing, unreported values, or data errors.

Factors other than the value of the property determine whether theft classifies as a felony or misdemeanor under Illinois law. The estimates above assume that the reported values in NIBRS are consistent with the value that could be proven during trial and that other factors are not present. Because other factors are relevant under Illinois law, SPAC could not accurately determine the fiscal impact of changing the value threshold for theft offenses.

The thefts in Rockford follow the national distribution and closely match neighboring states' NIBRS-reported values of stolen property. The chart below shows the national and Illinois theft distributions.

Percent of Theft Cases, by Value
reported Nationally and in Rockford, Illinois

■ Nationally
■ Rockford

Percent of Cases — Value of Property

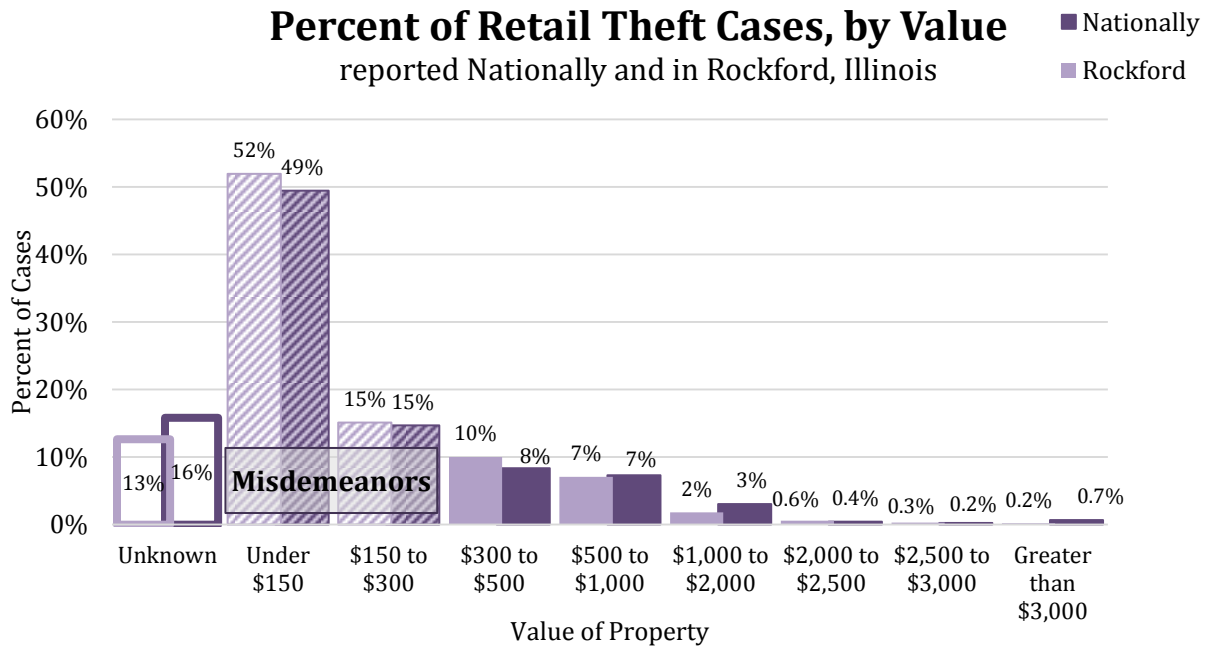| Category	Nationally	Rockford
Unknown	14%	18%
Under $150	34%	26%
$150 to $300	12%	14%
$300 to $500	11%	12%
$500 to $1,000	14%	13%
$1,000 to $2,000	7%	8%
$2,000 to $2,500	1.5%	1.7%
$2,500 to $3,000	1.2%	1.4%
Greater than $3,000	6%	6%

Misdemeanors

Retail Theft
720 ILCS 5/16-25

Under current law, most retail thefts for items valued at less than $300 are classified as misdemeanors. Analysis of NIBRS data shows that roughly 67% of retail thefts are for items valued at less than $300. Both HB3337 and HB3856 increase the property value thresholds for a felony, which decreases the number of individuals that would be convicted of Class 4 felonies and increases the number of offenses that would be classified as misdemeanors. Analysis of NIBRS data reported in Rockford, Illinois shows:

- For HB3337, 19% of known theft incidents fall between $300 and $2,000 in property stolen.
- For HB3856, 20% of known theft incidents fall between $300 and $2,500 in property stolen.
- 13% of cases in the dataset have unknown property values. Unknown cases are due to missing, unreported values, or data errors.

