



# A **Utilitarian** Perspective on the U.S. **Criminal Justice** System

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# Overview



**1**

**Idealized intentions** of the U.S. criminal justice system

**2**

**Reality** of the U.S. criminal justice system

**3**

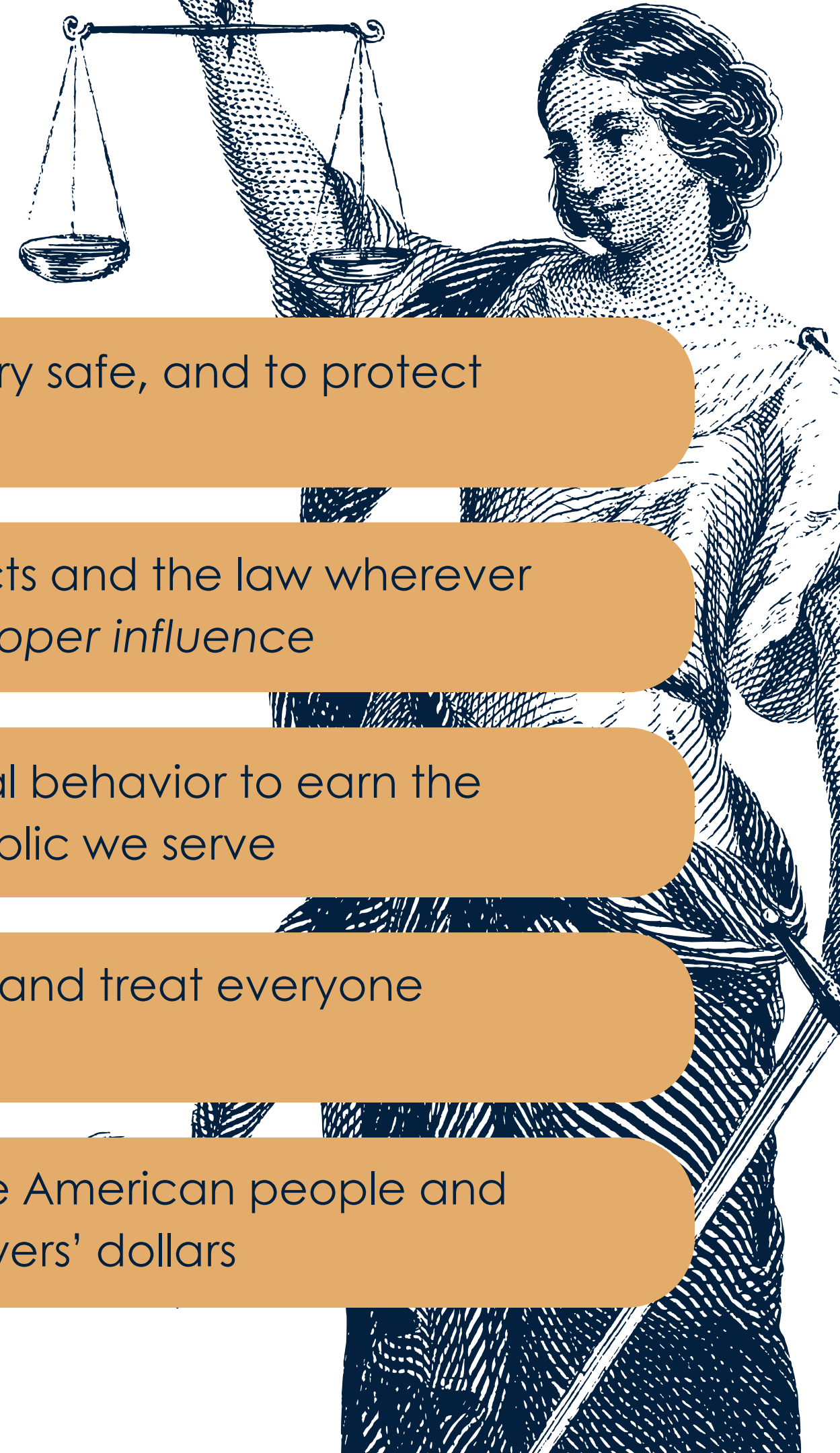
**Key problems** that need to be addressed in the system

