

Ending This Place of Torment:

A Framework for Transforming the Criminal Justice Continuum

by Dr. Douglas E. Wood

The Aspen Institute Forum for Community Solutions
September, 2019



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Austin Lawther

For All Inquiries, Please Contact:

The Aspen Institute
2300 N Street NW 8th Floor
Washington, DC 20037

Phone: (202) 736-5800

Fax: (202) 467-0790

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About the Author

Dr. Douglas E. Wood is a Senior Fellow at the Aspen Institute Forum for Community Solutions, with a focus on justice, equity, and opportunity. From 2011-2018, he was a program officer at the Ford Foundation on the Youth Opportunity and Learning team and for nearly two years served as Acting Lead of the foundation's global Higher Education for Social Justice initiative, managing grants in the U.S., Colombia, Peru, Chile, Southern Africa, Egypt and China. Prior to joining Ford, he was Executive Director and Chief Education Officer of the Tennessee State Board of Education, chair of the Basic Education Program Review Committee that oversees Tennessee's \$3.2 billion K-12 budget, a member of the Tennessee Higher Education Commission, an appointed commissioner on the Education Commission of the States, a Fellow at the Elliott School of International Affairs, The George Washington University, executive director and principal investigator of the National Academy for Excellent Teaching, Teachers College, Columbia University, and Associate Dean at Eugene Lang College of Liberal Arts, The New School.

Dr. Wood began his career as a public school teacher and while a graduate student at Harvard, worked as a consultant with the Urban Superintendent's Program, the World Bank's Office of East Asian Affairs, and taught at the John F. Kennedy School of Government. Dr. Wood received the 2018 Alumni Council Award for Outstanding Contributions to Education from the Harvard Graduate School of Education and is a board member of the Partnership for College Completion. Dr. Wood holds a B.A. degree in History from Wofford College, a master's degree in English from Middlebury College, and a master's and doctoral degree from Harvard University. He is a member of Phi Beta Kappa and holds the honorary degree of Doctor of Letters from Middlebury College.

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Executive Summary

Housing nearly twenty-five percent of the world's prisoners, the United States incarcerates more individuals than any other nation. Undergirding this fact is the long-term history of structural racism that has disproportionately impacted people of color, low-income individuals and underserved communities in spatial concentrations of incarceration and poverty (Travis, Western, and Redburn, 2014). A spatial concentration is a measure of how densely particular groups are situated in a geographic or residential location. For the purposes of this report, at-risk and justice-involved youth as well as incarcerated and formerly incarcerated adults are the subjects of focus (particularly women, girls, juveniles, and undocumented migrants). The numbers are stark:

- 2.2 million people in the U.S. are incarcerated;
- one-fifth of the U.S. population (over 70 million people) has a criminal record (Cohn, Mukamal and Weisberg, 2019); and
- nearly 6.7 million adults are under some form of correctional control including 3.6 million on probation and 870,000 on parole (Jones 2018).

Over 40,000 state laws lay out barriers to employment, housing, voting, and education. In addition, a myriad of other obstacles contributes to stigmatization and second-class status for returning citizens. Our broken pretrial apparatus results in many with bails too high for them to pay thus leaving them to languish in jails and prisons. The current bipartisan momentum around criminal justice reform calls for innovative, creative approaches and practices that recognize what can be called the “criminal justice continuum.” Defined as continuous sequences in which adjacent segments differ un-perceptibly from each other, the continuum’s components are both connected and interstitial in nature with one segment bringing about causal effects on others. Looking at each segment (front, middle, and back) allows for a close examination of evidence-based and promising practices, policies and research within each.

The Front of the Continuum (Preventing And Decreasing Justice Involvement)

Within the criminal justice field, research, practice, policy and funding have focused primarily on the “front” of the continuum. In order to reduce mass incarceration in the United States, the priorities of the work have focused on preventing individuals from getting justice, involved in the first place and providing alternatives to incarceration for those who are. A number of evidence-based and promising practices have emerged nationally including:

MACRO (FEDERAL)

- Mandatory minimums should be eliminated at the federal level;
- Possession of drugs should be decriminalized and become part of a comprehensive health-based rehabilitation drug program at the federal level;

MESO (STATE)

- Mandatory minimums should be eliminated at the state level;
- Possession of drugs should be decriminalized and become part of a comprehensive health-based rehabilitation drug program at the state level;
- Cash bail should be eliminated for non-violent offenses and comprehensive pretrial supports should be developed;

MICRO (COMMUNITY)

- School districts and schools should continue to focus on eliminating exclusionary disciplinary policies that result in expelling students;
- Youth detention centers and jails should be eliminated by minimizing out-of-home placements;

- Evidence-based and promising alternatives to incarceration such as diversion programs—embedded within communities—should be initiated, particularly where there are spatial concentrations of incarceration; and
- Indigent defense should be strengthened—particularly for undocumented migrants—and increasingly become part of strategies focused on criminal justice transformation. These strategies should also include participatory/holistic defense models that involve communities and families as integral partners in the process.

The Middle of the Continuum (Inside Prisons and Jails)

The middle of the continuum—or what happens inside prisons or jails or other forms of confinement—is critically important. Although there are a myriad of issues related to this segment of the continuum such as solitary confinement and legitimate concerns over public vs. private prisons, for the purposes of this report, the focus will be on access to high quality education. Access to higher education for incarcerated individuals is particularly critical both while in prison and during reentry. A number of evidence-based and promising practices have emerged nationally including:

MACRO (FEDERAL)

- Pell Grants for incarcerated students should be fully restored. In general, restrictions on federal student aid eligibility are removed for formerly incarcerated individuals, including those on probation, on parole, or residing in a halfway house;

MESO (STATE)

- Solitary confinement should be banned;

In the development of statewide policy and practice recommendations, Delaney, Patrick and Boldin suggest the following:¹

- Top corrections officers and administrators should convey to staff their commitment to higher education in prison and devise channels for students to speak with one another and those in authority;
- Supervision agencies can support successful completion of parole by examining and making changes to conditions of supervision to allow for returning students' needs; and

MICRO (COMMUNITY)

- In the absence of federal or state support for high quality higher education programs, communities should leverage public and private support to establish these programs in local community colleges or universities.

The Back of the Continuum (Reentry into the Community)

Every year, nearly 500,000 returning citizens come home after serving time in prison or jail. Reentry into the community after being incarcerated involves many challenges and barriers. This “back” of the continuum has been rather neglected with respect to public and private investments unlike the front end and middle components of the continuum. Given that two-thirds of those released from prison in the United States will be re-arrested within three years, this part of the continuum deserves critical, thoughtful, focused attention. A number of evidence-based and promising practices have emerged nationally including:

¹ See: Ruth Delaney, Fred Patrick and Alex Boldin. “Unlocking Potential: Pathways from Prison to Postsecondary Education.” New York: Vera Institute of Justice, 2019., pp. 28, 30, 31, 32, 33, 37, 45, 47, 48.

MACRO (FEDERAL)

- A “returning citizens” tax credit at the federal level for families who house and support returning relatives;²
- Government agencies should reduce employers’ paperwork burden for receiving a tax credit to hire a returning citizen;³

MESO (STATE)

- A “returning citizens” tax credit at the state level for families who house and support returning relatives;
- Continuity of medical and mental healthcare with Medicaid enrollment happening prior to release (this again is an example of connections across the continuum with individualized exit plans suggested while people are incarcerated);⁴
- States should identify ways to provide employers with previous work performance;⁵

MICRO (COMMUNITY)

Scholars have focused on studies that use randomized control trials or natural experiments, particularly those that evidence successful reintegration in communities specific to recidivism, employment and education attainment. Highlights include:

- The intensity of community supervision should be decreased;⁶
- Transitional and ongoing support in the form of employment, housing, healthcare (including substance issues and mental disorders), and continuing education; and

- Cybersurveillance predictive policing must be closely examined and monitored by communities in catchment areas of their use (Hu, p.129).

The programs examined here do not exhaust attempts and solutions that have been tried. However, they do provide a sampling that can be applied in designated neighborhoods or other geographic regions of “concentrated disadvantage” (Sampson, et.al. 2018). It is important, therefore, to recognize that each segment of the continuum (front, middle and back) cannot be addressed as discrete parts; each part of the continuum must be addressed simultaneously and seamlessly applied within the contexts of communities where there are spatial concentrations of high rates of incarceration (Travis, et al. 2014).

² Western.

³ Hunt, et. al.

⁴ Western.

⁵ Hunt, et.al.

⁶ See: Jennifer L. Doleac. “Strategies to productively reincorporate the formerly-incarcerated into communities: A review of literature.” Texas A&M University, 2018.

Introduction

All is dark, cold, chilly and dismal. Reader, be careful and take warning from one who has passed through the iron gates of sorrow and trouble. Take warning, lest you also come to this place of torment.

—Austin Reed, circa 1858

Austin Reed's memoir titled; "The Life and the Adventures of a Haunted Convict" is the earliest known prison memoir by an African-American writer. Republished in 2016, the book recounts African-American life and incarceration in the 19th century. Reed's words are not only a reflection of his experiences while being incarcerated, these words provide a metaphor for what happens to a people who perpetuate and accept a carceral state. Housing nearly twenty-five percent of the world's prisoners, the United States incarcerates more individuals than any other nation. Undergirding this fact is the long-term history of structural racism that has disproportionately impacted people of color, low-income individuals and underserved communities in spatial concentrations of incarceration and poverty (Travis, Western, and Redburn, 2014). A spatial concentration is a measure of how densely particular groups are situated in a geographic or residential location. For the purposes of this report, at-risk and justice-involved youth as well as incarcerated and formerly incarcerated adults are the subjects of focus (particularly women, girls, juveniles, and undocumented migrants). The numbers are stark:

- There are 2.2 million people incarcerated;
- in 2017, African-Americans represented 12% of the U.S. adult population but 33% of the sentenced prison population; Caucasians represented 64% of adults but 30% of prisoners; and Latinos represented 16% of the adult population, but 23% of inmates;⁷

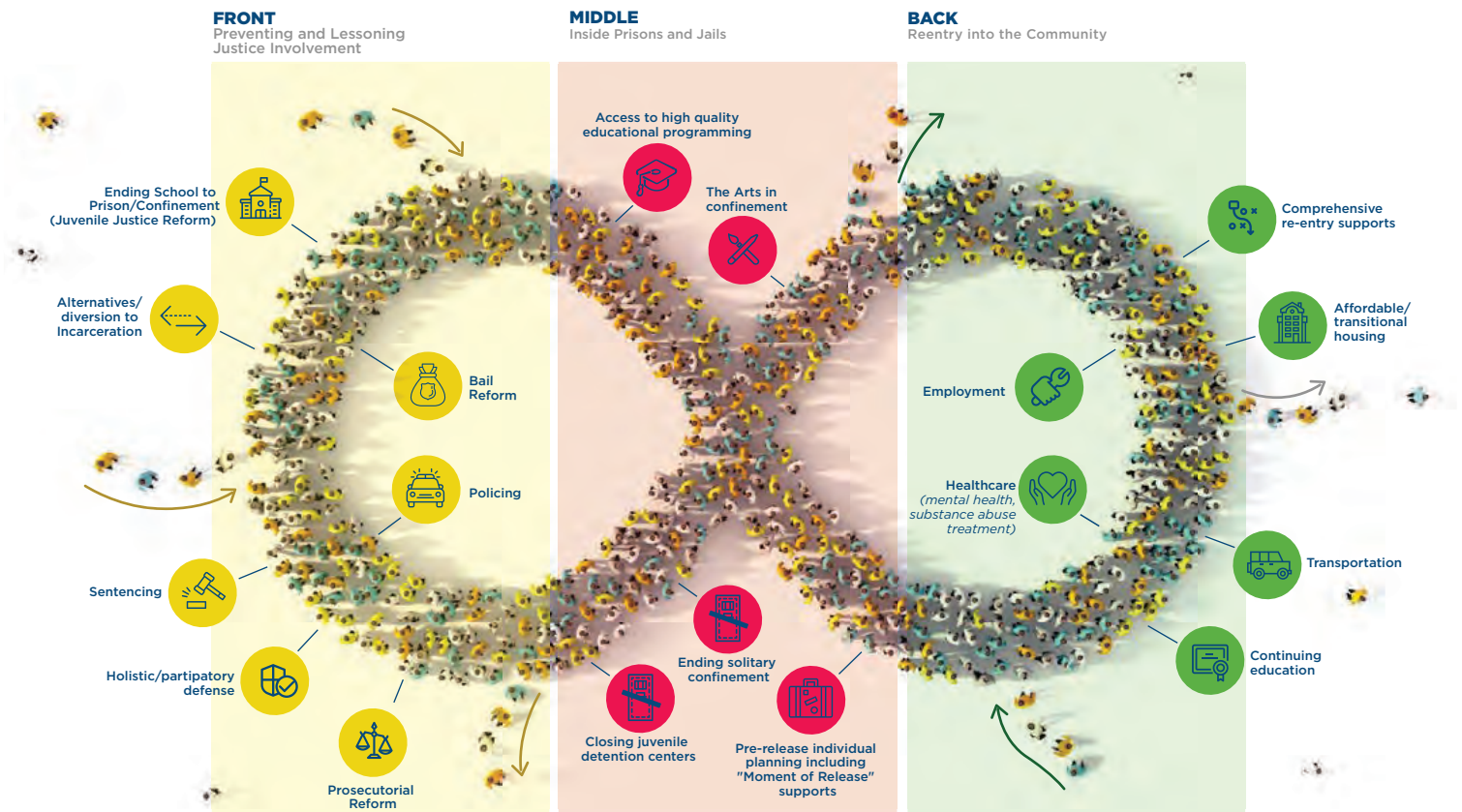
- there are 2.8 million children who have at least one parent who is incarcerated);
- 60,000 young people, primarily of color, are involved with the juvenile justice system every day in America;
- an average of 500,000 people get out of prison every year with little or no access to continuing education, housing, employment, transportation and healthcare, which contributes to high recidivism;
- one-fifth of the United States population (over 70 million people) has a criminal record (Cohn, Mukamal and Weisberg, 2019);
- And even more disturbingly nearly 6.7 million adults are under some form of correctional control including 3.6 million on probation and 870,000 on parole (Jones 2018).

