# THE JUSTICE COLLABORATORY

## Yale Law School

# THE NOTEBOOK

# The Notebook

# Contents

# Variations on a Theme

**Letter from the Executive Director**

Hello, and welcome to the inaugural edition of *The Notebook*.

This collection of art, scholarship, opinion, and insight are presented to you as variations on a theme—community vitality. Community vitality is the holistic state of well-being, including the economic strength, social cohesion, and public safety that impacts both individuals and the collective. This concept serves as the bedrock for fostering a just society in which the strength of communities directly correlates with their safety, health, and prosperity. In the simplest terms, strong communities are safe communities.

*The Notebook* was created to hold a divergent space in a traditional world, existing somewhere between academic journal and popular magazine. We're accustomed to the phrase "ivory tower" because too often the academic elite and their ideas remain inaccessible to the general public. Decades of advocacy, analysis, and thoughtfulness are trapped inside traditional modes of sharing. Our hope is that *The Notebook* will subvert that paradigm. It provides an interdisciplinary set of perspectives all tackling the same idea—because we recognize community vitality as the common thread though all our efforts and we believe in the power of collaboration to create a future where people are intentional and critical about the systems we've built.

While compiling pieces for *The Notebook*, I reflected on existing theory and research around wellness, social cohesion, and collective efficacy. I thought of research The Justice Collaboratory did in New York City where we measured and compared the influence of community members judgments and civic participation on the city's perceptions of safety, legitimacy, and procedural justice. Among the main findings, the study concluded that neighborhoods are an important part of New Yorkers' identities and lives—71% of respondents strongly agreed that community matters. They reported relying heavily on local services and valuing positive relationships with neighbors and a "sense of community". Essentially, in order to feel safe, they needed to experience the components of social cohesion *more* than criminal legal intervention. This metric highlights the importance of addressing communities as a whole in addition to addressing individuals.

Developing the theory, and then a practice, of community vitality means we must confront the profound misunderstanding of the future we are creating by perpetuating outdated norms.

Rather than reforming what isn't working, we are committed to reframing an approach to justice that strengthens what does work, including increased access to quality education, healthcare, shelter, jobs, and improved legitimacy of the criminal legal system.

Like most theory, the concept may seem abstract or impossible to implement specially when structural design has served as a generations old barrier to progress—but the following pieces circumvent that assumption and provide tangible examples of employing an approach that works.

Finally, I am most thankful for the contributors' generosity. I am struck by their depth of curiosity and openness for sharing new work in a novel way. It was replenishing to witness the creation of something infused with such promise. From original art and poetry to neuroscience and history, they covered it all with intention and candor. To the contributors, your commitment to putting yourself out there in new spaces is the first step in reaching broad audiences and building an abundance of information to propel us forward.

**Caroline Nobo**
*Executive Director*
*Research Scholar in Law*
*The Justice Collaboratory*
*Yale Law School*

# About Empirical Poetry

**By Monica Bell**

These two poems, "Dirty House" and "What It Meant to Love My Son," are two pieces of a larger collection of empirical poetry developed from interviews with fifty Black mothers living in subsidized housing in Washington, DC about their experiences with legal authorities.

Empirical poetry combines qualitative social science with poetry. Qualitative social science aims, in part, to describe and theorize broader social phenomena by engaging in deep, detailed analysis of a relatively small number of cases. While qualitative scholars intensely debate how scientiftic qualitative work should be, qualitative social scientists at least share a commitment to empiricism, believing that data is an important basis for knowledge. Meanwhile, poetry aims to connect the reader to the emotional content of experience, usually the personal; in Audre Lorde's words, poetry is the "revelatory distillation of experience," a means of "giv[ing] name to those ideas which are … nameless and formless, about to be birthed, but already felt" (Lorde, 2007, pp. 36–37). Both forms name ideas, yet the ideas coined in social science emerge from logos, while the ideas identified through poetry are concerned with pathos. Empirical poetry aims to unify logical and emotional knowledge.

As social scientific vignettes, these poems report situations that are common across the sample and in the context of urban Black motherhood, more generally. "Dirty House" is about the fear of being investigated and having one's children removed by a child welfare agency, or what critical scholars increasingly refer to as "family policing" (Roberts, 2022) or the "family regulation system" (Polikoff & Spinak, 2021; Williams, 2020). This was a common concern across the sample. More than half of the women I interviewed told me directly that they had been investigated by DC's Child and Family Services Agency. The pervasiveness of child welfare involvement is not a quirk of the sample, as this figure is eerily in step with research estimating that slightly more than half of Black American children experienced a child welfare investigation between 2003 and 2014 (Kim et al., 2017). This finding is best interpreted by understanding the correlation between Blackness and poverty in urban America, the overlap between poverty and circumstances categorized as child neglect, and the more general use of surveillance as governance in Black and poor communities (Pac et al., 2023; see also Browne, 2015; Soss & Weaver, 2017)

"What It Meant to Love My Son" is about perceived police nonchalance after a family member's killing and the importance of private retaliation for conveying the love people had for this family member. About one-fifth of the mothers I interviewed spoke openly about losing an immediate family member to interpersonal violence, usually gun violence. All were disappointed in the police response to those deaths. This is an unsurprising finding given persistent low homicide clearance rates which, in the context of Black poverty and segregation, contribute to a sense of estrangement from legal authorities like police (Cook & Mancik, 2023; see also Bell, 2017; Li & Lartey, 2022).

As poems, these pieces render visible the emotional content of motherhood under the disciplinary and panoptic eye of the child welfare system coupled with the perceived nonchalance and corruption of those the state has tasked with keeping these mothers and their loved ones safe and holding wrongdoers accountable. These poems report common scenarios among this population, but they equally emphasize the particularities of these women's experiences in ways that hopefully connect the reader to the speaker at a human level, so that the reader can not only know what the speaker is saying but gain empathetic understanding of their specific experience. This last piece is a critical point of overlap between the ambitions of poetry and the commitments of sociology:

> As Max Weber explained many decades ago, one of the central goals of sociology is to produce verstehen, or subjective understanding of social action, that the researcher "can adequately grasp the emotional context in which an action took place" (Weber, 1922/1968, p. 5).

Through empirical poetry, then, the "author" is largely an editor and curator, with the goal of helping the reader and the speaker deeply connect, with two purposes—(1) ensuring that the speaker is truly seen by the reader, and (2) allowing the reader to gain a richer understanding of social scientific insight. This approach to writing is distinct from traditional social science scholarship, in which authors are primarily conveying their own ideas and interpretations of data, usually with sporadic use of source material to illustrate findings. The researcher has a subtler authorial presence: the questions asked, the themes coded, and the implicit theoretical insights

that emerge from the poems are aspects of authorship but not its entirety.

In empirical poetry, the words used in the interview are the entire body of words used to create the poem. The editor/curator is "lock[ed]… into this particular and peculiar discursive landscape" (Philip, 2011, p. 191). As a poet, the selection of words, their arrangement on the page, the punctuation or lack thereof, the choice to capitalize or not, to emphasize repetition or not—all of these reveal and emphasize particular characteristics and experiences of the speaker. Although this is not the archetypical form of authorship in poetry, in which poets select their own words to convey their own forms of meaning-making, it is a new version of an increasingly recognized form, the "found poem."  The poet must arrange and transform the words available to them to convey their meaning and build an argument while maintaining fidelity to the underlying experience (Zani, 2019, 2023).

There are also questions about what "authorship" and appropriate attribution should consist of in projects like these, in which—given the subject matter—maintaining the confidentiality of vulnerable research subjects was required by the IRB and desirable for reasons beyond mere IRB requirements. Several mothers made explicit reference to the importance of confidentiality in their decision to participate in the study, and this is reflected in the broader collection of poems. Many of the poems would not exist without this commitment. However, the ideal might be for these empirical poems to be explicit co-productions, with my role as an editor and curator made clear and the primary authorship of the respondent made explicit. Hopefully, the future yields such opportunities.

**Monica Bell** *is a Professor of Law at Yale Law School and an Associate Professor of Sociology at Yale University.*

### References

Li, W., & Lartey, J. (2022, January 12). As Murders Spiked, Police Solved About Half in 2020. The Marshall Project. https://www.themarshallproject.org/2022/01/12/as-murders-spiked-police-solved-about-half-in-2020

Lorde, A. (2007). Sister Outsider: Essays and Speeches (Reprint edition). Crossing Press.

Pac, J., Collyer, S., Berger, L., O'Brien, K., Parker, E., Pecora, P., Rostad, W., Waldfogel, J., & Wimer, C. (2023). The Effects of Child Poverty Reductions on Child Protective Services Involvement. Social Service Review, 97(1), 43–91. https://doi.org/10.1086/723219

Philip, M. N. (2011). Zong! (1st edition). Wesleyan University Press.

Polikoff, N., & Spinak, J. (2021). Strengthened Bonds: Abolishing the Child Welfare System and Re-Envisioning Child Well-Being. Colum. J. Race & L., 11, 427.

Roberts, D. (2022). Torn Apart: How the Child Welfare System Destroys Black Families—and How Abolition Can Build a Safer World. Basic Books.

Soss, J., & Weaver, V. (2017). Police Are Our Government: Politics, Political Science, and the Policing of Race–Class Subjugated Communities. Annual Review of Political Science, 20(1), 565–591. https://doi.org/10.1146/annurev-polisci-060415-093825

Weber, M. (1968). Economy and society: An outline of interpretive sociology, 3 Vol Set (G. Roth & C. Wittich, Eds.; originally published 1922). Bedminster Press.

Williams, E. (2020, July 29). 'Family Regulation,' Not 'Child Welfare': Abolition Requires New Language. The Imprint: Youth & Family News. https://imprintnews.org/opinion/family-regulation-not-child-welfare-abolition-starts-changing-language/45586

Zani, L. (2019). Bomb Children: Life in the Former Battlefields of Laos. Duke University Press.

Zani, L. (2023). How to Write Fieldpoetry. In T. Sánchez Criado & A. Estalella (Eds.), An Ethnographic Inventory: Field Devices for Anthropological Inquiry. Routledge.

# What It Meant to Love My Son

**By Monica Bell**

My son was loved.
He was *well-loved*

His whole school came to his funeral:
He was *well-loved*

When they raided my house.
They didn't find nothin':
no evidence

but you know what he told me?
he said:

If you meet with me and
tell me who is selling drugs. I'll tell you: *Who*
killed your son.

What type of shit is that
for a police to say

You know for sure:
Why don't you go and arrest him

If you're going to tell me *Who*
killed my son
You're going to arrest
*Who* killed my son.

I told him: Get the hell out
of my house.

Police lie. Just like I lie.
Police lie: they twist the truth.

They said:
they didn't have enough evidence

They said:
it was self-defense

I knew *Who* did it:
I does my own investigation.

He's walkin' around with a shit bag
for the rest of his life

I didn't have nothing to do with it.

