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The Unconstitutional Backlog in the Commonwealth of Massachusetts Criminal Justice System: A Three Step Plan to Decrease the Delay

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The Unconstitutional Backlog in the Commonwealth of Massachusetts Criminal Justice System: A Three Step Plan To Decrease the Delay

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial"
(The Constitution of the United States)

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I. Introduction

The Criminal Justice System has been in place since the Constitution of the United States ("U.S. Constitution") was ratified in 1788.[1] How can a system that was created over 200 years ago still efficiently manage criminal court proceedings? The answer is that it cannot. Every day there are more than 400,000 people currently incarcerated awaiting trial in both the state and federal criminal justice systems.[2] These people are presumed innocent until proven guilty, but they are being treated as though they were already sentenced. They will be held in custody for up to 12 months before they are able to set a trial date in the Commonwealth of Massachusetts, which does not include how long the trial may take. If you were given the choice between waiting behind bars for a year before even reaching trial, or you were offered a plea bargain where you would only have to serve 6 months but had to plead guilty, which would you choose? A plea bargain can be offered to a defendant in an effort by the prosecution to avoid a trial, and potential exposure to a longer sentence.[3]

Most people would rather serve half the time and avoid having to stay in custody longer and then go through the process of a trial. There are many other detrimental factors that stem from incarceration including loss of income and negative impact on relationships. This is especially detrimental if innocent people accept a plea deal to avoid significantly more time

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[1]Jacobs, J.B. (2001) 'Evolution of U.S. Criminal Law', *Issues of Democracy*, 6(1), pp. 6–15. Available at: https://www.ojp.gov/ncjrs/virtual-library/abstracts/evolution-us-criminal-law#:~:text=This%20paper%20explains%20the%20structure,form%20the%20Bill%20of%20Rights (Accessed: February 2024).

[2] Initiative, P.P. (no date) *Pretrial detention, Prison Policy Initiative*. Available at: https://www.prisonpolicy.org/research/pretrial_detention/ (Accessed: November 2023).

[3] *Plea bargaining* (2023) *U.S. Attorneys | Plea Bargaining | United States Department of Justice*. Available at: https://www.justice.gov/usao/justice-101/pleabargaining (Accessed: January 2024).

behind bars. Convicted persons are then left with a mark on their record that would now make it more difficult to find employment and lead to other restrictions on civic life.[4] If a trial had been chosen instead of accepting a plea bargain, they could have been found innocent. To spend less time behind bars, people are admitting to charges that they did not commit, and this is unjust.

These outcomes are at odds with the Sixth Amendment of the U.S Constitution, which states "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial."[5] If an accused is denied a speedy trial, the court is then required to either dismiss the charges or overturn a subsequent conviction.[6] Changes in our society since the nation's founding have created conditions that have made it difficult to execute these simple constitutional mandates. Our government is supposed to give every person accused a fair and speedy trial, but in reality, they often take months to reach trial.

The delay in reaching a court room creates several challenges for the accused, particularly involving the integrity of witness testimony. Witnesses die and memories fade,[7]so it is often impossible to rely on witness testimony several months after an event. This could lead to issues with witness testimony and several other factors that could be crucial to the defense. In an article published by the Association for Psychological Science eyewitness testimony is described as "subject to unconscious memory distortions and biases even among the most confident of

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[4] Agan, A. and Starr, S.B. (2017) *The effect of Criminal Records on access to employment*. Available at: https://repository.law.umich.edu/cgi/viewcontent.cgi?article=2892&context=articles (Accessed: February 2024).

[5] U.S. Const. Amend. VI.

[6] *The right to a speedy trial in a criminal law case* (2023) *Justia*. Available at: https://www.justia.com/criminal/procedure/right-to-a-speedy-trial/#:~:text=A%20violation%20of%20the%20speedy,case%20has%20not%20reached%20trial.&text=The%20federal%20Speedy%20Trial%20Act%20provides%20some%20instruction%20for%20federal,30%20days%20of%20an%20arrest (Accessed: January 2024).

[7] Lloyd Harris v. Maryland, No. 20-101, (2020)

witnesses.[8]" Without an immediate trial, the lines may blur between innocent until proven guilty and being presumed guilty. People behind bars are supposed to be treated as if they are innocent but are being managed as if they have already been sentenced and are serving their time.

Almost every state has a speedy trial law. For example, Massachusetts requires that within a year of arraignment a trial date must be set.[9] Another example is Idaho where the limit is 6 months from arraignment.[10] At the time the Bill of Rights was created, it initially only applied to the federal government. Eventually the Supreme Court of the United States ruled that the rights should apply to the state governments as well by way of the incorporation doctrine.[11] Although there is a state statute requiring a specific time limit for a trial to begin, it is not always followed.

There are people that are incarcerated for a year and a half before even being sentenced. Several crimes, including petty theft may have a maximum sentence that is shorter than the amount of time the accused would be incarcerated pre-trial. The backlog in our criminal court system has led to there being less time behind bars to plead guilty than if the accused were to use their constitutional right to be tried by a jury of their peers. To ensure that the right to a speedy trial is not infringed, more regulation is needed to hold state courts accountable for protectecting

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[8]Chew, S.L. (2018) *Myth: Eyewitness testimony is the best kind of evidence*, *Association for Psychological Science - APS*. Available at: https://www.psychologicalscience.org/uncategorized/myth-eyewitness-testimony-is-the-best-kind-of-evidence.html (Accessed: April 2024).

[9] Massachusetts Criminal Procedure Rule 36

[10] Idaho Statutes Title 19 Criminal Procedure Chapter 35, 19-3501

[11]*Incorporation doctrine* (2022) *Legal Information Institute*. Available at: https://www.law.cornell.edu/wex/incorporation_doctrine#:~:text=Prior%20to%20the%20doctrine's%20 (Accessed: February 2024).

citizens' rights. This thesis will identify the issues that the backlog of cases has caused as well as analyze different solutions to bring the Massachusetts criminal justice system back toward what the framers intended for a speedy trial.

II. Historical Background

A. The 6th Amendment

The 6th Amendment is part of the Bill of Rights, and it outlines the rights the accused have in a criminal trial. It states:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence[12].

