

A black and white photograph of a person's hands holding an open book behind vertical metal bars. The person is wearing a dark long-sleeved shirt. The bars are white and show signs of wear and peeling paint. The background is a plain, light-colored wall.

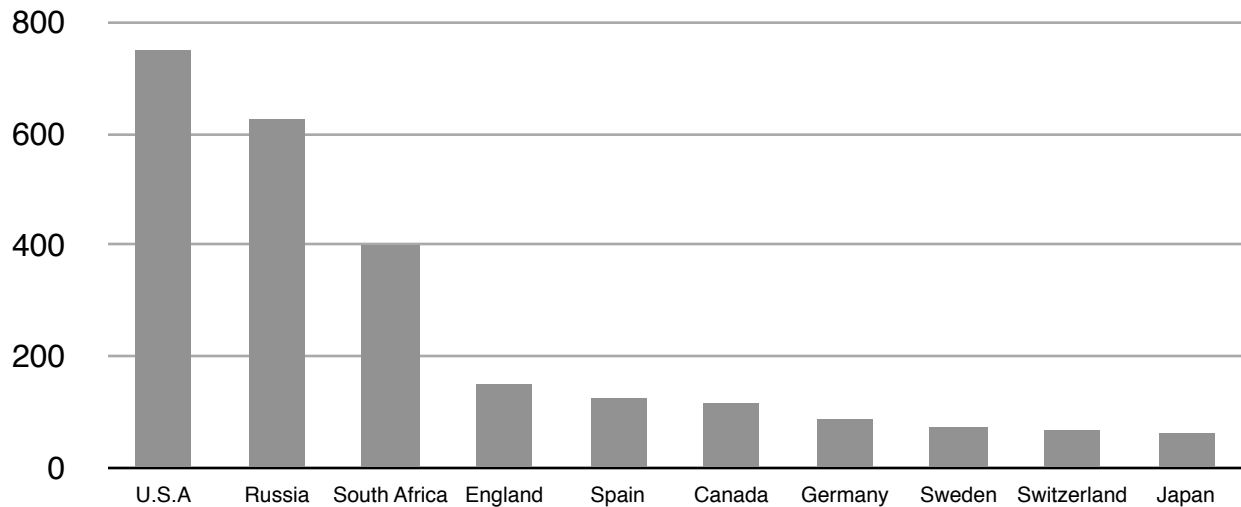
Analysis of the United States Corrections System

The guiding principle of the correctional system is to punish the criminals in a way that would rectify their wrong behavior. Whereas there is no ambiguity concerning this definition, the means of achieving the end result have been discussed since the beginning of the human kind. Historically, one of the most coherent, and radical correctional guidelines was prepared by Hammurabi, who claimed to be sent by God to lecture people about fair punishments. His famous code became known for the determination to use the capital punishment, and eye-for-eye rule as a method to deal with crimes (Hooker). Although the correctional systems of most western countries are less drastic in their methodologies, the search for the golden mean continues among philosophers, sociologists, and political scientists.

Indeed, this paper will discuss the U.S. correctional system from the perspective of policy formulation. The underlying assumption consists of the hypothesis that the present system is dysfunctional and should be reformed. For this reason the first part of the work will be devoted to the factors that cause present structure to be deficient. Some aspects that are worth mentioning are overwhelming incarceration, negligent deterrence factors, high recidivism rates, and lack of procedures that would help inmates to have a fresh start in life. Subsequently, the discourse will turn into proposed solutions to the problem. Hence, many of the obstacles could be minimized by a comprehensive sentencing reform and investment in the professionally developed rehabilitation programs, which were abandoned many years ago in favor of the trend to incarcerate people for all types of crimes, including even minor offenses.

To illustrate the point about incarceration it is worth to look at the statistics. One in every thirty one U.S. adults is in the corrections system (Lambert). Even though U.S. population constitutes of less than five percent of the world's population, it has almost a quarter of the

world's prisoners . Consequently, the United States has the most prisoners in the entire world with 751 people in prison for every 100,000, which is far more than other industrialized country. (Liptak). Based on the above figures, it can be stated that U.S. imprisons about 5-7 times more people than most industrialized countries (Mauer).



