

# SENATE

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# DIRECTOR'S LETTER

Dear Delegates,

Welcome to PACMUN 2019 and the U.S. Senate! My name is Athena Ho and I have the utmost privilege of serving as your director. I am currently a senior at the International Community School in Kirkland, Washington, serving with my Chair Brett Kelley, a junior at Bellarmine Preparatory School along with my lovely Assistant Directors Ron Dubinsky, a sophomore at Juanita High School, Liam Navarre, a junior at Bellarmine Preparatory School, and Aaliyah Wu, a senior at the International Community School. Model United Nations is an activity that has exponentially expanded my horizons, and I hope it will do the same for you!

We as a dais are extremely passionate about the topics we have chosen for committee: the burgeoning opioid crisis and the convoluted criminal justice system of the United States. These are both extremely relevant and imperative topics to address, especially given the rapidly worsening status quo and polarizing stances many political figures have taken on the issue.

As a critical component of any country, large or small, the challenges of deciphering and improving the intricacies of domestic healthcare and penal systems have become increasingly more challenging to address. With rates of drug-related deaths increasing and our country in increasingly turbulent unrest, old issues have worsened, and new difficulties have arisen. Whether it be the loss of lives of American citizens or maintaining justice for all, it is absolutely crucial that action is taken to address critical issues and ensure the growth and stability of America for generations to come.

We, as a dais, have written this guide to give you a general understanding of the topic, as well to provide a frame for additional research. We sincerely hope you utilize this valuable information to foster fruitful debate and develop innovative solutions to this critical issue. Please feel free to contact us at [senate@pacificmun.com](mailto:senate@pacificmun.com) with any and all questions. I cannot wait to meet all of you in committee!

Cheers,

**Athena Ho**

Director | United States Senate

Pacific Model United Nations 2019

# COMMITTEE OVERVIEW



Welcome to the U.S. Senate at PACMUN 2019! In Senate, delegates will primarily be presenting bills to improve the state of America, specifically in the areas of criminal justice and the opioid crisis. Discussing such important issues, participating in the Senate is an opportunity to collaborate with like-minded individuals to affect change on a national level.

Due to widespread political unrest and the worsening state of drug addiction rates in our country, immediate action is of the utmost importance. Thus, debate in this committee will revolve around resolving the critical issues that plague American citizens in the most expedient and bipartisan manner possible. Delegates should be prepared to focus specifically on the topics of the opioid epidemic and criminal justice, both topics that are sure to spark heated debate in the pursuit of a solution.

Because this committee is based on a real system of American government, delegates will be representing Senators, and will therefore do their utmost to represent values and beliefs that may not necessarily align with their own. As delegates will be representing people who hold very public opinions, they will need to utilize not only this background guide, but also supplementary information from other resources. Although this may seem daunting at first, we have found that the nature of Senate unfailingly generates unique and engaging debate on controversial issues. Unlike many traditional Model United Nations committees, delegates in the Senate will be participating from a first-person point of view.

Additionally, due to the unique nature of this committee, delegates will follow a completely unique set of ROP – this will be explained before debate commences. **Position papers and one bill on any topic within the Opioid Crisis and Criminal Justice Reform are required for delegates to be eligible for awards.**

## TOPIC A

### Opioid Crisis



# TOPIC INTRODUCTION

More than 130 people die from opioid overdoses every day, receiving their high from illegal prescription medications to heroin, all highly addictive and dangerous when used incorrectly. Despite the various dangers that these opioids possess (such as increased agitation and being prone to impulsive actions), the United States government has been fighting against these dangerous drugs, dating back to 1971 with President Nixon's declaration of the War on Drugs. From marijuana smuggled from Mexico in the 1970s, the current stance on marijuana has changed significantly as it is now no longer a federal offense and the usage of cannabis is determined by the state government and legislature to weigh the effects of cannabis and decide its legality. With the decline of marijuana through its legalization in many states was the rise of Oxycodone, Hydrocodone and codeine. Prescription painkillers are often given to patients who may not need the potent effects of the drugs. It is often a gateway drug into more dangerous and uncontrolled substances like heroin, morphine and fentanyl that are illegal and when abused can be dangerous as it leads to drug dependence and neonatal issues. Although the situation seems hopeless, current healthcare administrators have been developing new technologies while new regulations have increased transparency between the producer and the consumer. Even though hospitals and pharmacies around the nation are implementing these changes, this only begins to solve a small part of the overarching fight against opioids in the United States of America. A portion of the issue still stems from a lack of clarity from producers to consumers (even after various adjustments). Pharmacies may have promised abuse-deterrent prescriptions and attempted to reduce the risk of addiction, but have yet to yield significant positive response: from exposing doctors who deliberately addict their patients to intense opiates resulting in the later illegal distribution of prescriptions, the contributions by big pharma are not enough to minimize the population that is addicted to various opiates. Once again, marijuana's decriminalization in various states and over prescription of Oxycodone and Hydrocodone has sparked debate between the two parties.