**4**

**A Utilitarian approach** to a criminal justice system



# U.S. Department of Justice - Mission and Values



## Mission

Uphold the rule of law, to keep our country safe, and to protect civil rights

## Independence and Impartiality

Earn the public's trust by following the facts and the law wherever they may lead, *without prejudice or improper influence*

## Honesty and Integrity

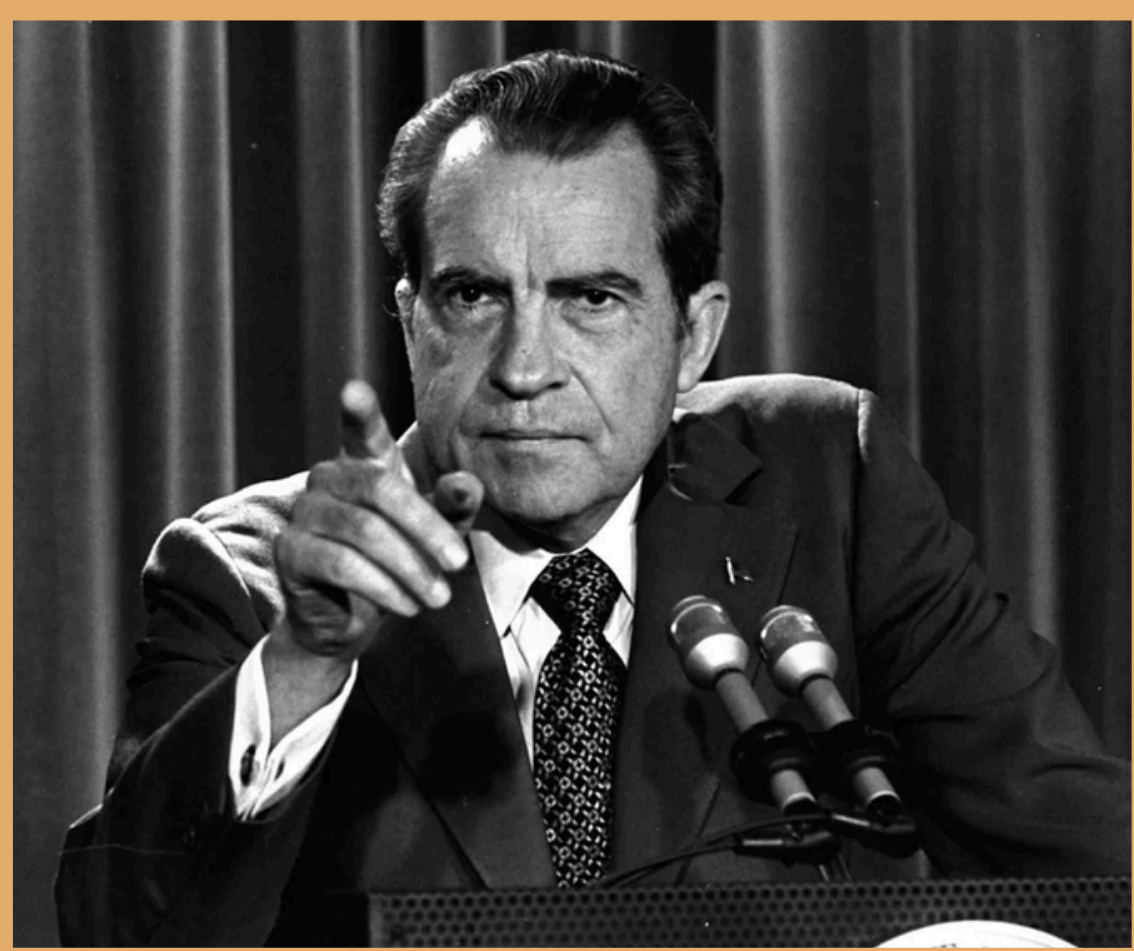
Adhere to the highest standards of ethical behavior to earn the trust of, and inspire confidence in, the public we serve

## Respect

Value differences in people and in ideas and treat everyone with fairness, dignity, and compassion

## Excellence

Provide the highest levels of service to the American people and to be a responsible steward of the taxpayers' dollars