At the time the Bill of Rights was written in 1791, the criminal justice system was much simpler. There was no organized police force and charges were usually brought by one person against another. Trials are significantly more complex today, given advancements in technology such as DNA analysis, security camera footage and cell phone records that are frequently used in criminal trials that the founders could not have imagined. There are also many reasons that trials can be delayed, including the need for mental health evaluations of defendants. The framers' goal when including this in the Bill of Rights was to strengthen the system that was currently being used at the time. Before the Bill of Rights, cases were brought by victims and trials did not typically involve attorney representation. Instead, individuals would represent themselves and the juries were made up of people that typically knew the victim and the defendant. The 6th Amendment added more structure to this system, but guaranteeing the right to a quick trial was

[12] U.S. Const. Amend. VI.

much simpler when the population was smaller, and the rate of crime was lower. Plea bargaining has also become increasingly popular to decrease court costs and clear cases off court dockets.

At the time the 6th Amendment was ratified, there was a heavy reliance on witness testimony for trials, because they didn't have many other methods of gathering evidence. Due to the dependence on witnesses, speedy trials were crucial to avoid unfairness. If they were delayed for too long, witness testimony would no longer be credible and could potentially ruin the whole case[13]. Criminal trials today rely less on eyewitness testimony and are based on factual evidence such as DNA, security camera footage, cell phone records. The 6th Amendment does not specifically define "speedy trial" so it was left up to the state legislatures to determine what speedy means.

B. 6th Amendment U.S. Supreme Court Cases

Over the years, there have been several U.S. Supreme Court cases addressing the scope of the 6th Amendment which are important in determining the meaning of the 6th Amendment. In *Gideon v. Wainwright,* Clarence Earl Gideon was charged in a Florida state court. He had requested that the court appoint an attorney, but his request was denied because Florida law only required that an attorney be appointed in capital cases. The Supreme Court held that, if defendants are unable to afford an attorney, they are entitled to a court-appointed attorney that is paid for by the government. It also included a requirement for the court-appointed attorney to provide "effective" assistance.[14] Thus, the 6th Amendment was expanded to include the right to an effective counsel, even if the defendant could not afford the representation.

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[13]Wise, R.A. *et al.* (2014) *An examination of the causes and solutions to eyewitness error, Frontiers in psychiatry*. Available at: https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4131297/ (Accessed: April 2024).

[14] Gideon v. Wainwright, 372 U.S. 335 (1963)

In *Crawford v. Washington,* the Supreme Court placed a limit on the evidence that the prosecution may introduce in a criminal trial. Michael Crawford was on trial for assaulting a man he claimed raped his wife. During his trial, the state played a recording of his wife's account of the stabbing but, because it was prerecorded, there was no opportunity for the defendant to cross-examine the witness. The Court ruled that the 6th Amendment ensures that every defendant has the right to cross examine the witnesses against them and placed a limit on what testimonies are permissible as evidence. The Supreme Court ruled that the prosecution is not able to use statements from non-testifying witnesses if the statements are testimonial (stating fact).[15]

In *Carey v. Musladin,* Matthew Musladain was on trial for the murder of Tom Strudder. During Musldain's trial Strudder's family members wore large buttons with a picture of Strudder on them. These buttons were visible to the jury, the judge, the prosecutor, the defense attorney and Musladain. The defense argued that these buttons could prejudice the jury, therefore denying Musladin's 6th Amendment right to have a fair trial by an impartial jury. The Supreme Court disagreed with the defense's claim and ruled that, because there were no defined regulations on private citizen's behavior in court rooms, the district court's decision that these buttons did not deprive the defendant of an impartial jury was not incorrect.[16] This case enforced a limit of the 6th Amendment and set a precedent that court spectators' behavior cannot be seen as prejudicial towards a jury.

The Supreme Court also interpreted the 6th Amendment in *In re Gault.* This case involved the procedural rights of juveniles. A 15-year-old boy was accused of making an obscene phone call to a neighbor. The boy had been arrested and his parents received no notice

[15] Crawford v. Washington, 541 U.S. 36 (2004)

[16] Carey v. Musladin, 549 U.S. 70 (2006)

that he had been arrested. A hearing had been set for the next day, but the arresting officer had filed a petition with the court and his parents were not notified of this either. After his hearing, the boy was sentenced to 6 years in juvenile detention, when an adult charged with the same crime would have only been given a fine. The parents of the boy filed a petition for a writ of habeas corpus which was dismissed. The Supreme Court then agreed to hear the case to determine the procedural rights for juvenile criminal proceedings. The Court ruled the criminal proceedings for juveniles must include the same rights that adults receive. This ruling had reversed and remanded a previous precedent based on the ruling in the case *Betts v. Brady*. This case expanded the rights that are given by the 6th Amendment to juveniles facing criminal charges.[17]

In *Barker v. Wingo,* the Court considered a case involving intruders that beat an elderly couple to death in Christian County, Kentucky. Soon after the the intruders were identified as Silas Manning and Willie Barker, they were both arrested and charged. Each individual had a separate trial. Manning was tried five times and was finally convicted in 1962. Barker, on the other hand, was struggling to reach a trial date because the state kept asking for continuances and at first, Barker did not object. They eventually set a trial date for March,1963 but the state then asked for another continuance which Barker unsuccessfully objected to and a new trial date was set for October 9, 1963. He was then convicted. Barker appealed to the District Court on the basis that the long trial delay violated his 6th Amendment right to a speedy trial. The main question in this case was whether Barker implicitly waived his right to a speedy trial by not objecting to the first continuances. The Supreme Court ruled that Barker waived his rights to a

[17] In re Gault, 387 U.S. 1 (1967)

speedy trial by not objecting to the first continuances.[18] This case was important because it set a precedent that, if defendants do not object to continuances requested by the state then they are implicitly waiving their right to a speedy trial. It also created a valuable precedent by implementing a four part test that can be applied to a case in order to determine if their 6th Amendment rights were violated.

Another case that involved the 6th Amendment's speedy trial clause was *Betterman v. Montana.* Brandon Betterman failed to appear in court in 2011 and a warrant was issued for his arrest. He turned himself in and contended that he missed his court appearance becaues he did not have the money to get transportation to the courthouse. Betterman was eventually convicted in 2012 and sentenced to five years for the charge of partner or family member assault. In addition to the conviction on that charge he also plead guilty to violating the conditions of bail. After waiting several months for the sentencing hearing, he filed for a dismissal on the grounds that he was denied a speedy trial on the basis that there was several months between his guilty plea and sentencing hearing. His motion was denied and he appealed to the U.S. Supreme Court. The constitutional question was whether the speedy trial clause applies to the period of time between a guilty plea and a sentencing hearing. Justice Ginsburg wrote the opinion of the court which decided that the speedy trial right cannot be applied to post guilty pleas or verdicts. She emphasizes the difference between "the accused" and "the convicted".[19] This case was crucial to the interpretation of the 6th Amendment because it sets a limit on what processes in the criminal justice process must be speedy.