Some solutions can be derived from the discussion of marijuana's legality, such as letting individual states fight their problems separately, however, there still needs to be nation-wide discussion to ensure maximum efficiency and happiness through the resolutions that will be created. Coming to a resolution will be difficult as the US Senate is notorious for being split on the opioid epidemic. The points of contention range from further restricting pharmaceuticals prescriptions to increasing maximum time and fines for crimes of possession and dealing of opioids. The United States has already spent over a trillion dollars and lost thousands of lives attempting to stop rampant drug abuse all over the nation. While these past 30 years have not been spent with a large focus upon the opioid crisis, there still has been action taken by the US Senate to reduce the damages opioids have caused. How shall the Senate bring an efficient solution to the table, drawing from outside research and addressing the various sub-sections of the controversial opioid crisis?

## HISTORY

The Opioid Epidemic in the United States has been both destructive and dangerous for American citizens. In accordance to the Centers for Disease Control (CDC), the amount of overdose deaths within the United States has increased three-fold. Recent actions taken by President Trump were to declare the opioid epidemic a public health emergency and allocate \$6 billion to fight opioid abuse. The opioid epidemic went largely unhandled by the United States government. In contrast to other world powers, the United States prescribes 30 times more pain relief medication than needed. Painkillers, which were once considered helpful and necessary, are now viewed as both dangerous and addictive in the modern world. The Opioid Crisis originated in the 1990s when pharmaceutical companies reaffirmed the belief that opioids were safe and non-addictive. This concept was further expanded during the Joint Commission's campaign of "Pain as the Fifth Vital Sign". The campaign focused on the nationwide issue of underassessment and undertreatment of pain. As a result, the Joint Commission published standards for pain treatment in 2000. Physicians were now mandated to provide sufficient pain control by the Joint Commission, this resulted in a heavy reliance on opioid





medications. In addition, if hospitals did not meet the Joint Commission's quota for pain control, they were unlikely to receive federal health care funds. In return, this caused doctors to overprescribe medications, specifically opioids, to obtain higher satisfaction rates among their patient population. The lack of in-depth research caused by the ignorance of physicians and pharmaceutical companies is one of the leading causes for the opioid epidemic in the United States.

The opioid crisis found its footing through the overprescription of opioids and the willful ignorance of the physicians prescribing the aforementioned drugs. The misuse of opioids alone, has caused close to \$78 billion of economic burdens upon the United States government. The opioid epidemic has also crippled communities and families across the nation. The National Institute on Drug Abuse reports that 1.7 million people suffer from prescribed opioid addiction, and 652,000 people transitioned into being heroin users due to previous opioid abuse. Opioids are both heavily unregulated and misunderstood. Also being reported by the National Institute on Drug and crime, close to 25% of people prescribed opioids for chronic pain misuse them. In addition, opioid overdose has also increased by 30% in the past year. If steps are not taken to prevent this epidemic, the abuse of opioids will continue to rise.

## PAST ACTION

Prevention of the use of opioids can be dated back to 1914 when the Anti-Heroine Act was implemented, preventing the production and sale of heroine within the United States. This remained the only written act against the abuse of opioids until 1970 when the Controlled Substance Act was established. Due to this delayed progression of understanding and prevention, some argue this ignorance is what allowed opioids to be widespread and exploited within the United States. As a result, the United States Senate, the Center for Disease Control (CDC), and the Drug Enforcement Administration (DEA) has taken steps in order to diminish the spread and use of opioids.

In 2007 the federal government sued Purdue Pharma, a major pharmaceutical chain, for advertising OxyContin as a safer and less addictive



alternative compared to other opioids. This prompted the DEA, in 2015, to engage in a 15-month long sting operation named “Operation Pilluted”. Because of Operation Pilluted, twenty-two pharmacists and doctors were arrested, and a total of 280 people were arrested on charges related to illegal pharmaceutical trafficking activities. In addition to the DEA’s effort of stopping the spread of opioids within the United states, the Food and Drug Administration (FDA) at the start of 2016 announced public policies changes which would re-examine the risk–benefit example for opioids specifically on the large public health consequences; encouraged development of abuse-deterrent opioid formulations; inclusion of safety information and warnings on immediate-release opioid labeling; and support for alternative pain management.

The opioid epidemic has been a long-standing issue inside of the United States, but solutions haven’t been enacted until recently. For example, the United States Senate just passed a bill in 2018 that supports substance use-disorder prevention and promotes opioid recovery and treatment for patients and communities. The CDC is also addressing the continuous opioid overdose epidemic by offering Overdose Prevention in States (OPIS), this program equips states with scientific expertise and resources. These resources help combat prescription opioid misuse, illicit opioid use, and overdose. The CDC has also received federal funding to advance the understanding of the opioid epidemic and to increase prevention activities across all 50 states. The CDC also activated the Cooperative Agreement for Emergency Response: Public Health Crisis Response. The emergency response emphasizes state-based prevention and the enhancement of community response. The national opioid epidemic which the United States is facing cannot be resolved purely off of arrests, criminalizing substances, and lawsuits against large pharmaceutical companies, it must be resolved with education and understanding.