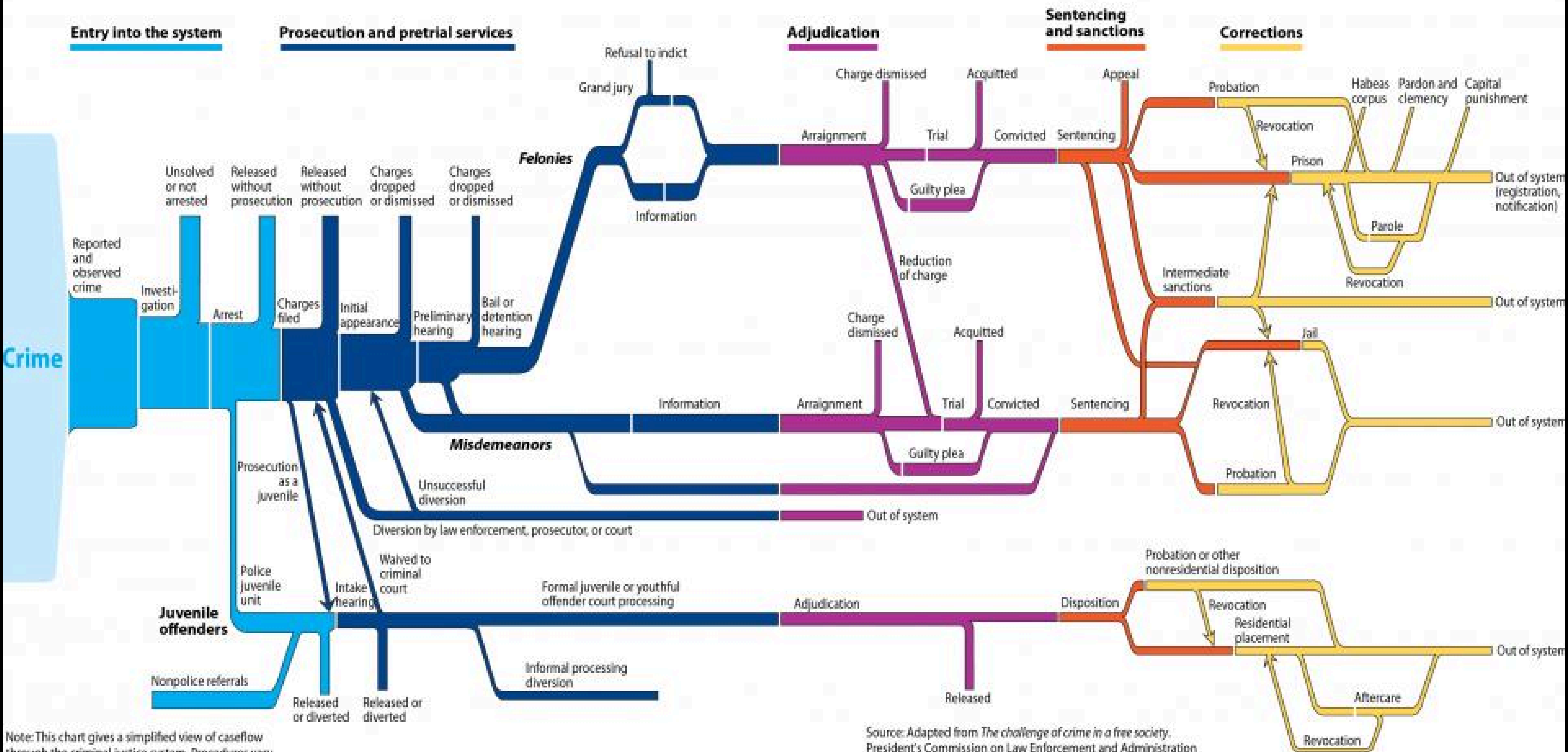
# Nixon's War on Drugs

“We knew we couldn't make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin. And then criminalizing both heavily, we could disrupt those communities... **Did we know we were lying about the drugs? Of course we did.**”





# What is the sequence of events in the criminal justice system?



Note: This chart gives a simplified view of caseload through the criminal justice system. Procedures vary among jurisdictions. The weights of the lines are not intended to show actual size of caseloads.

Source: Adapted from *The challenge of crime in a free society*. President's Commission on Law Enforcement and Administration of Justice, 1967. This revision, a result of the Symposium on the 30th Anniversary of the President's Commission, was prepared by the Bureau of Justice Statistics in 1997.