[18] Barker v. Wingo, 407 U.S. 514 (1972)

[19] Betterman v. Montana, 578 U.S. _ (2016)

A Supreme Court Case that pertained directly to the Speedy Trial Act of 1974 was *Bloate v. United States.* In this case, Taylor Bloate was convicted on charges of possession of a firearm and possession of cocaine with the intent to distribute. Bloate tried to have the charges dismissed on the grounds that his rights outlined in the Speedy Trial Act of 1974 had been violated. The main question in this case was whether the time granted for pretrial motions is automatically excludable under 18 U.S.C. Section 3161(h)(1). The U.S. Supreme Court ruled that preparing for pretrial motions is not automatically excluded from the seventy-day period. The Court took it a step further and created a precedent by ruling that the only time these preparations would be excluded is when the district court grants a continuance based on justified findings.[20]

C. Federal Speedy Trial Laws

The federal speedy trial law is found in the Speedy Trial Act of 1974. This act incorporates the 6th Amendment and mandates that the period of delay in all federal district courts may not exceed one hundred days. The consequences for violation of the law is mandatory dismissal of the criminal charges.[21] The law establishes stages for the proceedings. The first stage is that the prosecution has 30 days from arrest to file an indictment. From the first court appearance, there is then a minimum of 30 days for pretrial preparation. Once the trial has begun there is a 70-day limit. The charges for any proceeding that exceeds the 70 day (about 2 and a

[20] Bloate v. United States, 559 U.S. 196 (2010)

[21] S. R. Lohman, Catholic University of America, *NCJRS Virtual Library*, *SPEEDY TRIAL ACT OF 1974 - DEFINING THE SIXTH AMENDMENT RIGHT | Office of Justice Programs*. Available at: https://www.ojp.gov/ncjrs/virtual-library/abstracts/speedy-trial-act-1974-defining-sixth-amendment-right#:~:text=SPEEDY%20TRIAL%20ACT%20OF%201974%20%2D%20DEFINING%20THE%20SIXTH%20AMENDMENT%20RIGHT,-NCJ%20Number&text=THE%20SPEEDY%20TRIAL%20ACT%20OF,OF%20EXCLUDABLE%20PERIODS%20OF%20DELAY (Accessed: March 2024).

half months) time limit will then be dismissed.[22] Defendants have the option to waive their right to a fair and speedy trial if they feel that it would benefit their defense to have more time to prepare for trial, but that, in turn, also gives the prosecution more time to prepare.

D. State Speedy Trial Laws

Most states have their own version of a speedy trial law to be consistent with the rights guaranteed by the 6th Amendment. Every state has its own Constitution and they typically outline criminal procedure policies, including the time frame for a trial to be completed. Massachusetts has two components ensuring the rights in state courts. The first is found in the Massachusetts Rules of Criminal Procedure, Rule 36, which states that all criminal defendants should receive a trial date within 12 months of arraignment.[23] The second is a precedent set in the case *Barker v. Wingo.* This case as described above established a four part test that determines whether the 6th Amendment was violated. The four parts of this test are: (1) the length of the delay, (2) the reason for the delay, (3) the defendant's assertion of their right to a speedy trial, and (4) prejudice to the defendant.[24] This four-part test is frequently used in both federal and state courts to determine whether the 6th Amendment has been violated.

Every state can enact its own speedy trial law for its state court system. Most criminal cases are tried at the state level; therefore it would make sense for the speedy trial laws in states to be a longer time period than the federal law because the criminal caseload is much higher at

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[22] S. R. Lohman, Catholic University of America, *NCJRS Virtual Library, SPEEDY TRIAL ACT OF 1974 - DEFINING THE SIXTH AMENDMENT RIGHT | Office of Justice Programs*. Available at:

[23] Massachusetts Criminal Procedure Rule 36

[24]Deakin, D.A. and Sanders, J.L. (2021) 'When Everything Slowed Down: Evaluating the Right to Speedy Trial in a Pandemic ', *When Everything Slowed Down: Evaluating the Right to Speedy Trial in a Pandemic*, 65(2).

the state level. Due to the increased number of cases, and the fact that many judges in state courts are responsible for both civil and criminal cases, trials are more likely to take significantly longer in state courtrooms. The amount of time that is given from arraignment to when a trial must begin is different depending on the state. For example, Idaho is 6 months while Massachusetts is 12 months. This could be because of the population difference. Idaho has a population of 1,964,726[25] and Massachusetts has a population of 7,001,399.[26] The drastic difference in time periods for a trial to be completed between state and federal courts could be the difference in the number of cases. Every state population is different as demonstrated with the Idaho vs. Massachusetts data, therefore Idaho may be able to hold themselves to a shorter time period because of the lower population and crime rate.

III. Why Delays are Wrong

A. Unconstitutionality

The U.S. Constitution does not specifically define what constitutes a speedy trial. However, with many other constitutional issues that have been raised over time, the result comes down to the interpretation of the language. The definition of speedy is "done or occurring quickly."[27] This definition does not give a specific timeline either, which is why both the federal and state court systems have created their own statutes to address 6th Amendment rights.

Even though there are many laws based on the fundamental rights outlined in the 6th Amendment, many have different timelines. Previous examples are the federal courts' timeline

[25] Idaho Census Bureau Data from 2023

[26] Massachusetts Census Bureau Data from 2023

[27] *Speedy*, Oxford English Dicitionary, https://www.oed.com/dictionary/speedy_adj?tl=true

of seventy days, Massachusetts' timeline of twelve months and Idaho's timeline of 6 months. Because every system (state or federal) has its own interpretation of speedy, the limit is somewhere between seventy days and a year. Both the Massachusetts and Idaho laws of criminal procedure are based on the 6th Amendment but have drastically different timelines. This is part of the issue when determining when a defendant's 6th Amendment right was violated. It would have been much simpler had the founders laid out a specific timeframe. However, because they did not, it is now up to every state to determine what constitutes "speedy" for their system.