## CURRENT SITUATION

Though the United States opioid epidemic has been a seemingly unending issue that has no definitive solution, these past years have shown there is great





progress being made. In 2018, the US Congress introduced the Substance Abuse Prevention Act which reauthorized drug courts and the National Community Anti-Drug Coalition, increased education on substance abuse, and reinforced the anti-meth and anti-heroin police task forces. This act would go further into how to help those with addicted relatives by instituting Sobriety Treatment and Recovery Teams (START). However, the act has yet to be approved by both the US House of Representatives and the US Senate, some states have been implementing START's values in their local police forces. For example, Seattle, Washington has begun to treat opioid addicts differently, making sure that the needles used are clean and the usage of drugs are being facilitated by a professional to ensure that minors aren't given the highly addictive substances and the addicts aren't overdosing. By providing clean needles, there has been debate that the police are reinforcing drug usage by providing addicts with supplies, but there has also been debate that this reduces the spread of diseases and infections. While this is only a small handful of cities compared to the hundreds of cities that exist in the USA, research on this program has shown a decrease in overdosing on opioids and other illegal substances but an increase in drug usage overall.

While the US Congress is considering various drug de-escalation programs, so are other parts of the US Government, such as the Centers for Disease Control and Prevention. In 2016, they released the Guidelines for Prescribing Opioids for Chronic Pain to reduce the cases of misprescription of opioids. Other US agencies have joined the push for federal regulation, such as the Food and Drug Administration (FDA), the Drug Enforcement Agency (DEA), and the Department of Justice (DoJ). Each agency has held their own part in reducing the epidemic. The DEA, alongside the DoJ, works to prosecute pill mills and doctors for the distribution of illegal prescriptions. The FDA have used their power to approve new and abuse-deterrent medicine that would replace the immediate and long acting opiates. The FDA also holds the power to tell pharmaceuticals to stop producing a certain drug, if they deem it necessary.

The current situation of illegal prescriptions of Oxycodone and other opioids has opened a new discussion on fentanyl and Dsuvia, due to their extreme potency and lack of legal definition. These erroneously prescribed drugs have often been



used as a gateway to far more dangerous substances, such as heroin and fentanyl. Heroin in particular being found to have over 600,000 users between the age of 18-25.

In 2016, the Opioid and Heroin Epidemic Emergency Supplemental Appropriations Act was introduced, increasing the funding to several drug abuse and prevention programs while also increasing the presence of law enforcement on community assistance. However, the aforementioned drug fentanyl is 50 to 100 times more potent than heroin, causing those who use it to be far more prone to overdosing since a 'safe' dosage has not been found by dealers. According to a RAND Corporation report, the spread of fentanyl has not reached the entire nation, as it is mostly focused in the Northeast, Midwest and Appalachian regions. Considering the increasing danger and potency of these opioids, it is in the Senate's best interest to react quickly to this rapidly spreading epidemic.

## CASE STUDIES

### CASE STUDY 1: PROHIBITION

In 1920, a Constitutional Convention ratified the 18th Amendment, making the manufacture, sale, and transportation of alcohol illegal within the United States. The amendment remained until 1933, when it was repealed, and alcohol consumption bounced back to where it had left off in 1920. Prohibition is widely considered a well-intentioned failure of the United States to curtail the consumption of a harmful substance by its citizenry.

Importantly, the Amendment did not make consumption illegal - only sale, manufacture, and transportation. A variety of legal loopholes were used to allow people to continue to obtain alcohol. Prescription whiskey was one of these, which is why the number of registered pharmacists in New York State tripled during the Prohibition years. Synagogues and churches saw attendance spike - they just so happened to use wine during ceremonies; the number of men claiming to be rabbis so they could obtain wine for their "congregation" also grew.



The manufacture of wine was illegal, but the grape industry did begin to sell bricks of grape concentrate with instructions on how to dissolve the brick in water and a warning stating that leaving the dissolved brick in a cool, dry cupboard for 21 days would cause the product to ferment and turn into wine - *of course* something the law-abiding American would want to avoid. Home brewing kits were sold in every hardware store, and instructions on how to brew, written by the USDA, were available in public libraries.

In 1926, Congressman Fiorello LaGuardia noted before the House of Representatives that “at least 1,000,000 quarts of liquor [sic] is consumed each day in the United States.” That would translate to a per capita ethanol consumption rate of just under 0.4 gallons annually; in truth, LaGuardia was off by a factor of three. The average American in 1926 consumed just over 1.2 gallons of pure alcohol annually, or 62% of what consumption had been in 1919. LaGuardia also noted widespread corruption, usage of loopholes, and that the American government was tacitly backing bootlegging through the issuance of large-denomination bills, such as the \$10,000 bill. The loss of a billion dollars in tax revenues annually was another issue LaGuardia noted, and is generally in line with Ken Burns’ figure of \$11Bn in revenues lost over 14 years of Prohibition.

One of the most famous effects of Prohibition was the increased rate of crime. The homicide rate in large cities rose through the period from 5.6 per 100,000 to 10 per 100,000. After Prohibition ended, the homicide rate started decreasing rapidly. Ironically, the number of arrests for drunk driving actually rose by 81%, and for drunk and disorderly conduct by 41%. Between 1915 and 1932, federal expenditures on prisons increased tenfold.

