

POVERTY AND THE CRIMINAL JUSTICE SYSTEM

The police harassment of homeless people, criminalization of behaviors that stem from poverty, and unfair targeting of poor neighborhoods: the criminal justice system targets and harasses poor and homeless people. The working class and the poor (people working and out of work) are stigmatized, scapegoated, and mistreated by the criminal justice system. Those unable to afford an attorney often find themselves represented by underresourced, inadequate and irresponsible public defenders, and are unable to adequately defend themselves in court. In addition, the poor may suffer further when public assistance is cut off because of a convicted spouse or family member.

MOST PEOPLE WHO INTERACT WITH THE CRIMINAL JUSTICE SYSTEM ARE POOR.

- In 1991, more than half of all state prisoners reported an annual income of less than \$10,000 prior to their arrest.¹
- While roughly 80% of all U.S. men of working age are employed full-time, only 55% of state prison inmates were working full-time at the time of their arrest.²
- Only 33% of prisoners nationwide have completed high school, while in the general population 85% of all men 20 to 29 years old have a high school diploma.³
- The United States spend \$167 billion dollars on policing, corrections, judicial and legal services in 2001⁴ and only \$29.7 Billion on Temporary Aid to Needy Families (TANF)⁵.

THE POOR ARE INCREASINGLY CRIMINALIZED TO PROTECT THE INTEREST OF THE WEALTHY.

- ***The homeless are denied access to public space.*** More and more public parks are refusing entry to individuals without children; public money is used to place bars in the middle of park benches to stop people from sleeping on them, and homeless people are being banned completely from certain neighborhoods in cities like Athens, Georgia; Cincinnati, Ohio; and Portland, Oregon.⁶
- ***The homeless are denied access to private space.*** Local businesses often band to form “Business Improvement Districts”, organizations created in order to protect the interests of local businesses. The interests of these “Business Improvement Districts” are generally related to the eradication of the homeless presence in their area and often hire private security guards to restrict access to areas of the community based on economic profiling.⁷

THE RICH HAVE CRUCIAL ADVANTAGES IN THE COURT SYSTEM.

- ***People that can afford bail are able to leave jail and conduct investigations, leaving them better prepared for trial.*** Higher-income people can afford better attorneys, expert witnesses, private detectives, and more “respectable” alibis.⁸
- ***People who can afford to hire an attorney are less likely to be imprisoned.*** Of the cases in which the defendant was found guilty in federal courts, 88% of defendants with a public attorney received prison sentences, compared to 77% of defendants with private lawyers, between 1990 and 1998. In state courts, public and private attorney have similar prison sentence rates.⁹
- ***Those who cannot afford bail and come to the court from jail for their trial are more likely to be imprisoned.*** Between 1990 and 1998, in the 75 largest counties in the U.S., roughly 50% of felony defendants with a public lawyer or court assigned counsel were released from jail pending trial while approximately 75% of private

lawyers were released.¹⁰ The poor face harsher sentences simply because they cannot afford adequate legal assistance. *The United States allots just \$2.25 per person for civil legal assistance.*¹¹ England allocates \$32, New Zealand \$12, and Ontario \$11.40.¹²

- **Public defenders are overworked.** Felony caseloads of 500, 600, 800 or more annually are common for many public defenders, although it is recommended that the annual caseload for a public defender should not exceed 150 felonies, 400 misdemeanors or 200 juvenile cases. For example, public defenders in Philadelphia were handling between 600 and 1,100 cases per year.¹³ Because public defenders are overworked, it is not surprising that they win dismissals or acquittals less often than privately hired attorneys.
- **Some defendants who cannot afford to hire an attorney themselves are never assigned a public defender.** In 2002 there were more than 12,000 guilty pleas entered by people who were not represented by an attorney just in California alone.¹⁴ Counties in Georgia have faced lawsuits after completely failing to provide counsel to misdemeanor defendants, or delaying so long to appoint counsel that the pretrial wait in jail was longer than the sentence would have been if a conviction had occurred.¹⁵ Elsewhere, suspects are coerced into waiving their constitutional right to counsel in return for a ‘deal,’ available only if they plead guilty immediately. Very few jurisdictions comply with the U.S. Supreme Court’s decision to extend the right to counsel to people receiving probation or a suspended sentence.¹⁶
- **Many death row prisoners have been represented by incompetent and incapable lawyers or in some cases no lawyers at all.** In Texas, about 1 in 4 death row prisoners was represented by a lawyer who at some point had been reprimanded, suspended, placed on probation, or barred from practicing law in Texas. The same is true for 1 in 5 prisoners that have faced execution in the past 20 years in Washington State. In Alabama, about 40 of the 185 death row prisoners do not have attorneys.¹⁷ A study by the Innocence Project of Cardozo Law School indicated that in 70 exonerated death row sentences, 32% of these cases occurred because of incompetent lawyers.¹⁸

THOUGH PRISONS ARE ECONOMICALLY DETRIMENTAL TO COMMUNITIES, PRISONS ARE PAWNED OFF ON POOR COMMUNITIES AS ECONOMIC MIRACLES.

- Public officials portray prisons as “clean industries” and promise new jobs to poor communities. However, prisons are often sited the same way other polluting industries are – focusing on poor communities of color. Prisons use large amounts of local natural resources, and towns where prisons are located are required to pay for the roads, sewers and utilities used by the prisons. Prison construction often takes land out of productive use.¹⁹
- Prison jobs typically do not go to residents of the host towns, and employees of the prisons rarely move into town after being hired. Since, the majority of prison employees commute to work, the host towns’ local businesses see little, if any, business from the prison employees.²⁰

PRISON STIGMATIZES PEOPLE AND KEEPS THEM IN POVERTY.