Over 40,000 state laws on the books in states lay out barriers to employment, housing, voting, and education. In addition, a myriad of other obstacles contributes to stigmatization and second-class status for returning citizens. Our broken pretrial apparatus results in many with bails too high for them to pay thus leaving them to languish in jails and prisons. Those who have mental disorders, disabilities, and chronic illnesses rarely receive proper treatment in jails or prisons. Finally, the continuing use of solitary confinement, and the increase of women, girls, juveniles and undocumented migrants within the criminal justice system is a clarion call to seek creative solutions.

The current bipartisan momentum around criminal justice reform calls for innovative, creative approaches and practices that recognize what can be called the "criminal justice continuum." Defined as continuous sequences in which adjacent segments differ un-perceptibly from each other, the continuum's components are both connected and interstitial in nature with one segment bringing about causal effects on others. These segments, embedded within causal

⁷ Source: U.S. Census Bureau, Bureau of Justice Statistics

Criminal Justice Continuum



Continuum design by Austin Lawther
Image source: Getty Images/iStock photo © 2019

sequencing allow us to examine evidence-based and promising practices, policies and research that have the potential to disrupt the sequences that contribute to mass incarceration. It is imperative to understand and name specific segments of the continuum. But it is also important to recognize that we must look upon these segments with a holistic lens or systematically. Segments of the continuum must not be addressed as discrete parts; they require simultaneous and applied consideration within communities with spatial concentrations of incarceration (Travis, et al. 2014).

Therefore, this report puts forward a framework to inform the field in ways that demand recognition of the reality of the lived experiences of individuals

caught in what is often an intergenerational cycle of justice involvement. By examining evidence-based and promising practices and research (including programs that have been evaluated through randomized controlled trials or RCTs) and suggesting micro, meso and macro level policies, this report informs the field in ways that encourage a more comprehensive approach to bring about lasting transformation, not just reform, in the area of criminal justice (Sampson, Wilson, and Katz, 2018).

Chapter 1



Picture courtesy of Becoming a Man (BAM)

The Front of the Continuum (Preventing and Decreasing Justice Involvement)

Within the criminal justice field, research, practice, policy and funding, have focused primarily on the “front” of the continuum. In order to reduce mass incarceration in the United States, the priorities of the work have been the following:

- prevent individuals from getting into the morass of the criminal justice system in the first place;
- provide alternatives to incarceration for justice involved individuals;
- reduce the prevalence of racially motivated policing;
- restructure sentencing and bail;
- support prosecutorial reform efforts; and
- support services such as holistic and community-based defense models that result in fewer days, if any, of custodial punishment.

Within this context, a number of evidence-based and promising practices and policies have emerged nationally in local jurisdictions across the country.

Addressing the School-to-Confinement Pipeline and Interventions Preventing Criminal Justice Involvement

The school-to-confinement pipeline contributes significantly to the carceral state in the United States. Let's begin with the facts. According to the United States Department of Education (USDOE) Office of Civil Rights, suspension and expulsion in schools across the country are disproportionately impacting students of color. Black children represent:

- 18% of preschool enrollment, but 48% of preschool children receiving more than one out-of-school suspension;
- are suspended and expelled at a rate three times greater than Caucasian students;

- black girls are suspended at higher rates (12%) than girls of any other race or ethnicity and most boys; and
- students with disabilities are more than twice as likely to receive an out-of-school suspension than students without disabilities (USDOE, 2014).

Recent research has shown that people with disabilities—whether cognitive, emotional, physical, or sensory—are nearly 44% more likely to be arrested by age 28 than those without disabilities. This “disability penalty” is even more significant for African-American men since 55% are arrested by the time they reach the age of 28 (McCauley 2017). Expanding the “school-to-prison” descriptor to the idea of “school-to-confinement” captures the reality of circumstances for young people, particularly girls, who enter the criminal justice system. In fact, “most Black girls experience forms of confinement and carceral experiences beyond simply going to jail or prison” (Morris 2016, p. 12). Morris’ work point out that if we broaden the scope of how we look at girls’ confinement to “include detention centers, house arrest, electronic monitoring, and other forms of social exclusion” much that has been hidden comes to light (p.12). Opportunities for girls of color to experience positive conceptions of themselves is critical to their success.

Working on Womanhood, or WOW has become an effective, evidence-based model yielding positive results for participants. WOW is a multifaceted, year-long group counseling and clinical mentoring program. WOW works to improve social-emotional competencies for girls in 7th-12th grade exposed to traumatic stressors in high risk and under-represented communities.⁸

⁸ <https://www.youth-guidance.org/wow/#>



Picture courtesy of Andover Bread Loaf

If we focus specifically on communities where layers of inequality, poverty, or “concentrated, structural disadvantage” persist, we see economic instability, challenges related to women’s health, violence and lower education attainment (Clear, 2007; Sampson, Wilson, and Katz, 2018; Sharkey, 2013; Travis, et al. 2014).

On the 65th Anniversary of the landmark U.S. Supreme Court case *Brown v. Board of Education*, segregated schools in communities of color had increased particularly for Black and Latino students (Frankenberg, Ee, Ayscue, and Orfield, 2019). The methods by which educators and communities address the social, cultural, economic and emotional needs of vulnerable students of color who face concentrated structural disadvantage determine whether or not the young end up in the criminal justice system or whether or not the intergenerational cycle of poverty will be disrupted. The reality of the lived experiences of young people from communities with spatial concentrations of incarceration, poverty and violence is plainly and simply trauma. Such is especially true for the children of incarcerated individuals. They exhibit behavioral and mental challenges that often include “intergenerational transmission of crime and punishment” (Wakefield and Wildeman, 2014).

A number of evidence-based and promising interventions that seek to address this issue begin both in and out of classrooms. Teachers work hard to ensure that learning occurs and every child is safe. In classrooms and schools throughout the country, a move from a zero-tolerance approach to a restorative justice

approach is taking place that deals with discipline challenges in a humane manner. A restorative justice approach seeks to focus on mediation and agreement rather than exclusionary discipline. Additionally, a myriad of successful models based on cognitive behavioral therapy have undergone RCTs. In many of these programs, young people who may have a propensity or be at risk of involvement in the criminal justice system have been referred for behavioral or emotional challenges by the school or by mental health or child welfare personnel. In some cases, these programs make special efforts to seek out young people who may be at risk.

Unlike many interventions for vulnerable young people, BAM focuses on helping young people consider and change their choices and behaviors, examine their automatic responses, and reconceptualize any given situation differently. In addition to “retrospective/introspective” activities, many of the counselors in the program come from the neighborhoods of participants; the curriculum is “immersive or experiential” including role-playing and skill-building; and youth are matched with a “pro-social” adult, preferably in their community as a form of mentoring (2015).⁹

The term “trauma-informed” care has become prevalent within the context of these programs. Various views speak to this topic. Ginwright argues for “healing-centered engagement” an approach that he contends goes further than “trauma informed” (2018). Ginwright notes that a healing centered approach involves culture, spirituality, civic action, and collective healing. It reflects a holistic perspective; thus, trauma is viewed not simply as an individual experience but examines ways that trauma and healing may be experienced collectively.

⁹ <https://urbanlabs.uchicago.edu/projects/becoming-a-man>

The Andover Bread Loaf Writing Leader program has evidence-based success in engaging youth from economically distressed communities in habits of self-expression and civic engagement. Most of these youth come to civic engagement through poetry and art, but particularly spoken word poetry, which has become a driving force for youth activism in the city of Lawrence. Youth direct political work, conduct action research, and make public policy presentations of their findings across a number of issues salient to the community.¹⁰

Finally, some approaches see the arts as a key mechanism to engage young people who may be vulnerable to criminal activity. In a decade-long ethnographic study of youth in challenging circumstances who participated in the arts outside of school, researchers found that arts-centered environments propel youth through key cognitive, linguistic and socio-relational opportunities for development (Heath and Soep, 1998). The outcomes of this research reveal that involvement in arts-based youth organizations led to improved motivation, persistence, critical analysis, planning and improved health and parental relations (Heath and Soep, p.12).

Within a community of women writers, WriteGirl promotes creativity and self-expression to empower girls. This is a Los Angeles-based creative writing and mentoring organization that spotlights the power of a girl with her pen. At WriteGirl, girls are matched with women writers who mentor them in creative writing. WriteGirl is a thriving community with 200 volunteer women writers serving more than 500 girls annually.¹¹

Alternatives to Incarceration: Diversion

Some scholars now argue that sentencing guidelines should include “the availability of other options (such as diversion programs) that may be capable of producing better short and long-term results than imprisonment can” (Sered 2019, p. 160). A number of promising diversion programs have shown that diverting low-risk offenders to community supervision is highly effective. These include the use of Court deferrals that can lead to reducing recidivism (Doleac 2018). Such programs can be particularly beneficial in their support of at-risk youth.

The Brooklyn Young Adult Court seeks to provide alternatives to prosecution for young people ages 16-24 who are charged with misdemeanors. Overseen by The Center for Court Innovation’s Brooklyn Justice Initiatives program and created in partnership with the New York State court system and the Brooklyn District Attorney’s office, the program enables participants to avoid criminal convictions and incarceration and connects them directly to resources and support in the community.¹²

Choose to Change (C2C) is an effective, evidence-based model that has also yielded positive results for participants. The C2C model is jointly delivered by Youth Advocate Programs, Inc. and Children’s Home & Aid. Referrals are made by community partners that work directly with youth involved in the juvenile justice system and/or who have chronically disengaged from school. C2C aims to build healthy decision-making habits, provides motivation and direction and long-term goals, and helps young people navigate the high-stakes situations they too often encounter in their daily lives.¹³

¹⁰ <https://www.andover.edu/about/outreach/andover-bread-loaf>

¹¹ <https://www.writegirl.org/about>

Using a four-year intervention model, Roca has developed an evidence-based, data driven approach that serves high-risk young people. The model has four core components: (1) Relentless Outreach; (2) Transformational Relationships; (3) Stage-based programming; and (4) Engaged Institutions. Roca has many key partners in their work including police and probation, government agencies, businesses, and community-based organizations.¹⁴

Confinement, Bail and Prosecutorial Reform (Sentencing)

The vast majority of individuals who are confined to jail before trial remain there because they cannot afford bail. This is particularly true for people of color and most acutely for women (Swavola, Riley and Subramanian, 2016). Many of the people who are in pre-trial detention are there for low-level, non-violent offences (Schauffer, et al. 2016). According to the Bureau of Justice Statistics, blacks were incarcerated at a rate 3.5 times that of whites; an estimated 65% of all jail inmates are awaiting court action on a current charge; and 30% are being held for a misdemeanor or a charge other than a felony (Zeng 2018). Scholars warn of the dysfunctional roles created by the bail determination process and suggest reforms to be implemented so as to re-focus bail determinations on flight risk and community safety (Jones 2013, p. 961). These issues are particularly acute for specific populations who are increasingly becoming criminalized: women and girls, juveniles, and undocumented migrants.