The greatest success that Prohibition can claim is a reduction in the rate of liver cirrhosis. The rate of cirrhosis did fall by up to 30% during the Prohibition years, but there are some caveats to be noted. First, the rate of cirrhosis does not directly correlate with alcohol consumption (some countries with low rates of consumption have high rates of cirrhosis) and is the result of long-term consumption, meaning the impacts of policies on the rates of cirrhosis cannot be seen immediately. Secondly, more than half - 26 - of the states already had some degree of Prohibition by 1919, and the lowest annual cirrhosis rate was in that same year; meaning the



lowest point in the rate of cirrhosis in the early 20th century was prior to the adoption of the 18th Amendment. According to the National Bureau of Economic Research, Prohibition can be credited with a reduction of the rate of cirrhosis of between 10 and 20%. Thusly, Prohibition has some redeeming qualities; the question is whether these possible benefits outweigh the heavy costs of Prohibition.

## CASE STUDY 2: TOBACCO

Thirty years after Prohibition, the American government began to move towards curtailing American consumption of another harmful substance - tobacco. Food and drug regulation in the United States began in 1906, but the FDA didn't have asserted authority over tobacco companies until 1938, and then only when the companies made misleading medical claims. In 1953, the FDA went after Fairfax cigarettes for claims that the cigarettes helped treat respiratory diseases. In 1959, it went after Trim-Reducing Aid cigarettes, whose manufacturer claimed that the addition of tartaric acid (a naturally occurring compound in grapes) made the cigarettes helpful in weight reduction. In 1938, an amendment to a law allowed the Federal Trade Commission to act against "unfair or deceptive" advertising, and between 1945 and 1960, it used this power against tobacco companies seven times. Although the Federal Hazardous Substances Labeling Act of 1960 authorized the FDA to regulate substances which were considered hazardous, a 1963 statement from the FDA concluded that tobacco was not hazardous.

It wasn't until a 1964 report by the Surgeon General concluded that, "in general, the greater the number of cigarettes smoked daily, the higher the death rate," - and proceeded to enumerate the health effects of smoking - that the tide began to turn against tobacco in the United States. In 1965, the Federal Cigarette Labeling and Advertising Act began requiring cigarette packages to contain the warning "Caution: Cigarette Smoking May Be Hazardous to Your Health" and began restricting tobacco advertising. By 1969, tobacco advertisements were prohibited on television and radio. In 1973, this ban was extended to little cigars. The Federal Communications Commission's Fairness Doctrine, which required an equal amount of time of counteradvertising on TV as time for advertising for certain vices, was



extended to smoking and tobacco products. In the '80s, advertisement limitations were extended to smokeless tobacco products, as was the requirement for health warnings on packaging. A more complicated scheme was created for cigarette packages, with four rotating warnings on packaging. Domestic flights under six hours were made smoke-free. By the '90s, regulations were further tightened, with the requirement that all medical facilities for women, infants, and children were smoke-free and that states had to enforce the ban on tobacco sales to minors. However, the fight over tobacco hasn't been a total rout for tobacco manufacturers. The Controlled Substance Act of 1970 made no mention of tobacco, despite the highly addictive nature of nicotine. The Consumer Product Safety Act of 1972 made the new Consumer Product Safety Commission responsible for the regulation of hazardous substances but did not define tobacco as a "consumer product". The Toxic Substances Control Act of 1976 regulated "chemical substances and mixtures which present an unreasonable risk of injury to health or the environment," although tobacco was not among these. Only in 2009 was the FDA given the authority to regulate tobacco products.

Statistically speaking, the anti-tobacco campaign resulted in marked reductions in smoking. In 1900, the average American consumed 50 cigarettes a year. This grew to 138 (one cigarette every 2.6 days) in 1910; to 1,365 (3.7 cigarettes a day) in 1930; to 1,828 (5 cigarettes a day) in 1940; to 3,522 (9.6 cigarettes a day) in 1950; and to 4,171 (11.4 cigarettes a day) in 1960, peaking at 4,345 (11.9 cigarettes a day) in 1963. In the next two decades, the rate of smoking fell relatively slowly; to 3,985 (10.9 cigarettes a day; what moderation!) in 1970; to 3,849 (10.5 daily) in 1980; to 2,827 (7.7 cigarettes a day) in 1990; and to 2,076 (5.7 cigarettes a day) in 2000. By 2015, per capita consumption was reduced to 1,078 cigarettes per capita annually - a mere 2.9 cigarettes a day. 14.6% of the population still smokes, but this is miniscule when compared to the rate of over 40% in the mid-'60s.

Despite the continued popularity of smoking among 14.6% of the population, the successes of the campaign are difficult to overstate. The government managed to reduce tobacco consumption by a factor of four, rolling back thirty years of progress by the tobacco industry. The average smoker in 1963 smoked 28.3 cigarettes a day; the average smoker now smokes 19.8 cigarettes a day. Contrasted



to the kak-handed approach of Prohibition, the anti-cigarette campaign is even more impressive.