B. Coerced Plea Bargaining

Trial delays have been utilized in a way that often leads innocent people to plead guilty to crimes to avoid having to wait for a trial. An example of this was found in Harris County, Texas. This county was requiring cash bail, which forced many people to remain behind bars awaiting trial. They were then using the delay and defendants' difficulty in being able to post bail to encourage defendants to plead guilty to crimes. On paper it looked like Harris County had an efficient court system. The county's delay was not as drastic as other counties in Texas, but it was eventually revealed that the county was using the bail system to influence people into taking plea deals even though they could be innocent. Because people could not afford cash bail, they were forced to remain incarcerated before trial, which then gave prosecutors the option to say "you can wait several months in order to reach trial, or you can plead guilty and only serve 2 more months." This was how they were able to influence defendants to plead guilty to crimes to avoid potentially spending more time behind bars.[28]

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[28] Sessions, K. (2023) *Harris County Bail Reform Battle Takes Center Stage in Federal Court, Chron.* Available at: https://www.chron.com/news/houston-texas/article/harris-county-bail-reform-17867466.php (Accessed: January 2024).

This system was eventually ruled unconstitutional in *Russell v. Harris County*. This case revealed the unlawful ways that Harris County was handling pretrial incarceration. The outcome of this case was that Harris County was violating the plaintiffs' rights by incarcerating them before trial if they are unable to afford cash bail. Their system was found to violate the 5th and 14th amendments. The result of the case was that Harris County had to reform its bail system to be fair to all plaintiffs, no matter their financial status, because everyone should be treated as innocent before proven guilty.[29] Once the reform to their system was implemented there was a drastic change in the number of people being held pretrial.

Coerced plea deals are a clear violation of a defendant's constitutional rights. Every US citizen accused of a crime is ensured the rights of a fair and speedy trial. By taking away the option of a speedy trial it forces some to take a deal where they may spend less time behind bars. If they plead guilty then they would avoid awaiting trial and potentially being sentenced to a longer time in prison. Plea deals have their benefits and drawbacks. A benefit is that they help combat the delay in some criminal justice systems because there are less cases on the dockets if they never go to trial. There are many disadvantages of a plea deal. Some are those are the effects of incarceration which will be outlined in the next section. Another disadvantage is that now there is a crime on someone's criminal record. For example, nearly every job application has a section asking if you have a criminal record. If an individual accepts a plea bargain, he or she must indicate so, which then leads to many other problems thereafter.

[29] Sessions, K. (2023) *Harris County Bail Reform Battle Takes Center Stage in Federal Court, Chron*. Available at: https://www.chron.com/news/houston-texas/article/harris-county-bail-reform-17867466.php (Accessed: January 2024).

IV. Impact of the Trial Delays

A. Effects of Incarceration

After a defendant is arrested and then charged with a crime they are in the pre-trial stage of the criminal justice system. During this period there are pretrial service officers who are hired by the state to gather information on the accused by means of interviews and record checks. This information is then presented at the detention hearing where it is up to the judge to determine whether the defendant can be released prior to trial or if they need to be detained.[30] Pretrial incarceration has an impact on the defendant, especially when it could be a year or more before they reach trial.

In particular, the overcrowding of prisons has created many detrimental effects for the incarcerated. Benjamin Chavis wrote a first-hand account of being unjustly incarcerated and the impact it had on him. Chavis was wrongfully incarcerated in the 1970s as a member of the Wilmington Ten. He described the way the inmates were treated as dehumanizing and self-destructive. Chavis believes that overcrowding has caused these unthinkable conditions and in turn has led to an increase in violence in prisons as well as the increase in the recidivism rate.[31] People that have yet to be found guilty of a crime are being treated as if they were already sentenced.

Incarceration has influence beyond the dehumanizing treatment; there are mental health and physical health consequences as well. Incarceration has negative effects on employment

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[30]*United States Probation and Pretrial Services Office* (no date) *Pretrial | District of Massachusetts*. Available at: https://www.map.uscourts.gov/pretrial#:~:text=The%20pretrial%20services%20officer%20reports,not%20to%20grant%20pretrial%20release (Accessed: March 2024).

[31]Chavis,Benjamin F.,,Jr 2015, *U.S. Criminal Justice System Needs Urgent Reform*, Washington, D.C.

status, relationships with family or partners, increases risk for physical or mental health problems, and reduces civic participation.[32] These are the consequences beyond being incarcerated and all of them are much worse when one is detained pretrial, because they are dealing with these effects before they have been found guilty of a crime.

There are many serious health factors that stem from incarceration. For example, Tuberculosis runs rampant throughout correctional facilities. Other prevalent infectious diseases are Sexually Transmitted Infections (STIs), especially Human Immunodeficiency Virus (HIV). The increased risk of contracting HIV is dangerous due to the other health complications that stem from HIV. Another negative effect on physical health from correctional facilities stems from the potential for low quality of care as well as the lack of early diagnosis. Many correctional facilities require inmates to pay a fee to receive a sick call slip, causing many inmates to wait until it is too late to treat something appropriately, or the condition growing significantly worse than it would had if they had been seen when they first started experiencing symptoms.[33]

There are also many mental health implications that stem from incarceration. A survey conducted by the Bureau of Justice Statistics found that more than half of all inmates have had some sort of mental health problem. The survey considered a mental health problem as a clinical diagnosis or treatment by a professional within 12 months or having been presented with symptoms found within the Diagnostic and Statistical Manual of Mental Disorders, Fourth

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[32]Turney, Kristin, and Sara Wakefield. "Criminal Justice Contact and Inequality." *RSF: The Russell Sage Foundation Journal of the Social Sciences*, vol. 5, no. 1, 2019, pp. 1–23. *JSTOR*, https://doi.org/10.7758/rsf.2019.5.1.01. Accessed Apr. 2024.

[33] Redburn, S, Western, B, & Travis, J (eds) 2014, The Growth of Incarceration in the United States : Exploring Causes and Consequences, National Academies Press, Washington, D.C.. Available from: ProQuest Ebook Central. [April 2024].

Edition (DSM-IV). It is estimated that 10-25% of prisoners in the United States suffer from serious mental problems, including major affective disorders or schizophrenia.[34]

In addition to the physical and mental health problems, there are also economic consequences. Incarceration makes it impossible to have a job. It also leaves inmates with a stigma of being incarcerated, making it difficult to find employment when they are released. Every job application has a section asking the applicant whether they have ever been convicted of a crime. Several studies determined that incarceration had a negative impact on both home ownership and net worth.[35] Incarceration has many detrimental factors on physical and mental health as well as economic status, making it very difficult for people to adjust to life outside of the correctional facility.

