COMMUNITY JUSTICE EXCHANGE

TRANSPARENCY IS NOT ENOUGH

CURRICULUM
This curriculum was created for activists, organizers, advocates, and community members thinking about transparency and access in developing campaigns that target the criminal legal system. The curriculum may also be useful as an introductory resource for people new to this topic. However, for participants not familiar with the criminal court system, it may be helpful for them to visit their local court building and observe public court proceedings before engaging in the workshop.

As desired, facilitators can adapt and tailor each activity to reflect the transparency and access scenarios relevant to their particular locality or community.

**GOALS**

Introduce basic concepts and analytical frameworks so that participants can:
- understand and frame transparency and/or access as a first step — and not the end point — within campaigns for decarceration;
- include in their campaign’s theory of change a rigorous definition of accountability beyond transparency;
- ensure that demands for transparency and access do not produce reformist solutions.

**TIME**

This workshop can last anywhere between 1-4 hours, depending on how many activities you choose to do. You can pick and choose which activities to use based on the available time and the goals of your workshop.

**MATERIALS**

See the Appendix for all materials that should be printed and given to participants at the start of each exercise, including definitions of key terms (Appendix A) used throughout the curriculum.
ACTIVITY 1
PARTICIPANT INSTRUCTIONS

GOAL
Workshop participants are oriented to the space and acquire a basic understanding of workshop purpose, agenda, and who else is in the room.

TIME
15-20 minutes, depending on number of participants.

MATERIALS
None required for this section, unless you want to put community agreements on large paper on easel or blackboard/whiteboard.

FACILITATOR INSTRUCTIONS
Welcome participants to the workshop and provide necessary housekeeping information on the space and facilities. Briefly explain the purpose and goals of the workshop, as well as the agenda for how the workshop will unfold. You may consider setting community agreements (see below). Have each person introduce themselves with their name, gender pronoun (if they want to share), and why they are participating in this workshop (if time allows). You can do introductions as a group, or if time is short, as pair shares. As the facilitator, be sure to share who you are and why you are facilitating this workshop.

FACILITATOR NOTES

- Community agreements are expectations that participants craft and agree to follow together in order to maintain a safe and respectful environment/experience. The facilitator can also draft the agreements ahead of time and ask participants to consent to them. Examples of specific community agreements are “Use I Statements,” i.e. speak from your own experience rather than generalizing, and “Confidentiality,” i.e. you can share lessons learned but keep names and identifiers confidential.
- The term “criminal legal system” or “criminal punishment system” is used instead of “criminal justice system” throughout this curriculum. The term “criminal justice system” implies that the system actually does “justice,” when, in fact, we know the system is built on, reinforces, and exacerbates white supremacy and all forms of structural oppression.
- You may want to designate a timekeeper for each activity.
GOAL
Workshop participants develop working understandings of what a transparent and accessible criminal legal system would look like. In addition, by the end of the section, participants should be able to articulate why, even if transparency and accessibility are achieved, much more would still be required to limit and reduce harm inflicted by the system, particularly on Black, Brown, poor, and immigrant people and communities.

TIME
30-40 minutes

MATERIALS
Big sheets of paper and easel, or a black/whiteboard, with markers.

FACILITATOR INSTRUCTIONS
Walk participants through the below scenario, raising questions around various forms of access and opportunities for transparency. Take time in between each question to allow participants to answer, adding all suggestions to a brainstormed list. After brainstorming is complete, facilitate a short discussion around the final question.

The facilitator begins by reading the introductory prompt and scenario that follows.

Transparency and public access are buzzwords used in organizing and advocacy spaces demanding change to the criminal legal system. We are going to spend a few minutes today brainstorming what we mean when we say transparency and access.