## ARRESTS

**Noncitizens of color are more likely to be arrested.**

**Stat:** Black youths, for example, who account for 17% of the U.S. juvenile population, make up over 50% of arrests for many common crimes.<sup>10</sup>

## BAIL

**Of people arrested, noncitizens of color are also more likely to receive higher bail.**

**Stat:** For example, after Kentucky implemented a pretrial risk assessment tool to predict an individual's risk of failing to appear in court or committing a crime while on bail, the racial gap in the granting of release without bail between Black and white defendants increased from about 2% to 10%.<sup>11</sup>

## CHARGES & PLEAS

**Those who receive higher bail are also more likely to receive more serious charges and less favorable plea offers.**

**Stat:** For instance, Denver County prosecutors were found to be twice as likely to offer white defendants the chance of deferred judgment.<sup>12</sup>

## SENTENCING, PROBATION, PAROLE

**This disproportionate impact culminates in noncitizens of color receiving harsher sentences and less lenient probation or parole arrangements.**

**Stat:** Black people are incarcerated in state prisons at nearly 5 times the rate of white people and Latinx people are incarcerated in state prisons at 1.3 times the incarceration rate of white people.<sup>13</sup>

## COLLATERAL CONSEQUENCES

**Black and Latinx individuals also suffer extensive collateral consequences as a result of their criminal record.**

**Stat:** For example, men who were incarcerated for more than 6 months were much less likely (50-58%) to have a job a year and a half post-release compared to men who were never incarcerated (82-87%).<sup>14</sup>



# Key problems with the U.S. Criminal Justice System



## Discriminatory targeting

Poor and/or BIPOC communities have increased surveillance → self fulfilling prophecy



## Innocent people incarcerated

Studies estimate ~5% of people incarcerated are innocent (that's 1/20 convictions!)



## High numbers of recidivism

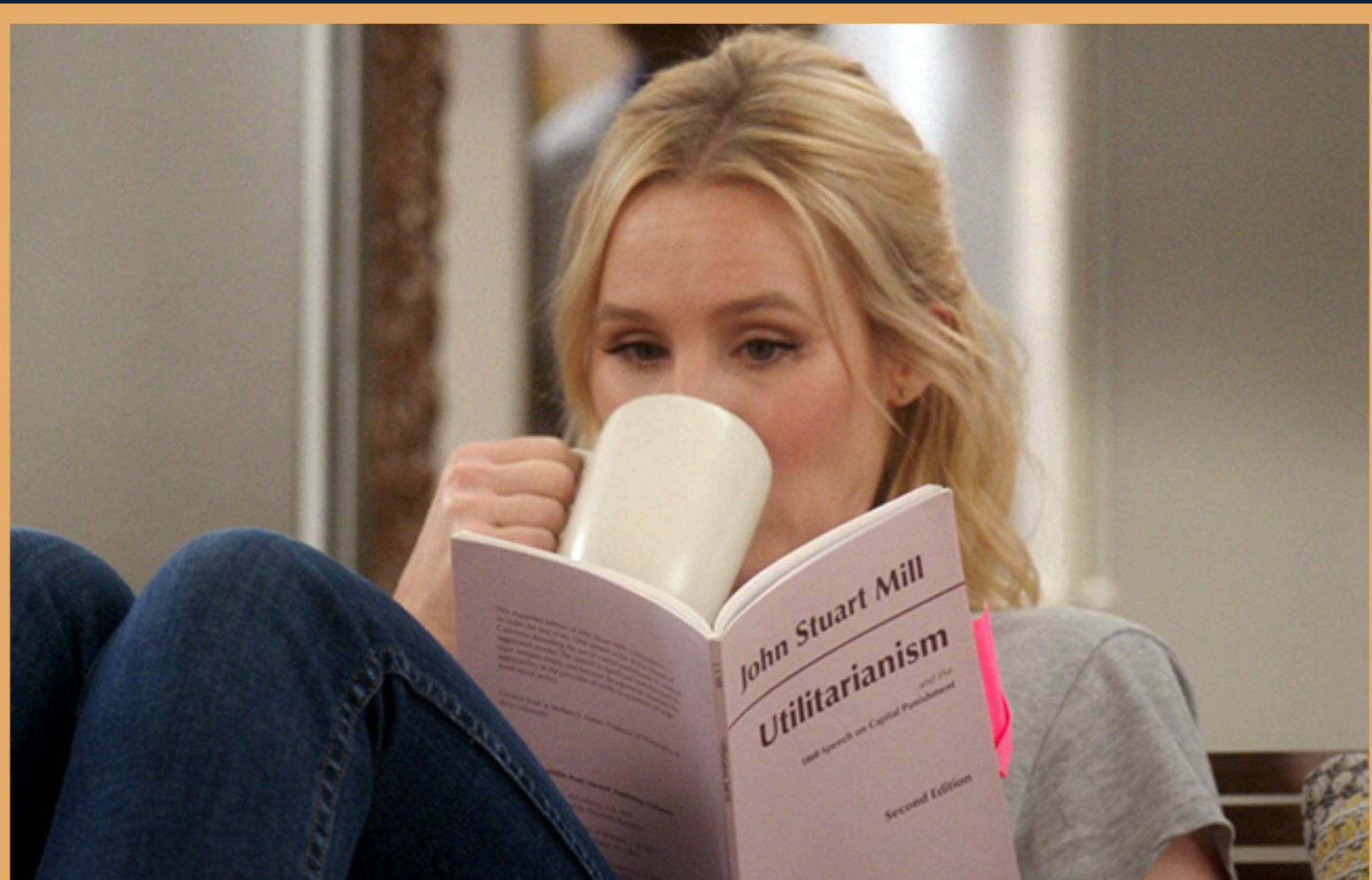
Rehabilitation not as intended – U.S. recidivism rate of 70% within 5 years of re-entry