That's how well-loved my son was

# Creating & Excavating Hope on the Inside and Out

**By Miriam Gohara and Richard Morales**



Richard Morales, undated

**Miriam Gohara:**

**In April 2023,** I participated in the American Association of Law Schools' Clinical Teaching Conference in San Francisco. The conference's theme was Mariame Kaba's "Hope as a Discipline." With several colleagues, I presented on a panel called "Excavating Hope." Our topic was how and where we find hope in teaching law students how to advocate for racial and social justice. By the time of the conference, my clinical law students, colleagues in Connecticut, and I had been battling the state's decision the previous summer to exclude anyone serving life without release (LWOR) sentences from consideration for commutation, Connecticut's version of clemency.
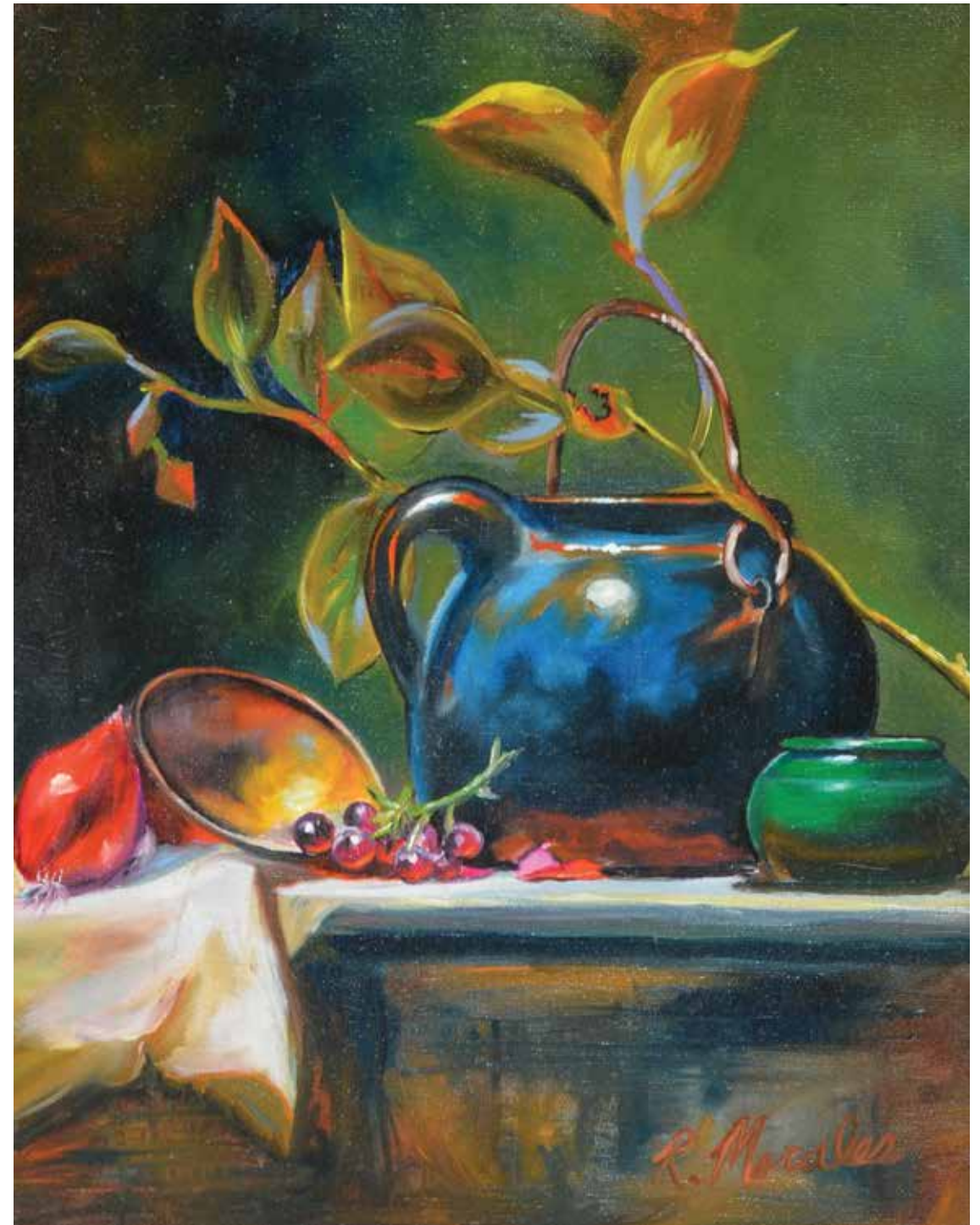
Richard Morales, 2011



Richard Morales, 2016



Richard Morales, 2008



Richard Morales, 2012

After a press conference that a small cohort of white survivors of homicide victims organized with a few Republican state legislators, the Democratic governor removed the chair of the Board of Pardons and Paroles. The Board had granted dozens of commutations beginning in 2021, after resuming receipt of applications following a two-year suspension of commutations altogether. Under pressure from the governor, the new board chair immediately suspended commutations again, completely foreclosing access to that form of relief to any Connecticut prisoner. For many people serving LWOR, commutation had been the only form of sentencing reconsideration available by law. For me, my students, and most of all, our clients and their families, the complete shutdown was devastating—particularly so on the heels of our months of fighting state political and justice officials to

reverse the LWOR exclusion. The State of Connecticut had decided that some people are beyond redemption and worth giving up on. In other words, the spring of 2023, turned out to be a crucial time to excavate hope. The Board of Pardons and Paroles promulgated new policies and resumed commutations on August 1, 2023.

As I considered what rays I might offer my fellow law professors and social justice advocates, I found myself thinking again and again about my clients, who for most of my career have been people convicted of taking a life. Most have been sentenced to death or life. The lucky ones have a term of years—decades in prison. Why, when I reflected on hope, did my mind revert to people who have committed the worst possible crime and whose own lives had reached the deadest of ends? Because my clients generate opportunities. They build
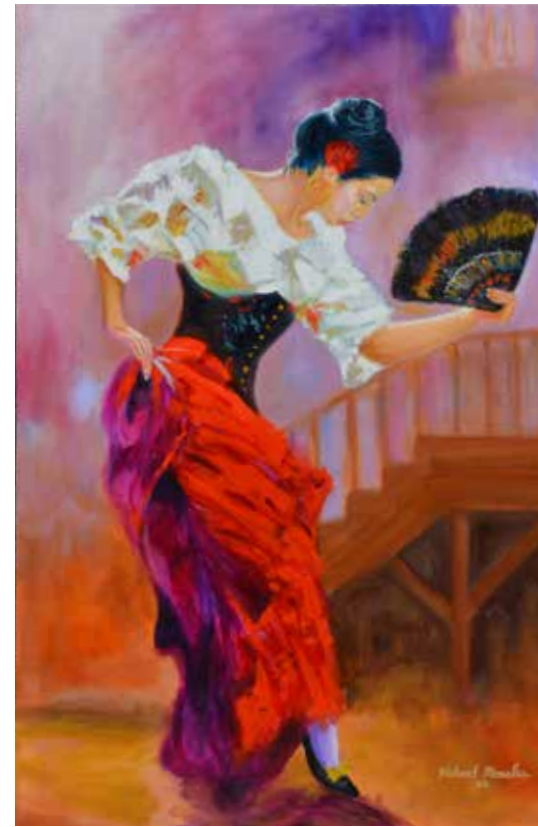
community. They teach each other how to heal. They mentor. They counsel. They advocate. And they make art. Prisons are awash in grays and beiges: the walls, the floors, the furnishings, the food. In many, the only punctuation of color is the county orange-colored jumpsuits or the occasional mural in the visiting room. Yet, clients with little or no views of the natural outside, create art. I decided to focus my "Excavating Hope" presentation on one client's self-taught painting and its life-affirming impact.

Mr. Richard Morales was sentenced to life in prison for federal crimes that led to multiple murders. My "Challenging Mass Incarceration" clinic students and I joined Mr. Morales's lawyers in Connecticut's Federal Defender Office to petition for a reduction in his sentence under the First Step Act, a 2018 bipartisan law that afforded federal prisoners

opportunities to petition for early release. The book of Mr. Morales's life was back-to-back dark chapters. The narrative of his early-release petition spelled those out. This is the work that makes visible to courts and parole boards, but as importantly to our clients, the violence and poverty that every life-imprisoned person I have ever met survived long before they harmed anyone else. To be sure, they took and destroyed lives. Our investigation of *their* lives provided them with context for a measure of self-compassion. During his thirty-plus years in prison, Mr. Morales had earned the support of several retired Bureau of Prisons employees who had worked with him, attested to his complete rehabilitation (including saving several lives in prison), and who wrote urging the court to release him. Mr. Morales's art is a lifeline for him. It is how he trains his mind. His art-as-

Richard Morales, undated


Richard Morales, 2019

healing reminded me of a lecture I attended at which psychiatrist and trauma expert Bessel Van der Kolk pointed to visual and performing arts as disciplines people naturally turn to in order to recover from violence.

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I shared a few slides of Mr. Morales's color-drenched still lifes and abstracts with the AALS conference's audience wondering where we might excavate hope in a world where politics topples second chances. The tableaus are evidence of a person not giving up on himself, rejecting narratives of worthlessness, and persisting in making good.

### Richard Morales:

I have always loved art. As a kid, I'd always doodle on my schoolwork or on scrap paper. I loved to watch documentaries on famous artists and paintings, mostly those in the Sistine Chapel. During my time at USP Lewisburg, I'd always visit the Arts & Crafts department (when I wasn't working in UNICOR) and watch in awe as some of the guys painted. My biggest influences were Willie, Leonard (Lenny), and Samuel.

Samuel and the Recreation Specialist would teach classes on how to draw in pastels and Willie and Lenny would always be in their own respective areas working on their oil paintings. I would spend many years and hours just sitting behind them admiring them at work. They would always encourage me to pick up a brush and start painting, something I thought

was impossible. One day I got to watch as Willie started to pencil in the preliminary drawing . . . an aha moment as I never witnessed either Willie or Lenny 'start' a painting. I always thought they would pick up a brush and paint away. I always thought that you were either blessed to know how to paint or you weren't.

After learning that they used a sketch as a starting point, it gave me the confidence and courage to give painting a shot. I immediately put in an order for the art supplies and got started. I looked through various magazines and sought out easy projects like flowers and wildlife. Because even if they didn't resemble the reference photo, you would still know what the subject was. :) I was encouraged by Willie, Lenny, and Samuel to reproduce works of artists that I'd like for practice. They told me that eventually, I'd create my own style.

My first favorite artist was Pino, an Italian artist who passed away about 10 years ago. I loved his subjects but I really loved his color schemes, something I can only describe as "a sea of beautiful grays". Those grays looked like the paint piles on Lenny's palette. When I inquired, he laughed and said that those colors could not be found in a tube. My mom, stepdad Russ, and friends would order me art books and magazines. It was then that I learned the many ins and outs of painting. The story of art changing my life would be incomplete if I didn't mention the people who's counseling and intense therapy helped support my transformation.

I read Richard Schmid's *Alla Prima* and learned so many things about colors, values, blending, but most importantly to always practice drawing and knowing how to interpret the temperatures of color. The temperatures of color were how I learned to emulate the

"beautiful grays" I saw in Pino's art and on Lenny's palette. Through Willie, I learned how the lines to the drawing didn't have to necessarily determine where the paint ended i.e. the looseness of the paint strokes I studied in Pino's art. They would always encourage me to practice with/from still-life settings. At first, I couldn't appreciate the art in still life paintings until I learned to paint someone else's still life.

I learned that I could take flowers someone receives, a vase, a set of dishes, or a family heirloom that means something to someone, or even fruits and vegetables that were grown in someone's garden, something with a short life span and turn that into a piece of art. Something they can have and share forever. That part of painting, to take something ordinary and be able to turn it into something extraordinary, opened up my passion for painting. I love to paint! It helped me change. I learned to empathize, to see things differently, literally. In *Alla Prima*, Richard Schmidt explains that you can take 2 great artists and they both can paint the same subject, but you'll still have two distinct styles, even color schemes because we all see things differently, otherwise everyone's paintings would look the same and art wouldn't be art.