Factors other than the value of the property determine whether retail theft classifies as a felony or misdemeanor under Illinois law. The estimates above assume that the reported values in NIBRS are consistent with the value that could be proven during trial and that other factors are not present. Because other factors, such as criminal history or whether an emergency exit is used, are relevant under Illinois law, SPAC could not determine the fiscal impact of changing the value threshold for retail theft offenses.

The retail thefts in Rockford follow the national distribution and closely match neighboring states' NIBRS-reported values. The chart below shows the national and Illinois retail theft distributions.
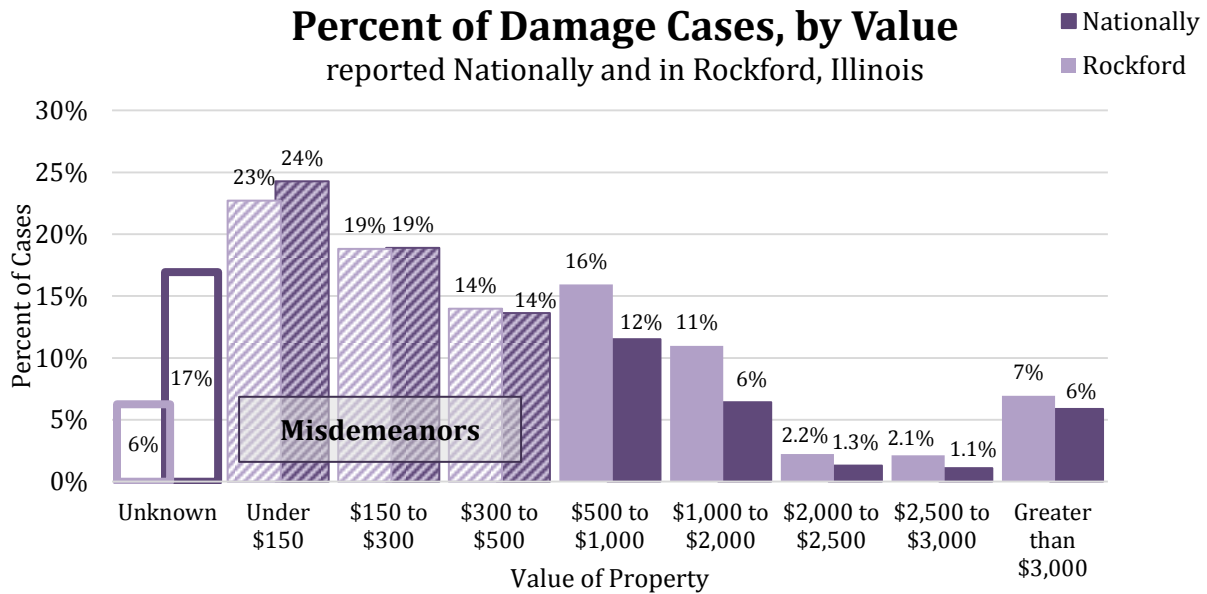
Percent of Retail Theft Cases, by Value
reported Nationally and in Rockford, Illinois

■ Nationally
■ Rockford

Value of Property	Nationally	Rockford
Unknown	16%	13%
Under $150	49%	52%
$150 to $300	15%	15%
$300 to $500	8%	10%
$500 to $1,000	7%	7%
$1,000 to $2,000	3%	2%
$2,000 to $2,500	0.4%	0.6%
$2,500 to $3,000	0.2%	0.3%
Greater than $3,000	0.7%	0.2%