## Continued effects after incarceration

Negative public perception, difficulty getting jobs, limited educational opportunities...

# An alternative approach?

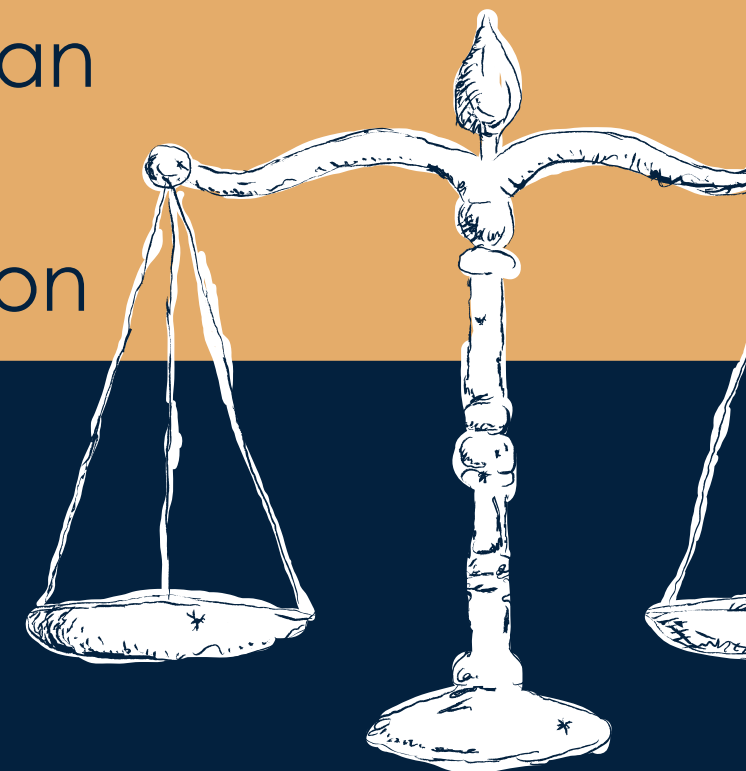


## Utilitarianism

We should follow the course of action that creates the **greatest net-benefit** to the **majority of society** (as well as the least amount of harm)

Punishment is evil, and we should do it only to the extent necessary that it can **produce benefits** in the world

The only ethical theory that can broadly take **wider social ramifications** into consideration





# What Utilitarianism Could Change



## Decriminalizing Victimless Crimes

Refocus resources elsewhere that would produce more benefits for more people



## Reduced Bias & Discriminatory Practices

Utilitarianism would not reward biased surveillance and sentencing like the U.S. system does



## Recidivism Reduction

Humane treatment, reducing social inequalities, case-by-case basis



## Outcome Focused Justice

Concerned with the consequences of actions themselves, punishment only to produce good



## Rehabilitation & Transformative Justice

Changing the offender's behavior; heal and change systemic social conditions



**Thank you!**

**Questions or  
comments?**