To get us thinking, let’s begin with imagining a scenario. Imagine you had a sibling or a friend was arrested and you decided to go to court to attend their first court hearing. You know that during the first appearance hearing, the district attorney will declare what your sibling has officially been charged with and the judge will decide whether or not to set bail.
• You approach the court building, if the courts were fully transparent and accessible, what, in terms of physical access, should be possible? *Allow time for participants to answer.*

• You are in the court building. If the courts were fully transparent and accessible, what information should you already have about what will happen at this court appearance and about your sibling’s specific case? *Allow time for participants to answer.*

• You are able to enter the courtroom where your sibling will have their hearing. If the courts were fully transparent and accessible, what should you be able to hear and see? What should the quality of the visual, sounds, and pace of the hearing be? What should you be able to understand in terms of what is being said, why decisions were made, and next steps? *Allow time for participants to answer.*

Once the brainstorming is complete, **ASK & DISCUSS**: Let’s say we get all of these things -- things we would consider complete access and transparency -- does that mean that we have achieved justice? Has there been a shift in power? What else might be needed?
ACTIVITY 2
BRAINSTORMING TERMS

FACILITATOR NOTES

Here are some suggestions that could be added to the brainstormed list.

- The public can physically enter court rooms and buildings.
- The public can hear and see what is happening in court.
- The public can understand what is happening in court. They know what a person is being charged with and why. They know whether bail has been set, the reasons behind the decision, what the amount is and how to pay it if necessary.
- The public can easily acquire court records, data, information on defendants and their cases, such as who their attorneys are and what time their hearings will occur.
- The public understands and knows how to navigate court procedures.
- The public is able to locate people being prosecuted at all times.
- The public has open access to the stated policies, procedures, and everyday practices, as well as their resulting outcomes and their impacts on individuals and communities, of actors who have power within the criminal legal system (police, prosecutors, judges, court administration).
- The public has access to the reasons behind why decisions were made.

Key Points to Stress

- It is important that participants understand that transparency and access are not enough. It is possible to have a transparent and accessible system where racial disparities persist and where violence against poor, Black and Brown, LGBTQ, immigrant/migrant individuals and communities continue.
- Transparency does not imply an understanding that what is happening is wrong. Or an awareness of how to change things. Even when things are out in the open, if there is not a shift in power, the status quo will continue to persist.
- While transparency often implies accountability, and there can be no accountability without transparency, transparency does not guarantee that system actors will be held accountable to change.
- The role of organizers is to find places to use transparency and access as the means for accountability or some other intervention. For this reason, transparency or access should not be stand-alone demands.
ACTIVITY 3
CASE STUDY ON VIDEO CONFERENCING TECHNOLOGY & “TRANSPARENCY”

GOAL
Have participants analyze and grapple with real examples from places where video conferencing technology has ignited community pushback and campaigns around transparency and access.

TIME
20-30 minutes

MATERIALS
Printed out introduction and case study (Appendix B).

FACILITATOR INSTRUCTIONS
The facilitator should begin the activity by reading or passing out the introduction (Appendix B) to the entire group. Depending on the number of participants, the facilitator should then divide the group into smaller groups and pass out handouts with the Chicago and Philadelphia case studies (Appendix B). Each group will read the case studies together and discuss the questions at the end. After discussing in small groups, the facilitator should bring everyone together to talk about overarching themes.
ACTIVITY 3
CASE STUDY ON VIDEO CONFERENCING TECHNOLOGY & “TRANSPARENCY”

The facilitator begins by reading the introductory prompt. The facilitator can also print the introduction as a hand out (Appendix B) and have participants follow along.

Video conferencing in criminal legal proceedings and especially first appearance and bail hearings has become widespread, according to a 2015 National Institute of Justice report, which found that over half of states allow for videoconferencing in some types of criminal proceedings. A 2009 survey of pretrial services programs reported that over half (57%) of the surveyed programs use videoconferencing to conduct initial appearance proceedings in particular.

Old systems use closed-circuit systems (CCTV); newer systems are often web-based. The NIJ report states that the cost effectiveness of video conferencing hearings is not proven. Nonetheless, the practice of videoconferencing is expanding, and some courts have turned to video live-streaming technologies to circumvent demands for transparency and public accessibility.

