

# Analysis of usa's flawed criminal justice system



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## The Flawed Criminal Justice System

The United States has the highest incarceration rate in the world. The fact that such a developed country has so many of its citizens incarcerated is a huge problem. The justice system is flawed because of faulty police work, mandatory minimum sentencing, and a lack of rehabilitation.

Faulty police work is one of the main reasons why so many Americans are incarcerated. Before there is a hearing or a trial there is an investigation that takes place. Whether people like to hear it or not, police investigations often contain many errors whether they were intentional or not. Police investigators have vast discretion about what leads to pursue, which witnesses to interview, what forensic tests to conduct and countless other aspects of the investigation (Volokh, 12 reasons to worry about our criminal justice system, from a prominent conservative federal judge). Police also have a unique opportunity to manufacture or destroy evidence, influence witnesses, extract confessions and otherwise direct the investigation so as to stack the deck against people they believe should be convicted (Volokh, 12 reasons to worry about our criminal justice system, from a prominent conservative federal judge). The assumption is that the investigators are being honest and are objectively trying to find the right perpetrator, but what is to stop a dishonest police officer/investigator from lying and falsifying evidence? Nothing. In a court of law, the officer's testimony is believed over the defendants, and without any video evidence the defendant has no way to prove otherwise. The investigation is where the legal process starts so if it is misconducted the defendant is already at a huge

disadvantage, regardless of if the rest of the system works properly or not. Which a lot of the time it does not.

Mandatory minimum sentencing is a huge part of why the United States incarceration rate is so high. Mandatory sentencing requires that offenders serve a predefined term for certain crimes, regardless of the individual situation. What often happens is a person ends up having to serve hard time and gets trapped into the system for a non-violent offense such as possession of marijuana or other drugs. Criminals are deterred more by increasing the chances of them being convicted, not by increasing the sentence. Judge Paul G. Cassell described mandatory sentencing as cruel and unusual punishment, stating that sentencing requirements punish defendants “ more harshly for crimes that threaten potential violence than for crimes that conclude in actual violence to victims” (Mandatory Minimum Terms Results in Harsh Sentencing). In 2004 the American Bar Association called for the repeal of mandatory minimum sentences, stating that “ there is no need for mandatory minimum sentences in a guided sentencing system” (Sentencing Commission Takes New Look at Mandatory Minimums). Mandatory sentencing shifts sentencing discretion from the judges to the prosecutors. Prosecutors are the ones who decide what charges are to be brought against the defendants, so they can over-charge a defendant to get them to plead guilty whether or not they are actually guilty. Prosecutors are part of the executive branch, and the judicial branch has pretty much no role in sentencing. Therefore, when prosecutors are able to determine sentencing based on what charges they choose to bring, there are no checks and balances and no separation of powers.

The reason why the recidivism rate in the United States is 76.6% is due to the lack of rehabilitation in the current justice system. In recent years the incarceration rate has increased so much that prisons are being filled past maximum capacity causing poor living conditions for inmates. This is due to the fact that while inmates are serving their time, they are becoming more integrated into the prison system instead of being rehabilitated so they can function outside of prison. People learn from example and are a product of their environment. When someone is locked up and treated like criminal, they will start to act like one. Also, many low-level offenders are mixed in with real harden criminals and will start to emulate their behaviors. Not to mention the fact that being locked in a confined cell and treated like an animal causes significant psychological damage to many inmates. Norway's prison system focuses on rehabilitation rather than punishment. That is why their recidivism rate is only 20%, one of the lowest in the world (Sterbenz). When one system has a recidivism rate of 76.6% and the other has a rate of 20% it is fairly obvious which one works better. Norway's system works so well because they repair the harm caused by the crime instead of punishing the people. Halden Prison, a prison in Norway, is designed to keep as much "normalcy" as possible. They don't use bars on the windows because they are designed to make inmates feel trapped and restricted, not just for security reasons as many prisons will claim. Halden prepares inmates for life outside of prison by offering many programs that teach job skills. As Bastoy Prisoner governor Arne Wilson, who is also a clinical psychologist, explained: "In closed prisons we keep them locked up for some years and then let them back out, not having any real responsibility for working or cooking. In the law, being sent to prison is nothing to do with putting you in a terrible prison

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to make you suffer. The punishment is that you lose your freedom. If we treat people like animals when they are in prison they are likely to behave like animals. Here we pay attention to you as human beings” (Sterbenz). A 2007 report on recidivism found that stricter incarceration increases offender recidivism, while cognitive-behavioral programs are the most effective at keeping ex-cons out of prison (Sterbenz).

Some may argue that the prison system isn't flawed and that “ criminals will be criminals”, but that just isn't true at all. Many people grow up in a crime ridden environment and crime is all they know. That doesn't mean that they are “ bad”, or “ need to be locked up”. All it means is that they made a mistake or went down the wrong path at some point during their life for any number of reasons. That is exactly why rehabilitation is so important, so these people have an opportunity to get back on the right track and become functioning members of society. The evidence that supports rehabilitation is staggering. The United States prison system focuses on punishment rather than rehabilitation and has a recidivism rate of 76. 6% five years upon being released (Sterbenz). On the other hand, Norway's prison system focuses on rehabilitation rather than punishment and has a recidivism rate of only 20% five years upon being released (Sterbenz). When the numbers are put in front of you it is very easy to tell which system works better.

In conclusion, the justice system in the United States is heavily flawed. Police investigations are often faulty, mandatory minimum sentences are being used to give people unfair punishments, and there is not nearly enough rehabilitation happening in prisons throughout the United States. The system is extremely flawed and needs to be altered immediately.

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