■ Figure 1: International Incarceration rates in sample countries per 100,000 in popul.

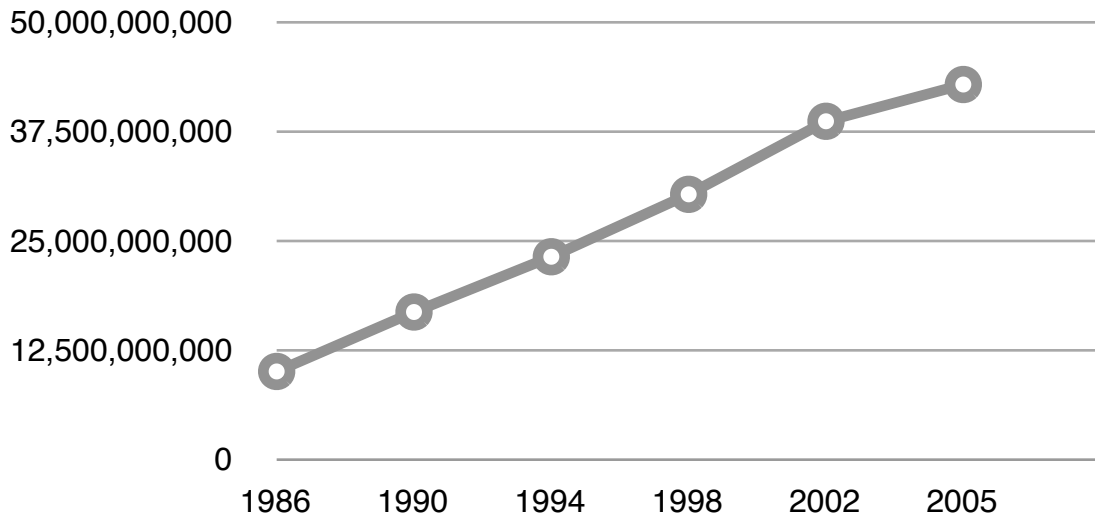
Data compiled from: Liptak (GlobalResearch.ca) & Mauer (Soros.org)

On that account, when one looks at historical trends, the imprisonment rates were rather flat since early 1900's up until a switch in sentencing attitudes in 1970s, when the United States government decided to introduce the Get-Tough policy to deal with crime. One of its elements, the mandatory minimums for all crimes contributed to an extreme spike in the prison population. Ergo, "the national inmate population is now six times that of the approximately 330,000 total of 1972" (Mauer). Even though the policy was controversial since the beginning it was very appealing to politicians caring more about perceived results, than actual effectiveness. Hence,

“most mandatory sentences were designed as weapons in the drug war, with an awful consequence: we now live in a country where it's common to get a longer sentence for selling a neighbor a joint than for, say, sexually abusing her” (Cloud).

Furthermore, the incarceration hysteria is not impact-less for taxpayers' pockets. According to the Pew research, spending on corrections system has increased over 300 percent over the last 20 years (Lambert). As of 2008, the governments' yearly spending on corrections is approximately \$55 billion, of which, 90% is states' burden. Dividing that by a number of inmates totaling about 2.3 million, the average yearly cost of one imprisoned person is nearly \$24,000 (Aizenman). For comparison purposes, single member family making above \$10,830 is considered to be self sufficient, and meets standards published by 2009 Federal Poverty Level Chart. Yet, even in the the pre-recession year of 2005, 37 million of people weren't fortunate to meet this benchmark. Although simplistic, an assertion can be made that more money is distributed per inmate in a single year, than 12 % of honest citizens are able to earn doing honorable jobs (U.S. Census Bureau).