B. Strain on Personal Relationships

Incarceration may also harm personal relationships. Incarceration can be very difficult for families, especially if a parent is the one being forced to spend time behind bars pretrial. The family members that are left without their loved ones due to incarceration are often referred to as the hidden victims. This is specifically an issue for children when they have a parent that is incarcerated. There are many complications for these children including psychological strain, antisocial behavior and economic hardship.[36] All these struggles can lead to long term

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[34] Redburn, S, Western, B, & Travis, J (eds) 2014, The Growth of Incarceration in the United States : Exploring Causes and Consequences, National Academies Press, Washington, D.C.. Available from: Pro Quest Ebook Central. [April 2024].

[35] Michelle Maroto, Bryan L Sykes, The Varying Effects of Incarceration, Conviction, and Arrest on Wealth Outcomes among Young Adults, *Social Problems*, Volume 67, Issue 4, November 2020, Pages 698–718, https://doi.org/10.1093/socpro/spz023

[36] Martin, E. (2017) *Hidden consequences: The impact of incarceration on Dependent Children*, *National Institute of Justice*. Available at: https://nij.ojp.gov/topics/articles/hidden-consequences-impact-incarceration-dependent-children (Accessed: March 2024).

consequences for children. There is also evidence that the children will also have continuous emotional trauma that can potentially lead to learning difficulties, aggressive behavior and involvement in crime.[37] These effects can be reduced if there is a shorter time period of incarceration pretrial. Not only are the accused being punished by pretrial incarceration, their families are also facing the punishments.

In addition to the harmful effects on families there are consequences for romantic relationships as well. There are different consequences for the different levels of relationship status. For example, a large portion of marriages end within one year of a spouse being incarcerated.[38] For couples, it is also extremely difficult because their relationship abruptly becomes long distance. In addition to the difficulties of being long distance there are restrictions on contact over the phone and in person making it extremely difficult for relationships to survive. Incarceration, even for a few months leading up to a trial, carries detrimental effects for people's marriages and relationships.

C. Societal Stigma

In addition to the physical/mental health problems and damaged relationships there is also another problem people must face when they are released. There is a stigma around incarceration and people who are returning to society after being incarcerated that can make it difficult for them to properly adjust to society. Stigma is defined as a mark of shame or

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[37] *Iv. the emotional impact of incarceration on children* (no date) *Collateral Casualties:* Available at: https://www.hrw.org/reports/2002/usany/USA0602-04.htm?gad_source=1&gclid=CjwKCAiAuNGuBhAkEiwAGId4aplIcrVdaNOSVijk-wWEtGD6KU30Y2OSxxRieE8z5UVc_0ulcXUy2xoCEFMQAvD_BwE (Accessed: April 2024).

[38] *Prison relationships face serious challenges, but can be a source of support after release* (no date) *CBCnews*. Available at: https://www.cbc.ca/documentarychannel/features/prison-relationships-face-serious-challenges-but-can-be-a-source-of-support (Accessed: April 2024).

discredit.[39] It can often cause recidivism which is when someone relapses into criminal behavior.[40] Recidivism is a vicious cycle. When people are consistently in and out of incarceration, they are unable to reacclimate to society, which then leads to them reoffending. There are many different factors that contribute to recidivism, including unstable employment histories pre-incarceration, juvenile criminal offenses, poor institutional adjustment, low salient factor scores[41], and history with drug abuse.[42] All of these factors made it extremely difficult for people to settle back into society. When people are unable to adjust back to normal life, they find themselves reoffending and ending up behind bars all over again.

Societal stigma also adds to the problems that are waiting for people when they are released. In our society, having served time in a prison gives people that mark of shame. This mark on someone's record makes it extremely difficult for them to readjust to life outside of incarceration and in turn makes them more likely to reoffend. These effects are prevalent when someone is serving time pretrial and even more significant when someone takes a plea deal. In order to decrease these detrimental factors, it is necessary to decrease the amount of time that people are behind bars awaiting trial.

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[39] *Stigma definition & meaning* (no date) *Merriam-Webster*. Available at: https://www.merriam-webster.com/dictionary/stigma (Accessed: April 2024).

[40] *Recidivism* (no date) *National Institute of Justice*. Available at: https://nij.ojp.gov/topics/corrections/recidivism (Accessed: April 2024).

[41] A salient factor score is a measure of an indiviuals likelihood of reoffending.

[42] Eisenberg, M. (no date) *NCJRS Virtual Library, Factors Associated With Recidivism | Office of Justice Programs*. Available at: https://www.ojp.gov/ncjrs/virtual-library/abstracts/factors-associated-recidivism (Accessed: April 2024).

V. Economic Implications

A. Employment

When people are incarcerated before trial they are forced to miss work, and can often face consequences when they are released. Not only do the defendants lose the income they would have earned had they not been incarcerated pretrial, but they also frequently have trouble finding a new job after being released, even if they are found innocent. In a study conducted by Sandra Susan Smith of Harvard University she came to conclusions on the effects that pretrial incarceration has on future employment. Smith determined that part of the problem was:

> the system-involved people experience higher rates of unemployment, despite their best efforts to find work, because of state and federal restrictions on access to government employment and government-regulated private industry (Dale, 1976; May, 1995; Olivares et al., 1996; Petersilia, 2003; Mills, 2008); employers' fears that they will be found liable for negligent hiring if marked employees act criminally on the job (Bushway, 1998; Glynn, 1998; Holzer et al., 2007); and employers' general distrust of a pool of applicants who essentially have been certified untrustworthy by the penal system[43]

In terms of the people who lost their jobs due to pretrial incarceration, Smith found that "The percentage experiencing job loss increased significantly for those held four to-seven days and eight days and beyond".[44]The chances of job loss are the highest when incarcerated for longer than 8 days. Therefore, with the delay, the chance of people losing their jobs even if they are found not guilty is extremely high.

Another issue that stems from being incarcerated pretrial is the loss of vehicles. In the same study by Smith, she discovered that "12 percent of all study participants (and 14 percent of

[43](No date) *USCOURTS*. Available at: https://www.uscourts.gov/sites/default/files/86_1_3_0.pdf (Accessed: April 2024).

[44] (No date) *USCOURTS*. Available at: https://www.uscourts.gov/sites/default/files/86_1_3_0.pdf (Accessed: April 2024).

participants with strong work histories) reported a detention-related vehicle loss".[45] The vehicles are lost because the State will often tow vehicles. In addition to people losing their jobs, it is increasingly difficult for them to find new ones if they have no means of transportation to be able to get to and from work. Overall, pretrial incarceration makes it exceedingly difficult for people once they are released. They could potentially lose their job and their vehicle which can lead to individuals reoffending because they are unable to readjust back to society. In order to decrease these negative effects, it is necessary to decrease the amount of time that people are incarcerated awaiting their trial.

