

# Wealth as a Determining Factor in the American Criminal Justice System

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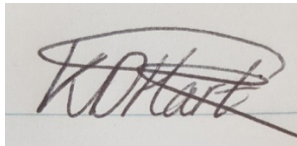
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## **Abstract**

In the United States, incarceration rates have been increasing rapidly over the past few decades. Interestingly, crime rates have not been following the same trend. Although the declaration of independence states that “All men are created equal”, this seems in stark contrast with the reality of prison life in the United States. People from low income and minority communities constitute a disproportional share of those who are currently incarcerated. This thesis examines how wealth can influence one’s position in the American justice system and subsequent rehabilitation. Drawing from the theory of neoliberalism, several components of the criminal justice system are critically analyzed. It aims to provide an explanation for the relatively recent shift within the penal system, which heavily centers around the importance of individual responsibility and harsh punishment, and the negative impact this may have on impoverished people.

Key words: Inequality, Privatization, Minorities, Wealth, Neoliberalism

## **Introduction**

Currently, there are more than two million people incarcerated in the United States. Although only roughly 5 percent of the world's population resides in the United States, it accounts for nearly 25 percent of people incarcerated globally (Roeder et al. 3). Incarceration rates have grown drastically over the last half-century, most notably in the 1970s. In contrast, crime rates in the United States have remained relatively stable during this time-frame, even showing a downward trend over the past two decades (Roeder et al. 7). While mass incarceration can be seen as a tool to contain and lower crime rates, there is little empirical evidence to confirm that mass incarceration actually reduces crime (Mears 8; Roeder et al. 7). Indeed, the emerging punitive turn within the criminal justice system is thought to be more linked to political and economic interests rather than a reflection of crime rates of concern for public safety (Wakefield et al. 393).

Criminal justice reform of the 1970s and 1980s lays the foundation for the contemporary criminal justice system. While scholars differ on which factors contributed most to the dramatic policy shifts in the criminal justice system, there is a consensus among scholars affirming that minorities are more likely to experience prejudice and hardship during the resolution of their case than the average person. Consequently, there is an extensive amount of research that draws attention to the inequality minorities face in the criminal justice system. The academic debate, therefore, revolves more around the differing views researchers have on which external factors can most significantly impact the outcome of one's criminal case than it does about the disparity faced by minorities as a whole. In this thesis it is argued that wealth can be a detrimental factor in shaping the course of contact with the American criminal justice system.

In view of the importance of politics in shaping policies on crime, neoliberalist theory can be a useful framework for explaining the clear change in approaches to crime. While neoliberalism is seen as a radical ideology by some, many ‘tough on crime’ policies shaped by neoliberalism still stand today (Berger and Hobson 3). Key principles of neoliberalism include favoring the deregulation of industries, free markets, increasing globalization, privatization, and limiting social welfare programs (Wamsley 251). Unlike in liberalism, which is against government interference, there is a critical, though limited role reserved for the government. The government’s role in securing and protecting individual property rights is deemed of particular importance (Wamsley 251; Sellers and Arrigo 62). Moreover, within neoliberalism high value is placed on the idea of personal responsibility (Wamsley 253). This idea, alongside the effects of deregulation, privatization, and social reform are most significant regarding the American criminal justice system.

A vast majority of the existing academic literature is primarily focused on the role of race and ethnicity in the criminal justice system. While the role of race is largely beyond the scope of this thesis, it is important to note that race and wealth inequality are often closely connected. Thus, several studies that address the effects of the system on people of color can also provide meaningful insights for other minority groups. Professor of law, Shima Baughman, for example, asserts that race can be a strong determinant for the likelihood of coming in contact with the criminal justice system. They argue that racial bias affects several aspects of one’s journey through the justice system, most noticeably in initial arrest rates and throughout courtroom proceedings (Baughman 98). These findings are supported by lawyer Leah Richardson, who draws attention to clear racial biases within the judicial system (864). According to Richardson, racial biases, even when implicit, would lead to higher conviction rates and harsher punishments once placed in front of a judge or jury (Richardson 876-882).

While chapter two discusses these issues more extensively, impoverished communities are often more likely to come into contact with the penal system and suffer harsher sentencing.

Additionally, people of color are expected to endure more additional negative consequences that go beyond one's conviction, also known as the 'collateral sanctions' or 'collateral damages' (Harris et al. 1791; Sykes and Maroto 131). Although these collateral sanctions are not directly imposed by the courts, they can still severely affect many areas of one's life. Some of examples of these collateral sanction include losing the right vote, having limited access to government aid, and dealing with gaps in employment history (Bannon et al. 4). These additional consequences, among many other examples, can make it difficult to successfully reenter society. It can be seen that finding suitable housing and employment is a challenge faced by many ex-convicts. Former inmates are, for instance, often denied opportunities based on the information that surfaces during background checks (Bannon et al. 27). Nevertheless, people of color, who are often also living in poverty, experience most discrimination when it comes employment and housing opportunities. Besides having to deal with prejudice stemming from their incarceration, racial biases can be an additional obstacle when trying to reenter into society.