In the Vera Institute of Justice's report titled; "Overlooked: Women and Jails in an Era of Reform" the authors write: "Despite recent calls to reform the

criminal justice system in light of increasing numbers of incarcerated people, one trend has received little attention: the dramatic rise of women being held in local jails" (Swavola, et al., 2016). Authors argue that women are increasingly being pulled into the carceral state with jails holding half of all women behind bars (2016).

This phenomenon has coincided with the rise of girls being detained for status offenses and technical violations at higher rates than boys (Morris 2016, Saar, et.al., 2018). With respect to girls, Saar, et.al. write: "Girls are disproportionately involved in the criminal justice system for status offenses at critical stages of the process, including petitions, which initiate a cause; detention; and judicial dispositions that result in out-of-home placement at residential centers, foster homes or correctional facilities" (p. 22). These places of confinement are often designed and built for boys and men and do not consider gender responsive programmatic components (such as a healing centered engagement approach) nor are they *physically* designed in a gender responsive way. For black girls in detention, some have referred to the experience as "criminalized education" where girls "endure hyper-segregated and inferior learning conditions that prevent their full rehabilitation and fail to support their healthy development" (Morris 2016, p. 144). Women and girls who are incarcerated have often faced a lifetime of abuse, trauma, drug addiction, mental health challenges, and violence (Western 2019, p.8). Drug addiction, in particular, should not be treated as a criminal issue but as a health issue. Moreover, breaking family linkages among women who are incarcerated, especially with their children, creates deep moral ambiguities and underscores the segregative character of incarceration (p. 8). The role of women in "incarcerated communities" who are the head of their households is critically important through their support of family members during confinement as well as providing reentry support for returning relatives (Clear, 2007; Western, 2019).

¹² <https://www.courtinnovation.org/programs/brooklyn-young-adult-court>

¹³ <https://urbanlabs.uchicago.edu/projects/choose-to-change>

¹⁴ <https://rocainc.org>

The Young Women's Freedom Center (YWFC) works with girls and women who are in custody, on probation, and who have been justice involved. The Center's focus is on building leadership skills and collective power of girls and women with healing being a major component of the work. The Center not only works to help participants address the way they have been traumatized and oppressed by the system but to also engage in changing the systems that have impacted them.¹⁵

Building on research that suggests that arts programming has a positive impact on the well-being and self-esteem of young people, the Arts for Incarcerated Youth Network is a nine-member organization serving youth in Los Angeles who are in youth detention. Using an interdisciplinary approach to arts programming including spoken word, visual arts, creative writing, music and theater, the network uses the arts to build resiliency and wellness to reduce recidivism of young people and to help transform the juvenile justice system.¹⁷

For more than 30 years, Storycatchers has helped court-involved young people write their true stories to confront and heal the effects of trauma. Youth work with Storycatchers inside incarceration facilities, detention centers and post-release program sites to develop these stories into a fully-realized piece of musical theatre in which the youth perform for their work in various sites. Participants use Storycatchers' award-winning story-writing curriculum to bring out their voices and provide a way for the youth to share their experiences with different communities.¹⁸

With respect to the confinement of juveniles, several key legislative rulings are important. The provisions of Part A of Title I of the Elementary and Secondary Education Act of 1965 was reauthorized in 2015 as the Every Student Succeeds Act (ESSA) and the new provisions of Juvenile Justice and Delinquency Prevention (JJDP) Act was reauthorized as the Juvenile Justice Reform Act (JJRA) of 2018.¹⁶ Youth who are in the juvenile justice system transition a myriad of times during and after their case proceedings, and often experience disruptions and a lack of curricular continuity. Consequently, “more than a quarter of youth housed in juvenile justice facilities drop out of school within 6 months, and only 15% of students in the ninth grade released from confinement graduate from high school in 4 years” (U.S. Department of Education, 2016a). The new provisions of these complimentary laws seek to address the challenges these vulnerable youth face and encourage creative ways that youth can be engaged productively when detained.

The amendments made by the JJRA become effective in FY 2020 (October 1, 2019). These amendments add a number of program areas that states may support with Title I formula grant funds, including: (1) legal representation for juveniles; (2) informing juveniles of the opportunity for records expungement and sealing, and providing them with

¹⁵ <https://www.youngwomenfree.org>

¹⁶ 20 U.S.C. 6311 *et seq* and Pub. L. No. 93-415, 34 U.S.C. § 11101 *et seq*.

¹⁷ <https://www.aiynetwork.org>

¹⁸ <https://www.storycatcherstheatre.org/programs/>

assistance; (3) addressing the needs of girls in or at risk of entering the juvenile justice system; and (4) monitoring for compliance with core requirements and providing training and technical assistance on the core requirements to secure facilities.¹⁹

Additional information required by state plans include:

- policies, procedures, and training must be in effect for staff of juvenile state correctional facilities to eliminate the use of dangerous practices, unreasonable restraints, and unreasonable isolation by developing effective behavior management techniques;
- the evidence-based methods that will be used to conduct mental health and substance abuse screening, assessment, and referral, and treatment for juveniles who request or need a screening or are held for more than 24 hours in a secure facility that provides an initial screening;
- how the state will seek to provide or arrange mental health and substance abuse treatment for juveniles determined to be in need of such treatment; and
- how reentry planning for juveniles will include a written case plan based on an assessment of needs that includes the pre- and post-release plans for juveniles, the living arrangements to which juveniles are to be discharged, and any other plans developed for the juveniles based on an individualized assessment.

The fifth provision in this section of amendments is *critically* important as it links juvenile justice practices with education practice. Moving forward, state plans *must* include an assurance that the agency of the state receiving funds under this title collaborates with the state educational agency receiving assistance under

Part A of Title I of the Elementary and Secondary Education Act of 1965²⁰ to develop and implement a plan to ensure that, in order to support educational progress, the following must be in place:

- student records of adjudicated juveniles, including electronic records if available, are transferred in a timely manner from the educational program in the juvenile detention or secure treatment facility to the educational or training program into which the juveniles will enroll;
- credits of adjudicated juveniles are transferred; and
- adjudicated juveniles receive full or partial credit toward high school graduation for secondary school coursework satisfactorily completed before and during the period of time during which the juveniles are held in custody, regardless of the local educational or entity from which the credits were earned.²¹

Working in 41 states, the Center for Educational Excellence in Alternative Settings (CEEAS) serves as a catalyst for change in the way institutions and communities support young people in or returning from incarceration by maximizing teaching and learning in schools within juvenile justice facilities. Directly and through partnerships with public agencies and community-based organizations, CEEAS equips incarcerated and formerly incarcerated young people with the academic, workforce readiness, and social and emotional skills they need to be free, successful, contributing members of their communities.²²

¹⁹ From “Key Amendments to the Juvenile Justice and Delinquency Prevention Act Made by the Juvenile Justice Reform Act of 2018” United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention, 2019.

²⁰ 20 U.S.C. 6311 *et seq.*

²¹ Ibid, 2019.

²² <https://www.cceas.org>



Picture courtesy of Andover Bread Loaf

Taken all together, these new provisions and amendments required under law in the JJRA should be widely known and distributed by juvenile justice advocates in order to hold their respective state agencies accountable for implementation. These provisions *cannot* be stressed enough. Preferably, youth detention centers and prisons should be closed altogether. With support from the Annie E. Casey Foundation and the Columbia University Justice Lab, the Youth Correctional Leaders for Justice (YCLJ) has as its mission to build a national movement that “aims to shift systems away from the use of punitive sanctions and incarceration and focus instead on a more youth, family, and community-oriented vision of youth justice.”²³ Recognizing the need for public safety, YCLJ recognizes that it may be necessary for some youth to be placed in out-of-home care, but such placements should be temporary, close to home, and provide healing centered approaches to addressing the challenges that a youth may be facing. This work builds upon the current work being done to support adjudicated youth through such programs as Annie E. Casey’s two decade old Juvenile Detention Alternatives Initiative (JDAI), the Learn and Earn to Achieve Potential (LEAP) initiative and Jobs for the Future and Aspen Institute FCS’ “Back-on-Track” model which seeks to support the development of community-centered career pathways for low-income young adults.

Young people who come from families of undocumented migrants face other challenges. With the passage of the Illegal Immigration Reform and Immigration Responsibility Act (IIRIRA) and the Antiterrorism and Effective Death Penalty Act

(AEDPA) in 1996, as well as the policies and practices of successive presidential administrations, the criminalization of immigrants (a category of which are migrants) has increased steadily. Although the Congressional Research Service found that slightly more than 1 percent of undocumented migrants were in prison, classification as a “criminal alien” has expanded to include a “grab bag” of policies and practices that has impacted the lives of undocumented migrants in consequential and detrimental ways (Abrego, et.al 2017, p. 696). Immigration enforcement practices and policies at the federal level, including increased reliance on state and local agencies for information about undocumented migrants, have thrown an unprecedented number of individuals into the detention and deportation system undermining due process, increasing racial profiling and tearing families apart.²⁴ For example, “fast-track” federal court proceedings has resulted in the criminalization of border crossers such that these sentencing programs “allow a federal prosecutor to offer a below-Guidelines sentence in exchange for a defendant’s prompt guilty plea and waiver of certain pretrial and post-conviction rights” (Gorman 2010, p. 479). Although sentences are likely to be reduced, it has allowed “district courts to process more cases and secure more guilty pleas” increasing the number of “criminal aliens” substantially (Abrego, et.al 2017, p.701). Moreover, the numbers of deported immigrants labeled as “criminal aliens” have “not been convicted of a crime, or have only committed relatively minor criminal violations, such as traffic infractions or drug offenses” with “only 3 percent of the 2.6 million immigrants ICE *encountered* through the Criminal Alien Program (CAP)” being convicted of a violent or serious crime (Abrego, et.al 2017, p. 697).

Many argue that the crux of the matter is *prosecutors*. Emily Bazelon makes this point succinctly: “The unfettered power of prosecutors is the missing piece for explaining how the number of people incarcerated in the United States has *quintupled* (*italics hers*) since the

²³ <https://yclj.org>

²⁴ <https://www.nilc.org>

1980s, to a total of almost 2.2 million” (Introduction xxv). Organizations such as Color of Change (who has advocated for voter engagement in the election of prosecutors) has made clear that over 80% of incumbents run unopposed. From the American Civil Liberties Union, Fair and Just Prosecution, to the Fair Punishment Project, all of these organizations have recognized and acted on the following fact about DAs: they are, in fact, gatekeepers between the police and the courts (Sklansky 2019). DAs decide who gets charged and what individuals get charged with. They are the ones who recommend sentencing and negotiate plea agreements and since the vast majority of criminal convictions in this country are the result of plea agreements, DAs are the ones who are negotiating sentences. Never before in the history of the United States has it been more important that reform-minded individuals—who are held to account—be elected to these positions. Of note, there have been some emerging leaders among DAs—on both sides of the aisle—who have committed to prosecutorial reform in their respective local jurisdictions. Among them are: Rachael Rollins (Suffolk County, MA), Kimberly M. Gardner (Circuit Attorney, City of St. Louis), Melissa Nelson (Florida’s Fourth Judicial Circuit), Eric Gonzalez (Brooklyn), Larry Krasner (Philadelphia), Diana Becton (Contra Costa, CA), Mark Gonzalez (Nueces County, Texas).

Participatory/Holistic Defense Models

Many detrimental consequences in communities where there are spatial concentrations of high rates of incarceration result from “structural predicates of racial segregation” across a number of variables and categories (Sampson, Wilson and Katz, 2018). In order to reduce violence, increase public safety and to lower incarceration in these communities, community agency is the most promising first step toward addressing these issues. Termed “collective efficacy,” a neighborhood

creates within itself a level of syzygy among trust, cohesion, shared goals and expectations (Sampson, et al. 1997). Recognizing the need for a different approach to supporting individuals who are justice involved and also considered criminal defendants, communities see that many of these individuals are indigent. Community members can then engage—sometimes on equal footing—with criminal defense lawyers who are often government-provided counsel and can be actively involved in the adjudication process. This model of participatory/holistic defense is emerging in communities all across the country. It is the case that numerous arguments and deliberations center on policing, bail, and sentencing reform, but few give little attention to indigent defense (Anderson, et al. 2018).