Another thing I loved about painting in prison was the gifting process. Gifting the painting allowed a little piece of me to leave the depths of this hell, a little piece of me was getting freed. As I got better, the size of my paintings increased. I went from painting 9 x 12 to 24 x 36 inch paintings. I wanted to gift my first large painting to the family of a victim in my case. A painting, because 'words' don't exist for a deep remorse. I was so excited to get it in the mail... When I advised the Recreation Specialist where the painting was going he immediately told me that he could not permit it, and warned me that contacting a victim's family would violate the Bureau of Prison rules, get me locked up in segregation, and kicked out the program. I was devastated.

Not too long ago I watched a movie titled "Arrival" starring Amy Adams. In the movie, the aliens were attempting to communicate with the humans through what looked like blots of ink, a new language. After having someone look it up online, I learned about the Sapir Whorf hypothesis. In short, it described a theory in which learning a new language would open up the "learners' mind" to a new and improved way of thinking and seeing things. I agree with that theory, I believe the love of art and learning to paint opened up my mind to seeing and understanding the world differently. It helps me appreciate the beauty the Lord has gifted us with. Everything and everyone is beautiful, if you don't see it, then we aren't looking hard enough.

**Richard Morales** is an artist and volunteer in USP Lewisburg's suicide prevention program, as well as a father, grandfather, brother, and son.

**Miriam Gohara** is a Clinical Professor of Law and Director of Jerome N. Frank Legal Services Organization at Yale Law School.
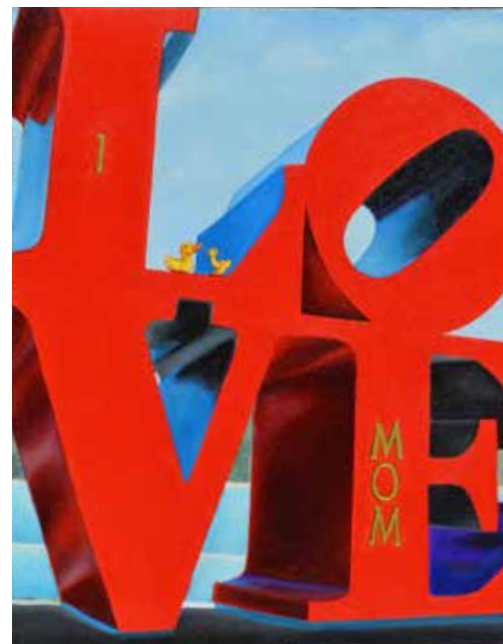


Richard Morales, 2017

**By Neil Gallagher**

**I learned** a lot during my 17-month sentence in the Florida Department of Corrections, some positive and some not so much. Without much else to do in confinement, I rethought every little detail that led me to this point. I spent most of my day zoned out; the book cart came only once a week, and I had made the rookie mistake of finishing my book the first day.

**I never** expected to be incarcerated, let alone sitting inside a double-stacked solitary confinement cell in a high-security prison, thinking about where it all went wrong.

**My first** cellmate in confinement was deaf, so my cell was eerily quiet. That changed when I was assigned a new cellmate named Jay.[1] He spoke nonstop. Jay had been homeless most of his life. In and out of foster care, he struggled with addiction and was ultimately incarcerated. He never finished the 8th grade and felt that his path was predetermined. It wasn't until I tried to pay the confinement orderly to get clean clothes that I began to see a different side of Jay.

1   Jay's name is fictitious out of respect to him.

# FELONY FINANCE



**Chidinma Dureke,** *Businessmen,* **2023**
Oil, colored pencil and metal leaf on paper
16 x 16.5 in.
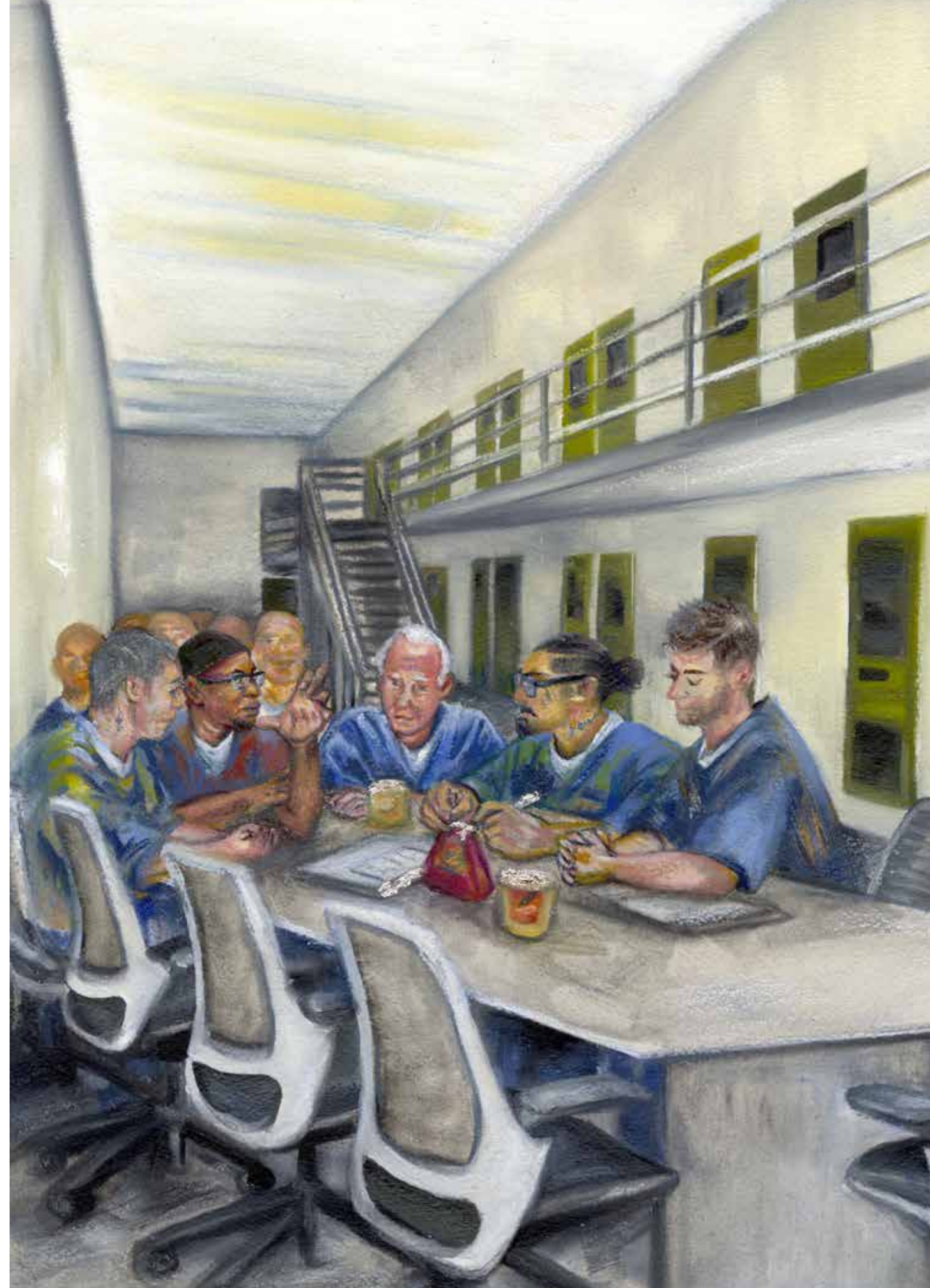
# An Introduction to Prison Supply and Demand

**A confinement orderly** is an inmate whose job is to manage the solitary wing. A sought-after assignment, they reside outside of the confinement cell block and are tasked with cleaning, passing out food, collecting mail, and providing weekly hygiene rations. They are also unofficially tasked with running the black market within the cell block. This consists of outside food items, drugs, and access to the rest of the compound. In confinement you have a very limited selection of items you can purchase from the commissary. The commissary, also known as the canteen or "the window," is like the prison 7-11. You can purchase sodas, meals, and snacks as well as hygiene items and postage. For an inmate who relies on the 1,200 calories provided to them by the state, access to the commissary is a vital part of existence.

While in solitary or confinement, you lose the privilege of visiting the commissary and are given a small selection of items you can purchase. Every two weeks you can purchase four food items such as peanut butter packets and crackers and five hygiene items such as deodorant, shower shoes, and a soap dish. The black market price for a set of clean underwear was roughly $3—the price for a stick of deodorant was $3.14.

When I tried to pay for clean clothes with a stick of deodorant, the orderly scoffed at me. Confused, I asked Jay if I had done something wrong. What proceeded was a 15-minute lesson on prison-level supply and demand.

As someone who had been in business school just two years prior, I never imagined I would need a refresher on supply and demand, let alone one using my need for clean underwear as an example. You see, the orderlies did not live in the solitary wing. After their shift, they returned to their assigned housing, often with bags full of canteen items and contraband, payment from other inmates [2] for a hard day's work. These inmates resided in only two dorms on the compound, trading their bounty for items they needed for themselves. Over time, there was such an influx of deodorants to these isolated dorms that even though their ticket price in the commissary was $3, they could only trade for $1. Like a ticker tape scrolling across a trading floor, my cellmate recited the changes in the price of these commodities from memory.

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2   This is not meant as a derogatory term. This is what I have become so accustomed to, and many in the Florida DOC refer to each other as inmates, with the term "convict" often meaning someone is a very good inmate, following the unofficial rules, etc. An example would be if someone witnessed something and refused to speak to the officers. They would say that they were a "true convict." While someone who is not incarcerated referring to someone incarcerated as an inmate could be perceived as demeaning, it's not received this way coming from others in the same situation.

# The Hustles

**Jay may not have known it,** but he possessed a high level of understanding of the basic principles of microeconomics. I began to reflect on all the "hustles" I had come across during my relatively short sentence. I would come to learn that most inmates possessed a high level of business acumen and an entrepreneurial spirit. Hustles ranged from sewing and altering uniforms to six-figure contraband smuggling rings run from an illegal smartphone.

I saw inmates with hundreds of thousands of dollars sitting in money transfer apps, using them to sports bet, day trade on the stock market, and often support their families on the outside. I have also seen these proceeds used to hire private attorneys and, in rare instances, overturn their sentences.

I saw fellow inmates start with nothing and build successful "storing" businesses, lending food and hygiene items out for interest. It would get to the point where they no longer required support from their families, all by essentially offering banking services based on the food you'd find at a gas station.

Most of these inmates accomplished all this with less than an 8th grade education, many without formal business knowledge, and some having never even held a job.

These "store men," as they were called, were a vital part of the prison and jail economy.

Storing was also the first hustle that I encountered when I started my sentence. I had just gotten to my bunk in the county jail after my court date. Observing everything around me, I noticed the guy who lived directly across from me. People visited his bunk all night. He was constantly in and out of his footlocker, either collecting ramen two at a time or giving it out. My bunkie was one of these customers. He explained to me that the store man would lend food out in exchange for interest. These store men would start with a few food items such as ramen or chips. Each store varied in its interest rates. The most common being one-for-two or two-for-three. This can either mean for every $1 you borrow; you pay back $2. Or for every $2, you pay back $3. It can also come in the form of items such as paying back two ramen packets if you had borrowed one. Typically, these store men would build these businesses from nothing. Some may borrow or receive a food item as a gift and "store it out." Over time these stores can grow enough to feed the inmate running it as well as run the business.