○ Figure 2: State Correction Spending By Year



Source: The Pew Center on The States

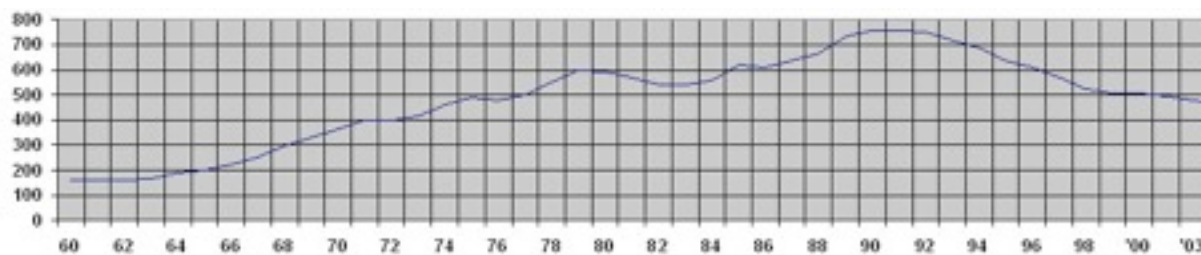
On the other hand, one can argue that nothing comes free, and since imprisonment reduces crime it is the money well spent. In order to extract the essence of this claim, it is worth to ask the question whether high prison population constitutes of an acceptable deterrent factor. According to the Oxford dictionary, deterrent is a thing or act that discourages or is intended to discourage someone from doing something. Even though political scientists differentiate two different types of deterrence, specific, and general, in attempt to keep the discussion simple, it is acceptable to use the shorter definition.

Consequently, few major factors that should have a deterring impact on criminals are the certainty, of punishment, and past experiences in prison. First, if one considers that the Get Tough policy is still prevailing in many states, and potential criminals are rational, they should acknowledge that the risk of getting caught after the crime is quite high. Yet, despite the popular belief in police investigators, and perceived probability of landing in jail, criminals don't seem to

be discouraged from committing crimes. For instance, in 2007 alone there were 16,929 murders, 90,427 rapes, and 445,125 robberies nationwide. The total number of violent crimes reported oscillated around 1.4 million (Bureau of Justice Statistics).

The whole Get Tough approach seems to be even more ineffective when one looks at the historical crime statistics. As can be seen on figure 3, violent crimes didn't decrease after the implementation of the new strategy in the 70s. Conversely, the number of violent crimes per 100,000 people was increasing up until early 90s, what clearly refutes the initial policy predictions. In conclusion, the underlying force behind the dramatical spike in the prison population has been showed not to work, and hence, the first claim can be made that booming prison population is one of the indicators of ineffective correctional system.

Figure 3: Number of Violent Crimes per 100,000 people.



Source: Bureau of Justice Statistics Crime; Justice Data Online

Another factor that adds to the certainty and severity of punishment is the incarceration demographics. In order for the above to have a deterrent impact on criminals, potential criminals should feel that the system is relatively fair, and everyone has an equal chance to be punished. However, numbers clearly indicate that system is highly biased against African Americans who have the highest chance to go to prison, whether they are guilty or not. In fact, “the data from the Department of Justice demonstrates that a black male born today has a 29% chance of

spending time in state or federal prison in his lifetime” (Bonczar). Other minorities such as Hispanics, and Native Americans are also disadvantaged but to the lesser extent.

Accordingly, racial disparities surely impact the perceived threat of punishment. Yet, disadvantaged groups arguably justify their wrongdoing by claiming that it is not them, but the system which is broken, ergo the deterrent effect of certainty and severity of punishment is lost. On the other side of the spectrum, white males encouraged by the bias in their favor might be tempted to try the crime, since the probability of becoming a suspect is low, and the threat of punishment is even lower.

Next, while examining the statistics concerning certainty of punishment there seems to be a disparity between the campaign of success executed by police departments nationwide, and

hard data published by the FBI in the Uniform Crime Report. As figure four indicates, murder is the most commonly cleared crime with 62.4% success rate.