## BLOC POSITIONS

The issue of the opioid crisis has grown rapidly, and with it, so has the Senate. The growing public view on the status of drug abuse from citizens and medical health providers brings further pressure on the Congress to create bipartisan legislature to help its addicted citizens. Though both parties of the U.S. Senate have agreed to discuss the situation, the issue remains of the various views on how to handle the crisis.

### Republicans:

The Republicans wish to stop the drug abuses through the restriction of certain opiates, stricter regulations on the usage of addiction substitutes, such as methadone, cracking down on the illegal drug smuggling and crime rings that deal opioids, and raising the public's awareness to this issue and ways to help those addicted. In regard to those in medical professions who have access to these drugs, the policy and training for them should be reinforced to emphasize the growing epidemic of the opioid situation.

Republican Senators have created the Comprehensive Addiction and Recovery Act in hopes to be a blueprint on the solution to this emergency. By authorizing around \$900 million over five years to strengthening and developing prevention, education, recovery, and law enforcement efforts around the nation. Though other Republican bills on the table are looking to continue or increase the funds that CARA has given, the majority party has pushed for the creation of more emergency response and addiction treatment programs as well as decreasing the resources of drug cartels.

### Democrats:





The Democrats have taken to stop the root of the problem then focus on the afflicted Americans. The problem had started with healthcare: the people who suffer from pain were given dosages of oxycodone or hydrocodone with the knowledge that those drugs have results of high addiction and abuse rates. Yet, the pharmacies and healthcare providers still pushed for the usage of those drugs showing how “effective” it was. The big businesses have pushed for the usage of their product for money, showing the greed that these corporations have to propagate this epidemic.

The Democratic Senators have pushed for a CARE Act, partially based on the Ryan White CARE Act: to fund the local and national organizations fighting the epidemic and to fund better health surveillance and training for medical professionals. Some views in the party have seen the effects of decriminalizing Marijuana in certain states and have taken to implement that on a federal level, hoping it will decrease the rate of arrests and drug-related crimes. The Democratic front wishes to help the community services to deal with the effects of these drugs while holding the big businesses accountable.

## GUIDING QUESTIONS

1. Why has the opioid epidemic become as bad it has as quickly as it has?
2. What efforts can and should the US government make to help those suffering from opioid addiction?
3. How can the expansion of the opioid epidemic be stymied?
4. How can the government work with corporations and nonprofit organizations to combat the opioid epidemic?
5. How can the government raise awareness for the dangers of opioid usage and addiction?



6. Are there alternatives or replacements for opioids can the government promote?
7. Have any foreign countries had similar issues with opioids? How did those countries treat the issue?
8. Why haven't traditional solutions to this epidemic worked?

## FURTHER RESEARCH

[HTTPS://WWW.HRSA.GOV/OPIOIDS](https://www.hrsa.gov/opioids)

[HTTPS://WWW.CDC.GOV/NIOSH/TOPICS/OPIOIDS/RESOURCES.HTML](https://www.cdc.gov/niosh/topics/opioids/resources.html)

[HTTPS://WWW.DRUGABUSE.GOV/DRUGS-ABUSE/OPIOIDS/OPIOID-OVERDOSE-CRISIS](https://www.drugabuse.gov/drugs-abuse/opioids/opioid-overdose-crisis)

[HTTPS://WWW.HHS.GOV/OPIOIDS/ABOUT-THE-EPIDEMIC/INDEX.HTML](https://www.hhs.gov/opioids/about-the-epidemic/index.html)



# TOPIC B

## Criminal Justice Reform

### TOPIC INTRODUCTION

The criminal justice system in the United States is in constant need for reform, but the semi-polarizing issue of how to fix it delays change. This is a huge problem, especially considering that there are currently 2.2 million people in U.S. prisons, and nearly two thirds of them are awaiting their trial. How to deal with people who have or have been found guilty of having broken the law is a loaded, multi-faceted topic often up for debate. The U.S. Senate has been delaying changes to the criminal justice system for many years now, and the longer they wait, the worse the problem gets.

With over 40 million convicted felons, it seems impossible to cover each and every case properly. The U.S. criminal justice system has not been dealing with the “war on crime” in the way that they should be. One example of the failed system is how previously committed crimes prevent felons from getting back on track to lead a “normal” life. Another example of the failed system is how convicted felons must often wait as long as a few years in prison before their trial. This leads to overcrowded prisons which adds to the issue at hand, further corrupting the criminal justice system in the United States.

In recent years, a multitude of new policies have been created, some of which have passed, and many of which have failed. The bipartisan First Step Act, which became a Law last year introduced criminal reform in a way to help inmates successfully return to society after their sentence. Bills such as this one are immensely important to criminal justice reform. Although this bill does not completely fix the issue at hand, it contributes to solving the problem. It is just one piece of the puzzle that is needed in solving the criminal justice system.

Within this topic, many questions are brought up such as what to do with people awaiting trial, how to reform inmates and their lives, and finally, how to deal



with overflowing prisons. So, what will the Senate do to answer these questions and alter the current criminal justice system?