At first, I was disappointed that someone would take advantage of others who were down on their luck. I soon realized that had this store man operated this business model on the street he would have a much more prestigious title, a fancy suit, and maybe even a corner office. While people go to school for years to become bankers and loan officers, this entrepreneur learned this while serving time for petty crimes.

Another low start-up cost hustle was running sports betting and bingo. While this was less common as there were more logistical challenges such as payment collection and other risks, it could be quite profitable. The organizers would create a card, usually out of a piece of cardboard, and collect bets or sell tickets. The winners would collect a portion of the winnings, and the organizer would collect a percentage as well, with none of his own money at stake.

It is worth noting that outside economic forces often affect those on the inside more than the average person may realize. While

recession, inflation, and employment rates may not seem to be important for incarcerated people who are not actively engaged in the economy, they are very relevant to families who support them. During the 2008 recession, most Americans experienced hardships, and those who were incarcerated were no different. Based on dozens of conversations with inmates incarcerated during this time, I learned that with their families unable to support them and no way to earn money on their own (Florida does not pay for work), hunger increased, tempers rose, and often violence seemed to follow. The opposite could be said for periods of prosperity. During the Covid-19 pandemic, inmates were able to receive stimulus checks while incarcerated. While $1800 may not seem like much to those on the street, it's a fortune for those behind bars. Many states limit weekly spending while incarcerated to a limit of $100. With this stimulus, debts were paid, and violence seemed to decrease.

## Pricing and Profit

**Prices of contraband** fluctuated due to its supply on the prison compound. There always seemed to be a demand for contraband. If there was a significant supply of, say, cigarettes, the inmates would refer to this influx as "being flooded." So, if cigarettes were not being brought in, a single cigarette could go for $25 to $50. When the "compound was flooded," the price would decrease, to around $5 per cigarette. Drugs and weapons varied per compound but were marked up significantly higher than street prices. This fluctuation in price made using these contraband items as currency less than ideal. Most transactions were based on stable goods such as ramen, and in modern times, money sent via CashApp. Much like prior to 1971 when the United States economy was backed by the gold standard, the economy inside the prison walls relies on the price of a few staple goods such as ramen.

Commissary prices at state-run facilities are set by the state, while private, for-profit prisons have more autonomy over their offerings and prices. A single serving of ramen cost an inmate $0.71 while I was incarcerated, roughly a 300% increase since its $0.18 price in 2002. Ramen, chips, and certain cookies were often used as currency as they were closest in price to $1. When bartering, some inmates would allow a $0.05 discrepancy, but others wanted the exact amount, sometimes profiting by a few cents. These and other commissary items were used to pay debts and trade.

> In the past, tuna packets would be used for larger transactions over $10 as they did not take up much room and held their value of $2.

Guards caught onto this and would become suspicious when you were discovered to have large amounts of tuna. This caused a problem for those simply trying to eat healthily.

While getting this contraband into prisons is easy through guards and staff, getting the money out has been a long-standing obstacle. There have been a variety of solutions over the years, and they are constantly evolving. In the 90s, Western Union was often used by inmates' families to send money on their behalf. It then turned to "green dot cards" which were refillable cards like gift cards or debit cards. Walmart-to-Walmart transfers would also be used.

In jail and prison, the barter economy is alive and well. The only alternative to bartering is to receive money transfers through a transfer app, which requires a contraband phone and a family member or a support network willing to send money.

These money transfer applications have become a staple of the *arrested economy*[3] just as they have for the mainstream economy. They can be used to send and receive the exact amount needed without having a locker full of questionable packets of tuna fish. These apps also allow for more utility. If an inmate is engaged in smuggling, he can use this app to pay for more products and drops to be brought to the facility. It can also be used to support one's family, pay lawyers, etc.

While I was incarcerated, CashApp was the favorite of *cell block brokers*,[4] as it did not require a linked bank account or identification verifications as did its competitors such as Venmo, PayPal, and Zelle. The reason that these looser regulations were enticing for these entrepreneurs was two-fold. More regulated banking apps often flag suspicious transactions, freezing money and blocking trades, eventually outright banning an individual from its service. CashApp may block an account, but not an individual, allowing them to register multiple accounts. It also did not require a linked bank, which allowed more flexibility for those engaged in illegal transactions. The other benefit was that it allowed those who did not have a bank account to make transactions, critical for inmates without a bank back home, or whose family members were economically disadvantaged and could not maintain minimum balances.

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3   This is a term I created to describe these prison enterprises.
4   This is a term I created to describe the market makers within prison walls

## Business Prospects on the Outside

**When I suggested** Jay consider opening his own business upon release, he told me he was ineligible due to his felony conviction.

> Somewhere along his path, someone had told him that felons were not allowed to open their own businesses.

When I told him this wasn't the case, a spark ignited, and we spent our remaining time together devising a business plan for after his release. He had been a "tailor" inside of prison, and he hoped to open an alterations shop and eventually start his own clothing brand, giving back to the homeless community he was once a part of.

I heard many others repeat the same false belief as Jay. While incarcerated, we are constantly told that to lead a successful life we must find a steady job, obtain stable housing, and attend school. This encompasses much of the re-entry curriculum currently in place. While there is no doubt that these statements are valid in theory, they are nearly impossible to implement in practice due to barriers put in place in the workforce, housing, and even secondary education. I experienced most of these first-hand, even prior to being convicted.

# The Potential of Prison Entrepreneurship

**During my time** spent incarcerated, there was a horrifying lack of programs teaching inmates necessary skills such as resume building, interview strategies, or even basic financial literacy. These skills are necessary for a successful transition and a reduction in the recidivism crisis. There are many initiatives to teach financial literacy in the free world with a new proposal to require financial literacy for all high schoolers in the state of Florida. However, one group seems to have been forgotten—those currently incarcerated.

Ninety-five percent of inmates will return to society in the coming years, many having received little to no skill training, education, or financial literacy while incarcerated. They will have an extraordinarily hard time finding housing, work, and stability.

It would make more sense if people could return to their communities with useful business skills than as someone whose life has only worsened while incarcerated.

## Barriers to Financial and Business Education

**While at my last camp,**[5] I began hosting informal financial literacy programs using my old coursework from my degree in financial planning and working knowledge in the industry as the curriculum. This was not due to my desire to use my lackluster memory, but because every book on business principles I attempted to have sent to me was rejected by prison officials.

My father spent $40 trying to send me a book on basic accounting that I could have the students work through, but it was rejected and destroyed even before it entered the compound. I later learned this was because it violated a formal rule against text that "advocates or encourages riot, insurrection, organized protest and disruption of the institution."

I was also charged with attempting "to run a business while incarcerated." The passage in question? A one-paragraph summary of a profit and loss statement.

What struck me the most about the rejection notification was the closing statement that it "presented a threat to the security, order, or rehabi- litation objectives of the correctional system." This statement still bothers me to this day. What were the prison's rehabilitation objectives? I certainly didn't see any of them being implemented during my stay, nor did I see anything being done to tackle the staggering crisis of recidivism. What I did see was violence, drugs, and helplessness, as well as an influx of books depicting the same. While my business and self-help books were rejected, "urban fiction" depicting drug dealers, prostitution, and street life were not only allowed in but filled the bookshelves of the prison library.

It finally occurred to me that these facilities and institutions have good reasons to pick and choose which literature is allowed and which isn't. Many of these inmates are return customers, doing life on the "installment plan" (serving multiple terms throughout their lives). If a book depicts the familiar, it doesn't prompt change. It allows them to hold onto a piece of the worst part of themselves, a part of themselves that these institutions need them to keep. Prisons can't afford to have anyone breaking the cycle. If a book whose sole purpose is to educate causes fear of a riot, what is really going on?

There are those who believe, as I once did, that these inmates refuse to change their ways, but now having been in their shoes, I realize that the system we have in place makes change almost out of reach for those returning to society. They often return to society with no new skills, no further education, and some- times a drug problem where one never existed prior to their time in prison. They also come out with a societal scarlet letter. They will face housing discrimination and barriers to employ- ment and education. Those who spent most of their lives incarcerated may find themselves ineligible for social security as they never were able to pay into it. I met several people who had been sentenced as juveniles and would not be returning to society until they were in their 60s. With no trades, education, skills, or safety net, their transition will be extremely difficult.

They may call it rehabilitation, but I saw no such thing during my time. I saw understaffed facilities, burnt-out and underpaid guards, and little to no civilian staff. I also saw more drugs in six months than I had ever been around in my entire life. The lack of staff became such a problem that the National Guard had to be activated to fill shortfalls. With many dorms of 200+ being supervised by a single corrections officer, I realized that I had never encountered a program not run in part by an inmate. If you requested to speak to a chaplain, you spoke to an inmate. Need help with your GED? You spoke to an inmate. Need to speak to an attorney regarding an appeal? You spoke to a jailhouse lawyer. I realized that the change I wanted to see required individual action to make it a reality. I realized maybe I could be the inmate who helps break this cycle, at least for a few.

## Felony Finance School

After requests to set up a formal class for inmates fell on deaf ears, and materials were rejected and banned, I had no other option than to run these classes "underground." We often jokingly called this class "felony finance," and it had a large turnout at times. I held classes in my dorm every afternoon that I was not at work, with inmates sneaking across the compound to attend. I would hold classes in the kitchen for my coworkers between meal rushes. I would also hold meetings in the law library. I always had my curriculum on me, and people would approach me to ask questions. Even the lifers would come to my classes. With them, I would focus on budgeting and creating ways to sustain their account balances and ways that they could earn food from "hustles."

One even conducted "food arbitrage" in which he would connect buyers and sellers of different canteen items. For instance, if someone really wanted a bagel and the canteen was sold out, a buyer would offer a premium for the bagel. My friend would undercut the offer and find a seller who would sell for less than the buyers' price and pocket the spread.

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5    In prison vernacular, camp is a term meaning institution.

*I would do my best to teach investing, using old stock sections from the Wall Street Journal. I taught basic principles of savings all the way up to the power of compound interest.*

I taught the necessity of diversification and covered as far as obtaining business loans. No matter the subject, there seemed to be a comparable experience within the Department of Corrections. When I began teaching accounting and mentioned "Cost of Goods Sold" these students quickly drew a correlation of working within the prison kitchen. Here, the kitchen staff would steal ingredients to make sandwiches and other food items to bring back and sell to their dorm. They would often barter with other kitchen departments to get the items needed. Though they may sell the final product (a sandwich) for $3 dollars, there was often money expended to produce this final product.

# Community and Purpose

**I also began to realize** that the courses formed a community of their own. I would often run into inmates discussing business ideas or their "stock picks." These inmates did not have much in common other than their uniform and their participation in the course, but based on these interactions, you would think they were lifelong friends. I believe it holds true in most societies that people often seek out a group where they feel welcomed and where they feel they belong. While in the free world, this may come in the form of social clubs, veteran's organizations, and alumni groups; inside the razor wire fence, these come in the form of religion, gangs, race, and sometimes even types of criminal charges. Many of these people have no desire to join these groups had they a choice. In jail and prison, it's a scary feeling to be on your own. Through this curriculum, the participants were able to find a sense of community, a group of like-minded individuals who were looking for positive change.