B. Costs of Incarceration

For every individual that is incarcerated in the State there is a cost. The correctional facilities are responsible for feeding and housing, which is expensive. Massachusetts spends about $1.2 billion each year on incarceration.[46] When broken down per inmate the cost is roughly $178,000 for one year.[47] Most of this expense is unavoidable but if the court systems are able to reduce the amount of people that are incarcerated pretrial for up to a year, it could lead to a decrease in overall costs of incarceration. The state can fund these facilities because it uses the

[45](No date) *USCOURTS*. Available at: https://www.uscourts.gov/sites/default/files/86_3_3_0.pdf (Accessed: April 2024).

[46] (No date) *An examination of correctional expenditure in Massachusetts*. Available at: https://massinc.org/wp-content/uploads/2017/05/Getting-Tough-on-Spending-1.pdf (Accessed:April 2024).

[47] Fiandaca, C. (2024) *Advocates say Massachusetts prison system is setting inmates up to fail*, *CBS News*. Available at: https://www.cbsnews.com/boston/news/i-team-massachusetts-prisons-inmate-rehabilitation-education/ (Accessed: April 2024).

money that is collected through taxes, however, these funds could be redirected to something else that could benefit more people than just funding prisons.

C. Potential Recidivism

Recidivism is the chance of an offender will reoffend after being released. The chances of recidivism are very high, especially when people are struggling to find a job and lack means of transportation due to their vehicle being towed. The recidivism rate in Massachusetts is 33%[48] meaning that 33% of all people convicted of a crime end up committing another crime after they are released. Not all individuals incarcerated pretrial end up being found guilty but often they have very similar struggles once they are released even though they were never actually convicted. They have the comparable difficulties finding jobs if they lost them while incarcerated, and depending on how long they had to wait for they could have both mental and physical health complications. To decrease all of these negative effects, the amount of time individuals spend incarcerated pretrial needs to decrease as well.

[48] *Massachusetts* (2024) *Criminon International*. Available at: https://www.criminon.org/where-we-work/unitedstates/massachusetts/#:~:text=Recidivism%20Rates%20in%20Massachusetts&text=Massachusetts's%20recidivism%20rate%20is%20a,three%20years%20of%20their%20release (Accessed: April 2024).

VI. Solutions

A. Attempts at Reform

There have been attempts at reform that would help with the criminal court delays. There have been critiques that the United States criminal justice system is attempting to do too much. In an article arguing for criminal justice reform the US system is compared to being the "Rolls Royce" of criminal justice systems when a "Toyota Corolla" would get the same job done.[49] This claim argues that the US system is attempting to be the best but they are adding too many processes that makes it impossible to follow the requirement set by the 6th Amendment. This point also brings up whether all cases should be treated with the same time protocols. For example, if someone is charged with assault, they do not need to have the same sort of trial schedule for someone charged with murder. This delay could be solved if there was a different approach for misdemeanor charges as opposed to felonies.

Every state has a different speedy trial law, but they all enforce the 6th Amendment right at the state level. As noted earlier, the Massachusetts law is 12 months but other states have a shorter time frame. In Idaho's Title 19 of Criminal Procedure, Chapter 35, it states that a defendant must be brought to trial within 6 months of arraignment.[50] One way that the delay could be resolved would be to have a federally mandated maximum, which would require states to stay within a certain range making sure trials are happening in a speedy manner. Massachusetts has a much longer period for trials to be conducted which allows cases to take much longer than what could be needed. There are many different examples of how other States run their criminal justice systems that have been able to decrease the delays in their systems.

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[49] Feeley, M.M. 2018, "HOW TO THINK ABOUT CRIMINAL COURT REFORM", *Boston University Law Review*, vol. 98, no. 3, pp. 673-730.

[50] Idaho Laws of Criminal Procedure, Title 19, Section 3501

In a study conducted by the National Institute of Justice, the authors analyzed the efficiency, timeliness and quality of several different state court systems. The specific county courts that the study analyzed were Bernalillo County (Albuquerque), New Mexico; Travis County (Austin), Texas; Jefferson County (Birmingham), Alabama; Hamilton County (Cincinnati), Ohio; Kent County (Grand Rapids), Michigan; Bergen County (Hackensack), New Jersey; Alameda County (Oakland), California; Multnomah County (Portland), Oregon; and Sacramento County (Sacramento), California. The study outlined the American Bar Association's (ABA) standards for what should be considered "speedy." The conclusion that they came to was that every case is different and requires a different amount of time. All the research conducted during the study allowed the Department of Justice to create a 3-part policy that may be able to help increase the efficiency of criminal courts.[51]

The 3 main sections of the policy are self-diagnosis, communication, and education. The self-diagnosis portion focuses on the court systems themselves needing to analyze their own case processing systems. After looking at their own systems, they then need to create goals for their system. In addition to creating goals, the system needs to be continually monitoring the time it is taking for dispositions as well as the number of cases in the pending caseload. By implementing these changes, the court systems will be able to sharpen their knowledge of how different factors affect how long the proceedings take and will therefore be able to make changes within their own systems.

The second section of the proposed policy is communication. This section builds on the goal setting. This step in the policy implementation involves making sure that goals are

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[51] (2000) *A new perspective from nine state criminal trial courts*. Available at: https://www.ojp.gov/pdffiles1/nij/181942.pdf (Accessed: April 2024).

communicated to all people involved in the court system. This ensures that all attorneys are coordinated and willing to adhere to the same timeframe. If all the individuals involved in the criminal trial procedures are not coordinated delays are more likely. However, if everyone is working towards a collective goal, it can make a significant difference in timing. Once everyone is coordinated, the court can come determine whether it is worth potentially changing different protocols to make the system more efficient as a whole.

The third section of the proposed policy is education. This step focuses on training programs for judges and attorneys. These programs will help with efficiency and timeliness. In order to improve the overall effectiveness, it is crucial that the key players in the system are aware of how to be more efficient. Delay reduction is not the only goal of these programs; they will also focus on overall quality of the system. The combination of all three of these steps will allow criminal court systems to improve on their timeliness and quality of their processes. It can be inferred that one of these steps alone will not be sufficient to achieve the collective goal; all three steps need to be completed.

