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### United States Judicial System Failures and Solutions

Braden P. Barker

*Kutztown University of Pennsylvania*, [bbark124@live.kutztown.edu](mailto:bbark124@live.kutztown.edu)

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# United States Judicial System Failures and Solutions

By

Braden Barker

## Key Words

Funding, Police Brutality, Social Programs, Systemic Racism, Mass  
Incarceration, Nonviolent Crime, Community-Oriented Policing,  
Problem-Oriented Policing

## Abstract

*For years, the American judicial system has unfairly punished the American people. These actions have led to serious societal consequences. We have prisons that sentence people to harsh punishment for nonviolent offenses, an overfunded and militarized police force, and racial biases that lead to the tragic killings of black people at the hands of the police that are intended to protect and serve us. This essay looks to diagnose the United States judicial system's woes. More importantly, we take a look at what steps can be taken immediately to begin reversing the negative impact of these issues.*

Braden Barker

Dr. Vogel

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It is no question that over the last decade, the shortcomings of America's justice system have become more obvious than ever. Specifically, the advent of social media has given disadvantaged groups a platform to share the police violence that they experience with a global audience. With the most recent killing of George Floyd and ensuing trial of Derek Chauvin, the topic of police brutality against the African American community has become a focal point of most large media sources. This conversation has led to an increase in research into the multi-faceted failures of the United States justice system as a whole. This sparked my own interest, and facilitated the following research.

How does the United States justice system fail its citizens so often, and are we able to begin solving the problem immediately? The most logical first step to answering this question is to identify the most major factors of the problem. The first of the primary issues is the incarceration of people convicted of nonviolent crimes. The second contributor is the improper funding and training of our cities' police forces. The third and final main contributor is the effects of systemic racism on the African American population. Let's start by taking a look at the numbers of prisoners serving sentences for nonviolent offenses.

In John Pfaff's 2019 article, "THE MYTHS OF MASS INCARCERATION: What Reformers Get Wrong about Crime and Punishment", he discusses the details of the mass incarceration issue in America. "On any given day, about 1.5 million people are in state and federal prisons; another 750,000 are in county jails (most still awaiting trial); and over 4.5 million are on probation or parole. Over the course of a year, over 600,000 people enter prison, and roughly the same number are sent home; and over 10 million people are admitted to jails annually. About 2.5 million more enter or leave parole or probation." Pfaff goes on to say that the United States is home to about 5 percent of the world's population, but holds over 20 percent of the world's prisoners. This is due largely to America's harsh punishments for nonviolent offenses, specifically drug possession.

It becomes increasingly clear as you look into the data that the first step to solving this issue is to reform the unjustifiably harsh punishments for drug possession. On top of that, expunging drug offenses from people's records, and releasing those serving time for drug offenses from prison. For the land of the free and the home of the brave, we certainly have skewed priorities when it comes to jailing citizens. While it seems obvious, serving time in prison can ruin people's lives even more than is comprehensible to the average person. It also makes it more likely for that person to return to prison in the future.

One of the least well-known and largest contributors to mass incarceration are privatized prisons. These are privately owned prison complexes that stand to profit from the incarceration of citizens. Obviously, this creates a massive conflict of interest, because they are monetarily incentivized to imprison people. In Michael Brickner and Shakyra Diaz's 2011 article "Prisons for Profit: Incarceration for Sale", they detail the

problem of privatizing prisons as a result of poorly budgeted state systems. Since the failed war on drugs and as a result of minimum sentencing, the number of people incarcerated for drug offenses has skyrocketed since the 1980's.

Brickner and Diaz further elaborate that Corrections Corporation of America (CCA), the largest private prison company, made \$1.675 billion in 2010 alone. These private prisons are often justified by the state saying that they save money. Many state prisons are improperly funded, and end up operating over budget and create many issues for the state and its taxpayers. However, in 2011, the Arizona Department of Corrections released its report on per capita operations costs for the 2010 fiscal year and found that private prisons offered no demonstrable cost savings, and in some cases ended up costing more than the state systems.

Now that we have covered the mass incarceration of nonviolent crime, let's discuss the training of police officers. In Michael D. Reisig's 2010 article, "Community and Problem-Oriented Policing", he spells out the nuance of the United States police force's approach to policing inner-city communities. A community-oriented policing strategy includes a variety of philosophical and operational elements that are geared toward developing police-community partnerships as a way to prevent crime. On the other hand, the chosen strategy is problem-oriented policing, which is a more depersonalized approach to issues where the police analyze criminal activity on a large scale. This is the first example of improper police training.