These students came in all forms. There were a few who came for free coffee (it was not free for me) and those who arrived excited to learn, with questions prepared and pages and pages of notes. There was a small minority who hoped this class would teach financial fraud, but they quickly learned otherwise.

The majority were excited just to learn basic financial skills, such as how to file their own taxes. Many of these students were thrilled with the thought of owning their own businesses or being able to better manage their finances. When we discussed goal setting, many were amazed at just how attainable their goals were with the proper planning.

*Even those who originally came for the wrong reasons began to become involved with the class and began contributing to the discussions, excited to begin a new life outside of the prison walls.*

Many of these students were amazed to realize that they already practiced habits that financial planners stress to their clients. One example was one of my roommates "Dizzy." Anytime he received money he would save half in his account and spend the remainder. What he spent it on followed well-established financial principles. Say he received $100. Dizzy would keep $50 in his account and spend $20 on food. He would take the remaining $30 and buy hygiene items in excess. He built up a 6-month supply of soap, toothbrushes, and deodorant. If he had excess inventory, he would either share or barter with it. Without any formal financial knowledge, he grasped a principle of savings that can be difficult for some to comprehend. Many of these students were like this, and just needed to be shown how to apply these habits in the free world.

My class really began to take off when I arrived at work release, a state-supervised work reintegration program. Unlike the prison administrators, the work release director was delighted when I offered to run the course. I was able to create a curriculum that I could work through with the inmates at the facility. They would propose questions and topics they would like to learn more about, and I would spend time during the week coming up with material to aid the class. With first-hand access to materials, I was able to tailor the curriculum to these new students' needs. We met every Sunday for about an hour, and throughout the week I would meet with the participants to go over any questions they may have. Like in the correction facilities, there were obstacles to overcome at the work release facilities as well.

In state facilities, drugs are often a problem, and work release is not excluded from this. This caused problems with retention in my course. Some inmates would relapse and lose focus on anything productive. This usually led to their termination from work release and their return to prison. I also noticed that once inmates were able to use a cell phone legally, they lost interest in coming to the course. I felt discouraged by this, but a few regulars made a large impact on me. I have been fortunate to keep up with many of these students upon their release. Some have gone on to start their own businesses or have begun new careers, and it's very exciting to see where their journey will take them. The alumni from my course have stayed out of trouble in the few short months they have been free. The same cannot be said of the regular inmates, several of whom have been re-arrested just weeks or months after their release.

While it is far too early to draw any conclusions or correlations between these cases, I feel confident that no matter the outcome, the participants of this course will have a greater understanding of the economy around them, and hopefully they will realize that they have the skills to succeed no matter the obstacles they may face. It is my hope that I can continue this course and expand it to other facilities, to give others a chance to participate in the Business School of Hard Knocks, and to show them that they have the power to live up to their fullest potential and break the cycle. I also hope that others more knowledgeable than myself will become involved in these programs and share their expertise with those yearning to learn.
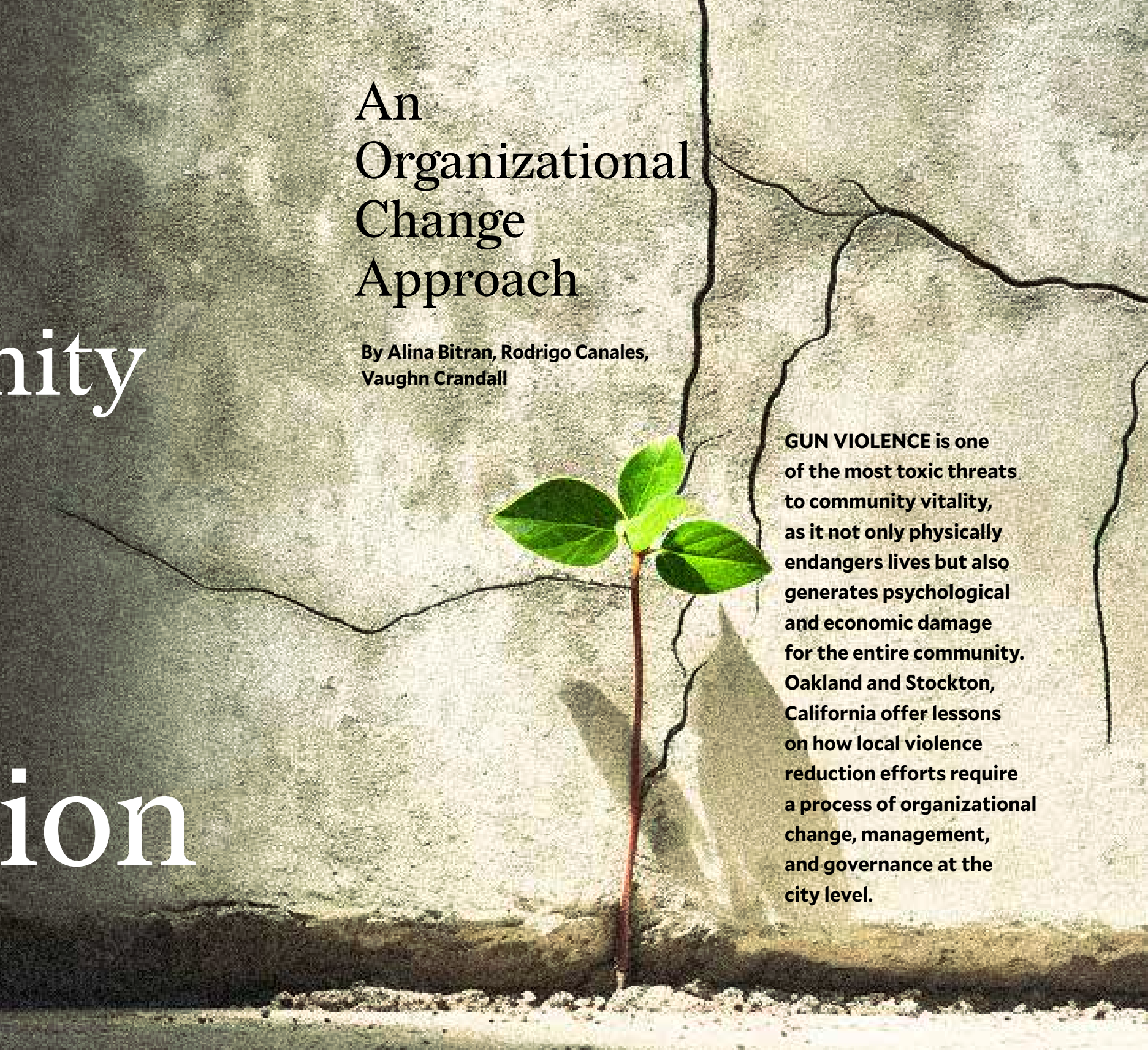
By fostering and furthering the entrepreneurial skills that emerge during incarceration and working to eliminate the barriers of re-joining the economic system, we can ensure that people emerge with valuable skills, purpose, and desire to succeed in the outside world.

**Neil Gallagher,** *formerly incarcerated, continues to run entrepreneurship and financial literacy programs for currently incarcerated individuals. He is currently pursuing his master's degree and applying to law school.*

# Nurturing Community Vitality through Violence Reduction

## An Organizational Change Approach

By Alina Bitran, Rodrigo Canales, Vaughn Crandall

GUN VIOLENCE is one of the most toxic threats to community vitality, as it not only physically endangers lives but also generates psychological and economic damage for the entire community. Oakland and Stockton, California offer lessons on how local violence reduction efforts require a process of organizational change, management, and governance at the city level.

By implementing a citywide, data-driven approach that called for deep organizational change, Oakland and Stockton, CA were able to make important progress in reducing homicides and non-fatal shootings while also improving citizen trust and community-police relations. The overall strategy rested on an equally weighted triple bottom line: (1) reduce shootings and homicides on the community level, (2) reduce recidivism and improve safety for the people at highest risk, and (3) improve citizen trust and community-police relations. The approach is ultimately a public safety proposition that recognizes the role of the police and the justice system but also acknowledges that communities most impacted by crime, violence, and poverty deserve to be safe in a way that does not primarily rely on jailing people.

While both cities encountered a host of challenges and setbacks, they made significant progress on their respective triple bottom lines, as measured by reductions in violence, a decrease in overall arrests and other types of police enforcement, decreased rates of re-arrest and victimization of intervention participants, and improvements in available indicators of citizen trust and confidence. Yet in both cases, progress required a combination of political alignment and leadership; a strong management team; expert embedded advisors; an iterative process of design, testing, scaffoldings of managerial support; and a commitment to the institutionalization of new organizational processes.

This article is based on (i) an extensive review of public and working documents; program activities; crime data; analysis, and in the case of Oakland, a formal impact evaluation and (ii) in-depth, semi-structured interviews with 40 stakeholders that participated, to different extents, in the implementation and subsequent consolidation of the approach in both cities. These stakeholders include members of police departments (including chiefs, deputy chiefs, captains, and lieutenants),

district attorney's offices, city governments, national research organizations, and community leaders, community intervention practitioners, probation officers, and formerly at-risk individuals, among others.

## Two Cities Search for a New Violence Reduction Strategy

For decades both Oakland and Stockton faced long-standing gun violence problems, amplified by and connected to a host of other complex challenges that drain community vitality: poverty and inequality, segregation, over-incarceration, and police-community distrust. Prior strategies to reduce violence had been attempted but had been launched by and contained within subunits of a single city agency, rather than deployed as department- or citywide strategies. Initial efforts failed to (i) align critical political decision-makers, (ii) devote senior managers to work officially and full-time, (iii) align working partners around a shared definition of the problem to build a citywide approach with a focus on the highest-risk people, or (iv) build management systems to sustain the work overtime. The initial interventions showed promise, but it was difficult to sustain the attention and effort they required. Violence was framed as a crisis that needed to be "solved," as a one-time issue, rather than an ongoing social and urban problem that needs to be constantly monitored and managed with discipline and rigor. Thus, initial success reduced the salience of the crisis. For instance, Stockton experienced such considerable success in an earlier version of the intervention that political priorities quickly drifted toward downtown revitalization and development, shifting resources and attention away from violence reduction. Predictably, and as shown in Figure 1, violence rose again, and the cities resorted to traditional, aggressive policing tactics.

