

Judges found to reduce sentencing when presented with full social and financial cost of incarceration

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In the U.S., the direct monetary cost of incarcerating a single inmate averages \$33,000 per year, according to the Vera Institute of Justice. But that number doesn't include collateral consequences, like financial strain on the offender's family, difficulty offenders have in finding employment after release and the increased likelihood they will offend again once released.

Judges aren't always given this full picture of the potential financial and social consequences of their sentencing decisions. Instead, they are given presentencing reports that are produced by prosecutors and focused only on the benefits of incarceration.

But what if judges were given a fuller picture of the impact of their decisions? In a new study published in the journal *Frontiers in Psychology*, researchers found that judges gave significantly shorter sentences in a hypothetical case when given both the potential negative cost and social consequences of incarceration than those who were not.

"We found that a mere awareness of financial considerations in a decision like punishment is enough to change a [judge's](#) decision about sentencing," said Eyal Aharoni, assistant professor of psychology, philosophy and neuroscience at Georgia State University. "We might think judges are familiar with the financial and social costs of incarceration, and they probably are, but putting it in front of them at the time of a sentencing decision made a big difference in what punishment they decided to hand down."

In the study, 87 Minnesota state judges with at least six months of experience on the bench were given a fictional case of aggravated robbery, where an adult defendant had already been found guilty. The research team chose Minnesota because of the state's fairly strict sentencing guidelines. Participants were recruited from virtual workshops in the Minnesota Annual Conference of State Judges held in

December 2021.

The judges were split into two groups. One group was given a case summary, which included details of the crime, such as use of a deadly weapon and prior offense. In Minnesota, per state statute, these two factors mean the presumptive sentence would involve time in prison.

The second group was given the same case summary with an additional statement about the negative consequences of incarceration, including [financial burden](#) on taxpayers, emotional and financial burden on the defendant's family, reduction in the defendant's ability to find employment when released, and increased odds that the defendant will commit other serious crimes in the future.

The group of judges who saw the second statement about negative financial and social consequences gave sentences 15.87 percent shorter than those judges who did not see that information.

"Even with restricted ranges of sentencing guidelines, we still find an effect within this range," Aharoni said. "We assume that judges have already formed opinions on appropriate punishment and that presenting them with this information wouldn't make a difference, but it did."

This is only the second study examining cost framing on professional judges, according to the researchers. Most previous research has focused on how it affects the opinions of the general public and prosecutors. In fact, in a previous study published in *Frontiers in Psychology* in November 2021, Aharoni and fellow researchers found that exposing prosecutors to the cost of incarceration reduced sentencing recommendations by 30 percent.

"If prosecutors stand to gain by showing that they're tough on crime, then why were the prosecutors so receptive to the cost information?" he

said. "One answer is they are willing to recognize the difficult tradeoffs that are inherent in their sentencing recommendations, but they need a little nudge."

This isn't just in theory, either. In California, where one year of incarceration per inmate costs \$106,131 a year, Assembly Bill 1474 would require the disclosure of sentencing cost information to judges at the time of [sentencing](#), appearing along with the expected benefits of the sentence in the presentencing report.

The bill is an "effort to increase transparency, and present just another piece of information so judges aren't basing sentences solely on the benefits of incarcerating someone," Aharoni said. It passed in the California State Assembly in July 2021 but has yet to be taken up in the State Senate.

More information: Eyal Aharoni et al, Nudges for Judges: An Experiment on the Effect of Making Sentencing Costs Explicit, *Frontiers in Psychology* (2022). [DOI: 10.3389/fpsyg.2022.889933](https://doi.org/10.3389/fpsyg.2022.889933)

Eyal Aharoni et al, Correctional "Free Lunch"? Cost Neglect Increases Punishment in Prosecutors, *Frontiers in Psychology* (2021). [DOI: 10.3389/fpsyg.2021.778293](https://doi.org/10.3389/fpsyg.2021.778293)

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