Another massively important factor is the allocation of funding for cities' police forces versus social programs. The overfunding of police and lack thereof for social programs displays a choice to prioritize crime punishment over crime prevention.

Building a community and providing programs to assist less fortunate people can have a tremendous impact on crime. If a community is tight-knit, or at least knows one another, they are far less likely to commit crimes such as burglary or violent crimes on one another. In addition to this, if there are outlets for people in a bad fiscal situation to get help from the state in their communities, they are overwhelmingly less likely to have to resort to illegal activities to gather the income they need to survive.

As Tim Hope puts it in his 1995 peer-review article entitled “Community Crime Prevention”, “community crime prevention refers to actions intended to change the social conditions that are believed to sustain crime in residential communities.” The current social program infrastructure in the U.S. allows for members of underprivileged communities to survive, but just barely. More funding needs to be put into community crime prevention programs. Many of the current ones are third-party nonprofit organizations, but if they were funded by the government, their reach and impact would be much more significant. Many of these programs target the youth, and begin teaching them the ways to avoid criminal lifestyles and give them opportunities to build for their future. The obvious way to make funds for such programs is to cut funding for the police.

According to Clarence Taylor in his 2013 article “INTRODUCTION: AFRICAN AMERICANS, POLICE BRUTALITY, AND THE U.S. CRIMINAL JUSTICE SYSTEM”, police forces in cities receive 25-40% of the cities’ annual funding, which is almost always the largest portion of funds in the budget. A large portion of these funds go towards the newest military tech and weaponry. The failures in crime prevention have facilitated a system wherein a massive militarized police force is seen as necessary to

police American cities. To conclude the funding and training argument, steps need to be made towards defunding and reforming our current police forces. The funding that pays for military grade weapons and crowd control should instead be fed into crime prevention efforts. Police in this country are asked to solve way too large of a range of societal issues, from rescuing a cat from a tree, to de-escalating a domestic dispute, to dealing with violent crimes in progress. This has inevitably led to lack of organization, and tragic loss of life as a consequence.

Finally, the most important and probably most obvious factor in police brutality is the society-wide effects of systemic racism. Systemic racism is a pervasive and insidious factor that affects every African American person, and it may be hard to see or understand as a white person without any experience of it firsthand. It is theorized that these effects are residual impacts from the Jim Crowe era, and even slavery. The most major way in which these effects can be observed is through prejudice and bias held by a large number of white people in America. This is clearly evidenced by the disproportionate unjustified killings of black people by police officers in the United States every year.

Let's begin by taking a look at America's rate of police killings compared to other developed countries. Paul J Hirschfield writes for *Sociological Forum* in his 2015 article "Lethal Policing: Making Sense of American Exceptionalism", that American police killed more people in the first 24 days of 2015 than British and Welsh police have killed over the last 24 years. Another point of comparison; Canada has the second highest rate of police killing in the Western world, but it is still 2.5 times less than America's. These

numbers beg the question; what is the root of America's police brutality problem? Is it a combination of societal issues?

The evidence points to the main factor being racial biases held by police. 30% of police murders annually, give or take, are against black men. This is a startlingly disproportionate number when you realize that only 13% of the American population is African American. While more in-depth analysis would be required to know if race played a large role in these murders, there is further data to support this claim. According to Hirschfield, among victims in 2015, black men were over twice as likely to be killed while unarmed than other races. African Americans also made up 43% of police killings where the victim was not attacking anybody.

The effects of systemic racism can be hard to calculate definitively. However, the cycle of poverty among blacks in inner-city communities is a convincing place to look. After the repeal of the Jim Crow laws, no action was taken to give black people a foot to stand on in creating successful lives for themselves. Instead, they were continually oppressed, and as a result, most found themselves in helpless situations with financial success out of the question. Oren Cass writes in his 2015 article "The Inequality Cycle" for *National Review*, he illustrates the viciousness of the poverty cycle in America. "America's "lower class," for lack of a better term, is undergoing an unprecedented social collapse that threatens to destabilize core American principles. The data on marriage, parenting, employment, civic engagement, and basic values show a widening and sometimes accelerating gap between classes. This form of inequality is far more consequential than income inequality because strong families and communities, unlike high incomes, are the cornerstones of a free and fair society."



The first of the primary issues is the incarceration of people convicted of nonviolent crimes. The second contributor is the improper funding and training of our cities' police forces. The third and final main contributor is the effects of systemic racism on the African American population. When we look at these three major contributors to the American judicial system's woes, it becomes clear that the issue is in need of immediate attention. All of these issues have immediate remedies that we can begin working on, and the sooner we take action, the sooner we can have a free and equal society in our country.

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