In 2011 and 2012, amid rising violence,



Figure 1. Homicide rate in Oakland, Stockton, and the United States (1999–2017)
Source: Federal Bureau of Investigation - Crime in the U.S.
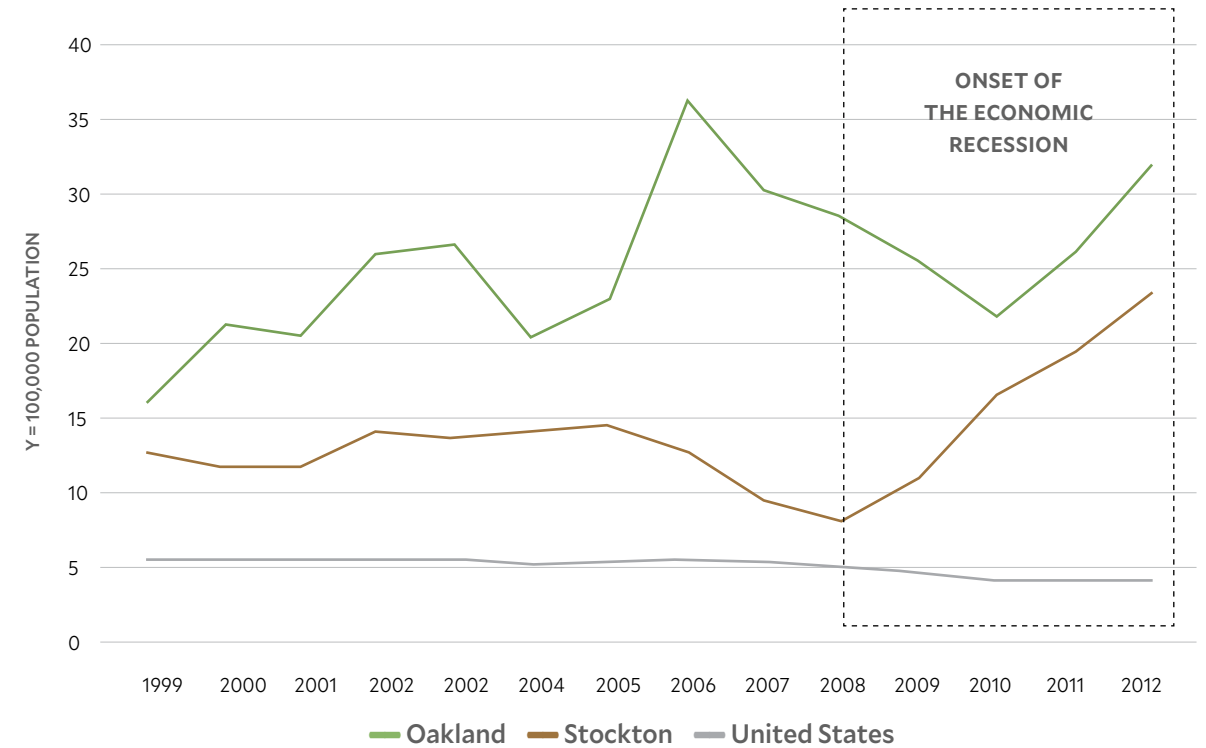
public disorder, and strong community pressure, community-based organizations, city leaders, and the Oakland and Stockton police departments (OPD and SPD, respectively) were actively searching for an approach to violence reduction that could build police-community trust and nurture community vitality, without relying primarily on incarceration.

Both cities brought in the California Partnership for Safe Communities (CPSC), a technical assistance organization specializing in developing public safety strategies to advance these goals and help implement data-driven, citywide violence reduction strategies.

In Oakland, a community advocacy organization—Faith in Action (FIA, formerly Oakland Community Organizations)—had for many years advocated with the OPD and the Mayor's Office to reduce violence and pursue police reforms needed to build citizen trust. This external pressure, amplified by the rising

violence, helped police and city leaders make difficult decisions about priorities. It also forced the OPD to reexamine current enforcement practices and reconcile them with their stated values. Ultimately, Mayor Jean Quan, City Administrator Deanna Santana, and Police Chief Howard Jordan all agreed that the City's many prior attempts to reduce violence had failed. All agreed to make reducing gun violence while building community trust their top public safety priority.

### STOCKTON
Stockton's drive to bring in a data-driven, citywide approach to reducing violence and fostering trust was also led by a cross-section of stakeholders. In early 2012, the Stockton City Council convened the "Marshall Plan Committee on Public Safety," which involved key criminal justice institutions, faith-based organizations, businesses, ethnic and cultural leaders, and elected officials and administra-

tors, to establish a comprehensive community and system-wide plan to reduce violence and bring the city back from the brink. Following an extensive consultation process—and thanks to the advocacy of faith-based organizations and newly appointed Chief of Police Eric Jones—the Marshall Plan Committee ultimately decided on a data-driven, citywide violence reduction strategy that could help rebuild community trust.

### A Citywide, Data-Driven, Triple Bottom Line Approach

After a careful consideration process, the cities, backed by the support of motivated community members and civic leaders, ultimately opted to focus their violence reduction strategies on the highest-risk people directly involved in violence in the near term. Their approach was rigorously informed by three evidence-based frameworks: procedural Justice, focused deterrence, and performance management.

**1. Procedural Justice** offers a framework for building police legitimacy by emphasizing that any comprehensive strategy to strengthen police-community relations and build police legitimacy should ensure police (1) consistently treat people with dignity and respect, (2) give them "voice," a chance to tell their side of the story, (3) make decisions fairly and objectively, based on facts rather than irrelevant factors such as race, socioeconomic status, or neighborhood, and (4) act in a transparent way that reassures people of their goodwill. Extensive work by Tom Tyler and Tracey Meares, among others, has demonstrated that departments that practice the principles of procedural justice see increased public support, cooperation, and compliance with the law (Weisburd and Majmundar 2018). Procedural justice is also designed to help uproot legal cynicism and foster community engagement.

**2. Focused deterrence,** meanwhile, offers a well-developed problem-oriented policing approach to reduce serious violence and other pressing crime problems. Focused deterrence acknowledges that violence generation is concentrated among a very small number of people and that focused problem-solving efforts that mobilize police and a range of working partners are more likely to be effective. In a review of all the available evaluation evidence, Braga et al. found focused deterrence strategies highly effective in reducing violence in 22 of 24 rigorous evaluations (Braga, Weisburd, and Turchan 2018). A similar review of available evidence for USAID by Thomas Abt and Chris Winship came to similar conclusions—focused deterrence is highly effective (Abt and Winship 2016). The CPSC's version of focused deterrence also incorporated emerging best practices in community violence intervention, including relentless outreach, high-intensity case management, hospital response, violence interruption, and cognitive behavioral therapy (CBT), among other components.

**3. Finally, CompStat,** the dominant performance management framework in modern policing, offered important lessons for a measurement and accountability system designed to coordinate the actions of police organizations towards unified public safety goals with clear performance indicators. Coordinated by the CPSC, the cities filtered through these different lessons to effectively incorporate the strengths of performance management—timely and high-quality intelligence to understand and analyze crime problems, identify options for intervention, and push accountability for results down to the commanders of defined geographic areas—while seeking to avoid the weaknesses of a CompStat-type approach that focuses too much on policing *places*, and not enough on intervening with highest risk *people*.

Despite the similarities between Oakland and Stockton on the ebbing community vitality and the impact of the economic recession, the two cities were in different situations regarding the resources, momentum for reform, and oversight of their police departments. After a civil lawsuit in 2003 against the Oakland Police Department, the city entered a negotiated settlement agreement requiring the OPD to make significant reforms to ensure constitutional policing and to be overseen by a Federal Court Judge and Monitor. The police department was under federal oversight to enact structural reforms; consequently, it required and committed to working with outsiders. As will be discussed, this external scrutiny in some cases helped and in others complicated the push for reform. In contrast, despite its public safety crisis, Stockton did not have a clear police reform mandate. Although the department was under extreme pressure to address two related public crises—surging disorder and violent crime—it did not face similar pressure or external scrutiny for major structural reforms.

The two cities also differed significantly in their investments in violence prevention efforts. By the early 2010s, Oakland had invested many millions of public and private dollars in efforts to prevent and reduce serious violence. This included a voter-approved local public tax measure (Measure Y) that provided $20 million in annual funding for community policing efforts and violence prevention programs. Private foundations had also invested millions of dollars in local community organizations to prevent and reduce violence. As one of the poorest cities in California, Stockton, meanwhile, had very little pre-existing violence prevention infrastructure outside of the mentioned Peacekeeper program, which mentors youth and young adults with the highest risk of gang involvement. These differences, in turn, shaped the initial scope and

sophistication of the stakeholders and institutions that could potentially participate in a citywide approach.

Finally, the two cities exhibited differences in terms of *who* spearheaded violence reduction and police-community trust-building efforts—a split that affected the haste and depth with which any strategy could trickle through each city. In Oakland, community organizers galvanized city leaders to move to violence reduction and trust-building efforts. An organizing campaign secured a commitment from city leaders to develop an effective strategy, and community actors remained involved in operations and governance throughout the process. Over time, a senior leadership team developed within the city government to drive the strategy, but external community stakeholders retained crucial accountability and partnership roles. In Stockton, the violence reduction and police-community trust-building effort was primarily government-driven, with the Chief of Police—and eventually the mayor—as key leaders and champions. It was only over time that a network of non-profit partners and community members would enter into partnerships with the city.

### Implementation of the approach

While the two cities experienced differences in implementation—and in the timing and magnitude of certain challenges—in general, they both followed four stages of implementation: (i) initial adjustments, (ii) organizational change, (iii) stalled progress, and (iv) the institutionalization of the approach as a citywide strategy. It is important to note that these stages did not occur in the same order in the two cities; in Oakland, progress stalled after the years of organizational change, whereas in Stockton, progress stalled earlier, followed by deeper organizational change in later years. That said, the categories are useful in describing common milestones and challenges. During each stage, the partners

enacted a set of solutions in response to a different set of emerging or evolving challenges. Some of these solutions were informal and temporary, while others evolved to become more formalized mechanisms, organizational structures, or processes. Table 1 (page 38) summarizes each stage, its challenges, and the corresponding solutions that the cities enacted.

Figure 2 below summarizes the development of different scaffolds at each level, from line staff to city executives, across time.

### Understanding the Dynamics of Violence: Problem analysis

As a first step in implementing a data-driven, citywide violence reduction strategy, the two cities—with the support of CPSC—set out to define and understand their problems of violence. Reducing record levels of violence was a stubborn challenge that required a problem-solving approach that could also enable civic and community stakeholders to work effectively with the police. These partners needed a shared definition of their violence problem to define their work together.

The partners in Oakland and Stockton, guided by CPSC, assembled a diverse team, integrated from different units across the police department and beyond, to complete a "problem and opportunity analysis:" a systematic examination and review of several years of homicides to integrate all existing information, from agencies across the justice system, about victims, perpetrators, and their affiliations. Bringing together this diverse group of stakeholders across different areas allowed the team to integrate data that had typically been kept separate. This revealed previously unseen patterns and generated a new understanding of the hyper-concentration of violence.

For both cities, these analyses revealed that, consistent with prior research (Braga et al., 2012; Weisburd, 2015), a surprisingly small number of people (fewer than one-half of one percent of a given community) generate most of the violence. In Oakland, the analysis found that fewer than 400 individuals were connected to up to 85% of citywide homicides; in Stockton, 200 individuals were identified to be at the highest risk of violence. The victims and perpetrators of violence were adult men (30-32 years old), well-known to the criminal justice system, but who constantly fell through the cracks because of the lack of information sharing across agencies. Gun violence was not random and driven by place but driven by retaliation shootings connected to personal disputes and running gang conflicts.

The analysis proved groundbreaking, as they directly challenged the historical and programmatic assumptions regarding the drivers, victims, and perpetrators of violence in the two cities. Specifically, the analyses revealed that current efforts did not target those at highest risk of violence. While the results revealed how poorly designed the cities' historical approach had been, it also offered hope. Instead of saturating high-violence areas with police and making zero-tolerance arrests, the new strategy could focus a range of justice system and community intervention efforts on the relatively few, specific individuals at high risk. At the same time, efforts to prevent gun violence would have to be reoriented from youth- and area-based outreach in hotspots to specifically focusing on people embedded in high-risk networks and engaged in cycles of retaliation.