Considering the racial disparity that permeates the American criminal justice system, it can be implied that race is indeed a powerful factor in shaping the outcome of one's case. While that may be true, criminal justice reform in the 20<sup>th</sup> century and emergence of mass incarceration have greatly increased the importance of another external factor: wealth. Race and wealth are strongly linked to each other in the American criminal justice system. Yet, the significance of wealth, and more specifically, its ability to alter the outcomes of criminal cases, is underreported on. Rather, wealth it is seen as a small part that can further contribute to already existing racial disparity. Most of the existing literature that does center around the role of wealth in the criminal justice system discusses distinct aspects in which wealth can be

of importance, such as the bail system and budgetary cuts on prison meals. However, by focusing on such a small part of the system, it is difficult to see the full extent to which it is pervaded by wealth. Moreover, the accumulating problems across the justice system are left unaddressed.

Given the magnitude of the contemporary American criminal justice system and the way it disproportionately affects minorities, reform is needed. However, before meaningful change can occur, it is crucial to understand the systems' problems. Existing literature has established the systemic cumulative disadvantages tied to race. Building upon this, this thesis identifies wealth as an additional external factor that perpetuates inequality faced by minorities. It follows a chronological structure in illustrating the influence of wealth. Firstly, the historical events and civil unrest that led to criminal justice reform will be addressed. Additionally, policy changes regarding crime are explained through using neoliberalist theory. Furthermore, the impact of wealth in relation to pretrial procedures is analyzed in the second chapter. Finally, the third chapter highlights the role of wealth during incarceration. Altogether, this thesis answers the question, to what extent does wealth, or lack thereof, influence the outcome of one's criminal case and subsequent rehabilitation?

## **Chapter 1: Background Information and Theory**

Although less overt than in other areas, such as pretrial procedures and incarceration, wealth can also be seen as an important aspect of emerging ‘tough on crime’ policies. This chapter examines the historical events that led to changes in the political climate of the United States during the second half of the 20<sup>th</sup> century. Additionally, this chapter analyzes the rise of neoliberalism and illustrates how policies influenced by this ideology deepened inequality in the criminal justice system.

The 1960s and early 1970s were tumultuous times for the United States. Important social movements during the 1960s were the civil rights movement and the women’s liberation movement. For the era, these matters were controversial. Additionally, U.S. foreign relations were also a divisive issue. Involved in both the Cold War and the costly Vietnam War, many were dissatisfied with the government (Norton et al. 779). Moreover, the unstable American economy added to the civil unrest. The 1970s, in particular, were characterized by high inflation and unemployment, in part caused by the oil crisis of 1973 (Norton et al. 776).

Seen as the beginning of mass incarceration, the 1970s were crucial to criminal justice reform. It marked the shift toward a more punitive approach to criminal justice. Laying the foundation, one important historical event that stands out in particular is the War on Drugs that was declared in 1971. Originally coined by President Richard Nixon, the War on Drugs quickly became a defining movement during his presidency. The War on Drugs received wide media coverage, despite drug use actually decreasing during this time (Baugman 96). Likewise, much of the media attention the War on Drugs received provided an incomplete depiction of the crisis at hand. These media reports often showed people of color in impoverished communities, and the devastation cocaine, specifically ‘crack’, left behind. Meanwhile, powder cocaine, which has nearly the same chemical components, was



far more prevalent in white affluent communities. Interestingly, the affluent group garnered very little media attention and therefore little public concern about this group (Netherland and Hansen 218).

This remarkable difference in media portrayal, public concern, and attention between the two groups was also mirrored in the criminal justice system. While new and much harsher laws were enforced regarding crack cocaine, the consequences for possessing powder cocaine were generally far less severe. Mandatory minimum sentences were enforced for certain crimes, primarily regarding drug related crime (Netherland and Hansen 218). As a result of these mandatory minimum sentences, judges were sometimes forced to make rulings they personally did not agree with.

Ultimately, owing to these severe punishments, incarceration rates increased at an unprecedented pace, affecting mostly people from impoverished communities (Mears and Cochran 10). In their paper on the opioid epidemic, Netherland and Hansen attribute the disparity in drug criminalization to a clear racial and classist bias where indigent people, often of color, were seen as responsible for their own behavior whereas white affluent users were deemed mentally ill and therefore much less at fault (220).

Personal responsibility is valued highly in neoliberalism, an ideology that gained popularity as a result of the civil unrest of the time. Mass incarceration indeed seem to be more tied to political ideas than to crime rates or demographics (Kirk et al. 922). Therefore, it is unsurprising to see neoliberalist ideals reflected in the new ‘tough on crime’ policies. One manifestation of the idea that one should carry responsibility for their actions is the implementation of ‘pay-to-stay’ policies. Adopted in some form by nearly all states, inmates pay a sum of money for every day that they are incarcerated, easily adding up to thousands of dollars by the end of their stay (Friedman et al. 750). Pay-to-stay policies operate under the assumption that inmates are financially responsible for their incarceration (Kirk et al. 922).