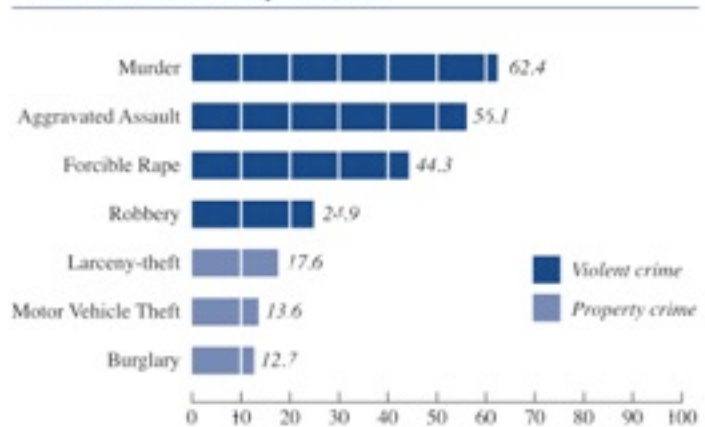
Although the highest of all, this figure is far from ideal. Then, when one looks at property crimes, the situation looks even worse. Only 13% of motor vehicle

thefts, and 12.7% of burglaries are ever cleared, what highly negates the deterrent effect of certainty of punishment (FBI).

To summarize, even though the certainty, and severity of punishment should act as a deterrent factor the real world evidence shows that despite the outrageous numbers of people are

Crimes cleared by arrest (Figure 4)

Percent of crimes cleared by arrest, 2001



(Source: FBI Uniform Crime Report)

put behind bars every day, it has very little or no discouraging effect on future criminals. First, the historical data disproves highly popular Get-Touch policy, aimed at reducing crime by putting people in jail for all offenses. Second, potential wrongdoers are far from being certain that they will ever be punished due to low crime clearance rates. Finally, the correctional system is racially biased, what further impacts the efficiency of the structure.

Finally, according to specific deterrence theory, an individual who was convicted, and sentenced to jail should be disinclined to break the law in the future. To examine this claim, in the context of American corrections system, one should look at recidivism rates. According to the Bureau of Justice Statistics, almost 70% of prisoners released in 1994 were rearrested within 3 years. The rearrest rate for property offenders totaled to 73.8%, 66.7% for drug offenders, and 62.2% for public-order offenders. Finally, the rearrest rate for violent offenders was around 62%. At the end of the day, more than two thirds of all previously convicted criminals happened to be recidivists, clearly indicating that the claim presented at the beginning of the paragraph is not valid in the U.S. realm.

To this end, it has been showed that the policy guiding the trend of booming prison population initiated during 1970s didn't work. Instead of dropping, the crime was steadily increasing until early 1990s. Nevertheless, American tax payers must carry the burden of the decision to this day by spending about \$24,000 per year on every inmate in prison. Next, despite the ever-increasing prison population, potential criminals are not deterred from committing crimes because of lack of certainty in punishment. The law enforcement agencies are relatively inefficient in their investigations, which results in many criminals never being punished. Finally,

the correctional system is racially biased, what impacts both harmed and unfairly advantaged groups in their perception, and justification of punishment.

In addition, the act of locking up people in jail has a devastating effect on their lives. On the outside, these individuals are separated from their families, and are forced to survive in conditions that are far from idealistic. Inside of jail they are forced to commit even more crimes just to get by, forgoing any effort to reform their past behaviors.

Altogether, there are plenty of reasons why the correctional system should be reformed. Hence, the following part of the work will focus on some approaches that could be undertaken to deal with the issue. First, the retributivist policy of Get-Tough should be replaced by utilitarian set of laws focusing on general welfare. Second, there should be a switch of investment from new incarceration facilities to professionally operated, and dedicated rehabilitation centers.

In the preceding section, much attention was given to the Get-Tough policy which stresses an importance of punishment with clearly specified jail terms for most crimes. Since its implementation in 1970s, it has contributed to the switch of funding from rehabilitation programs to construction of new facilities that could accumulate spiking prison population. As a result, the approach became clearly backward looking, and it is mostly concerned with causing the suffering to the wrongdoers just because they deserve it. That being the case, such move is a prime example of retributivist idealism to correctional system.

On the other side of the spectrum, there is a utilitarian school of thought, characterized by forward looking take on the corrections system. According to this idea, there shouldn't be one pre-defined schedule of punishments, but rather, the penalty should be decided on the case-by-case basis by conducting cost/benefit analysis with clear focus on public utility. Interestingly, in

its core principle, utilitarianism perceives the punishment as an evil that is necessary but should be avoided if it is groundless, too expensive, or needless.

