

11 Appendix 2: Cost Differentials Between Punitive and Positive-Cooperative Justice

In a previous project using Excel to evaluate the costs of the existing US criminal justice system, the author of this paper generated a spreadsheet which showed the associated costs as laid out in the academic research paper on this subject, and organized these into groups with sub-totals. While these data in and of themselves demonstrate some areas for serious consideration around what things might be done better in the area of criminal justice, mere analysis of these figures does nothing to suggest how such costs might be reduced or to what ends. This paper and associated estimates based on these and other available data aim to demonstrate how a particular set of alternative arrangements, which the author has labeled Positive-Cooperative Justice (PCJ) (see above) might speak to these issues.

To calculate estimates for what PCJ might cost, the costs associated with criminal justice act here as a starting point (McLaughlin, 2016) (Wagner & Raby, 2017). The first area under consideration is what items or categories expense PCJ could eliminate. PCJ would aim to ensure that all capable people who are required to reside in some secured facility for any length of time would be engaged in work which provides enough pay to meet their material needs, enables them to fulfil their familial obligations and creates revenue streams for their communities by way of providing in-demand goods and services. In so doing, the financial burdens place on the loved ones of inmates and their communities can be expected to eliminate. This removes the entire category of costs to families and communities

from the modified data set. While PCJ will use a very different kind of mediation system, the level of sophistication and expertise to be employed could be guessed to be roughly similar to judicial and legal expenses under criminal justice, so the judicial and legal category numbers will remain intact, but be renamed to Mediation and Resolution. Similarly, PCJ would largely replace policing with its own community outreach services, these most likely would be significantly less costly than policing, as there would be less equipment used, however, for lack of better estimates, the policing numbers will be retained. Costs to inmates under PCJ should be non-disruptive of legitimate income opportunities and in many cases might replace lower wages with higher ones as educational and vocational opportunities will be built-in to the PCJ arrangement. Finally, civil asset forfeiture, while likely to be something which would be far less frequently enacted under PCJ, might still be utilized in some cases, for lack of a means for estimating, this category will remain unchanged.

The total costs of running prisons versus PCJ centers are difficult to work out without significantly more data on the pricing of construction elements, furnishing and equipment. The per-diem cost of keeping a person in a secured facility within the community said person originates from is likely to be higher on average than the costs associated with prisons, which are often located in rural areas. This being the case, it could be guessed that the per-bed price might be comparable to local jails. While PCJ would call for more livable spaces than an average jail cell, the special hardware and furniture typically used in jail environments is most likely more expensive to purchase and install than the kinds of furnishings most PCJ living and shared spaces would require. Some parts of the

facility would obviously need to be designed for occupation by people who are actively acting out destructive behaviors. However, where in most jail facilities, all spaces and furnishings are designed around the assumption that any inmate might act out destructively at any time, PCJ would be more oriented toward promoting self-regulation among residents, and would not design facilities built entirely around on the needs of the few who require greater supervision and restriction. Somewhere in this mix it could be guessed that a facility with adequately graduated levels of security balanced against basic human environment needs might be similar in cost to solidly medium-security incarceration facilities in the locations they would serve.

Figuring out costs for the level of residential treatment in a PCJ center versus the punitive model, which assumes mostly security personnel, is also tricky. One possibility which seems like it should come with similar costs and needs for security is residential mental health treatment centers range from \$10 thousand to \$60 (Tracy, 2019) thousand per-month, per patient. Most of the upper-end price differences are related to amenities. PCJ facilities should be secure, but also livable and non-oppressive environments, with state of the art brain imaging equipment for evaluating problems and progress in measurable terms. For the sake of argument, the guess made here is that really good in-patient treatment of the kind needed to take people who engage in destructive activities in and properly and fully treat them would be around \$15 thousand per month, or \$78 thousand per-year. A Scientific American article from several years ago (Citation information unavailable) put the price of keeping those who have been found "not guilty by reason of insanity" at around \$58 thousand a year (which

presumably works-in the facility construction costs). In any event, this article stopped short of considering the fact that treatment-based solutions might be expected to be significantly less time-intensive than prescriptively applied prison sentences based on statutes and precedents.¹ To adjust for this likelihood, the best available method for estimation of expected time requirements it to compare incarceration figure between the US and Sweden whose existing criminal justice system already employs something which is comparable in most of the cost related ways to PCJ (Hedstrom, 2018). In the US in the years which the paper comparing the US and Sweden paper examined, for every felony committed in a given year, there is 121% correspondence in jail/prison populations. In Sweden, this number is only 5%. If we were to keep a similar portion of people who commit harms in PCJ residential treatment, the reduction in numbers of occupied beds would bring the number of people in custody to something like *95 thousand*, for the entire US (versus 2.3 million today).

Taking our highest per-resident, per-year cost estimate of \$78 thousand and multiplying by 95 thousand, the total costs for residential would work out to \$7.4 billion per year. To calculate the costs of the remaining people's treatment and supervision, which would happen in-community, with some level of participation in community center programs, we could take the total number we incarcerate today, subtract out the 95 thousand who reside in PCJ centers, arriving at 2.3

¹ These facts considered in light of the fact that these two countries also have had greater successes in lowering their crime rates over the past several decades than we have suggests that for the mere satisfaction of knowing someone is locked up for a longer period of time, without any measurable benefit we are already paying more than we need to.

million. Taking this number, we could multiply it by some estimated dollar value for in-community intensive probation (which although it is punitively oriented, where the PCJ version would not be, probably requires at least as many economic resources). Adult figures are considerably lower than juvenile, at around \$5,925 per year, but for sake of argument, we will use the most expensive figure cited for juveniles (whose handling is likely to be considerably more complex, as it involves monitoring school attendance, participation, home life and so forth) which is \$18.5 thousand per year (AOS, 2003). This calculation brings us to \$42.6 billion or 53% of the current \$80.7 of the incarceration portion of the punitive system.