## HISTORY

Criminal justice in the United States in recent years has been cited by many as a responsibility of the American government begging for reform. America's incarceration rate is significantly higher than those of its income-level or cultural peers. According to the World Justice Project, America is 23rd of 38 countries in its economic peer group for criminal justice, 27th for civil justice, 29th in order and security, 19th in regulatory enforcement, 26th in the maintenance of fundamental rights, and 20th in absence of corruption. In only two of the indicators - open government and constraints on government power - is America above the average for its economic group. Similar results can be seen when the US is compared to the rest of the West.

The US criminal justice system draws its roots from the English justice system (this can be seen especially in the way American courts operate), though native developments have been significant - they explain why America ranks below Britain, Canada, Australia, New Zealand, Hong Kong, and Singapore in its criminal justice system. The first organized American police departments were established in the early 19th century, though night watchmen appeared in American cities as early as the late 17th century. In the 1930s, the US police system was overhauled under President Herbert Hoover and the FBI, changing the basis of the organization from one of volunteership to professionalism and purposeful crime control. By the 1970s, attitudes again flipped and the demand for various miscellaneous services was restarted. Police no longer only had to fight crime - they had to prevent it by addressing social and economic problems. This was especially displayed by the new "broken windows" approach to policing that severely punished even minor offenses to prevent more serious transgressions. Another method, "Mano Dura" (Iron Fist), advocated mass arrests for suspected gang affiliations. Neither has been



conclusively shown to prevent or reduce crime rates, though both continue their popularity throughout the United States.

American prisons have faced similar issues. With an initial goal of rehabilitating inmates, an explosion in prison populations in the early 1970s led to difficulty in operating the prisons and a reduction in the rehabilitative measures operated there. American public opinion came around in the 1980s, as the evangelical right began to gain power and the War on Drugs, a series of strict drug prosecution, investigation, and sentencing, began. Punishment became the primary defined goal of prisons beginning with the 1990s. Prison sentences became longer and more frequently awarded, and the number of incarcerated citizens continued to boom. Many have now called for an end to the “War on Drugs” as a solution to the ballooning of American prison populations. There is evidence to suggest that drug prohibitions and harsh penalties for drug use can crowd the court system and impair the functioning of the system as a whole. Others have pointed out that drug legalization or decriminalization can lead to increases in the usage of these drugs.

A third tenet of the American criminal justice system that has fallen behind is that of government prosecutors and sentencing. With greater input to the system, prosecutors have far higher workloads in a far broader area than ever before. Modern technological developments mean that prosecutors must deal with a great quantity of digital evidence of questionable permissibility and must learn to understand various data science tools, the sheer volume of this evidence making its organization, storage, and usage difficult. Underfunded prosecutor’s offices often lack specialized departments (which have been shown to help reduce recidivism and harsh sentencing) and have difficulties hiring, training, and retaining skilled personnel. Often, prosecutors try to resolve their excessive workload by refusing to prosecute certain kinds of non-violent crimes, such as drug possession, or by accepting far weaker plea deals than they would have had the amount of work they must do been reduced.

Taken together, one finds that the woes of the American criminal justice system stem generally from the cultural approach to crime - a belief in “tough on crime” policies such as the War on Drugs, broken-windows policing, Mano Dura, and punitive imprisonment has led to a series of failures throughout the system. The



cumulative effect of these policies has been to greatly increase the number of Americans considered criminals, causing the whole system to become overloaded and dysfunctional.

## PAST ACTION

Of the past legislation on criminal justice, one of the first laws to be passed was the Crimes Act of 1790, which defined a variety of crimes, primarily murder, treason, maiming, and piracy. One of the first Supreme Court decisions regarding criminal justice was in *United States v. Hudson and Goodwin*, which stated that, due to the partially federal nature of the American government, common law (case law) would hold no sway in federal courts.

Of more relevance are recent laws, such as the Fair Sentencing Act of 2010, which increased the mandatory quantity minimums for sentencing minimums for trafficking in various forms of cocaine - increasing judicial leniency for cocaine dealers. The quantity minimums for crack cocaine trafficking were increased by a factor of five, in addition to calling for two-tier reductions in penalties for low-level, nonviolent drug crimes. The Act was retroactive, meaning it softened conditions and reduced sentences for thousands of prisoners at the time of its passage, and has lessened the penalties for thousands of defendants since its passage.

Some bills create less sweeping changes, such as the Eric Williams Correctional Officer Protection Act of 2015, which made the training in the use of and provision of pepper spray to correctional officers at medium- or higher-security prisons mandatory. This enables the usage of non-lethal force to maintain order.

In a bill that straddles the topics of this committee, the Comprehensive Addiction and Recovery Act of 2016, the Senate made grants available for community-based opioid abuse prevention systems, establishment of courts specially dedicated to drug cases and to mental health cases, and training of law enforcement personnel on drug abuse and related disorders. Prevention of abuse could reduce the load on law enforcement organizations in other nations.

The FIRST STEP Act of 2018 further attempts to alleviate the overload of the American criminal justice system. A system of time credits for prisoners who





participate in recidivism reduction programs is to be implemented, along with other ways of promoting said programs, including increased access to preferred housing, access to email, and increased commissary spending limits. The provision of feminine products to prisoners who need them was made mandatory. The availability of house arrest and transfers between prisons was also increased, to be used in combination with time credits.