The need for revenge is certainly not a central point in this theory as it is in retributivism. Instead, utilitarianism believes in crime prevention by either reforming existing criminals or protecting society from him. When applied to the U.S. correctional system it would require a comprehensive refinement in the sentencing methodology, leading to much fewer incarcerations, and more emphasis on therapeutic methods of preventing future crimes.

To illustrate the point, one should take a look how different the outcome of the two policies could be if applied into the real life realm. When Get-Tough movement became a prominent trend in the law-making circles, New York State implemented some of the harshest drug laws in the country called the Rockefeller Drug Laws. “Generally, the statutes require judges to impose a sentence of 15-years to life for anyone convicted of selling two ounces, or possessing four ounces of "narcotic drug" (typically cocaine or heroin)” (Wilson). Even though, throughout the years, many elements of the Rockefeller laws were amended, the point can be made that the legislature represented the retributivist nature. Furthermore, despite changes in law, many existent criminals convicted of drug crimes remain incarcerated.

Then, if one approaches the drug problem from the utilitarian perspective, carrying or taking drugs for personal use that doesn't interfere with anyone else's well-being is not punishable. However, the drug intake becomes punishable only if the person harms someone while intoxicated. Yet again, the penalty should be determined by conducting proportionality study and the cost/benefit analysis. In fact, similar analysis could be applied to most criminal laws, with more or less the same outcome. Thus, it is not hard to foresee that if implemented,

utilitarian driven approach to penalties would substantially limit the number of individuals currently considered as punishable offenders, limiting the number of people being locked up in prisons nationwide.

Along the same line, many other penalties under the current system won't pass the utilitarian proportionality test. Without a shadow of doubt, the implementation of utilitarian sentencing methods, would allow for more paroles being granted for less serious crimes. Accordingly, the advantage of parole sentencing as a rehabilitating environment over jail time is overwhelming. Only 20% of people who are granted parole are rearrested for new crimes during the term, comparing to 70% recidivism rate within 3 months of being released from jail (Coalition for Criminal Justice Reform). The parole candidates, could be easily monitored by highly affordable GPS chips, and previously trained correction officers no longer needed in less-populated prisons.

The last, and probably the most important element of the proposed reform must include rehabilitation mechanisms that will work toward deterring future crimes, by providing specialized counseling and training services to wrongdoers. By investing in high quality staff with psychology, sociology, and medical majors, the government will provide jobs for the young generation of professionals who will dedicate their knowledge to design effective therapy treatments. This, altogether with reformed sentencing system will allow criminals to return on the lawful road much faster, and will produce long lasting effects.

On that account, states that have previously implemented similar techniques in dealing with crimes experience benefits of such actions. For instance, Brooklyn's Treatment Alternative-to-Prison Program where drug addicts plead guilty and agreed to participate in therapeutic

community treatment has proven to be a great success. In detail, “DTAP participants have arrest rates that were 26 percent lower two years after leaving the program than those of a matched comparison group two years after leaving prison. DTAP participants are 67% less likely to return to prison than the comparison group leaving prison”. In addition, “DTAP graduates are three-and-one-half times more likely to be employed than they were before arrest—92% were working after they completed the program” (McVay). Similar program implemented in Maryland has led to similar findings.

On the international arena, many countries continuously monitor their imprisonment rates to make sure that it doesn’t get out of control. In 1970s when the U.S. started to implement its pro-prison agenda, Finnish officials undertook a series of policy reforms that were dedicated to limit jail sentences, and increase the use parole penalties. In consequence, during the 16 years period the incarceration rate declined by approximately 40%. Furthermore, in recent years Canada instituted a policy of “prisoner assessment and programming that leads to the goal of achieving early parole release” (Mauer).

