

## Injustice for All: Costs of the U.S. criminal punishment system

In the first decades of the 21<sup>st</sup> century,, the United States has been suffering through many crises, including two disastrous wars in Iraq and Afghanistan, massive deaths due to the coronavirus pandemic, the threat of nuclear war during Russia's invasion of Ukraine, and the looming environmental catastrophe. It is reasonable to conclude that, in this dire situation, all possible resources of the federal government should be focused on the immediate needs of our society. Yet, there are enormous amounts of money spent on our huge military establishment and on the comparably U.S. huge prison system.

The magazine *In These Times* (April 2020) p.9, quoted some statistics in "Incarceration By the Numbers." It pointed out that, though the United States has less than 5% of the world's population, it has 19.7% of the world's prisoners. There are more people currently languishing in prisons in the United States than in any other nation. U.S. taxpayers pay over eighty billion dollars each year to support this system of mass incarceration of prisoners. When including the costs of the entire criminal legal system (policing, the courts, prisons, and probation for prisoners who have completed their sentences), U.S. taxpayers pay over "\$182,000,000,000 [one hundred eighty two billion dollars] each year to support this bloated and wasteful system of punishment and mass incarceration.

In 2020 Routledge Press published [Injustice for All: How Financial Incentives Corrupted and Can Fix the US Criminal Justice System - YouTube](#) by [Chris W Surprenant](#) (professor at the University of New Orleans) and [Jason Brennan](#) (professor at Georgetown University). In 2021 C-SPAN television interviewed the authors about their book. Below are quotes by these professors from this interview:

"An ideal of a free society is not really compatible with having a huge percentage of people behind bars. The numbers are staggering. There are over 2.2 million people behind bars [ in USA] right now. There is another seven million people that are in some form of carceral supervision. One out of nine American men will spend time in jail at some point in their life.

The incarceration rate is incredibly high compared to almost any other country.... The severity and length of punishments are unusually high here.

Between 50% and 80% of Americans have done something which could put them in jail for at least a year. The reason most people are not arrested is due to the discretion of people in power about who will be prosecuted and who will not.

Fifty years ago the U.S. incarceration rate was a little bit worse than other countries, but over time it has become a massive outlier. We have the highest incarceration rate in the world.... Something is going wrong. Too many things are criminalized, they are punished too harshly, and the system costs too much money.

The U.S. system is not the same as elsewhere.... People are not aware of the real crime statistics. Americans think crime is getting worse and worse, when in fact crime is generally going down. Violent crime is now lower than at any time since the 1960s. American voters don't know that. When they vote for prosecutors, district attorneys, and judges, they do not vote very wisely. In other countries, most such officials are appointed rather than elected. In the American system, politicians have an incentive to

appear to be tough on crime, if they want to be reelected.

The U.S. is set up to have bad criminal justice. The government itself generates crime, by criminalizing behaviors that in other countries are not crimes. For example, drug laws create much crime, since actions they make illegal cause cartels to fight over territory and black market conflicts.

If people break a law they are thrown into jail. That is a relatively recent invention, which was not done in most of human history. Expulsion was the most common punishment, or some of a person's property might be confiscated. Others might be publicly humiliated, whipped, or have part of their body mutilated. Or, they might be compelled to do forced labor or to go into the military. More common punishments included being forced to remain at home for a time period, doing labor or paying a debt to the person who was harmed, or losing some of their legal rights but otherwise being allowed to remain free.

In contrast, under the U.S. prison system, if I am sent to jail I lose my job, lose contact with my family, likely would be ostracized by friends, and have no income. I would be put into a residence with other people who are charged as criminals. So you cut off a person's ties to their community, to friends and family. You cut off their ability to earn income, you ruin their reputation which will prevent them from earning future income, and on top of that you have them hang out with other criminals who will teach them criminal ways.

Prison is a harsh environment where in order to survive you have to become harsh and hardened. That creates more crime. If they cannot get a job when they get out, many may be forced to turn to illegal acts in order to financially survive. For all these reasons, a person who has gone to jail is more likely to commit a crime in the future.