While it is easy to focus on each new technology and its promise or peril in courtrooms, a common theme is that the state adopts technologies in the name of “efficiency” that erode livability for defendants and their loved ones. Reforms that target specific technologies or changes made by courts and jails tend to focus on “due process” and argue for greater transparency. Ironically, these reforms sometimes lead to the expansion of the prison-industrial-complex by securing more funding for tech improvements — instead of building more power for defendants and their loved ones, and creating or strengthening structures that hold courts accountable to the public.

Chicago and Philadelphia case studies can be found in Appendix B. After participants read the case studies, they can discuss the following questions in small groups or together.

QUESTIONS TO CONSIDER

- What are the problems and injustices that you see in the examples from Chicago and Philadelphia?
- What tactics or strategies were used to combat the presence of video hearings?
- How did the tactics or strategies chosen reflect the biases, assumptions, strengths or identities of the actors?
- What are tactics or strategies that were not used but could have been helpful?
- Did power change hands or location in this example?
- Was there a victory? If so, what was it?
- What problems and injustices remain?

1 You can read the full report here: https://www.ncjrs.gov/pdffiles1/nij/grants/248902.pdf
ACTIVITY 4
REFORMIST VERSUS ABOLITIONIST DEMANDS
FOR TRANSPARENCY AND ACCESS

GOAL
Participants understand the difference between a reformist framework and an abolitionist framework and can apply the differences to a scenario involving access and transparency. Participants understand the importance of an abolitionist framework when making demands for transparency and access, so that doing so does not further legitimize or extend the power of the state.

TIME
45 minutes

MATERIALS
Printed out introduction, scenario, and infographic (Appendix C) for each group, pen and paper. The infographic can be given to participants at the end of the activity.

FACILITATOR INSTRUCTIONS
Begin the activity by reading, or passing out, the introductory prompt (Appendix C). Divide everyone into two groups -- one group will be “reformists,” one group will be “abolitionists” -- and each group should read the scenario together. Give each group 15 minutes to respectively draft 2-4 arguments in support of the proposed changes, from the reformists perspective, and 2-4 arguments in opposition, from the abolitionist perspective. After the groups are done, everyone will come together to deliver their arguments orally and discuss what was learned. The infographic (Appendix C) can be given to participants at the end of the activity.
ACTIVITY 4
REFORMIST VERSUS ABOLITIONIST DEMANDS
FOR TRANSPARENCY AND ACCESS

STEP ONE

The facilitator begins this activity by reading the introductory prompt. The facilitator can also print the introduction as a hand out (Appendix C) and have participants follow along.

Whether a particular change to the criminal legal system actually shifts power to historically marginalized and disenfranchised people and communities or, conversely, further entrenches and expands the power of the system, depends greatly on the underlying analysis guiding the change.

An abolitionist framework understands the prison industrial complex as unfixable -- it is inherently unjust and must be dismantled. A reformist framework considers the prison industrial complex as something that is broken, but can be fixed to be made more just and fair through specific changes. Critical Resistance\(^2\) refers to these changes as “reformist reforms:” reforms which continue or expand the reach of the prison industrial complex. Abolitionist steps or “non-reformist reforms,” on the other hand, are reforms which limit or reduce the overall reach and impact of the PIC.

For example, in policing, reducing the size of the police force is an abolitionist step. However, body cameras are a reformist reform because they increase funding to the police as well as increase the potential for the police to surveil more people. They do not reduce the size or impact of the police.

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\(^2\) Learn more about Critical Resistance on their website here: [http://criticalresistance.org/](http://criticalresistance.org/)

Divide everyone into two groups. One group will be “reformists.” One group will be “abolitionists.” Each group will read the following scenario together (also found in Appendix C):

The Mayor just revealed the budget for the City’s next fiscal year. He announced an allocation of new funds, around 10 million dollars, to the city’s criminal court system for various technological and structural improvements. The funding is supposed to address the following problems:

- Because of the vast numbers of people who are arrested, the court schedules were too clogged, and defendants were not seeing the judge for their bail hearing until 2-3 days after arrest. Funding will be invested in a video system so that defendants are video conferenced in from the police precinct and can see the judge within the first 24 hours of their arrest.