Therefore, it is thought inmates should bear the brunt of the costs as opposed to the tax payer (Friedman et al. 737). Furthermore, prison is increasingly being seen by legislators as an institutionalized public service that is consumed, making inmates consumers rather than convicts (Gibson-Light 203). While this logic may hold true for purchases made during lock-up, such as commissary items, the involuntarily nature of incarceration further attests to their inmate status. Given the high costs associated with the pay-to-stay-policies, it becomes clear that impoverished people are affected most by it, often adding to already considerable legal financial obligations.

While inequality of opportunities due to wealth is not new, neoliberalist ideals that shaped legislation further exacerbated it. Some examples of this include cuts made to social welfare programs, the deregulation of industries and increased privatization of public services.

Closely linked to neoliberalist ideals of personal responsibility, social welfare programs also saw a significant decrease in funding during the Carter and Raegan administration (Walmsley 253). The term ‘workfare’ emerged around this time, denoting the idea that one had to work in order to receive public assistance of any sort. Working-class families were impacted severely, often relying on poorly paying jobs that provided little sense of security. By the end of the century poverty and homelessness were at an all-time-high (Wamsley 254).

While the deregulation of industries resulted in declining unemployment rates, it also pushed uneducated workers into low-wage jobs with little room for social mobility (Sellers and Arrigo 62-63). Although the mean income increased, this was due to the expanding wealth of the top 20 percent of people. For marginalized people, the deregulation of industries resulted in a decline of income (Sellers and Arrigo 63).

Increased privatization of services further added to wealth inequality. The rationale behind favoring privatization of public services is that this leads to a competitive environment. As a result of the competitive environment the quality of services should increase and become less expensive. Although this may hold true for other services, it can create adverse effects when it comes to penitentiaries. Rather than implementing policies to address the causes of crime, privatization leads to a strong economic incentive for corporations to pressure legislators to expand the carceral state (Sellers and Arrigo 63).

Altogether, it becomes clear that neoliberalist policies affected impoverished people negatively. Compared to privatization and pay-to-stay policies, decrease of income and social welfare may not have such a straightforward link to the penal system. However, as the next chapter demonstrates, the repercussions of it are serious.

## Chapter 2: Pretrial procedures

Tough on crime policies are in principle meant to deter criminals and protect society. However, when examining the current prison population, it becomes clear that people from minority and low-income communities are affected most by these policies, as they constitute a disproportionately large amount of those incarcerated (Bannon et al. 4) While the national poverty rate, for instance, averages around 12 percent, nearly 80 percent of the inmate population qualify as indigent. This stark contrast suggests that wealth, or lack thereof, can be a strong determiner in the criminal justice system. This chapter draws attention to the part wealth plays in pretrial procedures. The role of environmental factors and that of the judicial system are two important elements regarding the pretrial phase.

Firstly, one's environment can greatly influence the likelihood of involvement in the criminal justice system. Sociologists Harris et al., assert that poverty can be both the cause and consequence of involvement with the criminal justice system (1756). The longitudinal study of minority youth, incarceration, and wealth, by Zaw et al. is in line with Harris' position, stating that lower levels of wealth are associated with higher incarceration rates (104).

While it is difficult to determine exactly what the cause of these higher incarceration rates among indigent people is, there are several plausible explanations. Firstly, a lack of education is associated with higher levels of crime (Mears and Cochran 1). People from impoverished communities are often unable to receive to same quality education as those from affluent communities (Zaw et al. 104). One example of this, is the competitive of nature college admissions. One's academic accomplishments are valued alongside their personal achievements and societal involvement. However, many impoverished people are unable to engage in, at the very least as many, extracurricular activities. Not only do they cost

significant amounts of money, they might need to spend more time providing for their families. Similarly, extra help to boost academic performance, for instance through tutors, is not a reality for many living below the poverty line. Despite efforts to somewhat bridge the gap between students from different backgrounds, for example through affirmative action programs and forms of financial aid, those from disadvantaged communities are still less likely to experience the same, or at least similar, opportunities. Lower levels of education can result in less skilled and lower paying jobs (Mears and Cochran 1). Criminology professors Mears and Cochran additionally find that besides education level, unemployment and poverty are also tied to the likelihood of one's criminal engagement. In this instance, involvement in crime may stem from an inability to survive with one's current means. Altogether, a correlation with higher crime rates can be found when it comes to limited opportunities and upward social mobility.

Furthermore, Zaw et al. suggest higher crime rates in impoverished communities might be a result of increased exposure to crime at a young age (104). The criminal justice system can impact more than just the defendant's life, the consequences can often also extend to one's family. When a parent is incarcerated, for example, the burden of raising children increases for the family. Moreover, the financial strain on the defendant's family can be especially hard for indigent people. It can even lead to more crime, as the necessity to provide for the family remains unchanged. Once the initial contact with the criminal justice system has occurred, a negative spiral associated with lack of wealth often follows.

An important contributing factor to this is one's legal financial obligations, also known as monetary sanctions, are often considerable. While most of these fees accumulate after a conviction, some fees, such as legal fees, are to be paid regardless of guilt.