The grand total projected costs for PCJ, in replacement of the entire existing punitive framework, according to this projection would come to \$146.70 billion, compared to the \$1,102 billion estimated yearly spending for the existing punitive system. Meaning, that PCJ could cost 13%, or a little under 1/7th the amount of the current punitive version, perhaps, less, as I have deliberately chosen the highest values for the estimates surrounding PCJ. To put it another way, this is a projected savings of 87%.

In addition, there would be potential revenue streams beyond the scope of this analysis, which could be expected to boost the bottom-line of effected communities, the GDP, and more than off-set the costs of this likely more effective means of combatting inter-personally destructive activities which include what we currently define as crime and other harms beyond these.

Table 1 US Annual Justice Costs

Spending Category	Sub-Category	Annual Amount (In Billions of Dollars)	Percentage of Total	Dollars Per US Resident (=tot./314,785,000)	Dollars Per Detainee * (=tot./2.3 Million)
Public Corrections Agencies (Prisons, jails, parole and probation)	Public Employees	\$38.40	2.20%	\$121.99	\$16,695.65
Public Corrections Agencies (Prisons, jails, parole and probation)	Health Care	\$12.30	0.71%	\$39.07	\$5,347.83
Public Corrections Agencies (Prisons, jails, parole and probation)	Construction	\$3.30	0.19%	\$10.48	\$1,434.78
Public Corrections Agencies (Prisons, jails, parole and probation)	Interest Payments (On past construction)	\$1.90	0.11%	\$6.04	\$826.09
Public Corrections Agencies (Prisons, jails, parole and probation)	Food	\$2.10	0.12%	\$6.67	\$913.04
Public Corrections Agencies (Prisons, jails, parole and probation)	Utilities	\$1.70	0.10%	\$5.40	\$739.13
Public Corrections Agencies (Prisons, jails, parole and probation)	Private Corrections (aka private prisons)	\$3.90	0.22%	\$12.39	\$1,695.65
Public Corrections Agencies (Prisons, jails, parole and probation)	Private Prison Profits	\$0.37	0.02%	\$1.18	\$160.87
Public Corrections Agencies (Prisons, jails, parole and probation)	Other (non-specified)	\$16.73	0.96%	\$53.15	\$7,273.91
	Total	\$80.70	4.63%	\$256.37	\$35,086.96
Judicial and Legal (Criminal law only)	Prosecution	\$5.80	0.33%	\$18.43	\$2,521.74
Judicial and Legal (Criminal law only)	Indigent Defense	\$4.50	0.26%	\$14.30	\$1,956.52
Judicial and Legal (Criminal law only)	Other (non-specified)	\$18.70	1.07%	\$59.41	\$8,130.43
Judicial and Legal	Total	\$29.00	1.66%	\$92.13	\$12,608.70
Policing (Criminal law only)	Total	\$63.20	3.63%	\$200.77	\$27,478.26
Civil Asset Forfeiture	Total	\$4.50	0.26%	\$14.30	\$1,956.52
Bail Fees	Total	\$1.40	0.08%	\$4.45	\$608.70
Costs to Families	Commissary	\$1.60	0.09%	\$5.08	\$695.65
Costs to Families	Telephone Calls	\$1.30	0.07%	\$4.13	\$565.22
Costs to Families	Other (McGlaughlin, et al)	\$528.10	30.30%	\$1,677.65	\$229,608.70
Costs to Families	Total	\$531.00	30.46%	\$1,686.87	\$230,869.57
Costs to Inmates	Total	\$392.60	22.52%	\$1,247.20	\$170,695.65
Grand Total (approx. 6% of GDP)		\$1,743.10	100.00%	\$5,537.43	\$757,869.57
Items In Red are ≥ 1% GDP (183 Billion Dollars)					

Table 2 US Estimated Positive-Cooperative Justice Costs

Spending Category	Sub-Category	Annual Amount (In Billions of Dollars)	Percentage of Total	Dollars Per US Resident (=tot./314,785,000)	Dollars Per Detainee/ Patient*
Positive-Cooperative Justice Residential	Total	\$7.40	5.04%	\$23.51	\$78,000.00
Positive-Cooperative Justice In-Community Supervision and Treatment	Total	\$42.60	29.04%	\$135.33	\$18,500.00
Positive-Cooperative Justice Mediation and Resolution	Total	\$29.00	19.77%	\$92.13	\$12,608.70
Positive-Cooperative Justice Community outreach and security	Total	\$63.20	43.08%	\$200.77	\$27,478.26
Civil Asset Forfeiture	Total	\$4.50	3.07%	\$14.30	\$1,956.52
Grand Total (approx. 0.8% of GDP)		\$146.70	100.00%	\$466.03	\$62,903.61

*Total dollars per Detainee represents weighted average between in-patient and out-patient, plus other costs.

Institutional Type	Annual Costs (In Billions of Dollars)	Dollars Per US Resident (=tot./314,785,000)	Dollars Per Detainee* (=tot./2.3 Million)
Criminal Justice System (all fields)	\$1,102.4	\$3,243.57	\$479,304.35
Criminal Justice System (jails/prisons only)	\$80.7	\$256.37	\$35,086.96
Positive-Cooperative Justice (all fields)	\$146.0	\$466.03	\$62,903.61
Positive-Cooperative Justice (residential and in-community supervision and treatment combined)	\$50.0	\$158.84	\$17,600.00

* On Positive-Cooperative Justice Costs, Combines 95 Thousand Residential & 2.2 Million for In-Community From Previous Sheet