Another law, the Supporting and Treating Officers in Crisis Act of 2019, aims to combat the pernicious effects of criminal justice overload on law enforcement personnel by making available grants for suicide prevention and mental health services and expanding the stated purposes of prior legislation.

Since the 1970s, criminal justice has been inseparable from the War on Drugs, meaning some background on the latter is in order. The War on Drugs began in 1970 with the passage of the Controlled Substances Act, which classifies a variety of drugs into five schedules based on their perceived risk. In 1973, President Nixon established the Drug Enforcement Agency - DEA - to enforce the Controlled Substances Act. By 1975, the DEA's budget had been doubled from an initial figure of \$74.9M to \$140.9M. By 2014, its budget had reached \$2Bn. The foundation of the DEA did have an important impact. Between 1980 and 1986, the number of drug convictions more than doubled; in the same time period, the number of federal convictions grew by roughly 24,000 cases, of which just over half were accounted for by drug convictions. While most of the convictions were not on possession, the number of possession convictions rose more than fourfold between 1980 and 1982.

The 1984 Crime Control Act enabled forfeiture of property for drug-related offenses and made penalties for drug crimes greater. The law also shifted the burden of proof to the defendant in forfeiture - meaning that the feds no longer had to prove that something was acquired criminally, the defendant had to prove that it wasn't. In 1986, the LA Times cited the law as the cause for a 32% increase in the number of people in federal custody. The Times also noted that in 1986, the federal network of prisons was already 42% over capacity. The Act also permitted the Attorney General to temporarily schedule a drug as if it had been CSA classified.

The twin Anti-Drug Abuse Acts of 1986 and 1988 established sentencing and fine minimums for drug offenses and allowed unscheduled analogues of scheduled



drugs to be treated as Schedule I drugs. They established the famous crack-powder cocaine sentencing disparity (addressed by the Fair Sentencing Act mentioned earlier). Synthetic drugs became a major concern in the 1990s and 2000s with the passage of several laws to extend DEA authority.

## CURRENT SITUATION

A subject that has remained a controversial talking point in American policy for decades, the domestic criminal justice system has been fraught with injustice, allegations of racism and misconduct suffusing public media. Despite the intense polarization of Democrats and Republicans during Donald Trump's term as president, most (excluding the farthest right of the right) would agree on some level that our justice system requires intensive revision and immediate corrections.

A compelling argument of the urgent need for reform is how the American system treats juvenile offenders. We know that young people's relationship with the criminal justice apparatus has powerful, lasting consequences for them, their families, and their communities. Most agree that children shouldn't be locked in a solitary confinement cell for 23 hours a day, housed with other prisoners twice their age and size, unnecessarily restrained and shackled for minor infractions, or harshly punished for low-level, nonviolent offenses.

Furthermore, statistics show our prison population has reached astounding numbers, higher than ever before, with 2.3 Americans incarcerated today and another 5 million released on parole or probation. These numbers mean that for every 31 adults, one will end up in jail, a statistic far higher than those of other prosperous nations worldwide. Moreover, American prisons are simply not designed to take care of this amount of people, let alone allow the number of tax dollars to support proper funding. Prisons are overcrowded, and the federal government can't afford the cost. While there is no singular cause for this pervasive issue, some blame prison overcrowding on a variety of issues, including mass incarceration due to unfair drug charges or mandatory minimum sentencing.



Mandatory minimum sentencing laws are designed as a basic rule-of-thumb for specific charges, mandating a minimum prison sentence for each category of offense. Critics say these laws call for hard black or white reasoning and take away the power of the judge to account for the particular circumstances surrounding a case or the character of the defendant, leading to extremely harsh sentences. Since instituting mandatory minimum sentencing laws, specifically those involving drugs, the federal prison system has grown dramatically. Federal drug laws account for the longest maximum sentences out of any crime you could commit, with some reaching up to 40 years or life in prison for large quantities of drugs. However, the overwhelming issue is the unfair sentencing for drugs that target minority and lower-class offenders who can't afford legal representation.

In America, people of color are incarcerated in state and federal prisons across the country at higher rates than white people, with African Americans at more than five times the rate of white people. According to the Pew Research Center, African Americans represented 12% of the US population, but 33% of the prison population, while Caucasians accounted for 64% of the population, but only 30% of those in prison. According to the American Civil Liberties Union, a black person is 3.73 times more likely to be arrested for possession of marijuana when compared to a white person, despite the rate of use between the two races being approximately the same. With racial profiling, harsh drug laws and over criminalization, mass incarceration rates, and institutionalized discrimination all to blame for these shocking numbers, the problem also relies on socio-economic status. The American system doesn't favor lower class people, which in turn affects many people of color. Clearly, dramatic changes must be made to correct a criminal justice system that many view as costly and unjust.