- The court’s existing online database is old, difficult to navigate, and updated only once a week. It is impossible for family or friends of defendants to find out what is happening with their case or where they are being detained. Funding will be invested to create a new database —easily accessible by computer and via an app on your phone— with information on defendants’ cases updated daily.

- The lobby of the court building is worn down and old. There is only one wooden bench and one snack machine for the hundreds of community members who spend time there each day waiting for their loved one’s cases. Funding will be invested to make the lobby more welcoming with a hip, modern design. There will be a cafe with fresh food, a welcome desk, and comfy chairs and couches for family members to wait on.

Give each group 15 minutes to draft 2-4 arguments either in support of the proposed changes, from the reformists perspective, or in opposition, from the abolitionist perspective.

- From the reformist perspective, the arguments should address the question: How do the proposed changes make the current system better and more just?
- From the abolitionist perspective, the arguments should address the question: How do the proposed changes fail to limit or reduce the scale of the PIC? What other sorts of reforms would bring greater access and transparency, but not increase the reach of the system?

Have each group read their arguments out loud together and then discuss what was learned.

- How did each side differ?
- Why did they differ?

**FACILITATOR NOTE**

After both sides have read their arguments, you can pass out the infographic in Appendix C which shows different examples of Reformist vs. Abolitionist responses to problems with transparency and access.
Mind Mapping is an activity used to break down problems into manageable parts. When thinking of campaign strategy, it is a helpful activity for brainstorming objectives to lead to the larger campaign goal. In this case, participants will map potential interventions for various challenges around transparency and access presented by bail hearings in a fictional city.

**GOAL**
The purpose of this activity is to help participants understand demands for transparency and access as one part of the larger strategy for decarceration.

**TIME**
40-60 minutes

**MATERIALS**
Big sheets of paper and easel, or a black/whiteboard, with markers. Printouts of the example scenario (Appendix D).

**FACILITATOR INSTRUCTIONS**
Read, or pass out, the example scenario (Appendix D) and then lead participants through the mind mapping activity. The specific directions for the mind mapping exercise are below the example scenario. While there is an example scenario of a fictional city provided, participants are welcome and encouraged to use their own organizing context or situation.
The facilitator begins this activity by reading the example scenario. The facilitator can also print the introduction as a hand out (Appendix D) and have participants follow along. If desired, participants are welcome and encouraged to use their own organizing context or situation instead.

You are a member of a local grassroots organization that seeks to abolish money bail and pretrial detention. Your organization wants to ramp up a campaign to end money bail by targeting judges who set bail at amounts too high for most people to pay. There is an upcoming judicial election, which could be influenced by your campaign and organizing.

To familiarize yourself with what the judges do on a daily basis, you and a few other organizers in your group have started attending bail hearings.

When you enter the court building, you find it very hard to navigate. There are no signs for the rooms where the bail hearings happen, nor a posted schedule for when they should happen. No one is available to help you. Once you find the correct courtroom, you sit in the rows of benches. You see a judge, a district attorney, and a video screen. Defendants are videoed into their bail hearings from the jail; they are not in the courtroom with you or the judge making the decision about their case. It does not appear that the defendants have an attorney to represent them. It is unclear whether the defendant can even hear or understand what is happening. The video is blurry, and the audio is very low. The judge hardly looks at the defendant and often shushes them through the screen.

The hearings feel like an assembly line; each case happens in under a minute. Sometimes you can hear what the defendant is being charged with, and whether they need to pay bail to be released. But often the judge does not speak into the microphone, making it impossible for you to hear. The judge does not provide justification for their ultimate decision to set bail, and defendants are never given an opportunity to contest the bail amount.

Your organization decides to do a mind mapping exercise to understand the relationship between the various problems around transparency and access that you witnessed in the courtroom, and the larger problem that you initially set out to address: Judges detain too many people pretrial.
PART TWO

After reading the example scenario, the facilitator will follow the below steps:

1. Write the central problem the campaign is in the middle of butcher paper(s) or a whiteboard: “Judges set unaffordable bail and jail people pretrial.” Put a circle or square around this.

