



Is America's Criminal Justice System Broken?

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The past thirty years of criminal justice statistics reveals a dangerous trend that could lead to large-scale breakdown of criminal justice in this nation. In 1980 there were about 350 thousand inmates in all correction facilities across the country. This number has increased steadily to the current level of over two million, which is just about the capacity of those jails and prisons. As a proportion of population, the rate of imprisonment in the United States far surpasses every other country. Incarceration in Russia runs a distant second at about 65% of the U.S. rate. Put in other terms, about 25% of all prisoners in the world are housed in U.S. facilities. Of equal concern are the 1.5 million children who have at least one parent in prison. Because of those prison limitations, many persons convicted of crimes are sentenced to probation and those numbers have also increased dramatically from about 1.1 million in 1980 to over 4 million currently, without a corresponding increase in probation officers. And, this trend also shows no signs of abating.

The problem facing the criminal justice system is its inability to adequately respond to the volume of crime in the country. Police readily admit that they cannot arrest all those who commit crimes and yet they arrest more people than the judicial system can adequately process. There simply are not enough judges, courtrooms, prosecutors, ancillary resources and even potential jurors available to have a trial for all those arrested. This inadequacy results in a heavy reliance on plea-bargaining to expedite the judicial process. And, career criminals, fully aware of those limitations know how to play the system. The U.S. Constitution guarantees everyone the right to a jury trial. Prosecutors must offer a viable

alternative to the criminal in the form of a reduced charge, a lesser sentence, or both in order to limit the number of trials. It is estimated that over 95% of all arrests are settled with a negotiated charge and penalty. This means that people arrested for serious crimes are allowed to plead guilty to lesser offenses and receive little or no time in jail or prison. Not only is there little opportunity for rehabilitation, prisons have become fertile recruiting grounds for the more than 30 thousand criminal gangs in the country. Prison environments have also been linked to the radicalization of potential terrorists. Over-reliance on probation as an alternative to incarceration results in criminals quickly returning to society to continue their unlawful activities. The ineffectiveness of the criminal justice system only serves to encourage rather than discourage criminal behavior.

Take New York State for example. Each year for more than the past decade, there averaged over 500 thousand arrests. In 2017 the figure was about 450 thousand total arrests. Over 140 thousand of those arrests were for felony crimes with about 40 thousand for violent felonies, such as robbery, rape, assault, and murder. Felony crimes call for a minimum sentence of one year in state prison. However, the prison capacity in New York State is approximately 55 thousand and is near capacity. Based on the average time a person actually spends in prison (about 3 years) less than 20 thousand inmates will be released each year making room for only a small percentage of those felons. Thus leaving out over 20 thousand violent felons plus another 100 thousand other felons who were arrested during the year. Experience has shown that the majority will soon be rearrested. It is no

wonder that people have come to regard the process as revolving door justice.

Unfortunately, judges usually bear the brunt of criticism when criminals with extensive criminal records commit murder or other horrendous crimes after serving little or no time for previous crimes. Judges have options in sentencing decisions. Firstly, plea-bargaining usually takes place without direct input from a judge and with pressure to expedite cases judges go along with the majority of negotiated settlements. Even if the judge refuses to validate a plea agreement, there is still the limited prison space to be contended with in determining sentencing priorities. New York is not unique in this regard. Similar conditions exist in states with troubled cities like Baltimore, Chicago, and Los Angeles where California's prison system, under court order was forced to release over 30 thousand felons back into society because of prison overcrowding. As mentioned previously, the average time spent in prison is about three years meaning that every year about one third of the prison population will be released into society and replaced by an equal number of new inmates, the numbers of former convicts in the population continues to increase. It is estimated that over 8% of the adult population (about 20 million) have felony convictions and even more troubling is the fact that about 25% of African American males have felony records.

There are also more subtle examples of uncontrollable criminal behavior such as the illegal drug trade. In 1914, Congress passed the Harrison Act that made it illegal to sell opiates and cocaine without a doctor's prescription. After 100 years, several wars on drugs, billions spent on enforcement, education, incarceration, and the interdiction of large quantities of drugs coming into this country there is no scarcity on our streets and virtually any teen or young adult knows where to buy illegal substances. In fact, each semester nearly all the students in my classes acknowledge that if they wanted to, they can easily get drugs. They know the locations, names, and even phone numbers of drug dealers. Finally, as mentioned earlier, there are currently about 1.5 million children of prison inmates. Studies show that children with fathers in prison are six times more likely to be expelled or suspended from school than other children. In addition to academic challenges, children of inmates are also at higher risk for a variety of social problems including early sexual activity, substance abuse, antisocial behavior, and ultimately, criminality. Also, as prisoners are released and replaced, a new group of children are placed at risk. Children thus trapped in a cycle of broken homes, convict parents, poverty, poor health, educational deprivation, and juvenile crime are at extremely high risk to continue that lifestyle later in life thus setting the groundwork for steady increases of future adult criminals; a societal powder keg waiting to be ignited.