Misdemeanors (Under $150, $150 to $300)

Criminal Damage to Property
720 ILCS 5/21-1

Under current law, criminal damage to property is classified as a misdemeanor if the damage is less than $500 in value. Analysis of NIBRS data shows that roughly 56% of criminal damage incidents are valued at less than $500. HB3856 increases the property value thresholds, which decreases the number of individuals that would be convicted of a Class 4 felony and increases the number of offenses that would be classified as misdemeanors. Analysis of NIBRS data reported in Rockford, Illinois shows:

- For HB3856, 29% of known theft incidents fall between $300 and $2,500 in damaged property.
- 6% of cases in the dataset have unknown property values. Unknown cases are due to missing, unreported values, or data errors.

The estimates above assume that the reported values in NIBRS are consistent with the value that could be proven during trial and that other factors are not present. Because other factors are relevant under Illinois law, SPAC could not determine the fiscal impact of changing the value threshold for criminal damage to property offenses.

The criminal damage to property incidents in Rockford follow the national distribution and closely match neighboring states' NIBRS-reported values. The chart below shows the national and Illinois damage to property distributions.

Percent of Damage Cases, by Value
reported Nationally and in Rockford, Illinois

Legend: Nationally, Rockford

The following pages describe (1) the changes to current theft, retail theft, and criminal damage to property sentences and (2) demographics of the individuals who are admitted to prison on theft and retail theft offenses. Admissions to prison for criminal damage to property are not included because there were so few cases over the past three years.

	Current Law	HB3337	HB3856
720 ILCS 5/16-1 – Theft			
(b)(1)	Theft less than $500 is Class A	Theft less than $2,000 is Class A	Theft less than $2,500 is Class A
(b)(1.1)	Theft less than $500 from protected place is Class 4	Theft less than $2,000 from protected place is Class 4	Theft less than $2,500 from protected place is Class 4
(b)(2)	Theft less than $500 if previously convicted of a any type of property crime is Class 4	Theft less than $2,000 if previously convicted of a _felony_ theft is Class 4	Theft less than $2,500 if previously convicted of a any type of property crime is Class 4
(b)(4)	Theft $500-$10,000 is Class 3	Theft $2,000-$10,000 is Class 3	Theft $2,500-$10,000 is Class 3
(b)(4)	Theft less than $500 from a person is Class 3	_-- no change --_	Theft less than $2,500 from a person is Class 3
(b)(4.1)	Theft $500-$10,000 if in protected place is Class 2	Theft $2,000-$10,000 if in protected place is Class 2	Theft $2,500-$10,000 if in protected place is Class 2
(b)(4.1)	Theft less than $500 from a person if in protected place is Class 2	_-- no change --_	Theft less than $2,500 from a person if in protected place is Class 2
(b)(5) et seq	Theft greater than $10,000 is Class 2, Class 1, or Class X	_-- no change --_	_-- no change –_

	Current Law	HB3337	HB3856
720 ILCS 5/16-25 – Retail Theft			
(b)	Retail theft by emergency exit	Retail theft by emergency exit	_**-- removed --**_
(f)(1)	Retail theft less than $300 less than $150 for fuel is Class A	Retail theft less than $2,000 less than $150 for fuel is Class A	Retail theft less than $2,500 less than $2,000 for fuel is Class A
(f)(1)	Theft shielding device is Class A (1st time) is Class 4 (2nd time)	_-- no change --_	_-- no change --_
(f)(1)	Less than $300 by emergency exit is Class 4	Less than $2,000 by emergency exit is Class 4	_**-- removed --**_
(f)(2)	Retail theft less than $300 less than $150 for fuel if previously convicted of a any type of property crime is Class 4	Retail theft less than $2,000 less than $150 for fuel if previously convicted of a _felony_ theft is Class 4	Retail theft less than $2,500 less than $2,000 for fuel if previously convicted of a any type of property crime is Class 4
(f)(2)	Less than $300 by emergency exit if previously convicted of a any type of property crime is Class 3	Less than $2,000 by emergency exit if prior conviction of a _felony_ theft is Class 3	_**-- removed --**_
(f)(3)	Retail theft greater than $300 is Class 3 or Class 2	Retail theft greater than $2,000 is Class 3 or Class 2	Retail theft greater than $2,500 greater than $2,000 for fuel _**-- removes retail theft by emergency exit --**_