The entire system creates violence. American police use more violence than in any other industrialized advanced nation. For example, police in all of Germany fired a total of 52 bullets in the year of 2018, whereas American police kill about a thousand people a year. The federal government gives excess military equipment to police departments, and police are trained to use these more deadly weapons. Over 60,000 bayonets were distributed. SWAT teams are often used to deliver drug warrants or other nonviolent situations. If they bust down a door in the middle of the night, residents might think their home is being burglarized and fire a gun. Then they are charged with resisting arrest or threatening officers. Police fight over who gets to keep cash that they find when they invade a house. Their incentive is to keep doing this, to get more money.

The system is also not effective in increasing public safety. There is very little evidence that the threat of harsh punishments convinces people not to engage in crime. Drug dealers consider incarceration just one of the risks of doing business, and they are far more worried about being killed by a rival gang than by being arrested by police. The length of a prison sentence has very little effect.

There is also the cruelty of incarceration. If you go to prison there is a good chance you will be assaulted, you may catch diseases or be injured and not given adequate medical care,

Imprisonment causes much harm to family members who never did anything wrong, especially children. Prisoners are forced to work, but they are paid pitiful salaries so they cannot provide money to help their family.

There is an entire industry which profits from having large numbers of prisoners. Prison employees,

companies that supply prisons, and towns that benefit from jobs provided by a big prison.

Criminal jury trial is practically extinct today, since over 95% of criminal convictions happen as a result of plea bargains. This enables the government to keep larger number of people in prison. If everyone went to a jury trial, the system would bankrupt the government.

One event can be divided into many charges, which prosecutors can use to threaten a person to accept at least one charge. Because their salary and promotions depend on how many of their cases result in a guilty verdict, prosecutors have an incentive to press for at least one guilty plea. Having a win is all prosecutors care about.

Pretrial prosecution is a major power that prosecutors have, and if a person can afford to provide bail to get out, then prosecutors often choose not to prosecute. Though the Bill of Rights specifies “no excessive bail,” many defendants are ordered to pay monstrous amounts of bail. Or denied bail altogether. This means the poor are mainly the ones left inside prisons.”

The Publisher’s Description of the Book:

American criminal justice is a dysfunctional mess. Cops are too violent, the punishments are too punitive, and the so-called Land of the Free imprisons more people than any other country in the world.

The problem is that nearly everyone involved in criminal justice—including district attorneys, elected judges, the police, voters, and politicians—faces bad incentives. Local towns often would rather send people to prison on someone else’s dime than pay for more effective policing themselves. Local police forces can enrich themselves by turning into warrior cops who steal from innocent civilians. Voters have very little incentive to understand the basic facts about crime or how to fix it—and vote accordingly. And politicians have every incentive to cater to voters’ worst biases.

*Injustice for All* systematically diagnoses why and where American criminal justice goes wrong, and offers functional proposals for reform. By changing who pays for what, how people are appointed, how people are punished, and which things are criminalized, we can make the US a country which guarantees justice for all. Key features:

- Focuses not only on overincarceration, but on *overcriminalization* and other failures of the criminal justice system
- Provides a philosophical and practical defense of reducing the scope of what’s considered criminal activity
- Crosses ideological lines, highlighting both the weaknesses and strengths of liberal, conservative, and libertarian agendas
- Offers plausible reforms that realign specific incentives with the public good.

This insightful book offers countless examples of the ways in which perverse incentives lead to excessive punishment without bringing public safety or other benefits. If we want to take a more

rational approach to criminal justice policy making, analyzing the incentives of institutional actors is the key place to start, as this book shows."

—Rachel Elise Barkow, author of *Prisoners of Politics: Breaking the Cycle of Mass Incarceration*

Attachments area

[Preview YouTube video Injustice for All: How Financial Incentives Corrupted and Can Fix the US Criminal Justice System](#)