The Albert Cobarrubias Justice Project (ACJP) offers training on participatory defense to organizations and public defender offices. In the words of Raj Jayadev, Coordinator of the project: “Eight out of ten people that face the justice system cannot afford their own attorney, so they have a public defender. That means, in short, improving public defense is arguably the *least* talked about, yet statistically significant way, to challenge mass incarceration as we know it” (2014). This is critically important work, particularly since 90% of individuals who can’t afford a long, drawn out legal defense accept a plea deal.²⁵ The participatory defense model is anchored in the community and led by individuals who have had family members in the criminal justice system. These meetings are not “legal clinics” but rather opportunities for families to assemble information and data so as to be able to have a place and a means for the family to have an investment in the outcome of a case.²⁶ Families then use this information to work with public defenders so that they can become more aware of critical life circumstances and biographical information on clients. These meetings also reveal inconsistencies in police reporting and other data that may allow attorneys to represent their clients

²⁵ See: <https://acjusticeproject.org/about/purpose-and-practice/>

²⁶ Ibid.

more effectively. Such a community-informed approach can lead to dismissal of charges as well as reduction of sentences and even verdicts of “not guilty” or appeals of wrongful convictions.²⁷ Today, many communities and local jurisdictions are part of the participatory defense network, all working as participatory defense hubs to challenge the way the country approaches indigent defense.

In the first large-scale evaluation of an holistic defense model (The Bronx Defenders working with the Legal Aid Society), Anderson, et.al, found the following: (1) holistic representation reduces the likelihood of a custodial sentence by 16% and expected sentence length by 24%; (2) over a ten-year study period, holistic defense representation in the Bronx resulted in nearly 1.1 million fewer days of custodial punishment; and (3) concluded that “indigent defense thus deserves a more prominent place in conversations about how to address mass incarceration and future research should examine the effects of this promising model beyond the criminal justice system and in other jurisdictions” (2018).

Summary of Policy and Practice Recommendations (Front of the Continuum)

MACRO (FEDERAL)

- Mandatory minimums should be eliminated at the federal level;
- Possession of drugs should be decriminalized and become part of a comprehensive health-based rehabilitation drug program at the federal level;
- States should be held accountable and monitored with respect to the implementation of new amendments to the JJDP Act, reauthorized as JJRA and the educational requirements for youth in juvenile detention centers as outlined in ESSA;

MESO (STATE)

- Mandatory minimums should be eliminated at the state level;
- Possession of drugs should be decriminalized and become part of a comprehensive health-based rehabilitation drug program at the state level;
- Cash bail should be eliminated for non-violent offenses and comprehensive pretrial supports should be developed;
- States should faithfully implement new amendments to the JJDP Act, reauthorized as JJRA and the educational requirements for youth in juvenile detention centers as outlined in ESSA;

MICRO (COMMUNITY)

- School districts and schools should continue to focus on eliminating exclusionary disciplinary policies that result in expelling students. Instead they need to develop restorative justice practices anchored in trauma-informed and healing centered engagement;
- School districts should develop policies that support trauma-informed and healing centered engagement practices with an intentional focus on gender-responsive approaches so that school personnel are trained properly;
- Positive behavioral intervention systems (PBIS) for students of color and specifically black girls should be implemented in all schools (Also see: “Dismantling the Pipeline: Policy Recommendations to Improve the Child Welfare System’s Response to Girls” (Saar, et. al, 2018);
- Youth who are at-risk must have opportunities for free expression through the arts;
- Youth detention centers and jails should be eliminated by minimizing out-of-home placements. If an out-of-home placement is necessary based on public safety reasons, a community-based, healing centered approach to addressing the needs of youth with particular challenges should be initiated;

²⁷ Ibid.

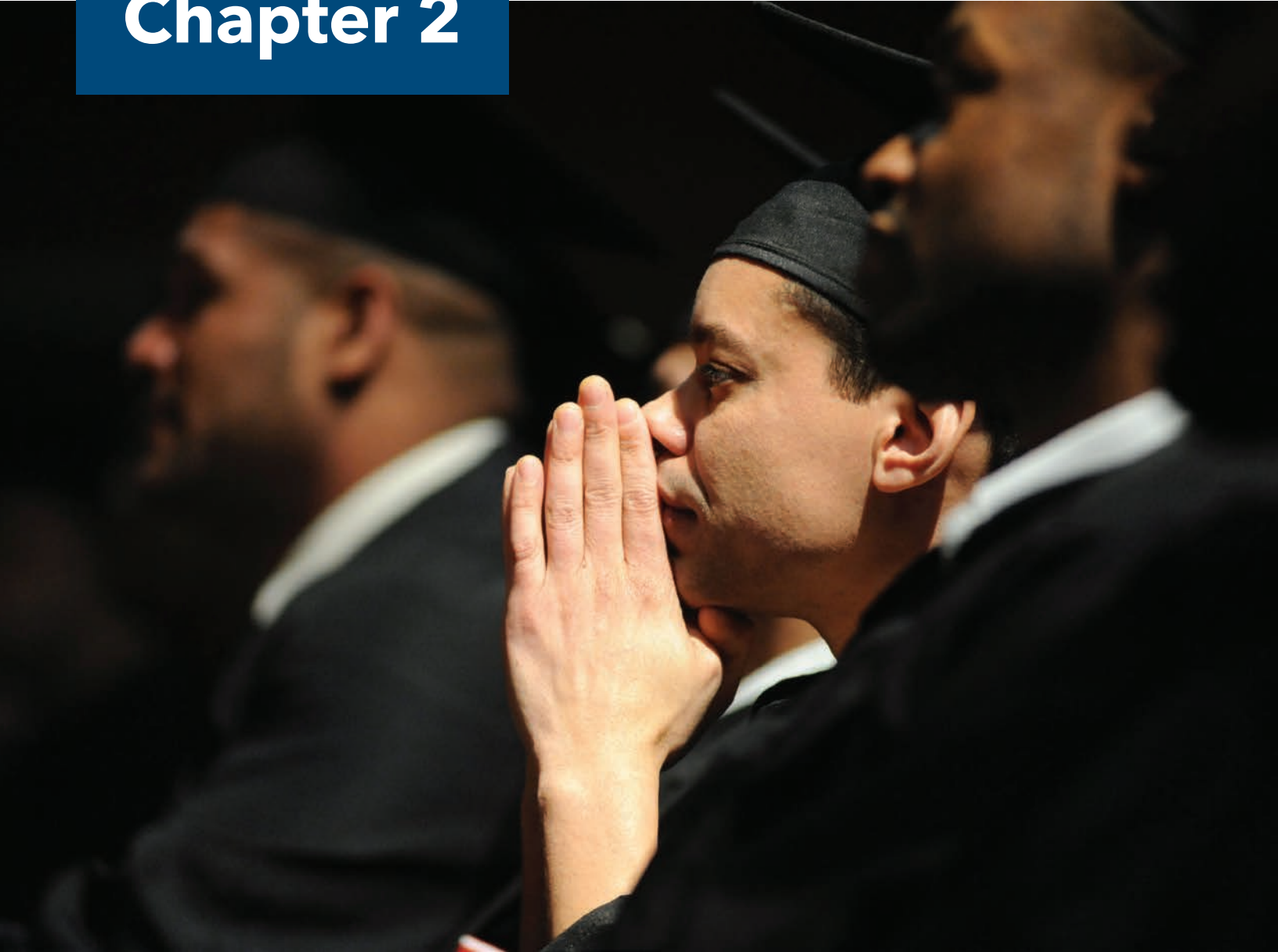


Picture courtesy of Becoming a Man (BAM)

- Evidence-based and promising alternatives to incarceration such as diversion programs—embedded within communities, should be initiated, particularly where there are spatial concentrations of incarceration;
- Jurisdictions should not use risk assessments in pretrial decision-making. However, if these are used, a pretrial risk assessment must never recommend detention. When used to assign community supervision, these assessments should only be used to assign the least restrictive and least onerous forms of pretrial supervision. Assessments must be developed with community input²⁸ and include a “needs” component as part of the tool;
- Communities should mobilize around the selection of forward-thinking prosecutors committed to reducing incarceration and increasing equity and fairness in the criminal justice system; and
- Indigent defense should be strengthened—particularly for undocumented migrants—and increasingly become part of strategies focused on criminal justice transformation. These strategies should also include participatory/holistic defense models that involve communities and families as integral partners in the process.

²⁸ From “The Use of Pretrial Risk Assessment Instruments: A Shared Statement of Civil Rights Concerns” Leadership Conference Education Fund, 2018.

Chapter 2



Picture courtesy of Bard Prison Initiative (BPI)

The Middle of the Continuum (Inside Prisons and Jails)

Ninety percent of the fastest growing jobs require a postsecondary education. Access to higher education for incarcerated individuals is particularly critical both while in prison and during reentry. Without access to high quality programs while incarcerated, members of this population cannot be expected to have the tools they need to break the cycle of intergenerational poverty or to be civically engaged to help renew their distressed communities. Furthermore, disparities in educational attainment between incarcerated individuals and the general population are striking. The gap between prisoners and the general population in postsecondary education is almost twice as high as the gap between the two groups in high school diploma/GED attainment.

With nearly 500,000 people coming out of prison every year—the majority of whom are not equipped with the requisite skills for employment— and with the reduction in prison populations across the country, access to quality educational programming while in prison is increasingly imperative. Beyond issues of employment and recidivism, high quality college-in-prison programs have a democratizing element to them. Education gives incarcerated individuals the tools to become more civically engaged in ways that will allow them to take full responsibility for themselves, their families and their communities. These programs will ideally provide meaningful exposure to the arts to allow for free expression and artistic creativity.

Ellen Condcliffe Lagemann writes; “Today prisons are schools for crime. They must become schools for citizenship” (2016, Introduction). This issue is particularly acute for undocumented migrants who experience “fear and insecurity” while they are in detention or prison for long stays alongside more “serious offenders” where they “are exposed for the first time to illicit social networks, including prison gangs and drug trafficking organizations” (Abrego, et.al. 2017, p. 702). We know full well the alternative when prisons are schools for crime: if a person comes back into a community where there are spatial concentrations of high rates of incarceration, poverty,

and unemployment, formerly incarcerated individuals are more likely to succumb to a myriad of criminogenic risk factors thus contributing to recidivism rates which often reach over 60% in some states and jurisdictions. Scholars note that every year, over 600,000 people enter prison but people go to jail 10.6 million times each year with the churn particularly high because most people in jails have not been convicted (Sawyer and Wagner, 2019). In the previously mentioned Vera report on jails, Swavola, et.al. write that women are among the fastest growing populations in these facilities. It is also the case that “unlike incarcerated men, women in jails are often primary caregivers to their young children” with the vast majority—nearly 80 percent—being mothers and single parents (2016). Lagemann writes about the importance and influence that incarcerated parents—who are in high quality educational programs—have on the education of their *own* children (2016). More than ever, access to high quality postsecondary opportunities for incarcerated individuals is critically important for families and communities.

With the passage of the Violent Crime Control and Law Enforcement Act of 1994, Pell Grants were banned for incarcerated individuals seeking a postsecondary education. The numbers of students participating dropped by nearly half (44%) within a year of Congress’ decision to deny Pell Grants to students incarcerated in state and federal prisons (Tewksbury, et. al. 2008). In the ensuing decade, well over 90% of programs across the country folded. However, thanks to advocates across the country, grassroots organizations and investments from the private sector and foundations, the momentum has steadily grown for the development and implementation of high-quality college-in-prison programs in facilities and for formerly incarcerated people. A renewed interest in this work has resulted in more research on the efficacy of programs. The much-quoted RAND Corporation (RAND) meta-analysis found that education for incarcerated adults reduces the risk of recidivism by 43% with a savings of five dollars on recidivism costs for every dollar spent on education programs in prison (2014). Although more research is needed with respect to long-term outcomes for participants in college-in-prison

programs after release, data such as these are promising. With funding from foundations partnering with state and local jurisdictions in jointly-funded projects, there have been a number of successful statewide systemic programs that were launched: the Vera Institute of Justice's Unlocking Potential: Pathways from Prison to Postsecondary Education Project; Corrections to College California (formerly the Renewing Communities Project); and the federal government's Second Chance Pell project. With the design and implementation of these programs, a great deal continues to be learned about how systemic, high quality programs are developed and sustained while being anchored in higher education institutions and having meaningful partnerships with corrections facilities.

