

# Prisoners

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It is the mission of the Federal Bureau of Prisons to protect society by confining offenders in the controlled environments of prison and community-based facilities that are safe, humane, and appropriately secure, and that provide work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens.

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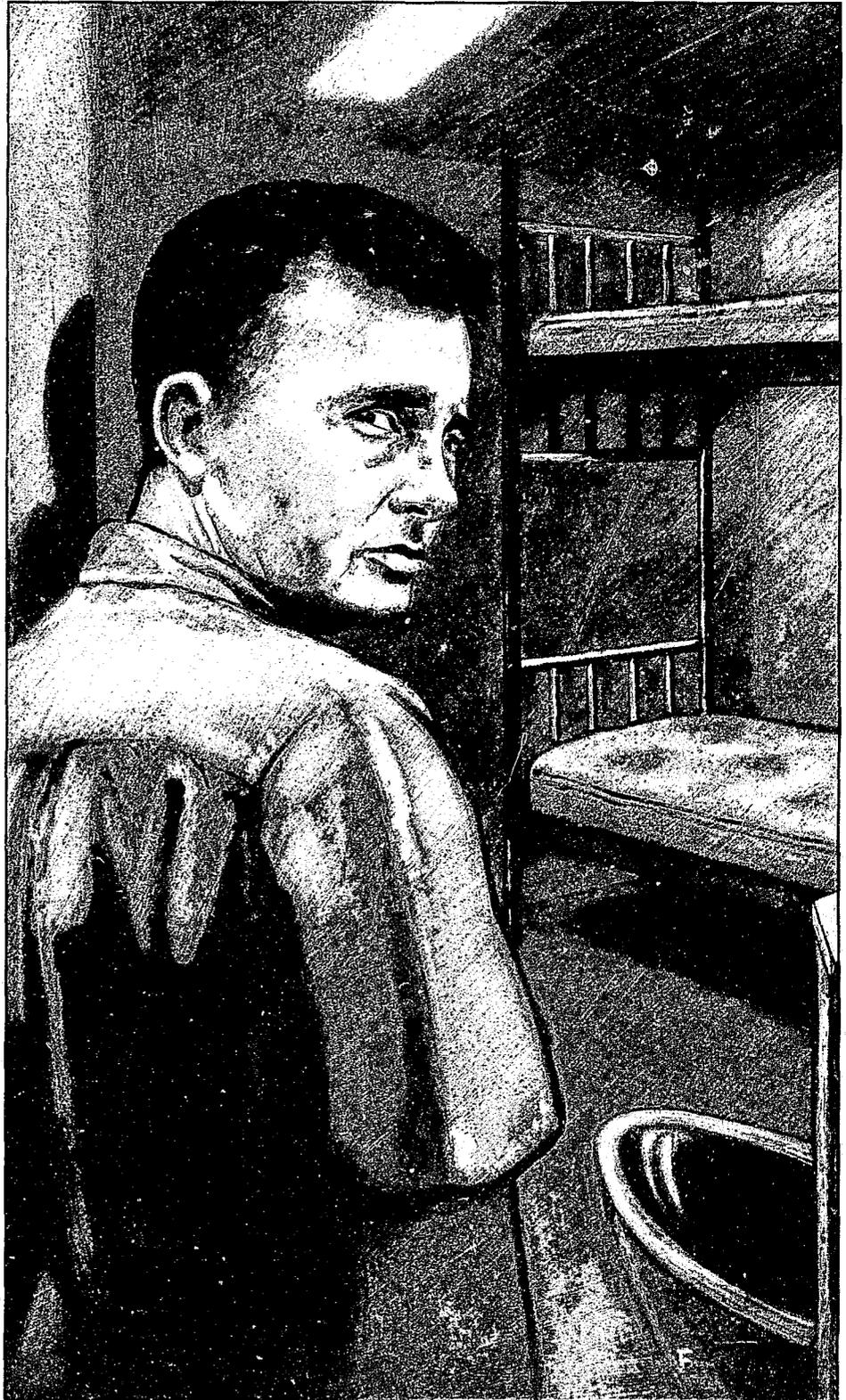
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# Who Really Goes to Prison?

Charles H. Logan

In a recent report for the National Council on Crime and Delinquency (NCCD), James Austin and John Irwin present research purporting to demonstrate that the "vast majority" (which turns out to be 52.6 percent) of persons now being sent to prison are "petty" offenders who are not dangerous and should not be in prison.<sup>1</sup> Austin and Irwin recommend that only the most serious offenders should be put in prison—only for short terms and primarily for education and job training.

Recent and comprehensive national data from the Bureau of Justice Statistics show that U.S. prison populations consist overwhelmingly of violent or repeat offenders, with little change in demographic or offense characteristics from 1979 to 1986.<sup>2</sup> Austin and Irwin do not dispute those figures. Instead, their title (*Who Goes to Prison?*) makes it clear that they are looking only at currently entering cohorts of newly sentenced prisoners. Since more serious offenders tend to receive longer sentences (and therefore to accumulate in prison), the profile of those who are *sent* to prison will differ significantly from those who are *held* there. Austin and Irwin obscure this distinction by referring always to "inmates," rather than "entering inmates," and by asking why we should spend \$7 billion a year to "warehouse petty criminals," which makes their description of half of the cohort of those entering prison sound like it applies to the whole population.



The NCCD study is based on a sample of 154 recent commitments in three States. In each State, 10 cases were randomly selected within each of five offense categories: Violence, Robbery, Theft, Drugs, and Other. Obviously, this overrepresents some types of crime and underrepresents others, so the subsamples are weighted according to each category's proportion of all commitments nationally and for the relevant State.