	Current Law	HB3337	HB3856
720 ILCS 5/21-1 – Criminal Damage to Property			
(d)(1) (B) & (C)	Less than $500 is Class A	-- *no change* --	Less than $2,000 is Class A
(d)(1) (F) & (G)	Greater than $500 is Class 4	-- *no change* --	Greater than $2,000 is Class 4

DEMOGRAPHIC IMPACT OF PROPOSED LEGISLATION:

Table 1 shows the race and gender of offenders admitted to IDOC. Table 2 shows the geographic distribution of the commitments. Table 3 shows the relationship between geography and race for commitments. Race is self-identified upon admission to prison. The "Other" includes Hispanic, Asian/Island Pacific, Native American, and Unknown races. Note: admissions to prison for criminal damage to property are not displayed here because so few cases occurred over the past three years.

Table 1(a) Past Three Years Admissions to IDOC for **Theft**

	Male	Female	Total	Percent
White	914	202	1,116	**48%**
Black	976	91	1,067	**45%**
Other	150	4	154	**7%**
Total	**87%**	**13%**	**2,347**	

Table 1(b) Past Three Years Admissions to IDOC for **Retail Theft**

	Male	Female	Total	Percent
White	1,005	437	1,442	**33%**
Black	2,019	558	2,577	**59%**
Other	289	4	293	**7%**
Total	**76%**	**24%**	**4,388**	

Table 2(a). Top 10 Admitting Counties Over Past Three Years for **Theft**

County	Number of Admissions	Percent
Cook	851	**36.3%**
Lake	137	**5.8%**
Will	123	**5.2%**
DuPage	108	**4.6%**
Champaign	93	**4.0%**
Sangamon	69	**2.9%**
Madison	64	**2.7%**
Winnebago	56	**2.4%**
Peoria	52	**2.2%**
St. Clair	52	**2.2%**
Other	742	**31.6%**
Total	**2,347**	

Table 2(b). Top 10 Admitting Counties Over Past Three Years for **Retail Theft**

County	Number of Admissions	Percent
Cook	2,598	**59.2%**
Champaign	74	**1.7%**
Adams	37	**0.8%**
Clinton	23	**0.5%**
Christian	11	**0.3%**
Clay	7	**0.2%**
Boone	6	**0.1%**
Alexander	3	**0.1%**
Bond	2	**0.0%**
Bureau	2	**0.0%**
Other	1,625	**37.0%**
Total	**4,388**	