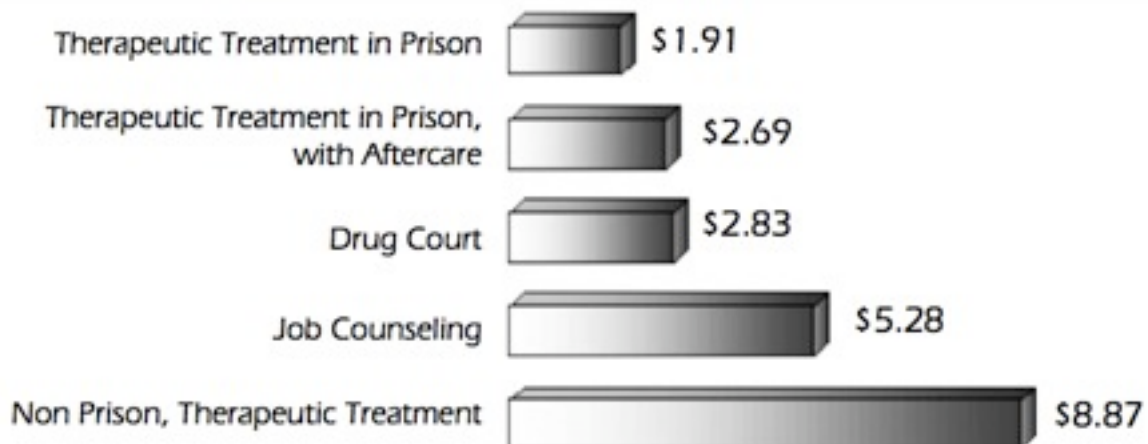
Nevertheless, before any policy recommendation can bounce off the ground it must be examined from the economic perspective. Logically, if the economic costs exceed benefits of the proposal, there is a very small chance that the it will ever become a law. For comparison purposes, one should keep in mind that federal, and state governments spend \$55 billion per year on the prison system, which can be translated to about \$24 thousand per inmate.

Interestingly, according to the U.S. Department of Health and Human Services, not incarceration but treatment is a cost effective method of dealing with crimes. Although the study was performed in 1997, and the figures are outdated, the treatment costs ranged from a low of

about \$1,800 per client to a high of approximately \$6,800 per client nationwide. If above numbers are adjusted for inflation, using the CPI Inflation Calculator on the Bureau of Labor Statistics webpage, the figures would translate into \$2,379 and \$8,990 respectively. With mean cost of about \$5700, the treatment is more than 4 times cheaper than one year of prison.

On top of that, a more detailed analysis of different treatment options was conducted by Washington State Institute for Public Policy. The study aimed to answer the question of how much in societal benefits is created by investing one dollar in treatment programs “as measured for taxpayers by program costs, and for crime victims by lower crime rates, and less recidivism” (McVay) . As can be seen on the Figure 5, non prison, therapeutic treatment generates \$8.78 in cost benefit, which is far more than any type of in-prison treatments. Interestingly, the benefit ratio between the two extremes is about the same as in the previous analysis.

Figure 5: COST BENEFIT TO TAX PAYERS AND CRIME VICTIMS PER DOLLAR SPENT ON PROGRAMS



Source: McVay, Doug. "Treatment or Incarceration." Justice Policy Institute. <http://www.soros.org/initiatives/usprograms/focus/justice/articles_publications/publications/treatment_20040424/treatment1.pdf>.

In short, the utilitarian approach can contribute to a breakthrough in much needed corrections system reform. Besides, proven efficiency in eliminating crimes with long lasting results not based on incarceration, it will create substantial cost savings for taxpayers. By focusing on rehabilitation and alternative sentencing methods, more individuals will be able to enjoy the freedom, while dedicated professionals will do their best to rehabilitate them to normal lives. Just the same way as every law-abiding citizen wishes for his/her own well-being achieved by individual utility maximization, the entire American society, could benefit even more, when the same principle will be applied to the whole population. And finally, instead of drawing premature judgments, everyone should remember about another ancient maxim which states "Hurt not others in ways that you yourself would find hurtful" (Udana-Varga 5:18).

To summarize, the purpose of this work was to study the efficiency of the U.S. corrections system. Upon examination of its key elements it was found that the country has the highest incarceration rate in the world, which happens to be very ineffective from the deterrence perspective, and economic cost/benefit analysis. Consequently, in the subsequent part of the paper, it was proposed that the country should move away from highly popular retributivist philosophy, and concentrate on maximizing the public utility using more utilitarian approach to sentencing, and rehabilitation. If implemented, the new policy will lead to gradual decrease in prison population, long lasting rehabilitation effects, and substantial cost savings for taxpayers.

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