2. **Ask:** What are the challenges around transparency or access that are drivers or contributors to the central problem? Write these various challenges around the center circle, connecting them to the center circle with a line. There may be connections between the other challenges as well and if so, connect those with a line. For example, “ Defendants and audience cannot hear judges”—“ Defendants cannot contest bail decision.”

3. **Ask:** What are solutions for these individual challenges? As above, around each challenge, brainstorm possible solutions, which, in campaign strategy speak, could also be thought of as “demands.” Challenge participants to name the actors with power involved, also known as “targets,” the people who would be responsible for the change. For example, for the challenge “ Defendants cannot contest bail decision” a solution might be “Judges explain audibly on the record the reasons behind bail decision and allow defendant time to contest the decision.” There are likely many different potential solutions for each challenge.

4. **Ask:** How do we go about achieving these solutions/demands? Explain to participants that this is the opportunity to get creative on multiple levels, even within the limitations of the activity. In some cases, the “how” may be a specific organizing tactic (setting up a meeting with a court official, organizing a protest, designing a court watch effort), in other cases the “how” might require involving other allied organizations to pursue litigation or legislative change. For example, for the solution “Judges explain audibly on the record the reasons behind bail decision and allow defendant time to contest the decision,” one tactic might be “Write a letter to the Chief Judge with this demand and get sign-on from ally organizations and individuals.”

5. After the mapping exercise is complete, **explain** to participants that the crucial point to remember of the exercise is that all aspects connect back to the central problem: that judges detain too many people pretrial. The battle for transparency and access—for defendants, for the public, for organizers, for public defenders—is one aspect of this larger battle and can be a strategic entry point into ensuring decaceral change.
APPENDIX A: KEY TERMS

Criminal Legal System, also referred to as Criminal Punishment System
The term “criminal legal system” or “criminal punishment system” is used instead of “criminal justice system” throughout this curriculum. The term “criminal justice system” implies that the system of law enforcement actually does “justice,” when, in fact, the system is built on, reinforces, and exacerbates white supremacy and all forms of structural oppression.

Prison Industrial Complex (PIC)
As defined by Critical Resistance, the PIC is a term used to describe “the overlapping interests of government and industry that use surveillance, policing, and imprisonment as solutions to economic, social and political problems.”

Abolition
As defined by Critical Resistance, “Prison Industrial Complex (PIC) abolition is a political vision with the goal of eliminating imprisonment, policing, and surveillance and creating lasting alternatives to punishment and imprisonment. Abolition isn’t just about getting rid of buildings full of cages. It’s also about undoing the society we live in because the PIC both feeds on and maintains oppression and inequalities through punishment, violence, and controls millions of people. Because the PIC is not an isolated system, abolition is a broad strategy. An abolitionist vision means that we must build models today that can represent how we want to live in the future. It means developing practical strategies for taking small steps that move us toward making our dreams real and that lead us all to believe that things really could be different. It means living this vision in our daily lives. Abolition is both a practical organizing tool and a long-term goal.”

Reformist Reform
Reforms which only continue or expand the power and reach of the PIC.

Non Reformist Reform
Reforms that limit or reduce the overall reach and impact of the PIC, while also immediately improve existing conditions for people being prosecuted and their communities.

Theory of Change
A Theory of Change is an explanation of how your organization’s or campaign’s activities (what you do) will lead to the change you want to see (your goals). Developing a theory of change typically involves first clarifying your long-term goals and then working backward to determine what conditions are necessary for those goals to be possible.

Strategy
Strategy is your overall plan. Developing a campaign strategy requires defining the problem you are addressing, clarifying your goals and objectives, identifying your targets, and deciding on the tactics that will leverage your power to help you achieve your goals and objectives.

Tactic
Tactics are the specific activities you do to carry out the plan and achieve your goal.