Besides environmental influences, navigating the complex judicial system is also a crucial aspect of the pretrial phase. Within the judicial system money can play an important

role in several areas. One example of this is the bail system. Although the concept of bail is well-known in many countries, the highly commercial nature of bail in the United States is nearly unprecedented, the exception being the Philippines.

Historically, bail was used to assure the defendant would show up for their day in court. Defendants were presumed innocent and would give up their bail, which could be either property or money, in case they did not appear in court (Baughman 18). Compared to the contemporary bail system, there are several notable differences.

As it is now, bail is requested by the prosecution, to which a judge applies his discretion before making the final decision. In the modern system a multitude of factors are considered when determining the amount of bail. Family status, ties to the community, severity of the crime, prior convictions, and the probability of one committing such crime again are all taken into account (Markel et al. 3; Baughman 29). While the majority of those incarcerated are charged with non-violent minor offences, the bail system prohibits those who pose little threat to society and are indigent from buying their freedom (Baughman 9).

Although defendants get their bail back, most often being money, when they show up to court, that is only the case when the bail is posted in entirety (Baughman 157). This is not even a feasible option for most, as the overwhelming majority of defendants already struggle with having limited resources (Bannon et al. 4). Instead, indigent people often turn to bail companies for help. Rather than having to pay the full amount, a percentage, often between 10 and 15 percent, is paid to the bail company, who then provides the rest of the money needed to post bail (Daniels et al. 4). Besides the relatively small non-refundable amount that is paid to the bail company, many bail bonds also require some form of collateral in return for offering their services and money. One's house can serve as collateral, for instance. When one does not appear in court as they have promised when entering the agreement, their collateral, or that of a loved one, depending on the agreement is then taken by the bail agents.

Personal responsibility, or sometimes referred to as individual responsibility, is a valued principle in neoliberalism. In the context of criminal justice this can be taken to mean that individuals should face the consequences to their actions. While a case can be made in favor of a punitive approach to criminal justice, bail should be excluded from this. When bail is set, the question of innocence or guilt has not been solved yet and thus should therefore not be part of the punishment. As previously stated, it is up to the judge to determine the amount of bail, if any. This gives a judge a preposterous amount of power over a case and one's ability to make bail. Impoverished defendants are at an enormous disadvantage here, as can be seen in the US prison statistics, which indicate the majority of defendants are indigent (Harris et al. 1774).

Even if severity of the crime is taken into consideration when determining bail, it does not account for cases in which wealth plays a minor role for the defendant (Baughman 161). Bail then becomes a simple hurdle to get passed and has no significance in preventing recidivism and protecting public safety.

In the interest of public safety, the government should interfere with commercial bail companies. However, it does not and rather both the government and important stakeholders reap the benefits of this billion-dollar industry. Little government interference and the support for privatization, two core elements of neoliberalism, are clearly at play here. While tough on crime laws were meant to increase public safety, the rise of private companies that advocate solely for their own interest contradict this.

As bail companies are mainly interested in making a profit, they have little concern for contributing to public safety. A large part of their clientele consists of repeat offenders, indicating bail companies heavily benefit from recidivism. While bail companies are meant to ensure one's presence in court, there is little incentive for actively seeing to it. In fact, more

profit can be made when a person fails to appear in court as they can charge extra fees to a defendant's family for services such as bounty hunters.

Lack of wealth can also significantly impact their decision to even go to trial. When a defendant is unable to bail themselves out, and subsequently remain incarcerated, they face a multitude of adverse effects. Defendants lose a significant amount of bargaining power, for example, and have limited resources to build a strong defense (Baughman 82). Pretrial detention is also associated with higher conviction rates (Lerman et al. 163-164).

Since approximately 95 percent of criminal cases involve plea deals, it is important to analyze the reasons indigent defendants are more inclined to plead guilty (Baughman 84; Lerman et al. 160). According to a study by Lerman et al., which centers around pretrial incarceration and plea bargaining, pretrial incarceration increases the likelihood of submitting a guilty plea by 2.68 times (164). Even when one is innocent there are more inclined to plead guilty due to pretrial detention (Lerman et al. 163). Since plea bargains often lead to reduced sentences this can be a strong incentive to admit guilt. Additionally, there are other factors that put pressure on impoverished defendants to get their case resolved quickly such as loss of income, housing, and an inability to support their families that (Baughman 82).

Guilty pleas hold significant consequences that have implications far beyond initial conviction. While it is typically up to an attorney to ensure their client makes an informed decision before taking a plea, there is often a lack of understanding by the defendant in terms of ramifications for pleading guilty (Lerman et al. 176).