The Vera project, launched in 2011 in the states of New Jersey, Michigan and North Carolina, had four goals:

- increase postsecondary attainment among the incarcerated and formerly incarcerated population;
- increase employability and earnings among formerly incarcerated people as a means of disrupting the cycle of intergenerational poverty;
- reduce recidivism and improve the quality of life in neighborhoods disproportionately affected by crime and incarceration for the purpose of community renewal; and
- build an evidence-based case that creates momentum for systems change and spurs national replication and long-term public investment.

A recent report from the Vera Institute of Justice on the Pathways project describes a myriad of critically important activities carried out in prison and after release based on the Pathways model of combining academic programming with reentry supports (Delaney, Patrick and Boldin 2019). Activities in prison include: credit-bearing or developmental college courses leading to certificates, associate's or bachelor's degrees; academic supports in prison; reentry planning in prison and guidance to make informed choices toward credential attainment after release; and policy and

practices changes (e.g., developing MOUs, prison transfer holds, and the training of corrections staff and faculty (2019, pp. 7-8). Activities after release include: college enrollment, financial aid, and academic supports to facilitate post-prison college persistence in academic course of study through completion and credential attainment; community supervision practices that support persistence in post-secondary education; supporting peer networks of formerly incarcerated people; support of local social service organizations to assist in housing, health care, job placement, mental health and substance abuse treatment; and engagement with government agencies (p. 8). Partners across the three states—including formerly incarcerated students and Vera staff—continue to be engaged with local, state and federal policymakers to advocate for high quality postsecondary and reentry supports for incarcerated and formerly incarcerated individuals.

Corrections to College California (formerly the Renewing Communities project) was based on the recommendations of the statewide model proposed in the report titled; "Degrees of Freedom: Expanding College Opportunities for Currently and Formerly Incarcerated Californians."

The report suggested six guiding principles for the development of a statewide college-in-prison program in California which can be applicable to other states. Those principles include:

- build high quality academic programming both inside and outside custody;
- enable success by prioritizing academic and non-academic support services;
- recruit and invest in qualified and committed staff;
- foster sustainability, through funding, rigorous evaluation, quality control and institutional support;
- build local and statewide networks of programs, faculty, and formerly incarcerated students; and
- shape the policy landscape to support high quality college pathways (Mukamal, Silbert and Taylor 2015, p. 57).



Picture courtesy of Bard Prison Initiative (BPI)

The RFP for the program was made available to California community college districts and California State University campuses across the state which included requirements to address specific program components, staffing, partnerships, capacity, sustainability and engagement in the initiative. Corrections to College California, working with the community college system, the state university system, community-based partners, correctional officers and the California Department of Corrections and Rehabilitation, helped “seed the ground for college programs to spring up in 34 of the state’s 35 prisons” (Delaney, Patrick and Boldin, 2019). The program is also in ten jail facilities in California.

As previously mentioned, the federal government’s Second Chance Pell effort involves a commitment of \$30 million a year for three to five years and will allow 12,000 students across 28 states in state and federal prisons to enroll in colleges annually. This work has been supported across both Democratic and Republican Presidential Administrations indicating the bi-partisan nature of criminal justice reform.

Cal State LA is part of California’s public higher education system. They are one of 23 CSUs. They currently offer the only face-to-face bachelor’s (B.A.) program in California’s prisons. The students are fully matriculated and enrolled at Cal State LA just as all of the other students there. The courses, faculty and degree are exactly the same as on campus. Any B.A. student who is released prior to degree completion is automatically enrolled on campus so that the student can finish the degree. The university provides peer support through Project Rebound, paid work-study and transitional housing.

BPI is a program of Bard College that offers a full rigorous, college education to incarcerated students who work towards associate and bachelor’s degrees from Bard. BPI has grown into a national leader in creating college opportunity in the most unconventional places. A model for replication and the largest program of its kind in the United States, BPI creates the opportunity for incarcerated women and men to engage in serious study and earn college degrees while serving their sentences. BPI also provides intensive reentry support that begins in prison and continues after students return home from prison.²⁹

The Actors’ Gang was founded in 1981 by a group of young actors looking to build a theater that would present relevant and vibrantly entertaining plays. Over the past 38 years, The Actors’ Gang has performed for audiences in Los Angeles and throughout the world, on five continents and in 40 U.S. States. Their groundbreaking Prison Project is currently in twelve California prisons, serving incarcerated women, men and children with rehabilitation programs that significantly reduce the recidivism rate.³⁰

²⁹ <https://bpi.bard.edu>

³⁰ <https://theactorsgang.com>

Summary of Policy and Practice Recommendations (Middle of the Continuum)

MACRO (FEDERAL)

- Pell Grants for incarcerated students should be fully restored. In general, restrictions on federal student aid eligibility are removed for formerly incarcerated individuals, including those on probation, on parole, or residing in a halfway house;
- All forms of confinement should be gender responsive (see reference in front end);

MESO (STATE)

- Solitary confinement should be banned;
- All forms of confinement should be gender responsive (see reference in front end);

In the development of statewide policy and practice recommendations, Delaney, Patrick and Boldin suggest the following:³¹

- Programs must work creatively with policy and resource restrictions. For example, if policy barriers exist to offering credentials designed for transfer, consider front-loading the transferable credits. Front loading the transferable credits that students earn enables them to continue their education upon release;
- In addition to study and research skills, students beginning higher education in prison need a broad overview of the basic requirements to obtain a degree or certificate, including specific coursework and pathways to complete the credential or degree. Students also need guidance to make informed choices with regard to the right course pathway for them leading to either a vocational certificate or degree or a liberal arts degree;

- Colleges and prisons need a plan for how they will acquire, provide and store books and other materials required for students' coursework;
- Prisons hosting college programs need to plan for spaces where students can study away from routine bustle and noise of facilities;
- Students should have internet access, with appropriate security protocols;
- Colleges, universities and corrections need to work together on common goals requiring open channels of communications that are intentional, deliberate and organized including formal agreements about their collaboration and operation;
- Top corrections officers and administrators should convey to staff their commitment to higher education in prison and devise channels for students to speak with one another and those in authority;
- Corrections budgets must reflect investments in intensive assistance to students prior to release;
- Supervision agencies can support successful completion of parole by examining and making changes to conditions of supervision to allow for returning students' needs;
- College and universities in the communities where formerly incarcerated students seek to matriculate must provide targeted support to these students in applying for admission and financial aid; and
- The three Pathways states found that meeting the financial needs of returning students is critical to their success and that many returning students will have a great deal of financial pressure while also trying to meet their supervision and educational requirements.

Other critically important policy and practice recommendations include the following:

- All forms of confinement within local communities should be gender responsive (see reference in front end);

³¹ See: Ruth Delaney, Fred Patrick and Alex Boldin. "Unlocking Potential: Pathways from Prison to Postsecondary Education." New York: Vera Institute of Justice, 2019., pp. 28, 30, 31, 32, 33, 37, 45, 47, 48.



Picture courtesy of Cal State LA
Photo by J. Emilio Flores/Cal State LA

addition to supporting networking and professional development, this individual can also help identify available local, state and federal funding streams, or “braided funding structures” that would help support organizational capacity expenses that fall outside of the funding that may be received through Second Chance Pell or state supported grants to students where applicable. The Chancellor’s office of the California Community College system has such a position.

MICRO (COMMUNITY)

- Incarcerated individuals should have opportunities for free expression and artistic creativity through the arts;
 - Undocumented migrants who are convicted of non-violent offences should not be confined in detention facilities or jails and should be given alternatives to incarceration which would require policy changes at the federal, state and local levels;
 - An individualized exit plan should focus on post-release transition supports that include strategies for access to transitional housing, healthcare (including mental health and substance abuse counseling where appropriate), transportation, employment, and continuing education;
 - Private foundations interested in doing partnerships with municipal, state or the federal government for the establishment of college-in-prison statewide initiatives should be aware of Private Foundation Lobbying Exceptions found in IRS rules and regulations consisting of three components: (1) Jointly-Funded Projects; (2) Nonpartisan Analysis; and (3) Technical Advice.³² Note: Using these IRS rules and regulations allowed private foundations to jointly launch the Renewing Communities initiative, now Corrections to College California with the State of California; and
 - States interested in starting statewide college-in-prison and reentry programs should have a designated person to oversee and support these programs within the office of the State Higher Education Executive Officer (SHEEO). In
- In the absence of federal or state support for high quality higher education programs, communities should leverage public and private support to establish these programs in local community colleges or universities. Access to these programs should include young adults who may be in a detention center, opportunity youth who are not employed, in an educational setting, or training, and returning citizens including those who are formerly incarcerated. These programs should be established in partnership with local law enforcement agencies including prosecutor’s offices, probation, and community-based organizations that support transitional housing, employment, transportation and healthcare.

³² See: Treas. Reg. Sections: 53.4945-2(a)(3), 53.4945-2(d)(1), and 53.4945-2(d)(2) respectively.

Chapter 3



Picture courtesy of Anti-Recidivism Coalition (ARC)

The Back of the Continuum (Reentry into the Community)

Every year, nearly 500,000 returning citizens come home after serving time in prison or jail. Reentry into the community after being incarcerated involves all the challenges and barriers inherent in securing transitional housing, employment, transportation, continuing education, and access to healthcare including mental health and substance abuse treatment. This “backend” of the continuum has been rather neglected with respect to public and private investments unlike the front end and middle components of the continuum. Given that two-thirds of those released from prison in the United States will be re-arrested within three years, this part of the continuum deserves critical, thoughtful, focused attention. With the exception of sporadic justice reinvestment programs in some local and state jurisdictions, there is a critical need for more substantive investments on this end of the continuum. Furthermore, there is a dearth of investments in research focused on evaluating programs that help support individuals when they return home. Based on the work of scholars who have completed research on the efficacy of reentry programs, the following data on what has *not* worked particularly well has emerged:

- transitional jobs programs are ineffective at increasing post-program employment and have little, if any effect on recidivism (Doleac 2018). High demand, well-paying jobs in the private sector, such as construction, reduce recidivism. However, there are other examples of well-paying jobs where barriers need to be removed including jobs that require occupational licensing and the legal profession itself;³³
- ban the box, though important as a means to get people in the door, is ineffective when it comes to increasing employment for individuals with

criminal records and conversely, has produced unintended consequences of *reducing* employment opportunities for young black men who have no criminal records due to employers using other observable characteristics they deem associated with criminal justice involvement such as race, age and gender; and (Note: 35 states and over 150 cities have adopted “ban the box” policies)³⁴

- with regard to housing, although there is little research on this, only *one* study focused on a program to provide emergency financial assistance to returning citizens resulted in reduced re-arrest rates (Doleac 2018).

For many returning citizens, they come back to a community or neighborhood with high rates of incarceration, violence, homelessness, economic insecurity, poverty. These are places with layers of inequality built over generations and exacerbated by decades of neglect and disregard. Travis, et al. write; “Our review of the evidence underscores the fact that incarceration is concentrated in specific places, and the dramatic increases in incarceration have been concentrated disproportionately in those neighborhoods” (2014, p. 283). Scholars describe these neighborhoods as places of “concentrated disadvantage” formed by “the structural predicates of racial segregation” (Sampson, et al. 2018). We *know* where these places and neighborhoods are across the country. One need only look at the work of Eric Cadora of the Justice Mapping Project.³⁵ The project has also launched the interactive Justice Atlas of Sentencing and Corrections which is designed to “contribute to our knowledge of the place-based dimension of incarceration, reentry, and community supervision in states around the country.”³⁶

³³ See: Caroline Cohn, Debbie A. Mukamal and Robert Weisberg, “Unlocking the Bar: Expanding Access to the Legal Profession for People with Criminal Records in California” Stanford Law School, Stanford Center on the Legal Profession and Stanford Criminal Justice Center, July 2019.

³⁴ See: Beth Avery, “Ban the Box-Fair Chance Guide” National Employment Law Project, 2019.