## CASE STUDIES

### CASE STUDY 1: MEEK MILL

Meek Mill has been a rapper on the top of the rap game for more than a decade; however, he has faced a multitude of legal troubles throughout his rap



career. Meek Mill's private and public life has been defined by the mistakes that he made in the beginning of his adult life. In 2008, Mill faced gun and drug charges when he was nineteen years old. After his original jail term was finally over, Mill has been back in prison for ten months and has been on house arrest for ninety days. How can an American citizen be trapped in the system that is meant to make America safe?

Mill has made a few mistakes after being released from prison which have caused him to go back. Some of these minor infractions of his probation include: popping a wheelie, traveling to a concert without permission, or simply crossing a state border to visit his son. These actions all quickly caught the attention of the courts, and have led Mill back to court, and in some cases, back behind bars. Probation is supposed to help criminals by keeping them on a tight leash, so that they can better themselves, and return to society. But in the case of Meek Mill and many others, probation only restricts criminals from returning back to society and causes additional legal issues.

Recently, a Philadelphia judge (that is where Mill is from), decided to release Mill from probation after more than ten years. This gives hope that broken systems can be fixed, even when the circumstances seem especially dire such as in the case of Meek Mill.

## CASE STUDY 2: EDWARD DOUGLAS

Edward Douglas is a man who was sentenced to life in prison sixteen years ago. The crime he was found guilty of was selling one hundred and forty grams of crack cocaine. Douglas knew he wasn't "a saint" but he was never expecting to get anywhere near the length of the sentence that he received. He is one of over two thousand federal inmates facing lengthy prison sentences due to crack related offenses due to the United States' minimum drug sentencing laws that were put into place three decades ago.

People like Douglas now have a chance to reobtain their freedom. This chance is through the First Step Act which will revise a 2010 law that has been used to crack down on crack. This law has negatively impacted the criminal justice system by making it more crowded leading to overcrowded prisons. The First Step Act will also



ease on repeat drug offenders and aims to eliminate the three-strikes life policy previously put into place.

The only reason judges could justify their decision to put Douglas behind bars for life was due to the three-strikes life policy. Douglas was first caught with a small amount of marijuana, and then with a small amount of cocaine. Neither of which resulted in jail time. However, when he was found guilty of selling one hundred forty grams of crack, it was his third offense, resulting in life behind bars. But now, with the possibility of passing the First Step Act, nonviolent prisoners facing life have hope.

## BLOC POSITIONS

Many people that have been incarcerated over the years for unjust crimes and incorrect cases. However, both parties have opposing views on criminal justice that has led to controversial debate in the public and in the US Senate.

### Republicans:

Republican views on criminal justice show how the nation's laws have been focusing on the wrong issues. While there are discrepancies with the law enforcement based on race and gender, the more pressing issue for the Republicans is the dangerous criminals who have re-joined society. And the non-violent offenders of the law stay, unjustly, trapped in a cycle of poverty and incarceration and yet the more serious and pressing threat is in society with the American citizens. The majority view of Republicans support the death penalty, enforcing existing laws, and criminals stay behind bars.

Republican legislation has been put into debate, such as the Reclassification to Ensure Smarter and Equal Treatment Act, that would reclassify low-level felonies and would help reduce the size of overpopulated prisons. Also, the Justice Safety Valve Act has been proposed to help increase the effectiveness of determining punishments for non-violent crimes that hold a mandatory minimum sentence. In



doing so, the judges are able to create alternate punishments to less severe crimes instead of having the individual serving an unnecessarily long time in prison.

### Democrats:

The Democrats view justice towards criminals that have money is vastly unfair to those who do, and they hope to remedy these injustices. Part of their views are the death penalty not be arbitrary, crack down on drugs and gangs, fight crime with prevention tactics and community police, and DNA testing and post-conviction reviews for death penalty cases. The hopes to decrease unjust arrests, for Democrats, is to stop the disparities that lie in the system which targets race, income, and gender. These injustices have trapped American citizens in a loop of poverty, unemployment, and incarceration, stopping them from being re-integrated within society and retain a decent social standing.

As such, certain laws are being criticized by the Democratic platform to reduce the number of people incarcerated, especially those who suffer from the racial, gender, and income-based disparities that have come from the system. The laws regarding drug usage have been shown to have more effect to focus on those who deal instead of punishing solely on drug usage. As well as transferring more funds to drug courts and treatment would be beneficial to those who are unjustly put into jail for an uncontrollable addiction, hopefully decreasing the overdoses on addictive drugs. Viewing the SAFE Justice Act, it addresses these issues and also emphasizes the necessity to rehabilitate the formerly incarcerated individuals have the opportunity to regain their social standing to be productive members of society.

## GUIDING QUESTIONS

1. What should the goal of the American criminal justice system be?
2. What is an acceptable burden for the justice system? How many prisoners should there be?





3. How can the success of the criminal justice system be measured?
4. Are there acceptable alternatives to incarceration? Are they cost-effective?
5. Why has the American prison system been as heavily burdened as it has?
6. Should the “broken windows” and “mano dura” anti-crime policies be maintained?
7. How can the overload of the prosecution and sentencing system be reduced?
8. Has the War on Drugs been effective in reducing drug usage and possession?
9. What should the goal of American police departments be? To what extent should police departments provide community services in addition to crime fighting?

## FURTHER RESEARCH

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