Overall, this chapter shows that wealth has an important role during the pretrial phase and can contribute to cumulative disadvantages. People from impoverished communities often get by with limited resources. Consequently, they are generally exposed to crime more frequently and unable to get the same level of education and opportunities as their affluent counterparts. Indigent people are more likely to come into contact with the criminal justice



system. As a result, lower levels of wealth are linked to higher levels of incarceration. Once initial contact with the system has occurred, the negative trend begins. The bail system has steered away from its initial purpose and is now used as yet another tool of punishment for those presumed guilty. When defendants or their families are able to post bail, it is often through a commercial bail bond that has little interest in anything beyond profit. However, the majority are not able to post bail at all, leading to pretrial detention. Pretrial detention in turn weakens the accused's position in terms of plea bargaining and ability to prepare a solid defense. Besides having a higher chance of conviction despite one's innocence, pretrial detention also puts a financial strain on those around the defendant. As the American criminal justice system continues to exacerbate the gap between the wealthy and poor, soon the question will not be whether one is innocent but rather if they can pay enough to prove they are.

### **Chapter 3: The Prison Experience**

While the road that leads to prison might vary greatly among individuals, behind bars one's background and wealth appear to be of little importance. After all, money will not change the jumpsuit you wear, the food you are served, or make the 6 by 8 feet of concrete walls you find yourself in feel any bigger. In a system where wealth plays such a crucial role, it seems questionable that it would not be of importance during incarceration.

Contrary to other parts of the American criminal justice system, the prison experience is an underreported area. Instead, there is a substantial amount of literature on the consequences of incarceration. The difficulties one faces when reentering society is a particularly often recurring topic within the academic discussion (Bannon et al.; Mears and Cochran). It can be argued that it is indeed easier to collect and analyze data from people before or after incarceration as prison can be an unpredictable and at least somewhat restricted space for outsiders. However, without taking this side of the system into account, it becomes challenging to fully grasp the extent to which wealth affects those involved with the criminal justice system.

Although academic literature does address the issues inmates face while incarcerated to some degree, there is little attention for the bigger picture. Instead, single aspects that are tied to wealth are outlined. Drawing attention to specific issues regarding wealth, or lack thereof, is significant. That being said, the rise of profit-based services is an institutional shift. The privatization of public services has serious consequences. This chapter therefore addresses the institutional motives and ramifications behind this shift.

In addition to its role in pretrial procedures, the influence of neoliberalist ideology is also reflected in the prison experience. Two aspects of neoliberalism that are particularly relevant when examining the current prison system: its endorsement of privatization and

limited social welfare.

Despite the majority of prisons still being state-run, the amount of private, for-profit, prisons has strongly increased over the past few decades. In the first chapter, ‘pay-to-stay’ policies were briefly touched upon. These policies operated based on the idea of personal responsibility in carrying the costs of one’s own incarceration. This is a clear contrast with the financial burden that comes with the privatization of prisons, as private prisons are largely financed by tax-payer dollars (Sellers and Arrigo 63). While the exact mechanisms are complex, the privatization of prisons is undoubtedly politically motivated. Moreover, it is a clear departure from the idea that privatization is beneficial for the quality and costs of services. Perhaps unsurprisingly, private corporations are the main beneficiaries of this development. However, these corporations, alongside other interest groups, also exercise considerable pressure on politicians to further their agendas (Sellers and Arrigo 63). While the privatization of prisons has negative consequences for multiple groups, its impact can be seen most severely on the average prisoner.

As mentioned previously, the shift to retributive justice resulted in cuts to social programs. Even though rehabilitative programs are offered by most prisons, Mears and Cochran point out that these are often poorly designed and therefore often not utilized by the majority of inmates (14). Even in cases where a prison’s rehabilitative program is adequately designed, it is difficult to address the root of the problem due to severe overpopulation in prisons (Wakefield and Uggen 399). The inability to deal with the causes of crime in the United States has become a huge problem throughout the era of mass incarceration. Despite weak evidence supporting the effectiveness of lengthy sentences, these extensive stays do further add to already high recidivism rates in the United States (Mears 10).

Although one might expect the length of an inmate’s prison sentence to be a determiner in their perceived severity of punishment, a study done by professor Lori Sexton,

sheds some interesting light on this. In their study, prisoners report that the failure to fulfill basics needs, such as proper access to healthcare, food, and familial contact is far worse than the amount of time they must serve.

In addition to cuts made to rehabilitative programs, service inside of prisons were also confronted with budget cuts. Consequently, services that are deemed nothing short of normal in the outside world, cannot be taken for granted inside prison. One area that exemplifies this are the meals, also known as 'chow', served to inmates during their incarceration. Over time, inmates reported seeing the size, quality, and sometimes even the frequency of their meals decrease (Sexton 122; Gibson-Light 203). Many prisoners furthermore reported that the meals they were served lacked in nutritional value. Thus, it can be seen that many inmates rely on commissary items in addition to chow to combat feelings of hunger (Bardelli et al. 15). While commissary items vary per prison, they are generally understood as items that can be purchased by inmates inside prison stores. Commissary items mostly refer to food but can therefore also refer to hygiene products. In the same manner as with the food, budget cuts have impacted also personal hygiene inside prisons. Generally, a number of essential items, such as a set of clothes and toothpaste, are issued to prisoners upon arrival. However, many items that are deemed necessary outside of prison, such as soap, must be purchased separately (Bardelli et al. 15).