Table 3(a) Race by Geographic Region Over Past Three Years for **Theft**

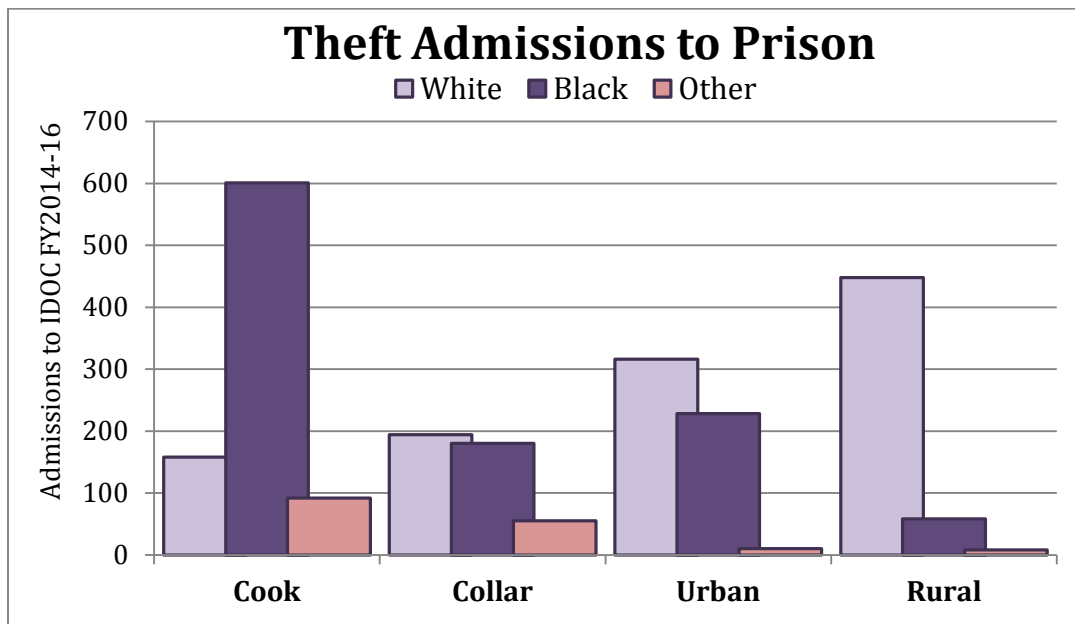|	Cook	Collar	Urban	Rural	Percent
White	158	194	316	448	48%
Black	601	180	228	58	45%
Other	92	55	10	8	7%
Total	36%	18%	24%	22%	**2,347**

Theft Admissions to Prison

□ White ■ Black ■ Other

Table 3(b) Race by Geographic Region Over Past Three Years for **Retail Theft**

	Cook	Collar	Urban	Rural	Percent
White	482	215	428	317	**33%**
Black	1,828	245	397	107	**59%**
Other	288	44	20	17	**8%**
Total	**59%**	**11%**	**19%**	**10%**	**4,388**

Retail Theft Admissions to Prison
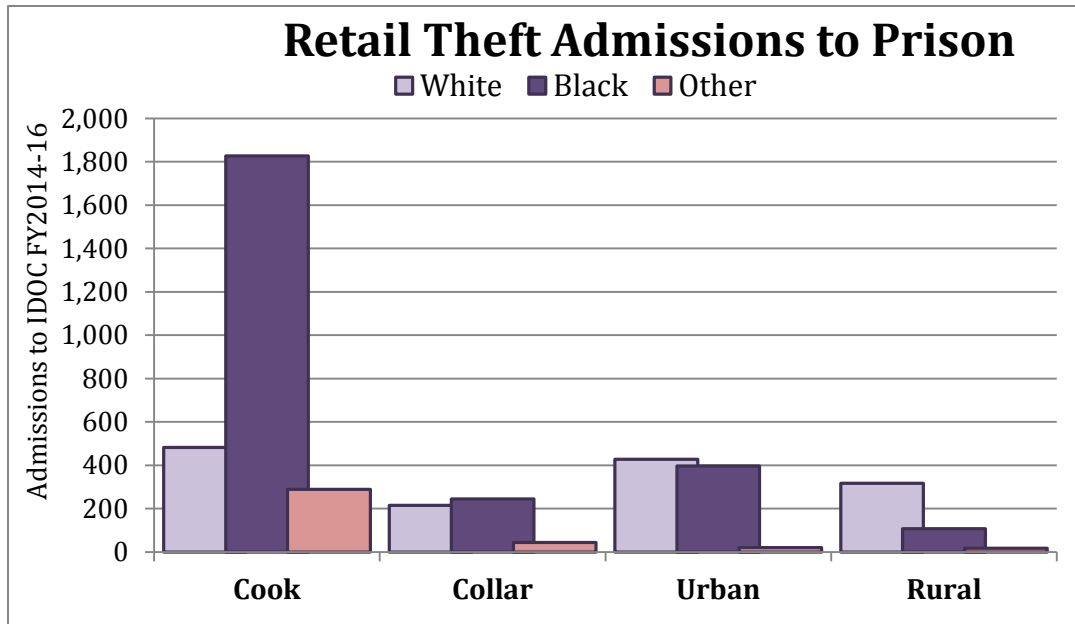
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