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1 This definition can be found on Critical Resistance’s website here: http://criticalresistance.org/about/not-so-common-language/

2 Likewise, this definition can be found on Critical Resistance’s website here: http://criticalresistance.org/about/not-so-common-language/
INTRODUCTORY PROMPT

Video conferencing in criminal legal proceedings and especially first appearance and bail hearings has become widespread, according to a 2015 National Institute of Justice report, which found that over half of states allow for videoconferencing in some types of criminal proceedings. A 2009 survey of pretrial services programs reported that over half (57%) of the surveyed programs use videoconferencing to conduct initial appearance proceedings in particular.

Old systems use closed-circuit systems (CCTV); newer systems are often web-based. The NIJ report states that the cost effectiveness of video conferencing hearings is not proven. Nonetheless, the practice of videoconferencing is expanding, and some courts have turned to video live-streaming technologies to circumvent demands for transparency and public accessibility.

While it is easy to focus on each new technology and its promise or peril in courtrooms, a common theme is that the state adopts technologies in the name of “efficiency” that erode livability for defendants and their loved ones. Reforms that target specific technologies or changes made by courts and jails tend to focus on “due process” and argue for greater transparency. Ironically, these reforms sometimes lead to the expansion of the prison-industrial-complex by securing more funding for tech improvements — instead of building more power for defendants and their loved ones, and creating or strengthening structures that hold courts accountable to the public.

QUESTIONS TO CONSIDER

- What are the problems and injustices that you see in the examples from Chicago and Philadelphia?
- What tactics or strategies were used to combat the presence of video hearings?
- How did the tactics or strategies chosen reflect the biases, assumptions, strengths or identities of the actors?
- What are tactics or strategies that were not used but could have been helpful?
- Did power change hands or location in this example?
- Was there a victory? If so, what was it?
- What problems and injustices remain?

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3 You can read the full report here: https://www.ncjrs.gov/pdffiles1/nij/grants/248902.pdf
In 1999, Cook County, Illinois (which includes Chicago) centralized bond hearings in order to make them more “efficient” and “cost effective.” At the same time, the county replaced in-person bond hearings with closed-circuit video conferencing (CCTV), so that pretrial defendants seeking release on bond were held in a room separate from the courtroom and videoconferenced into their own hearing. This practice denied pretrial defendants the ability to meet with their public defender in private, and to face, in person, the judge who would decide the terms of their freedom. Friends or family who wished to show support for or testify in defense of a bond applicant were forced to remain in a separate room, which disincentivized some from coming. The quality of the CCTV technology was rudimentary, with extremely pixelated images and significant delays in transmission.

By 2005, several well-respected lawyers delivered a letter to the Chief Judge of the Cook County Circuit Court, laying out the constitutional, practical and human rights concerns of conducting bond hearings via closed circuit TV. The Chief Judge responded by setting up a meeting with the letter’s authors. He expressed concern about the process and gratitude that the issue had been brought to his attention. But months passed without any change, and after realizing that they had been co-opted, one lawyer, a professor at Northwestern, filed a lawsuit challenging CCTV bond hearings. The lawsuit moved beyond a motion to dismiss, but even its main author admitted that the suit’s position was a difficult one to defend legally. Absurd as it sounds, he explained, bond hearings are not considered to be a “critical stage” in the criminal process. The lawsuit’s most effective argument, he said, noted the fact that the quality of the technology was so poor at the time that “it was as if defendant was not there at all.”

The Chief Judge’s lawyers fought the suit vigorously for several months. At the same time, an advocacy group, Chicago Appleseed Fund for Justice, conducted a comprehensive review of felony courts, focusing on the problems of bond court. Chicago Appleseed authored a proposal that stemmed from the report, politely asking the Chief Judge to do what lawsuit asked, except voluntarily.

It was a combination of the lawsuit — which would have required the Chief Judge to depose — and internal pressure from the legal community that eventually led to the Chief Judge’s decision to “voluntarily” abolish CCTV bond hearings and announce the policy change at a fancy legal luncheon.

“There was a certain quality of carrot and stick to it,” the lawyer who authored the suit recalled. “The lawsuit was the outsider strategy. Gentle persuasion was insider strategy.”