The purpose of drawing such a small sample was to allow time for intensive interviews of each offender, but the effect is to make projections based on the sample very unstable. Each case represents 10 percent of all the commitments for one crime category within a State, and each State represents one third of the Nation. Any variations—due to timing of the samples, or the choice of States, or selection of the cases, or errors in the official records, or misinformation from the inmates, or subjective interpretations by the researchers—will seriously distort the final, extrapolated figures.

Each offender was asked about his social history and about the crime and the arrest leading to his present commitment. Based on this account, the researchers assessed the gravity of his crime according to a scale derived from a 1977 study.<sup>3</sup> In that study, a national sample of Americans rated the seriousness of 204 brief crime scenarios (e.g., "A person breaks into a department store and steals merchandise worth \$10."). Crimes in which there was no injury or threat of injury, no theft over \$1,000, no weapon,

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no use of heroin (this was before the rise of cocaine), and no selling of marijuana were given relatively low ratings. In the NCCD study, crimes meeting those criteria are characterized by Austin and Irwin as "petty."

There are several problems with this method of deciding whether a crime is too petty to deserve imprisonment. The authority for the authors' judgment is a 14-year-old survey in which Americans rated crimes only in relative terms. That survey did not show what Americans thought the proper punishment should be for any crimes, petty or serious. In a more recent survey, however, an overwhelming majority (81 percent) of Americans said that jail or prison was a

proper punishment for burglary of a home resulting in a loss of \$1,000, a crime that the NCCD authors regard as too "petty" to merit a prison sentence. A clear majority (57 percent) thought jail or prison was appropriate for a nonresidential burglary resulting in only a \$10 loss.<sup>4</sup>

What the second survey reflects—but Austin and Irwin seemingly do not appreciate—is that it is not just the amount of money or other material harm that makes crimes such as burglary and robbery so serious. It is the breach of an individual's security and the violation of the rights (to property and person) that form the foundation of our society. It might be debatable whether drug crimes violate such rights, but property crimes unquestionably do.

Austin and Irwin are aware of the second survey; they cite its major finding that 71 percent of respondents regarded prison as the most suitable penalty for crimes such as rape, robbery, assault, burglary, theft, property damage, drunk driving, and drug offenses. However, they falsely criticize the survey's crime scenarios as "unrealistic." For example, they say that in "the" robbery scenario, \$1,000 was taken, the offender brandished a gun, and the victim was hospitalized. Actually, that was one of four robbery scenarios, and in it the gun was more than "brandished," because the victim was "wounded and hospitalized." In that case, 92 percent of respondents said the offender should be sent to jail or prison; when the robbery was reduced to its least serious level, with a weaponless threat, no harm, and only \$10 taken, 72 percent still wanted at least some jail or imprisonment as part of the punishment.

The methodology used by Austin and Irwin to evaluate the seriousness of newly committed prisoners' crimes omits several factors that are very important both legally and morally. These include the number of counts (how many "petty" crimes does it take to become serious enough for imprisonment?) and the offender's prior record, which the law recognizes as a legitimate measure of the culpability of the offender and the gravity of his act.

Austin and Irwin also place too much reliance on the honesty of inmates in reconstructing their crimes. In one example, an inmate arrested for possession of a stolen vehicle claimed that the car was unlocked and he was only stealing the radio, and that the police officer who said he broke in to steal the car was lying and actually broke the lock himself. Austin and Irwin believe the offender, but apparently the judge believed the policeman. In another example that they classify as "petty," an offender convicted of grand larceny said he "found" the wallet on the bar where he was drinking and gambling but the owner "suspected" him of taking it. The authors even accept the testimony of "the majority of high rate offenders" when they "indicated to us that they wanted to stop violating the law, and were preparing themselves in prison for conventional careers."

A careful reader will find in the NCCD report sufficient information to calculate that 25.4 percent of the sample are men whose conviction offense is categorized as "petty" but who revealed to the interviewers that they are high-rate offenders who are committed to a criminal lifestyle. If that fact was also

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revealed to the judge, in the form of a prior criminal record, it would have been a valid factor in sentencing. In any case, shouldn't these 25.4 percent be added to the 47.4 percent whose crimes were in some degree "serious" (i.e., more than "petty")? Then the study would show that nearly three-quarters of new admissions are either serious or high-rate offenders. And this does not count another 21 percent of the sample who, while not identified as high-rate offenders, are described as having been on a "crime spree" at the time of their commitment offense.

Austin and Irwin may be correct that the typical commitment offense does not match the stereotypes encouraged by the

popular press—generally no closer to reality than Hollywood's. But when the public is presented with accurate descriptions of the acts for which most people now enter prison, the evidence indicates that most of them regard at least some period of incarceration as appropriate. Moreover, while most of the public (72 percent) supports rehabilitation as a goal, they give equal support to delivering punishment for the sake of doing justice (70 percent) and deterring others (69 percent), and even greater support for punishment aimed at teaching the offender a lesson (79 percent) and at making a public statement that his behavior was wrong (78 percent).<sup>5</sup> Austin and Irwin are entitled to their opinion that many people are being sent to prison who should not be there; they may even be correct to some degree. But their research does not establish this. ■

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#### Notes

<sup>1</sup>*Who Goes to Prison?*, by James Austin and John Irwin. San Francisco: National Council on Crime and Delinquency, 1990.

<sup>2</sup>*Profile of State Prison Inmates, 1986* (BJS Special Report), by Christopher A. Innes. Washington, D.C.: Bureau of Justice Statistics, 1988.

<sup>3</sup>*The Severity of Crime* (BJS Bulletin). Washington, D.C.: Bureau of Justice Statistics, 1984.

<sup>4</sup>Joseph E. Jacoby and Christopher S. Dunn, "National Survey on Punishment for Criminal Offenses." Bowling Green, OH: Bowling Green State University, 1987.

<sup>5</sup>*Ibid.*