B. Effectiveness of Proposed Solutions

The first proposed solution was the idea that the United States Criminal Justice System is attempting to do more than is necessary, especially when addressing lower level criminal charges. It seems logical that smaller crimes do not necessarily need the same amount of attention or as intensive a trial as a higher crime might need. The issue with not treating all crimes the same is that the American government is based on the foundation of equality, and "that all men are created equal".[52] Giving different cases different guidelines could potentially be observed as prioritizing one person's rights over another. This would be beneficial for people

[52]United States Declaration of Independence

who are first offenders and may not be facing any potential jail time. In these cases, they might not go to trial and if they do the stakes are very low.

On the other hand, when there is a potential for jail time it is necessary that people are given a full and fair trial because they could be incarcerated if found guilty. If people are not given a full trial the number of erroneous convictions could increase by a significant amount. Overall, this attempt could be applied to first offenders and low-level crimes such as petty theft or drug possession. When it comes to any charges that carry the threat of incarceration, there is no way to cut back on the rigor of the trial because someone's life could be completely disrupted.

Another attempt at reform involves each state having its own speedy trial law. By researching several different court systems, and observing the Licht Judicial Complex which is a Superior Court in Providence, Rhode Island I was able to see what protocols the Rhode Island Criminal Justice System undertakes that the Massachusetts system does not. One difference that I observed was that all judges in the courthouse have their own "calendar" where they only hear a certain type of case. This allows cases to be heard at a much quicker rate, because they need to only hear one type of case. One of the issues I observed in the Massachusetts system is that judges are often hearing several different kinds of cases at the same time leading to their dockets being overfilled. By reducing the number of cases each Judge is responsible for, it can automatically reduce the amount of time that it takes for a trial to begin.

Another difference that I observed was the speedy trial law. In Rhode Island the speedy trial law is based on the charge. This relates to the first attempt at reform which explains breaking down charges and having different requirements for different crimes. In Rhode Island there are specific time frames depending on what the criminal charge is. One example is a sexual assault charge in Rhode Island General Laws Title 11 - Criminal Offenses Chapter 11-37 -

Sexual Assault Section 11-37-11.2. It states "In any action under this chapter involving a child victim age fourteen (14) years or under or a victim sixty-five (65) years or older, the court and the attorney general's office shall take appropriate action to ensure a speedy trial to minimize the length of time the victim must endure the stress of involvement in the proceeding."[53] Another charge that has its own specific length of time in the Rhode Island Criminal Justice System is found in 2020 Rhode Island General Laws Title 12 - Criminal Procedure Chapter 12-29 Domestic Violence Prevention Act Section 12-29-4.1. This law states:

> In any action under this chapter, the court and the attorney general's office shall take appropriate action to ensure a speedy trial to minimize the length of time the victim must endure the stress of involvement in the proceeding. In ruling on any motion or request for a delay or continuance of proceedings, the court shall consider any adverse impact the delay or continuance may have on the well-being of the victim. This provision establishes a right to a speedy trial to the victim and shall not be construed as creating any additional rights for, or diminishing any rights of the defendant[54]

In these statutes, the speedy trial is necessary for the protection and wellbeing of the victims. These are not based on the constitutional rights to a speedy trial, which is the basis for most other state statutes. This is a different approach to a speedy trial law, because the only charges that it applies to are ones that are especially traumatic for victims.

The 6th Amendment is, however, based on the necessity for the accused to be found guilty or not guilty in a timely manner not for the victims to be able to put the events behind them and to avoid them having to relive painful memories months past the events. It is a completely different approach to speedy trial statutes than any other state I have researched. Although, it is an untraditional application of the Federal Speedy Trial Act it has some valuable characteristics that could be utilized in different ways.

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[53] RI Gen L § 11-37-11.2. (2022)

[54] RI Gen L § 12-29-4.1 (2020)

The idea that different time frames can be applied to each individual crime could prove to be helpful. This is especially true if they are based on severity of crimes and whether most defendants are going to be released on bail or if they will be incarcerated pretrial. This would also raise a previous concern that this may undermine the emphasis on equality that the US government was based on. Allotting a different amount of time for each charge can make it appear that some crimes are receiving priority treatment compared to others it could create issues.

The other concern is that the victims may want more time to recover from the events. There also may be issues with discovery and other time-consuming processes that are necessary to conduct before reaching trial. If trials are rushed on behalf of the victims, they may not be able to complete all of the pretrial tasks to the best of their ability. This could potentially lower the quality of the trials, which is one of the major questions when looking at how speedy trials can still ensure the rights every defendant has in a criminal trial.

Another attempt at reform that was previously mentioned was the three-step proposal for creating a more efficient court system. But when looking deeper, it is difficult to put a specific time goal on a court system because there are uncontrollable factors that could potentially skew the data. There is the possibility that there are very in-depth trials, or the potential that there could be defendants that are not fit to stand trial, which could lead to major delays. These situations are impossible to measure, and could make it appear as though the court system is behind on their goals but in reality, they could just be dealing with a complex case load.

Another issue with this attempt at reform is that it is trusting the court systems to self-diagnose themselves. Often, systems are not as forthcoming when left to determine the issues in their systems on their own. This would allow the court systems to potentially make their systems

seem much more efficient than they actually are or to pick minor issues to revolve their goals around. This would ultimately defeat the point of the proposed steps of reform. If the court systems are not honest about their efficiency, it negates the whole purpose of attempting to fix the issues within the system. If the analysis is not properly done, then the goals will then be ineffective because they will not be accurately based on the specific reform that the individual court system needs.

The second part of the Department of Justice's proposed plan was communication. One of the issues with this portion of the proposed strategy is that it may be difficult for a court system to be able to effectively communicate all parts of the goals to all people involved in the court system. For example, there are attorneys that take cases in different states, or are in and out of different courthouses every day. For these people, it could be difficult to find the time to go through all of the information with them. They also may not be willing to sit through presentations on goals for the court system. There are also so many different moving parts and roles that people have in a courthouse that could contribute to the level of efficiency. The more people that need to be on the same page the more difficult it might be to coordinate meetings and make sure that they are all working toward the same goal.

The third step in the proposed plan is education. The issue with this idea for reform is that training is often seen as a burden. People do not tend to want to attend training sessions and see them as a waste of time. This would also prove to be difficult because not all of the individuals involved are employees of the courthouse. There are defense attorneys that are not being paid by the courthouse; some are paid directly by the clients that they represent. There would need to be some sort of incentive to get people that do not work for the courthouse to attend hours of training, which may be difficult for court systems to afford.