³⁵ <https://www.justicemapping.org>

³⁶ <http://www.justiceatlas.org>

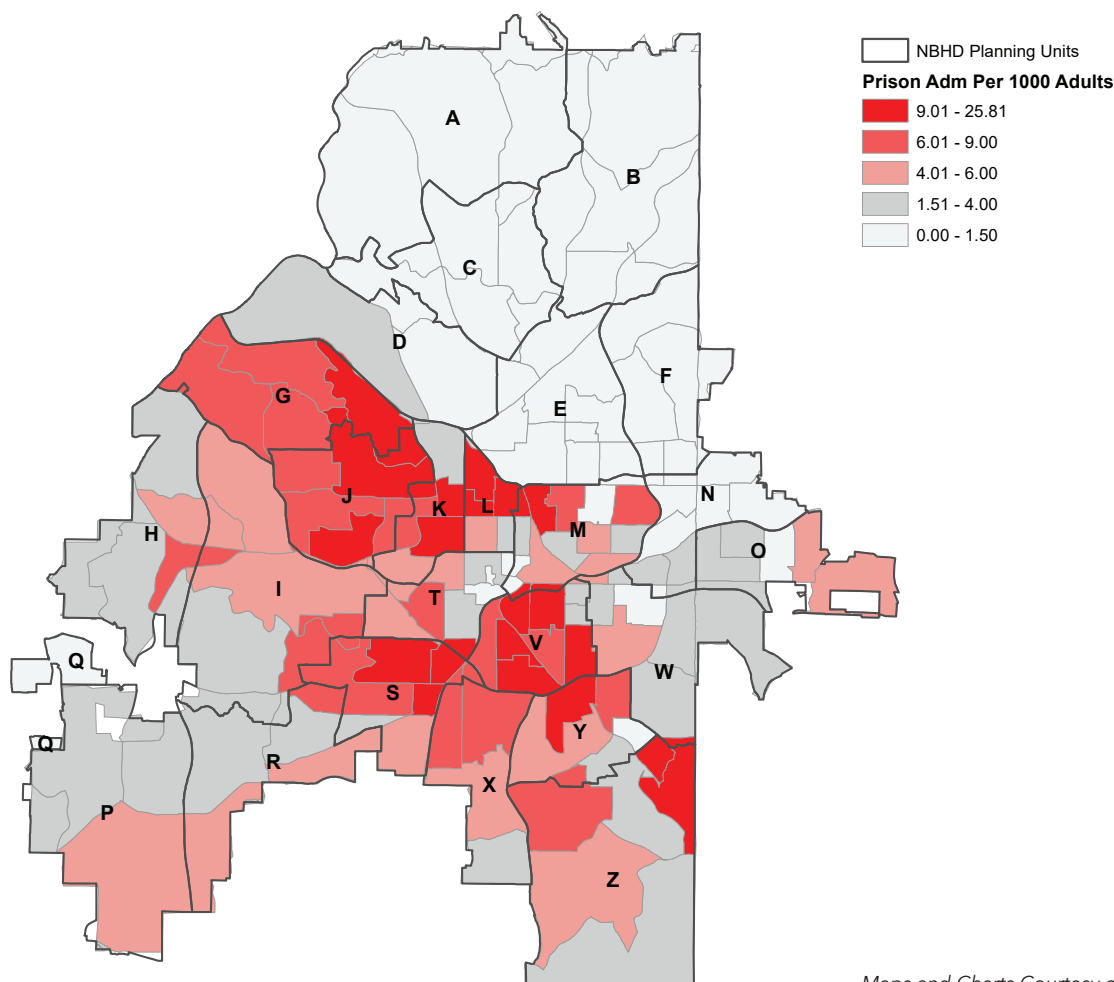
Part of Cadora’s most recent research includes, among others, the cities of Atlanta and Indianapolis. According to Cadora:

Indianapolis has a substantially higher citywide incarceration rate (6.7/1000 adults) than does Atlanta (3.9/1000 adults). Despite this substantial difference, the disproportionate concentration of imprisonment in neighborhood pockets across the city is nearly

identical: In Indianapolis 51.1% of people sent to prison from the city come from neighborhoods where only 22.6% of people live; and similarly, in Atlanta 54.3% of people sent to prison from the city come from neighborhoods where only 27.5% of people live. While race is correlated with high rates of incarceration in only one city (Atlanta) only poverty is closely correlated with high rates of incarceration in both.³⁷

PRISON ADMISSIONS PER 1000 ADULTS (2010) ATLANTA, GEORGIA

by Census Tract of Residence with Neighborhood Planning Units

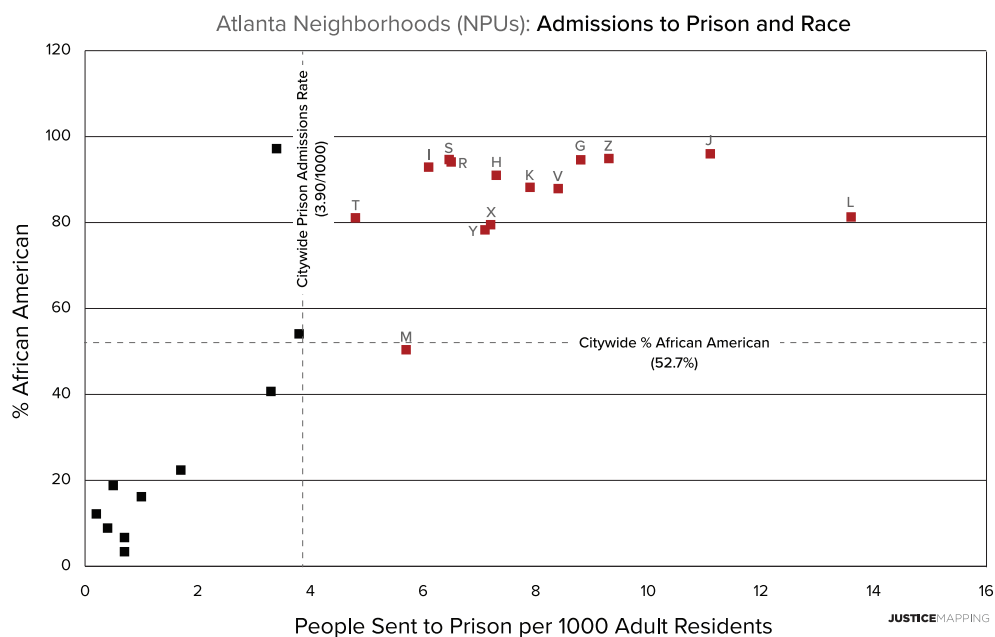
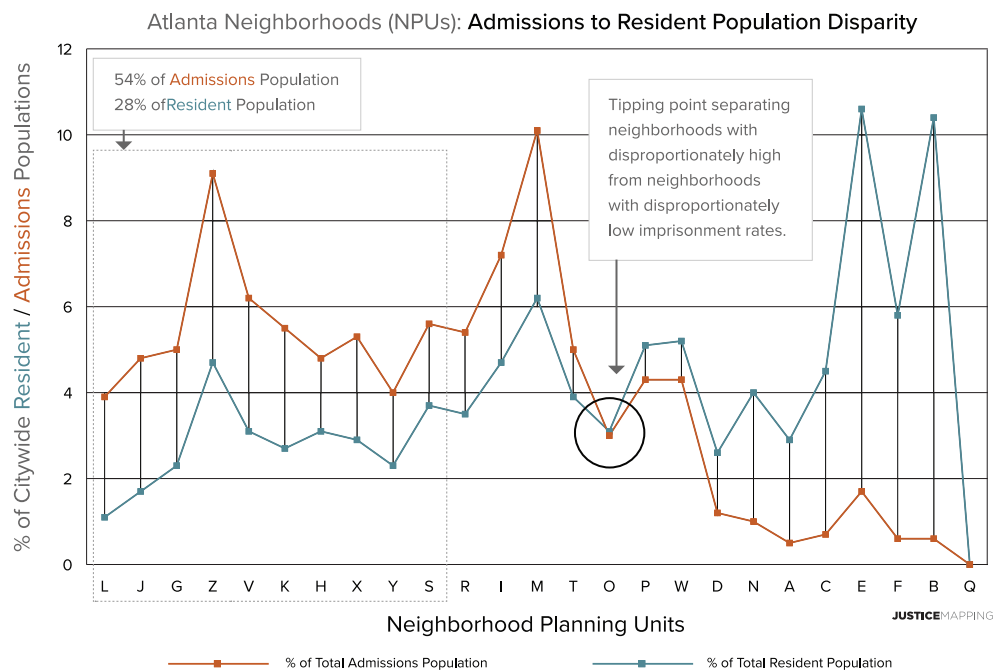


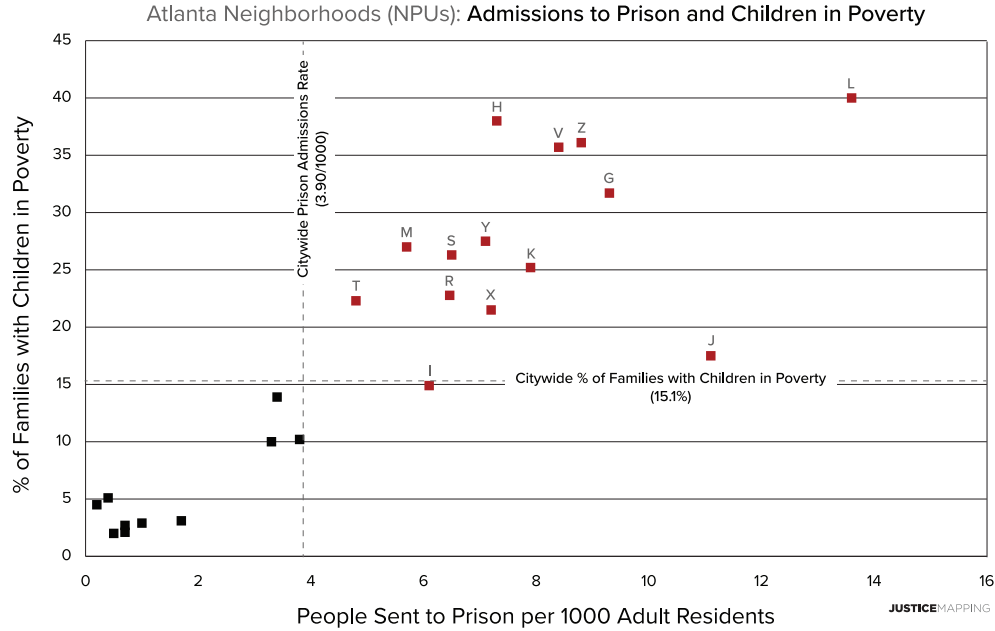
Maps and Charts Courtesy of Eric Cadora

³⁷ Email Exchange, 20 October, 2019.

PEOPLE ADMITTED TO PRISON FROM ATLANTA NEIGHBORHOODS (NEIGHBORHOOD PLANNING UNITS), 2010

Disparities, Race, & Children in Poverty

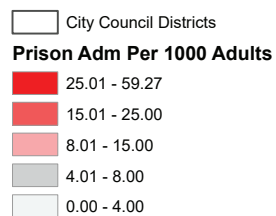
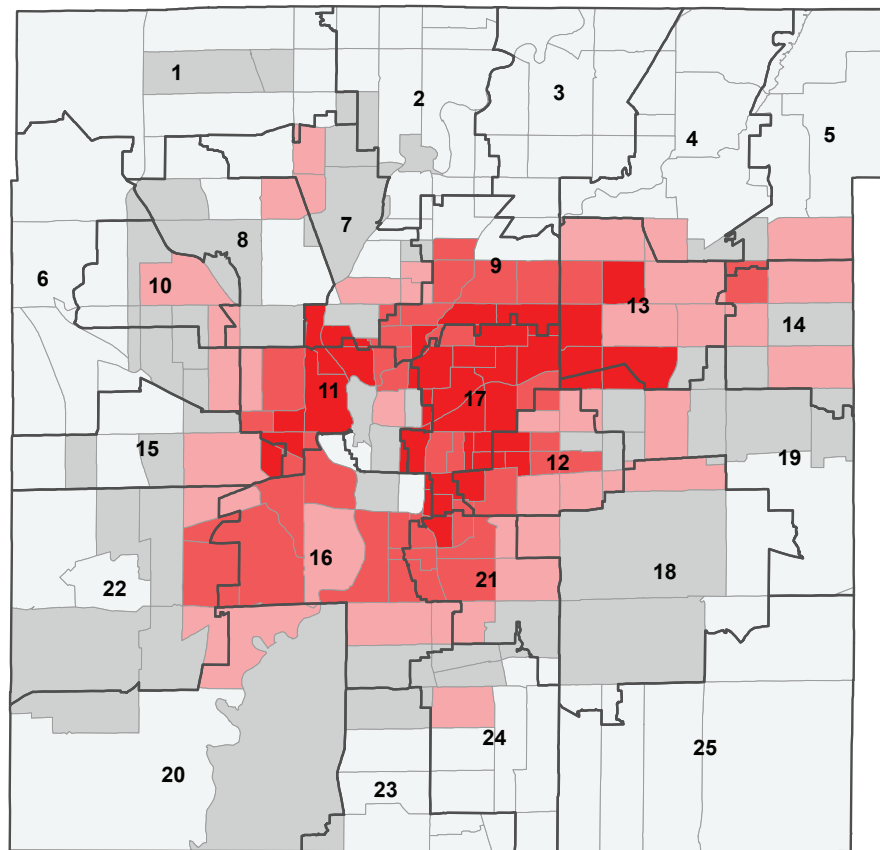