Since cash is prohibited, commissary is purchased through money from an inmate's account. While the amount of money someone has in their accounts can vary greatly, it adds an interesting layer to prison dynamics. Firstly, having more to spend in prison increases one's social standing. Behind bars, those deemed 'jail rich' often receive a steady flow of income from outside sources such as family and friends, in addition to other resources (Bardelli et al. 6). Although in-prison labor is an option for most, its wages are exploitive at best (Bardelli et al. 4). With most jobs earning inmates less than half a dollar per hour, in-

prison labor could be considered more of a way to pass time than an actual way to increase one's prison rank. Instead, many inmates rely on a so-called 'hustle' to be able to pay for services inside prison (Gibson-Light 214). Some examples of hustles include offering legal advice to other inmates, writing letters on behalf of someone, or trading goods with other inmates. One measure taken to combat the disparity among inmates is setting a monthly maximum to how much money can be spent per inmate. However, this measure is easy to work around and inmates with little financial means often end up purchasing items on behalf of the jail rich in return for some form of compensation.

In addition to the high cost of commissary, phone calls are also costly. Sociologist Armando Lara-Millan explains the increasing profitability of telephone services. Although Lara-Millan illustrates this development using Los Angeles as example, the general idea remains the same. In the face of austerity, expanding revenue on some services, this would help fund other services, specifically healthcare (Lara-Millan 108). Having adequate funds for in-prison healthcare is, of course, important. However, as Lara-Millan points out, the extra funds did not directly benefit prisoners. What was deemed 'required healthcare' by the state was already being fulfilled and vague laws enabled additional funds to be distributed according to local sheriff's discretions (Lara-Millan 116).

Access to adequate healthcare is yet another issue faced by inmates during their incarceration. Resulting from various political agendas healthcare has seen a steep decline in funding and accessibility for inmates (Gibson-Light 203; Friedman et al. 736). Despite inmates being the only group that is legally required to receive healthcare, prisoners report a systemic disregard by those in charge of the prison when it comes to actually getting medical attention (Sexton 121).

Altogether, inmates are confronted with several areas in which money impacts the quality of life during incarceration. As a result of privatization and decreased funding to

social welfare essential services such as access to healthcare, sufficient nutrition and ability to contact one's family have been made more of a privilege than a basic human right. Despite a half-hearted attempt to limit the power of wealth, it still permeates the prison experience. Ranging from the ability to supplement their needs with commissary, being able to make regular phone calls to loved ones to influencing others to accommodate their needs, the jail rich experience prison very differently than the average indigent inmate. While the dynamics in prison are different from the outside world, the disparity caused by wealth in prison bears a striking resemblance to the outside world.

## **Conclusion and Discussion**

Although wealth inequality in the United States is not a new issue, the punitive turn within the criminal justice system has further shown the extent of this problem. As a result of social and civil unrest, criminal justice reform started to take place in the second half of the twentieth century. During this time, the political climate also changed and interest in neoliberalist ideology significantly rose. Many policy changes of the time regarding crime were consequently influenced by neoliberalist ideals. The effects of these policies are far-reaching, even reflected in the modern criminal justice system. Despite presumed innocence until proven guilty, at least in theory, this thesis has shown this is a convoluted issue in the United States because of the role of wealth. Ultimately, it is argued that wealth, or lack thereof, can severely impact the outcome of one's case and one's subsequent rehabilitation.

As demonstrated in chapter one, the War on drugs marked a new era regarding the way in which the United States dealt with crime. Rather than addressing the root of the problem, there was a clear shift in the United States penal system towards retributive justice instead of rehabilitation, which had been the norm previously. As exemplified by the War on drugs, there was a stark contrast in how the consequences of emerging 'tough on crime' laws affected different communities. Compared to those from affluent communities, the ramifications of the War on drugs impacted people, often of color, from impoverished communities most severely. Due to the differing sense of urgency in the prosecution of powder versus crack cocaine, the latter being predominantly used in poor neighborhoods, mandatory minimum sentences for the use and possession of crack cocaine resulted in a spike in incarceration rates of poor people of color. Besides touching on the historical events of the 1960s and 1970s, the first chapter also draws attention to other aspects such as the political landscape that contributed to criminal justice reform.

Core beliefs of neoliberalism, such as the value placed on personal responsibility,

privatization, and limited government interference regarding social welfare can be seen throughout the criminal justice system. Although it can be argued that individuals should indeed take responsibility for their actions, the legal financial obligations that accumulate before conviction negatively affect impoverished people. As illustrated in chapter two, the modern bail system is merely one example in which indigent defendants are at a disadvantage during pretrial procedures. The commercial nature of bail is almost uniquely American and is a far departure from its initial purpose. Even in light of the smaller amount that is needed to post bail when going through a bail company, many defendants are still unable to buy their way to freedom before they get their day in court. This inability to post bail then sets a chain of other adverse effects into motion related to pretrial detention. While plea bargaining is an integral part of the American criminal justice system, pretrial detention significantly reduces one's bargaining power. Furthermore, it can be seen that it leads to an increased likelihood of pleading guilty, regardless of guilt, and higher conviction rates.