- **Ex-prisoners may be ineligible for welfare benefits.**²¹ Released prisoners may be barred from receiving Temporary Assistance to Needy Families, Social Security, Food Stamps, and other welfare benefits. Such benefits may be necessary for ex-prisoners who are newly released and trying to support themselves.
- **Welfare Reform permanently banned anyone with a felony drug conviction (using or selling drugs) from receiving cash benefits or food stamps.** No other felony convictions or offenses result in a permanent loss of these benefits. Each state can “opt out” of enforcing this ban, or modify its enforcement. As of December 2001, 22 states still have the full ban in place – denying people with felony drug convictions benefits for life.²² Eight states and the District of Columbia have completely opted out of the ban, and 20 other states have modified the ban by either allowing benefits dependent upon drug treatment, denying people benefits only for sale convictions, or placing a time limit on the ban.²³

- ***Much needed education is denied to anyone convicted of a drug related crime.*** In 1998 the Higher Education Act was amended to deny anyone with a drug conviction from receiving federal financial aid for post-secondary education.²⁴ Those with non-drug offenses, such as murder or rape, are eligible under this law. A student who has been convicted of any offense under any federal or state law involving the possession or sale of a controlled substance is not eligible to receive any grant, loan or work assistance if the money will be used to attend college. To date, approximately 92,841 students have been denied access to financial aid because of this provision.²⁵
- ***Former prisoners have a stigma attached to incarceration and often have a difficult time obtaining work after release.*** A researcher has estimates that the “wage penalty” of incarnation lowers the market rate of a prisoner’s wage by 10 to 20 percent.²⁶

1 USDOJ, Bureau of Justice Statistics, 1995. Survey of State Prison Inmates, 1991. <http://www.ojp.usdoj.gov/bjs/pub/ascii/sospi91.txt> (May 24, 2005).

2 Ibid

3 Ibid

4 Drug Policy Alliance. 2004. “U.S. Prison, Police Spending at Record Level” . See <http://www.drugpolicy.org/news/05_03_04bjs.cfm> (June 23, 2004).

5 National Conference of State Legislatures. 2002. “State to State TANF Spending, 2001” . See <http://www.ncsl.org/statefed/welfare/state_spending01.htm> (June 23, 2004).

6 National Coalition for the Homeless. No Date. “Illegal to Be Homeless: The Criminalization of Homelessness in the United States,” (Online). See <<http://www.nationalhomeless.org/crimreport/executivesummary.html>> (June 16, 2004).

7 Ibid P.4

8 Herzog, Rachel. 2005. “What is the Prison Industrial Complex?” See <<http://www.defendingjustice.org>>

9 U.S. Department of Justice, BJS, 2000. “Defense Counsel in Criminal Cases” See <<http://www.ojp.usdoj.gov/bjs/pub/ascii/dccc.txt>> (June 16, 2004).

10 U.S. Department of Justice, BJS, 2000. “Defense Counsel in Criminal Cases” See <<http://www.ojp.usdoj.gov/bjs/pub/ascii/dccc.txt>> (June 16, 2004).

11 Earl Johnson, *Equal Access to Justice: Comparing Access to Justice in the United States and Other Industrial Democracies* 24 Fordham Int’l L. J. 83 (2001).

12 Houseman, Alan W. , June 2001. “Recent Developments: Civil Legal Assistance in the United States,” See <<http://www.clasp.org/DMS/Documents/1011204465.21/recent%20developments.pdf>> (June 23, 2004).

13 American Civil Liberties Union. “Rights of the Poor” See <<http://www.aclu.org/poorrights/poorrightsmain.cfm>> (June 16, 2004).

14 NLADA. 2003. “Five Problems Facing Public Defense on the 40th Anniversary of Gideon v. Wainwright,” See <http://www.nlada.org/Defender/Defender_Gideon/Defender_Gideon_5_Problems> (June 17 2004).

15 Ibid P.1

16 Ibid P.1

17 Death Penalty Information Center. 2003. *Understanding Capital Punishment: A Guide Through the Death Penalty Debate*. Washington D.C. P 59.

18 The Innocence Project. 2001. Cases and Remedies of Wrongful Correction. See <<http://www.innocenceproject.org/causes/index.php>> (June 17, 2004).

19 United Church of Christ Commission for Racial Justice. 1987. *Toxic Wastes and Race in the United States: A National Report On The Racial and Socioeconomic Characteristics of Communities With Hazardous Waste Sites*. New York: Public Data Access, Inc.

20 King, Ryan S., Marc Mauer, and Tracy Huling. 2003. “Big Prisons, Small Towns: Prison Economies in Rural America” See <www.sentencingproject.org/pdfs/9037.pdf> (June 30, 2004).

21 Applied Research Center. 2002. *From Poverty to Punishment*. Oakland, CA: Applied Research Center.

22 Allard, Patricia. 2002. The Sentencing Project. “Life Sentences: Denying Welfare Benefits To Women Convicted Of Drug Offenses.” See <<http://www.sentencingproject.org>>.

23 Ibid.

24 Ibid

25 Ibid

26 B. Western and R. Pettit. 2000. "Incarceration and Radical Inequality in Men's Employment." *Industry and Labor Review*, 54, 3-16.