Nbhd Planning Unit (NPU)	No. Prison Entries	Prison Admissions per 1000 Adults	No. Prison Releases	Prison Releases per 1000 Adults	% of Total Admissions Population	% of Total Resident Population	Cumulative % of Admissions Population	Cumulative % of Resident Population	Neighborhood Population	% of Total Population < 18	% African American	Household Mean Income (\$)	% of Families with Children in Poverty
L	54	13.6	45	11.3	3.9	1.1	3.9	1.1	4873	18.3	81.3	15843	40.0
J	66	11.1	82	13.8	4.8	1.7	8.6	2.8	7313	18.8	96.0	28349	17.5
G	69	9.3	68	9.2	5.0	2.3	13.6	5.1	10050	26.2	94.9	25761	31.7
Z	127	8.8	132	9.2	9.1	4.7	22.8	9.8	20681	30.4	94.6	19100	36.1
V	86	8.4	99	9.6	6.2	3.1	29.0	12.9	13440	23.4	87.9	18962	35.7
K	77	7.9	65	6.6	5.5	2.7	34.5	15.5	11629	15.9	88.2	32841	25.2
H	67	7.3	63	6.9	4.8	3.1	39.3	18.6	13523	32.6	91.0	20105	38.0
X	74	7.2	65	6.3	5.3	2.9	44.7	21.5	12837	19.4	79.5	20671	21.5
Y	56	7.1	58	7.3	4.0	2.3	48.7	23.8	9919	20.2	78.3	16920	27.5
S	78	6.5	91	7.6	5.6	3.7	54.3	27.5	16139	25.6	94.1	23398	26.3
R	75	6.5	81	7.0	5.4	3.5	59.7	31.0	15412	24.8	94.2	26114	22.6
I	100	6.1	106	6.5	7.2	4.7	66.9	35.7	20689	21.2	92.9	34428	14.9
M	140	5.7	159	6.4	10.1	6.2	77.0	41.9	26951	8.1	50.4	38157	27.0
T	69	4.8	68	4.7	5.0	3.9	82.0	45.8	17028	15.2	81.1	21695	22.3
O	42	3.8	38	3.4	3.0	3.1	85.0	48.9	13697	18.8	54.1	49326	10.2
P	59	3.4	60	3.5	4.3	5.1	89.3	54.0	22391	23.4	97.2	43036	13.9
W	60	3.3	45	2.5	4.3	5.2	93.6	59.2	22745	20.2	40.7	64314	10.0
D	16	1.7	18	1.9	1.2	2.6	94.7	61.8	11505	16.9	22.4	73096	3.1
N	14	1.0	14	1.0	1.0	4.0	95.7	65.8	17427	16.3	16.2	75011	2.9
A	7	0.7	6	0.6	0.5	2.9	96.3	68.8	12809	24.6	3.4	142720	2.1
C	10	0.7	12	0.8	0.7	4.5	97.0	73.2	19612	23.3	6.7	101760	2.7
E	24	0.5	19	0.4	1.7	10.6	98.7	83.9	46519	6.1	18.8	63227	2.0
F	9	0.4	12	0.6	0.6	5.8	99.4	89.6	25349	19.2	8.9	90829	5.1
B	9	0.2	19	0.5	0.6	10.4	100.0	100.0	45350	15.8	12.2	81073	4.5
Q	0	0	2	0.0	0.0	0.0	100.0	100.0	0	0.0	0.0	0	0.0
SUM	1388		1427		100.0	100.0	NA	NA	437888				
AVG		3.9		4.0						18.7	52.7	52901	15.1

PRISON ADMISSIONS PER 1000 ADULTS (2010) INDIANAPOLIS, INDIANA

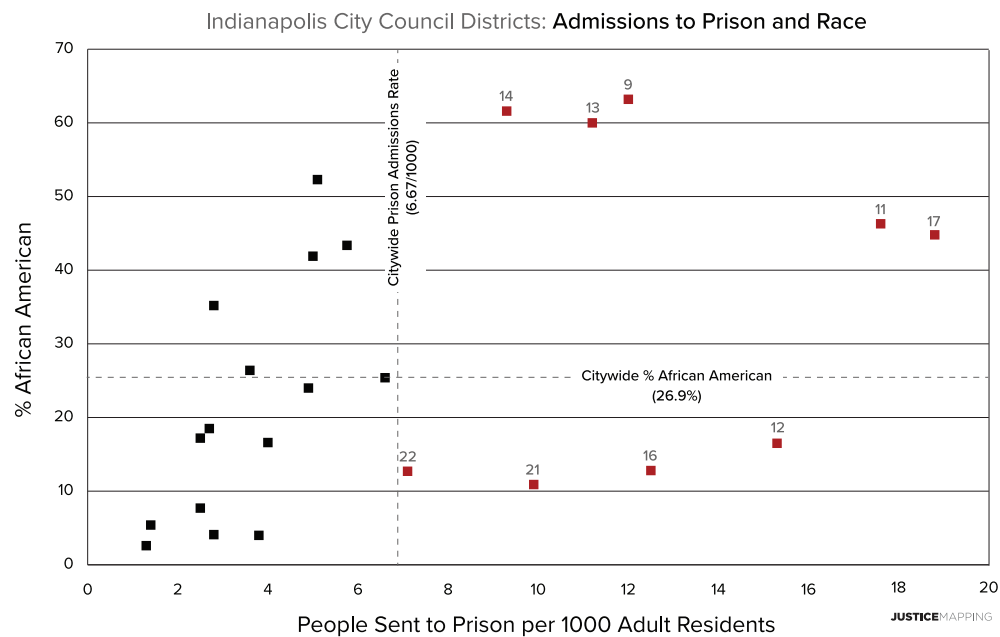
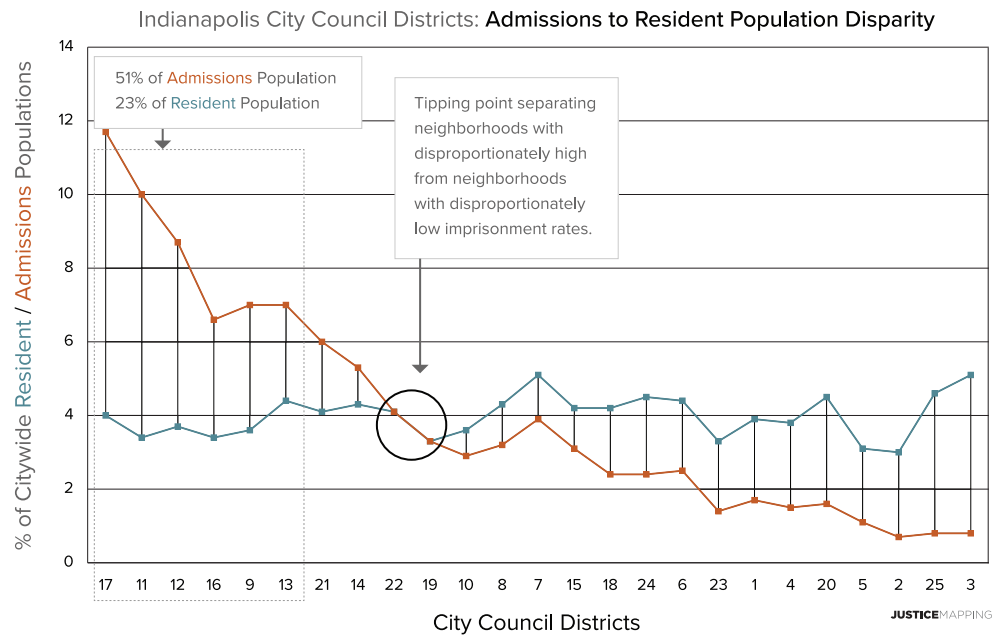
by Census Tract of Residence with City Council Districts

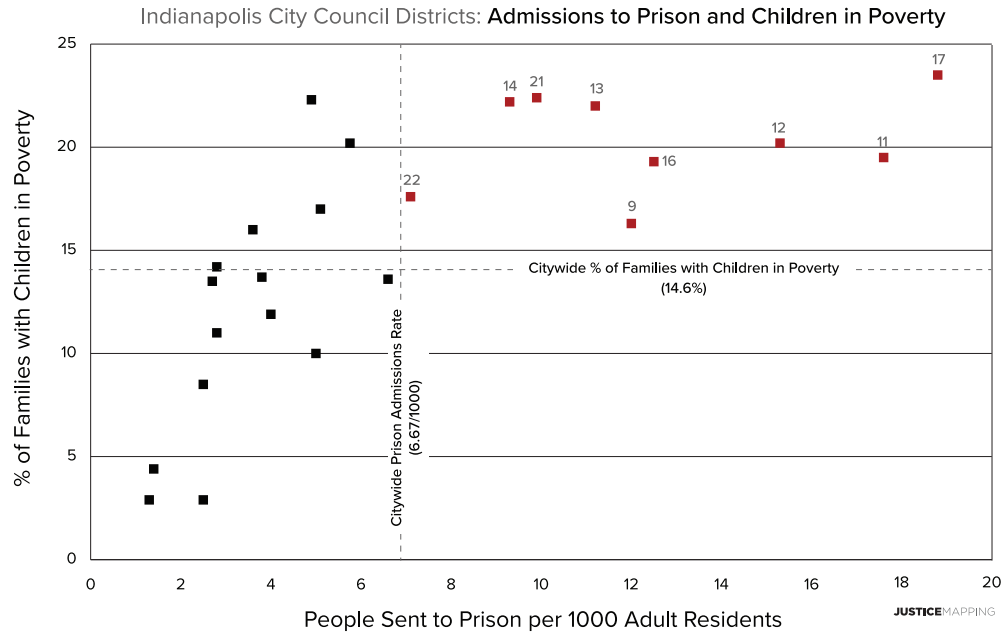


Maps and Charts Courtesy of Eric Cadora

PEOPLE ADMITTED TO PRISON FROM INDIANAPOLIS NEIGHBORHOODS (CITY COUNCIL DISTRICTS), 2010

Disparities, Race, & Children in Poverty





City Council Districts	No. Prison Entries	Prison Admissions per 1000 Adults	No. Prison Releases	Prison Releases per 1000 Adults	% of Total Admissions Population	% of Total Resident Population	Cumulative % of Admissions Population	Cumulative % of Resident Population	Neighborhood Population	% of Total Population < 18	% African American	Household Mean Income (\$)	% of Families with Children in Poverty
17	537	18.8	632	22	11.7	4.0	11.7	4.0	36818	22.2	44.8	26592	23.5
11	462	17.6	523	20	10.0	3.4	21.7	7.4	31105	15.8	46.3	28106	19.5
12	401	15.3	424	16	8.7	3.7	30.4	11.1	34239	23.4	16.5	35118	20.2
16	305	12.5	359	15	6.6	3.4	37.1	14.5	31521	22.8	12.8	32626	19.3
9	323	12.0	386	14	7.0	3.6	44.1	18.1	33052	18.7	63.2	32908	16.3
13	324	11.2	357	12	7.0	4.4	51.1	22.6	40881	29.0	60.0	29659	22.0
21	276	9.9	302	11	6.0	4.1	57.1	26.7	37578	26.2	10.9	28880	22.4
14	243	9.3	226	9	5.3	4.3	62.4	30.9	39122	33.4	61.6	35498	22.2
22	190	7.1	204	8	4.1	4.1	66.6	35.1	37916	29.5	12.7	42796	17.6
19	154	6.6	175	7	3.3	3.3	69.9	38.4	30658	23.4	25.4	41253	13.6
10	133	5.8	149	6	2.9	3.6	72.8	41.9	32731	29.8	43.1	38151	20.1
8	146	5.1	155	5	3.2	4.3	76.0	46.2	39217	27.5	52.3	43342	17.0
7	181	5.0	196	5	3.9	5.1	79.9	51.3	46966	22.3	41.9	51150	10.0
15	141	4.9	150	5	3.1	4.2	83.0	55.5	38672	24.9	24.0	39606	22.3
18	110	4.0	120	4	2.4	4.2	85.4	59.7	38661	28.2	16.6	50709	11.9
24	112	3.8	123	4	2.4	4.5	87.8	64.2	41045	24.5	4.0	45067	13.7
6	117	3.6	115	4	2.5	4.4	90.3	68.6	40883	25.1	26.4	47289	16.0
23	65	2.8	88	4	1.4	3.3	91.8	72.0	30612	23.0	4.1	40391	14.2
1	77	2.8	94	3	1.7	3.9	93.4	75.9	36131	23.2	35.2	50677	11.0
4	71	2.7	82	3	1.5	3.8	95.0	79.7	34632	22.9	18.5	59431	13.5
20	73	2.5	82	3	1.6	4.5	96.6	84.2	41524	30.0	7.7	54907	8.5
5	52	2.5	59	3	1.1	3.1	97.7	87.3	28878	27.0	17.2	82750	2.9
2	32	1.4	50	2	0.7	3.0	98.4	90.4	27915	18.5	5.4	70815	4.4
25	38	1.3	54	2	0.8	4.6	99.2	94.9	42006	29.3	2.6	67965	2.9
3	36	1.0	46	1	0.8	5.1	100.0	100.0	46573	19.7	14.9	53755	7.7
SUM	4599		5151		100.0	100.0			919336	N/A			
AVG		6.7		7						25.0	26.9	45143	14.6