In other words, investing in problem analyses of this type helped police and justice agencies narrow their focus to individuals most likely to both perpetrate and be victims of violence. It also helped police agencies reduce their reliance on aggressive, unfocused enforcement tactics that tend to generate many arrests with little public safety benefit and significant community harm.

### Turning Gun Violence into the Priority

When a city takes on reducing violence as a top priority, it often confronts the reality that the corresponding institutions are not well-organized for this purpose. Both Oakland and Stockton undertook initial efforts to prioritize violence reduction. However, while Oakland pursued organizational reforms during this early stage, Stockton's initial approach was more conventional and superficial.

Building on other successful examples, Oakland addressed the problem of poorly organized institutions by creating a senior violence reduction management team; positioning them at the highest level within the City—as a direct report to the Chief of Police and the Mayor—and vesting them with agency and citywide authority. The mayor appointed Public Safety Director Reygan Cunningham as Ceasefire Director, a position that would offer civil service protection but would function as a dual report to both the Mayor and the Chief of Police. The Chief then appointed Captain Ersie Joyner, who brought a wealth of relevant experience as a former commander of homicide and years of experience as a street investigator, as Ceasefire Commander. These organizational structures safeguarded the autonomy of the approach and granted sufficient formal and informal authority to carry out the strategy.

Next, the OPD established a dedicated Ceasefire Section, which was placed as a direct report to the Chief of Police, to provide formal authority to guide the Department's overall strategy. The Ceasefire Section refocused its resources on the small percentage of people and behaviors that drove the bulk of violence. By focusing specifically on the behaviors of individuals at high risks of violence—and not any "suspicious" individual—driven by data and intelligence, complemented with practices of procedural justice, precision policing was poised to reduce the number of negative

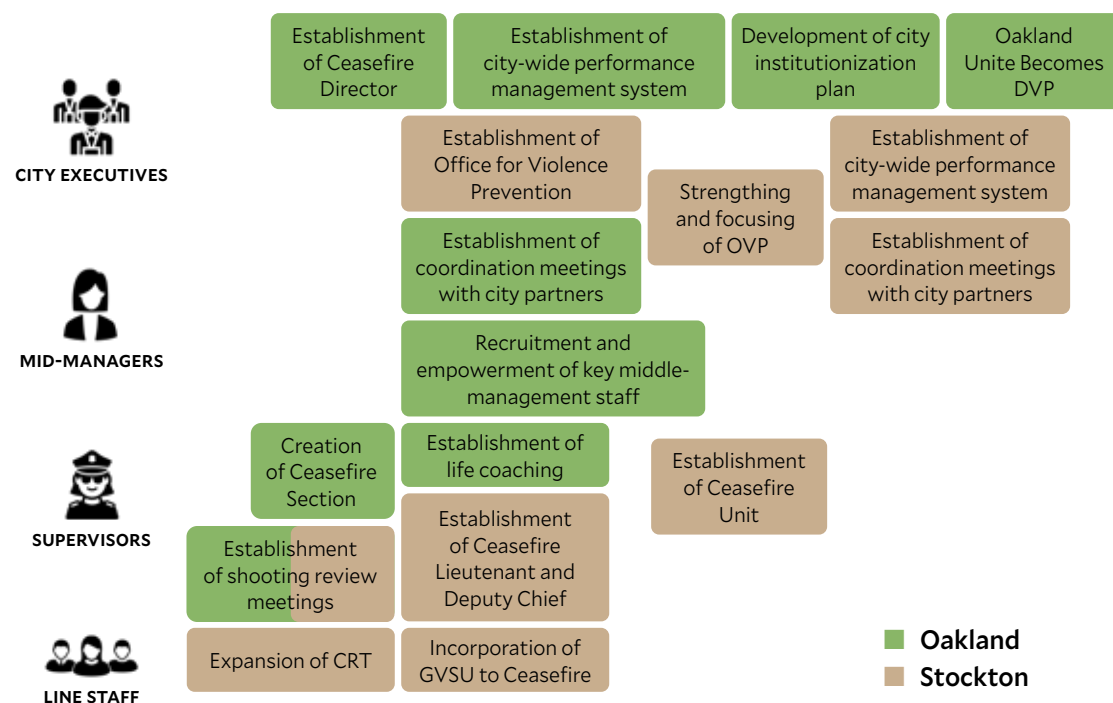**Figure 2.** Development of scaffolds at each level over time (2012–2020)

**Table 1.** Stages of Implementation, Challenges, and Solutions

## INITIAL ADJUSTMENTS

| City | Challenges | Solution |
|---|---|---|
| Oakland (2012–2013) | Siloed data across different units and agencies hindered the identification of, and intervention with, high-risk individuals. There was also a lack of central management. Traditional policing operations focused on place-based policing with heavy enforcement that did not align with triple bottom line objectives, while CVI and prevention work primarily focused on youth and not on those at the highest risk of violence. Community intervention efforts largely operated independently. | OPD undertook a problem analysis to understand its problem of violence. From the outset, the partnership pursued important organizational change. OPD created the Ceasefire Section and designed a dual leadership strategy: the Ceasefire Director (external coordination) and Ceasefire Commander (internal operations). The city created Oakland Unite (OU) to deliver services, support, and outreach to individuals at high risk. Finally, the partnership implemented Procedural Justice (PJ). |
| Stockton (2012–2013) | N/A | SPD undertook a problem analysis to better understand its problem of violence. The agency lowered the intensity of patrolling and grew the Community Response Team (CRT). SPD also participated in PJ training to learn how to build community legitimacy and trust through policing. However, no deep organizational change took place during this time. |

## ORGANIZATIONAL CHANGE

| City | Challenges | Solution |
|---|---|---|
| Oakland (2013–2016) | While Oakland achieved relatively early success in its pursuit of organizational change, the approach remained concentrated within OPD. The city was in need of high-level leadership to support and operationalize the approach. | Through community advocacy and CPSC facilitation, the city approved Measure Z tax and the Executive Directive as a citywide mandate. The reporting structures also changed: the Ceasefire Section began reporting directly to the Chief of Police. CPSC helped OPD establish mechanisms (60/90-day plans) for inter-unit collaborations with Ceasefire Section. Human Services Department established a bi-weekly coordination meeting for data sharing, identification, and outreach purposes. The mayor started a quarterly performance review with key leaders for governance and accountability. |
| Stockton (2017-2018) | Despite establishing a new city partner, the Office of Violence Prevention (OVP) continued to pursue strategies that did not address the most at-risk population (e.g., primary prevention for youth yet uninvolved in violence vs. *tertiary* prevention on individuals engaged in violence cycles). The approach remained concentrated within a relatively small subset of units within SPD. This created inertia to revert to place- and enforcement-based policing. | The partnership continued working to pursue deep organizational change. CPSC and the city brought in David Muhammad from the National Institute for Criminal Justice Reform; committed to a suite of data-driven and value-based processes for OVP (Office of Violence Prevention) for the identification of, and intervention with, high-risk individuals. SPD also finally established a dedicated Ceasefire Unit and provided tailored procedural justice training to specialized units working with high-risk individuals. |

**Table 1.** Stages of Implementation, Challenges, and Solutions

## STALLED PROGRESS

| City | Challenges | Solution |
|---|---|---|
| Oakland (2016–2017) | Due, largely, to the sex scandal and the ongoing 'brief chiefs' phenomenon, Oakland found itself needing to resume the approach with diminished legitimacy, lacking key partners, and with the need to protect OPD from high turnover in key leadership and policy discontinuities. Meanwhile, Oakland Unite was losing focus on the highest risk population. | CPSC and the Ceasefire Director reunited partners. Developed a new problem analysis and communicated persistent urgency. The mayor **renewed the Executive Directive** and appointed a new chief that could convey a sense of stability. The partnership reinstalled the management cycle to summon agencies. |
| Stockton (2014–2017) | After the initial adjustments—and following notable reductions in homicides—the city failed to make additional progress, as the partners experienced hurdles to pursue organizational change: inertia, the difficulty of organizing across agencies, and limits to their ability to align resources around a shared understanding of violence. SPD lacked a strong institutional city partner for the approach; consequently, the approach remained concentrated within a relatively small subset of units within SPD; inertia to revert to place- and enforcement-based policing. | The partnership worked diligently to promote the needed organizational change at both the city and police levels. The city established the OVP as an institutional city partner that could support the approach. However, this new office remained hesitant to work with high-risk individuals. Within SPD, the partnership achieved tactical changes, but continued—still, to no avail—to argue for the importance of establishing a full, dedicated Ceasefire section. |

## CONSOLIDATION

| City | Challenges | Solution |
|---|---|---|
| Oakland (2018–2020) | While each of the different partners were seemingly pursuing the needed organizational change, the approach still relied heavily on individuals' know-how, key leadership, and relationships. There was also a lack of certainty regarding the specific results achieved by the approach. Moreover, the intervention's clients (i.e., at-risk individuals) continued to remain at the margins of the approach. | The partnership consolidated the management cycle. Independent evaluators conducted an impact analysis, proving positive results and bringing external legitimacy. The partnership also designed a citywide institutionalization plan and promoted inter-agencies institutionalization plans through elaboration of policies and staffing. |
| Stockton (2018) | N/A | The partnership established weekly coordination meetings between OVP, SPD, and other key stakeholders for the purposes of data sharing and identification of high-risk individuals. This also allowed for the design of a complete performance management system, with clear performance reviews and reporting mechanisms. The partnership also designed new mechanisms, like the Leadership Council, to bring highest risk community members closer to the core of the intervention. |

interactions and increase community trust in the department.

While Stockton did not initially create a dedicated Ceasefire Section within the SPD or new positions within the city, it did undertake efforts to prioritize violence. Initially, the SPD focused on reorienting the department's existing structures to focus on violence—a strategy that generated certain resistance, as it essentially meant that officers would decrease attention on lower-level crime or misdemeanors. In addition, the department pulled officers out of patrol—where officers were often reactive and did not generally contribute to preventing nor building an understanding of violence—and incorporated them into the Community Response Team (CRT), where, based on the new information, they would be better equipped to deal with violence. While the vision surrounding the approach shaped the overall priorities of the department, the CRT and the Gang Investigations Unit remained largely untouched in the broader organizational structure. Consequently, the new approach had a limited impact on their overall tactics.

For both departments, this shift towards focusing on a small percentage of people and behaviors that drove the bulk of violence marked not only an operational reorientation but a change in key routines, processes, and organizational culture within the police departments. For example, focused enforcement reduced discretionary time by providing officers with specific tasks and intelligence about the specific people they needed to focus on. Shifting this culture required thorough training of the officers, sustained managerial support and focus, and continuous advocacy by the strategy leadership.

*Building Intelligence*
Undertaking intelligence-driven policing focused on individuals driving violence called for a robust system to generate, integrate, and analyze real-time data and intelligence.

And to constantly translate that intelligence into specific, focalized, rapid action. CPSC encouraged the PDs to build new capabilities by reorienting existing resources. The OPD redesigned the Gang Investigations Unit— the team with the most developed know-how for the type of analysis—into the core of the Ceasefire Section. The new section worked to develop intelligence on violence patterns, violence drivers, and street dynamics, and to conduct focused and short investigations of those actively engaged in group violence to disrupt cycles of retaliation.

Stockton, meanwhile, also realized that its data analysis was insufficient—both in resources and skills. As an initial step, the SPD built out its data analysis unit, incorporated street-level analysts, and trained analysts to not just gather, but also interpret, data. Through these different mechanisms, the OPD and SPD aimed to develop, and ultimately strengthen, links for information gathering and sharing across analysts and field agents to integrate a more robust pool of information.