Once someone is convicted and subsequently sent to do time, the importance of wealth does not end. While the dynamics in prison are drastically different from the outside world, wealth still influences one's experience during incarceration, it simply presents in an alternative manner. The neoliberalist idea that privatization leads to a competitive environment between companies, ultimately reducing the cost of services and increasing the quality of them, cannot be directly translated into certain areas, including prisons. As portrayed in chapter three, the privatization of services inside of prison has decreased the quality of life for indigent people during incarceration. This is further exacerbated by the decreased funding to essential services such as healthcare and sufficient nutrition behind bars. While some can supplement their needs with commissary items, this is not a reality for the vast majority of those incarcerated.

The legal financial obligations that are described in all three chapters, ranging from



legal fees to the cost of incarceration due to pay-to-stay policies, add an additional complex layer in navigating the American criminal justice system. Usually entailing large amounts, these financial obligations prove to be a significant barrier to reentering society for ex-convicts. Along with the difficulties already faced by this group, in areas such as employment and housing, the debt that results from coming in contact with the justice system makes reentry incredibly difficult. Moreover, these debts can spill-over to an ex-convict's loved ones as an inability to pay may lead to a withdrawal of social welfare until the debt has been paid. Owing to the difficulties faced when reentering, in conjunction with poorly designed rehabilitative and educational programs, that have been caused by decreased funding, it is rather unsurprising that recidivism is such an issue in the United States.

Previous research has focused primarily on the role of race in the American penal system. While this aspect has largely been left unaddressed in this thesis, race and wealth are undoubtedly connected elements when it comes to the American criminal justice system. While the systemic racism that pervades throughout it has been well documented, it is argued in this thesis that wealth too consistently plays a part during one's encounter with the criminal justice system. It is argued that wealth, or lack thereof, is detrimental to the outcome of one's case and subsequent rehabilitation.

While neoliberalism is the main theory used to demonstrate the systemic impact of wealth in the American criminal justice system, it does not offer a complete explanation for it. In chapter two, for example, it is argued that environmental factors can also contribute to the likelihood of involvement in crime. The broken window theory, the theory that crime invites more crime, initially seems to account for this phenomenon. However, this theory also has many critics who argue it is outdated. Thus, further research is needed to examine the true extent to which it can be applied. While neoliberalism might offer some insight into past events and policy changes that shaped the contemporary criminal justice system, it offers

little help when it comes to reforming it. Given its current problematic state and the way it exacerbates the already existing wealth inequality in the United State, this too warrants further research.

Altogether, it has become clear that wealth is an influential factor in the American criminal justice system. Besides drawing attention to policies that have disproportionately affected impoverished people, it also calls for action when it comes to enforcing new ones. When it comes to reform, political agendas have proven to be more important than regard for public safety or fairness. Following this trend, there will be little 'justice' left in the criminal justice system for minorities. Rather, it becomes a matter of being rich enough to afford the price that comes along with proving innocence.

## Works Cited

- Bannon, Alicia, et al. *Criminal Justice Debt: A Barrier to Reentry*. 2010.
- Bardelli, Tommaso, et al. “Surviving Austerity: Commissary Stores, Inequality and Punishment in the Contemporary American Prison.” *Punishment & Society*, SAGE Publishing, Aug. 2022, p. 146247452211183.  
<https://doi.org/10.1177/14624745221118345>.
- Baughman, Shima Baradaran. *The Bail Book: A Comprehensive Look at Bail in America’s Criminal Justice System*. Cambridge UP, 2017,  
<https://doi.org/10.1017/9781316443194>.
- Craigie, Terry-Ann, et al. *Conviction, Imprisonment, and Lost Earnings: How Involvement With the Criminal Justice System Deepens Inequality*. 2020.
- Daniels, Flozell, Jr., et al. “From Bondage to Bail Bonds: Putting a Price on Freedom in New Orleans | the Data Center.” *The Data Center*, 14 May 2018,  
[www.datacenterresearch.org/reports\\_analysis/from-bondage-to-bail-bonds-putting-a-price-on-freedom-in-new-orleans](http://www.datacenterresearch.org/reports_analysis/from-bondage-to-bail-bonds-putting-a-price-on-freedom-in-new-orleans).
- Friedman, Brittany, et al. “‘Like if You Get a Hotel Bill’: Consumer Logic, Pay-to-Stay, and the Production of Incarceration as a Public Commodity\*.” *Sociological Forum*, vol. 36, no. 3, Wiley-Blackwell, May 2021, pp. 735–57.  
<https://doi.org/10.1111/socf.12718>.
- Gibson-Light, Michael. “Ramen Politics: Informal Money and Logics of Resistance in the Contemporary American Prison.” *Qualitative Sociology*, vol. 41, no. 2, Springer Science+Business Media, May 2018, pp. 199–220. <https://doi.org/10.1007/s11133018-9376-0>.