The other problem that may potentially arise is that not everyone is going to take the training seriously and if they are not focusing on the information being presented they are not going to retain the valuable information. If people are not retaining the information that means that they are not able to apply their learnings to their work within the courthouse, making the training less effective. Since this method of reform is in a three-part format it appears that if one step is not followed or completed the other two then seem to fall apart. Based on the issues found within each step of the proposed plan for reform this method may not be as effective as the Department of Justice thinks.

By looking at the valuable ideas and potential problems within the Rhode Island Criminal Justice System and the proposed method of reform published by the Department of Justice it demonstrates that there are many different factors that go into a court system, and it is very difficult to find a balance. It would be un-American to abandon the principle of equality that the American court system was based on. But, on the other hand, it is a fair point that some cases may not need the same amount of time that others do. This raises the question of how to establish exactly how long a case needs to have a quality trial.

C. Proposed Solution:

The gold standard in terms of criminal justice systems is at the federal level. The federal courts are held to a seventy-day window and they stick to it. It is at the level of the states that there needs to be attempts to shorten the amount of time between arraignment and the beginning of a trial. There are many states that have shorter timeframes, but the Commonwealth of Massachusetts could benefit from the implementation of new policies. Massachusetts has a twelve-month limit, which is significantly longer than the federal system. It is within those twelve months that people who are unable to post bail, or denied bail at their arraignment hearing

are left to serve the time before trial behind bars. This directly contradicts the idea of innocent until proven guilty. In an effort to try and minimize this time there are several ideas that could achieve this goal.

I. Priority for Cases Where Bail Was Not Granted

Rhode Island has a similar idea to the plan of having different charges with a different period of time. They break it down by criminal charges where the victims are at risk for further mental distress after the crime and a long period of time between the crime and trial could be especially harmful. The same logic could be applied in terms of cases where people are serving time pretrial. If the court were to prioritize the cases where the defendant is incarcerated pretrial it could significantly reduce the economic, physical and mental health implications that stem from incarceration. In terms of the question of equality, it could potentially be seen as an inequality, but my response to that would be that if someone is being treated as if they are already guilty, the court system owes them an obligation of getting their case to trial as soon as possible. It is more than just a long wait for them, their whole life was completely disrupted when they were arrested and they are forced to remain behind bars and are treated as if they were already found guilty.

For the system to be just, it would need to be based on a specific factor, and whether or not this factor was reached going on a case-by-case basis can lead to biases. The most fair and equal way would be to determine a trial date immediately after arraignment. At the arraignment phase it is determined whether the defendant will be allowed bail. In some cases the right to bail can be denied by the Judge. When this occurs, it is now the responsibility of the court to give the case priority and assign a trial date as soon as possible. This would decrease the amount of time that

individuals are serving behind bars pretrial. Therefore, the many negative effects that were previously mentioned are now avoided or at least decreased by a significant amount.

II. Attempting to Cut the Twelve-Month Period

It is difficult to find a specific amount of time that would make the Massachusetts system more efficient as it is heavily populated and there are several different counties. It would be valuable to conduct a study where different counties' length of time between arraignment and trial are measured. This could lead to the reduction of the 12-month period, making the system as a whole more efficient. If it is found that some counties only need a few months, the Massachusetts statute could potentially be broken down into each county. There will be some variation, due to the population that each county holds but by customizing it based on population and other factors in each county it would be a more effective method of reducing the period.

There will, however be a similar concern regarding the fact that there may be special circumstances that may shift the data. The study should be able to determine an average for each county and the courthouses should attempt to remain within the period that was determined based on the average length within that county. This could be a helpful approach because Massachusetts has significant variation between sections of the state. For example, Boston and the surrounding cities have a larger population when compared to Cape Cod or Western Massachusetts. The one size fits all time period of twelve months is not doing all parts of the system justice. If the more populated counties need the twelve months in some situations that is different than allowing that time period for every single case. Middlesex County and Suffolk County do not need to be given the same amount of time, by customizing the guidelines it will increase efficiency as a whole. This would also allow for counties to make changes within their systems such as hiring more judges, in order to adhere to the new guidelines.

III. Consistent Monitoring of Efficiency

After establishing an average time for each county, there should be an authority that consistently monitors the data from each county. This way it will ensure that the new guidelines are being adhered to and that the court systems are not falling back into old habits. If there are no consequences for noncompliance with the new guidelines, there is no reason for the systems to make the changes they need to. Within the Department of Justice's plan, it appeared to leave many steps up to the systems themselves. This is not necessarily an effective method because the system has no consequences if they do not follow the guidelines and all forms of measuring their success with the new steps is left completely up to them. There is no outside surveillance to ensure that the systems are working towards making their systems more efficient, which ultimately defeats the purpose of attempting to reform a criminal justice system. To see an improvement within the system there needs to be an outside authority within the court system responsible for monitoring data from the courts.

VII: Conclusion

The delay in the Commonwealth of Massachusetts Criminal Justice System has many negative effects. These include the economic implications, physical and mental health problems as well as the strain on personal relationships. There have been several attempts within other systems to try and combat these problems by resolving the delay. There is no one size fits all approach to a criminal justice system. To specifically address the issues within the Massachusetts system there are three specific changes that could be made in order to minimize the delay in the Massachusetts system. The first step is to ensure that cases where the defendant is incarcerated pre-trial have priority and reach trial in a timely manner. This would be a large improvement for the system because it limits the negative effects that stem from being incarcerated.

The second part of my proposed plan is to divide the state by county and create a timeframe based on the averages and populations of each county. Customizing a time limit for each county, will allow each to be able to adhere to a set of guidelines created for them, not just the large time frame of twelve months that the state follows. The third step is to appoint someone within the court system to serve as a supervisor for the counties to make sure that they are following their guidelines. Without someone enforcing the new rules there is a chance that the court system will not make any necessary changes and relapse into the old less efficient strategies.

Although it is broken up into 3 steps, the first step on its own would contribute a large amount to decreasing the negative effects that are a result of pretrial incarceration. The second and third steps are coherent with each other. Therefore, step two wouldn't be as effective without step three supporting it. In order to maximize the efficiency in the Commonwealth of Massachusetts, it is crucial that there be reform of some sort within the system. The three steps outlined above would be able to decrease pretrial incarceration and provides methods for long term reform within the Massachusetts Criminal Justice System.