As previously discussed in the sections focused on the front and middle components of the continuum, the issue of surveillance is a constant; it also, in fact, permeates all the way through to the back end. Alternatives to incarceration programs rely on surveillance, yet scholars recommend that conditions of supervision prior to release should be developed in more flexible and less onerous ways. A diverse set of high-quality studies consider the effects of reducing the intensity of community supervision and all found that reducing intensity of supervision (for example, requiring fewer meetings or check-ins with probation officers) has no impact on recidivism rates, and that it actually *reduces* recidivism for low-risk boys age 15 or younger (Doleac 2018). Based on data compiled by the Council on State Governments on probation and parole, 45% of state prison admissions nationwide are due to violations of probation or parole for new offences or technical violations (missing appointments with supervision officers or failing drug tests account for nearly 1/4th of all state prison admissions).³⁸ One can only surmise that onerous, overly intense community supervision mechanisms contribute to re-incarceration. Once a person reenters their community, supervision must not evolve into over-surveillance. For example, although electronic monitoring or biometric surveillance has been used successfully—both in the front end and back end of the continuum to reduce recidivism—this must not be overused in ways that prohibit individuals from contributing to their communities in meaningful ways. The use of biometric surveillance by law enforcement agencies has increased dramatically over the past several years. Emerging big data cybersurveillance tools use a process known as “geofencing” (Hu 2018). Geofencing “draws a virtual [digital] barrier around a particular geographic region, and then identifies and tracks public social media posts within that region for predictive policing purposes” (2018). This type of policing is sometimes referred to as “e-gentrification.” The use of biometric surveillance has become an emerging issue on the front end as well as on the back end of the

continuum particularly for parolees, individuals with criminal records, and undocumented migrants.

Given that returning citizens are often than not returning to these neighborhoods, how can we help them to succeed with the many challenges they have faced and will continue to face including collateral consequences? Further, since older women of color are often the caretakers of incarcerated and formerly incarcerated relatives including children, are there more intentional gender responsive approaches of support that can be implemented within neighborhoods of concentrated incarceration and poverty?

The mission of the Anti-Recidivism Coalition (ARC) is to change lives and create safe, healthy communities by providing a support and advocacy network for, and comprised of, formerly incarcerated young men and women. To accomplish this mission, ARC advocates for fair policies in the juvenile and criminal justice systems, and provides a supportive network and reentry services to formerly incarcerated individuals. ARC serves more than 300 formerly incarcerated young men and women, providing comprehensive case management, supportive housing, mentorship opportunities, education assistance, job training, employment opportunities, and regular support meetings.³⁹

she had nothing to fall back on; not maleness, not whiteness, not ladyhood, not anything. And out of the profound desolation of her reality she may well have invented herself

—Toni Morrison

³⁸ Taken from data compiled by the Council of State Governments Justice Center: <https://csjjusticecenter.org/confinedandcostly/>

³⁹ <https://antirecidivism.org>



Two of the spotlight reentry organizations focus specifically on women and predominately serve women of color. Morrison's quote in many ways, describe participants' lived experiences.

College and Community Fellowship (CCF) was the first organization in the U.S. to put post-secondary education at the center of reentry efforts and it is still the only reentry organization dedicated to women's higher education. In contrast to other reentry agencies that offer such short-term interventions as transitional housing and marginal employment, CCF provides its students a path to long-term economic stability, self-determination, and civic engagement that yields lasting benefits not only for the women themselves but also for their children, extended families, and communities.⁴⁰

A New Way of Life Reentry Project provides housing, case management, pro bono legal services, advocacy and leadership development for women rebuilding their lives after prison. Their mission is to advance multi-dimensional solutions to the effects of incarceration including: providing housing and support for formerly incarcerated women for successful community reentry, family reunification, and individual healing; working to restore the civil rights of formerly incarcerated people; mobilizing formerly incarcerated people as advocates for social change and personal transformation; and helping residents obtain IDs and Social Security cards, apply for public assistance where appropriate, and deal with any outstanding debts, such as child support.⁴¹



Picture courtesy of College and Community Fellowship (CCF)

Summary of Policy and Practice Recommendations (Back of the Continuum)

MACRO (FEDERAL)

- A “returning citizens” tax credit at the federal level for families who house and support returning relatives;⁴²
- Government agencies should reduce employers’ paperwork burden for receiving a tax credit to hire a returning citizen;⁴³

⁴⁰ <https://www.collegeandcommunity.org>

⁴¹ <http://anewwayoflife.org>

⁴² See Western, 2019, pp. 183-184.

⁴³ See Priscilla E. Hunt, Roseanna Smart, Lisa Jonsson and Flava Tsang. “Breaking Down Barriers: Experiments into Policies That Might Incentivize Employers to Hire Ex-Offenders.” RAND Corporation, 2018. https://www.rand.org/pubs/research_reports/RR2142.html.



Picture courtesy of Anti-Recidivism Coalition (ARC)

MESO (STATE)

- A “returning citizens” tax credit at the state level for families who house and support returning relatives;
- Continuity of medical and mental healthcare with Medicaid enrollment happening prior to release (this again is an example of connections across the continuum with individualized exit plans suggested while people are incarcerated);⁴⁴
- States should identify ways to provide employers with previous work performance;⁴⁵
- Combine job placement support with other returning citizen employment incentives such as a certificate of rehabilitation (available in a few jurisdictions but even in California, not accessible until seven years after jail or prison release);⁴⁶

⁴⁴ Ibid.

⁴⁵ Hunt, Smart and Tsang, 2018.

⁴⁶ Ibid.

⁴⁷ Doleac 2018.

MICRO (COMMUNITY)

Scholars have focused on studies that use randomized control trials or natural experiments, particularly those that evidence successful reintegration in communities specific to recidivism, employment and education attainment. Highlights include:

- Cognitive-Based Therapy programs were found to be a cost effective and successful intervention;
- Community supervision programs where low-level offenders had been diverted, were effective;
- Court deferrals, for those who successfully complete probation, reduced recidivism and increased employment; and
- The intensity of community supervision should be decreased;⁴⁷

- Transitional support in the form of healthcare, housing, and other means required for subsistence in first weeks after release;
- Community based programs offer ongoing support for returning citizens in the form of employment, housing, healthcare (including substance issues and mental disorders), and continuing education;

Hunt, Smart and Tsang write about strategies to incentivize employers to hire returning citizens. They suggest:⁴⁸

- Urge returning citizens to use staffing agencies that guarantee replacement workers when initial candidates are not a good fit;
- Employment agencies, probation or parole agencies and reentry programs should work to secure transportation to job sites.

Finally:

- Cybersurveillance predictive policing tools with the goal of identifying a “predilection for disruptive or violent behavior” must be closely examined and monitored by communities in catchment areas of their use (Hu, p.129). Biases can be incorporated into the algorithmic design, data and implementation.

⁴⁸ Hunt, Smart and Tsang, 2018.

Conclusion

In the introduction of this report, an explanation of the continuum concept argues that the strategies suggested within each segment of the continuum (front, middle and back) cannot be addressed as discrete parts; each part of the continuum must be addressed simultaneously and seamlessly applied within the context of communities where there are spatial concentrations of high rates of incarceration (Travis, et al. 2014). We know where these communities are whether we define them in terms of neighborhoods or by zip codes. Policymakers, researchers, community members and activists need to apply evidence-based and promising practices, policies and research together and holistically in designated areas where there are layers of concentrated disadvantage. However, these community-based approaches at the micro (community) level must be supported by the necessary requisite policies and practices at the meso (state) and macro levels (federal). Scholars should continue to examine the criminalization of particular populations in these communities such as women, girls and juveniles. Moreover, researchers should also focus “on carefully tracing the mechanisms and programs used to locate, arrest, and prosecute immigrants under the umbrella of criminalization, as well as the direct impact criminalization has on people” in neighborhoods where they are concentrated (Abrego, et.al 2017, p. 709). Even in this reality, communities can *re-assert* forms of social control through intentional engagement and development of shared social supports through the creation of local organizations that tear away at webs of inequity. This form of “collective efficacy” emphasizes the agency it takes for communities to move from a focus on private to collective ties. Therefore, collective efficacy emphasizes shared beliefs in a neighborhood’s capability for action toward mutual goals (Sampson 2006, p. 39). Equally and critically important is the fact that a neighborhood can decide on shared actions and

gain perspectives and opinions of the victims of crimes. These individuals and families can help shape dialogue and approaches communities can adopt to address criminal justice concerns.

At the same time, communities must be wary of biometric surveillance such as facial recognition which law enforcement agencies increasingly use as another means of “precision policing.” Communities must work with law enforcement to strike the right balance between civil liberties and public safety.⁴⁹ As Michelle Alexander rightly points out, forms of “e-carceration” and “e-gentrification” could be “The Newest Jim Crow.”⁵⁰ For individuals moving into “super cool” gentrified neighborhoods, they are not immune to these potential consequences. Abdallah Fayyad writes; “areas that are changing economically often draw more police—creating conditions for more surveillance and more potential misconduct” leading to “criminalization of gentrifying neighborhoods” (2017). One fact remains: communities and neighborhoods cannot address all of these issues alone. Sociologist Patrick Sharkey argues for a “durable policy agenda” focused on human, social and economic capital investments that involves:

interventions, investments, policies and programs that are designed to be sustained over time, to reach multiple generations of family members, and to be implemented at a scale that makes it possible to transform the lives of families and their communities. The call for durable urban policy is a reaction to a historical pattern in which promising investments in urban neighborhoods have come and gone, implemented for short time frames with resources inadequate to generate transformative change (2018, p. 183).

⁴⁹ Roseanna Ander and Julia Quinn of the University of Chicago Crime Lab Interview, 26 July 2019.

⁵⁰ See: Michelle Alexander. “The Newest Jim Crow: Recent criminal justice reforms contain the seeds of a frightening system of “e-carceration.” The New York Times. 8 November, 2018. <https://www.nytimes.com/2018/11/08/opinion/sunday/criminal-justice-reforms-race-technology.html>

In addition to urban communities, rural communities also suffer from challenges of poverty and drug addiction and must be included in thinking about a durable policy agenda. As overdose deaths rise in these communities, policy proposals must be “focused on health and public safety not punishment and retribution” (Drug Policy Alliance 2017, p. 11).

The programs examined in this report do not exhaust attempts and solutions that have been tried. However, they do provide a sampling of evidence-based and promising practices, policies and research for geographies and regions with high rates of incarceration. If we zeroed in and focused on specific neighborhoods and apply evidence based, promising practices and research with supportive policies—across the continuum—in an aligned, seamless way, imagine how far we could go to end mass incarceration as we know it. This approach would go beyond criminal justice reform: it would be, in fact, criminal justice *transformation*. Real transformation only happens within communities and neighborhoods which have the requisite tools, support, and resources to address mass incarceration or what Jeremy Travis calls “punitive excess” across the reality—or continuum—of their lived experiences. Otherwise, we will continue to exist in a space that is “dark, cold, chilly and dismal” and all of us will ultimately, perhaps through biometric surveillance, “come to this place of torment.”

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