- Harris, Alexes, et al. "Drawing Blood From Stones: Legal Debt and Social Inequality in the Contemporary United States." *American Journal of Sociology*, vol. 115, no. 6, University of Chicago Press, Dec. 2010, pp. 1753–99. <https://doi.org/10.1086/651940>.
- Kirk, Gabriela, et al. "Who Pays for the Welfare State? Austerity Politics and the Origin of Pay-to-Stay Fees as Revenue Generation." *Sociological Perspectives*, vol. 63, no. 6, SAGE Publishing, Dec. 2020, pp. 921–38. <https://doi.org/10.1177/0731121420967037>.
- Lara-Millan, Armando. "Theorizing Financial Extraction: The Curious Case of Telephone Profits in the Los Angeles County Jails." *Punishment & Society*, vol. 23, no. 1, SAGE Publishing, Jan. 2021, pp. 107–26. <https://doi.org/10.1177/1462474520941929>.
- Lerman, Amy E., et al. "Pleading for Justice: Bullpen Therapy, Pre-Trial Detention, and Plea Bargains in American Courts." *Crime & Delinquency*, vol. 68, no. 2, SAGE Publishing, Mar. 2021, pp. 159–82. <https://doi.org/10.1177/0011128721999339>.
- Markel, Dan, et al. *Privilege or Punish: Criminal Justice and the Challenge of Family Ties*. 2009, [papers.ssrn.com/sol3/Delivery.cfm/SSRN\\_ID1677503\\_code342089.pdf?abstractid=1677503&mirid=1](https://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID1677503_code342089.pdf?abstractid=1677503&mirid=1).
- Mears, Daniel P. "Introduction: Out-of-Control Criminal Justice." *Cambridge University Press eBooks*, 2017, pp. 1–22. <https://doi.org/10.1017/9781316676578.002>.
- Mears, Daniel P., and Joshua C. Cochran. *Prisoner Reentry in the Era of Mass Incarceration*. SAGE Publications, Incorporated, 2014.
- Netherland, Julie, and Helena Hansen. "White Opioids: Pharmaceutical Race and the War on Drugs That Wasn't." *Biosocieties*, vol. 12, no. 2, Springer Science+Business Media, June 2017, pp. 217–38. <https://doi.org/10.1057/biosoc.2015.46>.
- Norton, Mary Beth, et al. *A People and A Nation: A History of the United States, Brief edition*. Cengage Learning, 2014.

- Page, Joshua, et al. "A Debt of Care: Commercial Bail and the Gendered Logic of Criminal Justice Predation." *RSF: The Russell Sage Foundation Journal of the Social Sciences*, vol. 5, no. 1, Russell Sage Foundation, Feb. 2019, p. 150.  
<https://doi.org/10.7758/rsf.2019.5.1.07>.
- Richardson, L. Song. "Systemic Triage: Implicit Racial Bias in the Criminal Courtroom." *The Yale Law Journal - Home*, 2018, [www.yalelawjournal.org/review/systemic-triage-implicit-racial-bias-in-the-criminal-courtroom](http://www.yalelawjournal.org/review/systemic-triage-implicit-racial-bias-in-the-criminal-courtroom).
- Roeder, Oliver, et al. *What Caused the Crime Decline?* 2015.
- Sellers, Brian G., and Bruce A. Arrigo. "Zero Tolerance, Social Control, and Marginalized Youth in U.S. Schools: A Critical Reappraisal of Neoliberalism's Theoretical Foundations and Epistemological Assumptions." *Contemporary Justice Review*, vol. 21, no. 1, Taylor and Francis, Jan. 2018, pp. 60–79.  
<https://doi.org/10.1080/10282580.2018.1415044>.
- Sexton, Lori. "Penal Subjectivities: Developing a Theoretical Framework for Penal Consciousness." *Punishment & Society*, vol. 17, no. 1, SAGE Publishing, Jan. 2015, pp. 114–36. <https://doi.org/10.1177/1462474514548790>.
- Sykes, Bryan L., and Michelle Maroto. "A Wealth of Inequalities: Mass Incarceration, Employment, and Racial Disparities in U.S. Household Wealth, 1996 to 2011." *RSF: The Russell Sage Foundation Journal of the Social Sciences*, vol. 2, no. 6, Russell Sage Foundation, Nov. 2016, p. 129. <https://doi.org/10.7758/rsf.2016.2.6.07>.
- Wakefield, Sara, and Christopher Uggen. "Incarceration and Stratification." *Annual Review of Sociology*, vol. 36, no. 1, Annual Reviews, July 2010, pp. 387–406.  
<https://doi.org/10.1146/annurev.soc.012809.102551>.
- Wamsley, Dillon. "Neoliberalism, Mass Incarceration, and the US Debt–criminal Justice Complex." *Critical Social Policy*, vol. 39, no. 2, SAGE Publishing, May 2019, pp.

248–67. <https://doi.org/10.1177/0261018318779477>.

Zaw, Khaing, et al. “Race, Wealth and Incarceration: Results From the National Longitudinal Survey of Youth.” *Race and Social Problems*, vol. 8, no. 1, Springer Science+Business Media, Feb. 2016, pp. 103–15. <https://doi.org/10.1007/s12552-016-9164-y>.