The effects of the Cook County CCTV decision went no further than the jurisdiction. Other counties in Illinois continue the practice of video-conferencing bond hearings. Still, the lawsuit’s main author maintains that the efforts to fight CCTV bond hearings were well worth it.

“I did feel like it made a big deal to bring defendants up into the courtroom,” he said. “I sat in the courtroom for video bonds and live bond hearings, and live was definitely better — not great but better. I felt we had accomplished something meaningful.”
Philadelphia

The city of Philadelphia began using CCTV video hearings for bail hearings, or preliminary arraignments, in 1996. Defendants are locked in a cell in jail during their hearing, often flanked by police officers and other people held in jail. From the cell the defendant’s image — generally on mute — plays on a screen in the courtroom where a magistrate and prosecution carry out the legal proceeding. Because the defendant is kept in jail, it is impossible for them to meet privately before or at the hearing with a public defender. If a defendant’s supporters wish to attend the hearing, they must sit in a viewing area that is separated from the magistrate and prosecutor by a soundproof glass wall. The only way for the audience in the viewing area to hear what is happening behind the glass is if the magistrate, prosecutors and defense counsel speak directly into microphones. However, court actors often ignore the microphones. Sometimes they claim that not using the mics is intentional and an effort to protect the privacy of clients. Other times, the microphones are simply turned off.

The defendant whose image is broadcast from jail is often also silenced. The format of the CCTV hearing prevents a person from easily providing personal information or facts of a case that could help at their bail hearing. On-screen and far removed, the defendant is viewed as a disruption at their own legal proceeding.

“Whenever they try to speak in their hearing, they are told to shut up,” one observer from the Philadelphia Bail Fund, a community bail fund that pays bail for people who cannot afford it, described.

Philadelphia Bail Fund volunteers have had limited success haranguing a court supervisor to tell court actors to use the microphones. Philadelphia Bail Fund court watchers — most of whom are law students — have tried tactics to draw attention to the microphone problem, like knocking on the glass partition, and asking for meetings with higher-ups in the courtroom and at the District Attorney and Public Defender’s offices. They’ve also released a report calling out the practice of video conferencing preliminary arraignments overall as dehumanizing and disadvantageous.

“Our goal is to use our status as an established organization and the report to amplify the experiences of our clients,” said one volunteer with the group. “I’m not sure if it’s worked. Not much has changed.”

4 You can read the full report here: https://www.phillybailfund.org/bailreport
APPENDIX C: ACTIVITY 4 MATERIALS

INTRODUCTORY PROMPT

Whether a particular change to the criminal legal system actually shifts power to historically marginalized and disenfranchised people and communities or, conversely, further entrenches and expands the power of the system, depends mostly on the underlying analysis guiding the change.

An abolitionist framework understands the prison industrial complex as unfixable -- it is inherently unjust and must be dismantled. A reformist framework considers the prison industrial complex as something that is broken, but can be fixed to be made more just and fair through specific changes. Critical Resistance\(^5\) refers to these changes as “reformist reforms:” reforms which continue or expand the reach of the prison industrial complex. Abolitionist steps or “non-reformist reforms,” on the other hand, are reforms which limit or reduce the overall reach and impact of the PIC.\(^6\)

For example, in policing, reducing the size of the police force is an abolitionist step. However, body cameras are a reformist reform because they increase funding to the police as well as increase the potential for the police to surveil more people. They do not reduce the size or impact of the police.

EXAMPLE SCENARIO

The Mayor just revealed the budget for the City’s next fiscal year. He announced an allocation of new funds, around 10 million dollars, to the city’s criminal court system for various technological and structural improvements. The funding is supposed to address the following problems:

Because of the vast numbers of people who are arrested, the court schedules were too clogged, and defendants were not seeing the judge for their bail hearing until 2-3 days after arrest. Funding will be invested in a video system so that defendants are video conferenced in from the police precinct and can see the judge within the first 24 hours of their arrest.

The court’s existing online database is old, difficult to navigate, and updated only once a week. It is impossible for family or friends of defendants to find out what is happening with their case or where they are being detained. Funding will be invested to create a new database —easily accessible by computer and via an app on your phone— with information on defendant’s cases updated daily.

