

The criminalization of poverty and mass incarceration in the United States

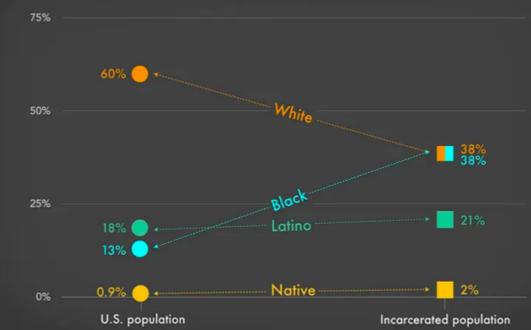
Did you know?

The U.S. has 5% of the world population, but 20% of the world's incarcerated population.

Despite consistent data showing criminalizing and detaining people solely because they are poor does not keep communities safer and is costly for governments, the practice continues. Thus, this targeting is not about keeping people safe, but rather maintaining the mass incarceration apparatus for those who make money from it.

Racial and ethnic disparities in correctional facilities

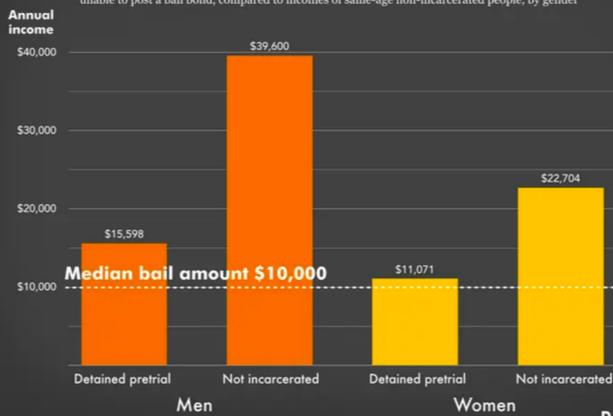
White people are underrepresented in prisons and jails while Black, Native, and Latino people are overrepresented.



Source: U.S. Census Bureau, American Community Survey 2010, Tables B02001 and DP04. For category definition and selection details, see www.prisonpolicy.org/reports/pic2022.html#methodology

Why are so many people detained in jails before trial? They're not wealthy enough to afford money bail.

Median annual pre-incarceration incomes (in 2015 dollars) for people ages 23-39 in local jails who were unable to post a bail bond, compared to incomes of same-age non-incarcerated people, by gender



For detailed data notes, see *Detaining the Poor* at www.prisonpolicy.org/reports/incomejails.html

PRISON POLICY INITIATIVE

Prohibition of life-sustaining activities

The majority of successful litigation challenging criminalization policies are against camping bans and/or sweeps of encampments.

Loitering, loafing, and vagrancy laws are often found unconstitutionally vague, and food sharing bans often violate free religious exercise and/or free speech.

Cash bail used to incarcerate poor

Cash bail discriminates against those too poor to pay their way out of jail.

After someone is arrested but *before* they are convicted and still legally innocent, they may be held in jail pretrial if they cannot afford to pay the posted bail amount.

California

In *re Humphrey*, 228 Cal. Rptr. 3d 513 challenged California's practice of imprisoning the accused prior to trial solely because they cannot afford to pay bail.

The court found that detention prior to trial solely because of inability to pay bail violated the California Constitution's due process and equal protection provisions.

Though the court ruled imprisoning the accused solely because they are poor to be illegal, in practice judges are still setting unaffordable bail on the accused without even conducting an ability to pay inquiry.

Arizona

In *Reed v. Town of Gilbert*, 135 S. Ct. 2218 (2015) challenged a town's ordinance that restricted size and time signs could be displayed based on the content of the signs.

The court found that sign restrictions based on content violate the First Amendment. Many lower courts have used this case to invalidate laws that regulate or criminalize panhandling, finding that the First Amendment protects panhandling signs.

Idaho

In *Martin v. City of Boise*, the Ninth Circuit Court of Appeals held that a local ordinance violated the Eighth Amendment to the extent that it imposed criminal sanctions against homeless persons for sleeping outdoors, on public property, when they had no alternative shelter access available.

While most lawsuits challenging panhandling bans have been successful since the U.S. Supreme Court decided *Reed v. Town of Gilbert* in 2015, the criminalization of panhandling and poverty continues unabated.