The lobby of the court building is worn down and old. There is only one wooden bench and one snack machine for the hundreds of community members who spend time there each day waiting for their loved one’s cases. Funding will be invested to make the lobby more welcoming with a hip, modern design. There will be a cafe with fresh food, a welcome desk, and comfy chairs and couches for family members to wait on.

\(^5\) Learn more about Critical Resistance on their website here: \(\text{http://criticalresistance.org/}\)

\(^6\) Read more about “Reformist Reforms” and “Non-Reformist Reforms” in the Critical Resistance Organizing Toolkit from 2012, found here: \(\text{http://criticalresistance.org/wp-content/uploads/2012/06/CR-Abolitionist-Toolkit-online.pdf}\)
APPENDIX C: ACTIVITY 4 MATERIALS

PROBLEMS WITH COURT TRANSPARENCY AND ACCESS
Reformist vs. Abolitionist Responses

PROBLEM
Because of jail overcrowding, after arrest people are made to wait in detention for over a week before their bail hearings.

REFORMIST
“The courts should video conference bail hearings so that people won’t have to wait so long.”

ABOLITIONIST
“Shrinking the size and scope of the police force and the prosecutor’s office will result in fewer arrests and prosecutions and do away with the overcrowding problem.”

PROBLEM
The court building lobby is old, worn down, and uninviting for the public. In addition, court bathrooms do not meet ADA standards of accessible design.

REFORMIST
“The Governor’s budget should provide the courts with their requested funding increase for infrastructure spending. The lobby should be more welcoming and comfortable for family and community members, and people with disabilities should have accessible bathrooms.”

ABOLITIONIST
“The Governor should ensure less people are ensnared in the criminal court system in the first place, by passing decriminalization legislation and decreasing funding for law enforcement. The court could then reallocate existing funds spent on staff salaries and case processing to redo the lobby and make bathrooms accessible.”

PROBLEM
Due to budget and staffing cuts, in-person visits will no longer be allowed at jails. The jail administrators want to contract with private companies to build video-calling kiosks that will allow families to, for a steep fee, call their incarcerated loved ones.

REFORMIST
“Restore funding to jails so that in-person visits can resume. Negotiate with the video calling companies to lower their rates.”

ABOLITIONIST
“In-person jail visits are a right, regardless of a jail’s budget. When offered, video calling should be addition to in-person visits, and they should be free.”

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APPENDIX D: ACTIVITY 5 MATERIALS

EXAMPLE SCENARIO

You are a member of a local grassroots organization that seeks to abolish money bail and pretrial detention. Your organization wants to ramp up a campaign to end money bail by targeting judges who set bail at amounts too high for most people to pay. There is an upcoming judicial election, which could be influenced by your campaign and organizing.

To familiarize yourself with what the judges do on a daily basis, you and a few other organizers in your group have started attending bail hearings.

When you enter the court building, you find it very hard to navigate. There are no signs for the rooms where the bail hearings happen, nor a posted schedule for when they should happen. No one is available to help you. Once you find the correct courtroom, you sit in the rows of benches. You see a judge, a district attorney, and a video screen. Defendants are videoed into their bail hearings from the jail; they are not in the courtroom with you or the judge making the decision about their case. It does not appear that the defendants have an attorney to represent them. It is unclear whether the defendant can even hear or understand what is happening. The video is blurry, and the audio is very low. The judge hardly looks at the defendant and often shushes them through the screen.

The hearings feel like an assembly line; each case happens in under a minute. Sometimes you can hear what the defendant is being charged with, and whether they need to pay bail to be released. But often the judge does not speak into the microphone, making it impossible for you to hear. The judge does not provide justification for their ultimate decision to set bail, and defendants are never given an opportunity to contest the bail amount.

Your organization decides to do a mind mapping exercise to understand the relationship between the various problems around transparency and access that you witnessed in the courtroom, and the larger problem that you initially set out to address: Judges detain too many people pretrial.