*Building Initial Trust through Management Scaffolds*
While these early restructuring efforts within the police departments were noteworthy, CPSC emphasized that data from a single unit or agency would not be enough. It was necessary to assemble data and intelligence from all relevant stakeholders, but no formal mechanism or institution existed. To tear down long-standing silos in data, CPSC helped the OPD and SPD establish and facilitate weekly shooting review meetings as separate, deliberate, and protected convening spaces for all partners to come together and share information on a more formal basis.

Shooting review meetings brought together police officers from different units and precincts, as well as other law enforcement partners, to review weekly data on shootings and homicides and establish an accurate and dynamic understanding of the

drivers of violence. Each stakeholder became responsible, and accountable, for a specific set of information to report on each week. The reviews were carefully orchestrated and facilitated to ensure a clear agenda, that each actor knew exactly what was expected of them, and that there was a clear focus on maintaining a clear, real-time, collective understanding of violence. This exercise allowed the different agencies, many of which were crucial sources of information, to collect and compile the different pieces of data and develop a comprehensive understanding of violence.

These meetings facilitated organizational change by assembling otherwise isolated stakeholders across enforcement agencies, establishing a shared language of data-driven evidence, serving as a project management tool, and building a sense of partnership anchored in the importance of the mission. As participants experienced the value of integrating data across departments and agencies, these meetings had the additional effect of generating trust between participants, streamlining communication across different units and departments, and dividing and distributing otherwise unclear or duplicated tasks.

To achieve these changes, the shooting reviews required intensive planning and expert facilitation. The type of engagement and information sharing sought was counter-normative for all participants and establishing a new set of norms and currencies of exchange required careful management and norm setting. CPSC and senior managers worked collaboratively to design, develop, and refine these key management meetings. Once the shooting reviews established new trust, sets of norms, and ways of relating, they allowed for novel, more complex processes and structures.

## Procedural Justice and Trust Building

While the new approach to violence and the related organizational changes to the police departments were all aligned with the triple bottom line objective of promoting police-community trust, community stakeholders and police leadership believed that this objective required additional investment at a systemic level, particularly given Oakland and Stockton's long history of mistrust between the police and the community.

In 2013, with CPSC's support, officers from the OPD and SPD participated in procedural justice and implicit bias training at the Chicago Police Department. The training was co-designed by leading procedural justice scholars and the Chicago Police Department to teach the core principles of procedural justice to working police officers (to be "for cops by cops"). A procedural justice trainer noted that the training served as a sort of "reset button" that gave police officers, many of whom were tired and cynical, an opportunity to reflect on their purpose in selecting this profession in the first place. The training injected fresh energy and optimism to the departments, and when accompanied by sincere changes in operational and incentive structures, began to shape its enforcement practices and relationship with the community.

Building on their experience in Chicago, both Oakland and Stockton designed a procedural justice training tailored to each police department. Oakland brought in community partners early in the process to jointly develop and teach these concepts. The OPD also integrated procedural justice concepts in its strategy documents and internal communications (e.g., posters, memos, Chiefs' messages to staff, line ups, etc.). Next, procedural justice concepts were incorporated into promotional exams. Finally, the OPD began to integrate procedural justice into the performance reviews of line officers, including the review

of body camera footage with officers as opportunities for constructive feedback on their application of the principles of procedural justice in their interactions with community members.

Stockton, meanwhile, was invited to join the National Initiative for Building Community Trust and Justice (NI) as one of the six pilot cities to implement evidence-based interventions to rebuild community-police relations over four years, 2015 through 2018. The objective of the program was to implement evidence-based interventions to rebuild trust with the public based on three primary pillars: procedural justice, implicit bias, and reconciliation.

Even in the first two years of the PJ training program, interviewees note that Oakland and Stockton's participation in procedural justice training brought about considerable change to what it meant to do policing more broadly. Whereas the approach remained relatively siloed within the police departments, the procedural justice program quickly reached all officers, offering a new shared set of values and language to reflect them. This became an inflection point in the OPD and SPD's processes of cultural change.

Procedural justice built a shared commitment to a new way of policing, but it did not, on its own, transform the metrics, systems, and mechanisms for dealing with violence. It was only through sustained internal efforts, backed by continuous engagement from CPSC and key partners that the philosophy drove deeper changes in how the OPD and SPD worked as organizations to generate trust with the public. Such an organizational process— from individual to organizational learning— took time.

## Redesigning and Establishing New City Infrastructure

As police departments reorganized resources to focus on the problem of violence, the CPSC encouraged the cities to complement this with specialized city infrastructure. Oakland, for the most part, was able to redesign and reorient the priorities of existing agencies to better align with the needs of the new approach, while Stockton faced the need to create new, devoted infrastructure.

In Oakland, CPSC partnered with intervention expert David Muhammad, to help the city shift the focus from "youth and root causes" primary prevention to near-term intervention with individuals at the highest risk of violence. The city rebranded the existing network of social services as Oakland Unite (OU), whose central mission would be to deliver services, support, and outreach to those at the highest risk of violence. The first program that the partnership developed with OU was a network of life coaches. It sought to build relationships with individuals at the highest risk of violence, enhance coordination of service delivery, and achieve harm reduction goals.

In Stockton, a thorough review of prior violence reduction efforts led CPSC, Councilmember (and subsequently Mayor) Michael Tubbs, and Chief Jones to develop an Office of Violence Prevention (OVP), under the City Manager's Office. The OVP's original design and mission was to "institutionalize" the four key activities required to sustainably reduce gun violence:

**1. Manage the analysis** of violence to align strategic efforts across partners, use limited resources well, foster trust, and assess progress on key outcomes

**2. Integrate and build** the capacity of more community partners to play meaningful roles in engaging and supporting people and families involved in and impacted by violence, while building trust between community members and police.

**3. Manage direct engagement** and intervention with community members at the highest risk of violence in the near term.

**4. Manage harm reduction**, relationship building, and service efforts to ensure better outcomes for young men at the highest risk of violence.

This mission was grounded in the extensive research and experience of cities that have successfully addressed violence over time by institutionalizing these four key activities that required a fundamental shift from "business as usual."

As a result, each component of OVP's mission demanded a complementary change in culture:

The establishment of this office marked an important symbolic and substantive commitment to redefining the city's approach to public safety, with an entire office, rather than a disjointed outreach program, dedicated to violence.

Despite the new infrastructure, however, both Oakland and Stockton continued to face challenges in effectively focusing on high-risk individuals. Oakland Unite's early programs and services continued to focus largely on youth despite its restated mission. Similarly, despite its ambitious mandate and aspirations—or perhaps because of them—Stockton's OVP pursued a very broad mission and, in line with the inertia of the earlier Peacekeeper program, focused the bulk of its efforts on primary violence prevention, like outreach programs with youth at schools. Over several years, CPSC and Michael Tubbs engaged and pushed OVP leadership to refocus outreach interventions on high-risk individuals; however, a vacuum in leadership and lack of political appeal of shifting its target population limited the OVP's focus and effectiveness. For both cities, it took new leadership, technical assistance, and a political mandate to bring city infrastructure closer to working with individuals currently involved in gun violence.

## Leadership and Alignment

One of the key factors that helped both cities overcome these challenges was the ability to secure and anchor support at the highest levels of political and agency leadership in the city, aided by sustained pressure from community leaders. Notably, in the absence of formalized mechanisms or structures to pursue and sustain organizational change at the earlier stages of implementation, individual authority figures could take this role themselves and, through the weight of their leadership, bring others along. This occurred in both cities through strong leadership at the city, police department, and community levels at key moments in implementation.

At the police department level, Stockton experienced consistent and stable police leadership during the entire time under Eric Jones, while Oakland experienced a rapid series of police chief changes and turnover; with strong leadership for periods of time from Howard Jordan and Sean Whent before they both ultimately resigned under pressure. During the times of stable leadership, the chiefs in both cities were avid supporters of the triple bottom line approach and procedural justice; consequently, they implemented the required early tactics within the departments to focus on the new strategy—even in the face of resistance (although as mentioned, Stockton was more hesitant to push for deeper organizational change at the early stages of implementation).

Oakland was able to secure the support of city government leadership considerably quicker than Stockton. In November 2014, Oakland elected Mayor Libby Schaaf, a steadfast supporter of the approach since her time as councilmember. The approach had strong political backing during her term, which allowed the partnership to push for broader organizational changes. For Stockton, renewed support at the city government level occurred in 2017, when Michael Tubbs became mayor.

Tubbs had not only a professional, but also a personal understanding of and connection to violence and poverty in Stockton; he was convinced of the triple bottom line approach. Mayor Tubbs and Chief Jones developed a joint vision for the city around violence prevention; this alignment in vision and objectives translated into considerable progress and sparked mutual commitment and pressure.

Finally, key leadership figures within organizations dealing with high-risk populations proved essential to the institutionalization of the approach. In Oakland, Peter Kim, a well-known community organization manager, arrived as the new manager of Oakland Unite in 2014 and eventually advanced OU's processes into a central pillar of the approach. In Stockton, at CPSC's recommendation, Daniel Muhammad became the director of OVP and was able to push for the much-needed program development and organizational change, finally making the OVP a robust partner for the approach (as will be discussed below).

### Hurdles to Change

The early years of the intervention yielded immediate results in the triple bottom line objectives for both Oakland and Stockton. In Stockton, homicides dropped by 55 percent, from 71% in 2012 to 32% in 2013, and reached the lowest point since 2008 (Figure 3). Although the cities seemed to be achieving considerable initial success, this progress eventually flattened for the two cities: in Stockton between 2013 and 2016 when key partners retreated and hesitated to engage in profound organizational change, and in Oakland in 2016, when intense leadership turnovers and a notorious scandal threatened the partnership.

In Stockton, the stalled progress occurred almost at the outset (2014), following the early, promising results of the intervention (and prior to the pursuit of true organizational change).

Ironically, the early success of the approach had the unexpected consequence of leading several stakeholders to believe that the work was "done," and consequently, to shift attention and retract from the intense effort that the approach demanded. There was, after all, a competing range of issues that required attention during the recovery from bankruptcy, such as the city's high rate of unemployment. The shifting of attention at this point hindered the important, necessary work to ensure that the initial reductions—still fragile—could be effectively sustained over time. This was also compounded by the institutional weakness of OVP and the resistance to pursue profound organizational change.

In Oakland, meanwhile, progress stalled in 2016, marking the rupture of a year characterized by gradual organizational change. In March 2016, amid organizational development, scandal shook the entire police department, the city, and the partnership as a whole: an investigation resulted in the charging, suspension, or resignation of more than a dozen officers who were accused of engaging in sexual relations with an underage woman. The OPD subsequently went through three different police chiefs within two weeks. The ongoing turmoil at the top distracted the organization from its commitment to procedural justice and trust-building. The events also ignited severe disappointment and distrust among the OPD's partners, and in many cases, shattered working relationships. Oakland Unite, for instance, distanced itself from the intervention and diminished its focus on high-risk individuals. The events also fractured the trust that the community had gradually rebuilt with the police department over the previous years, and many lost faith in the intervention. Although the key activities of the intervention were, at least visibly, put on pause for a few months, during the last quarter of 2016 organizations gradually resumed their work on the ground. This was made possible by the strong middle-management leadership
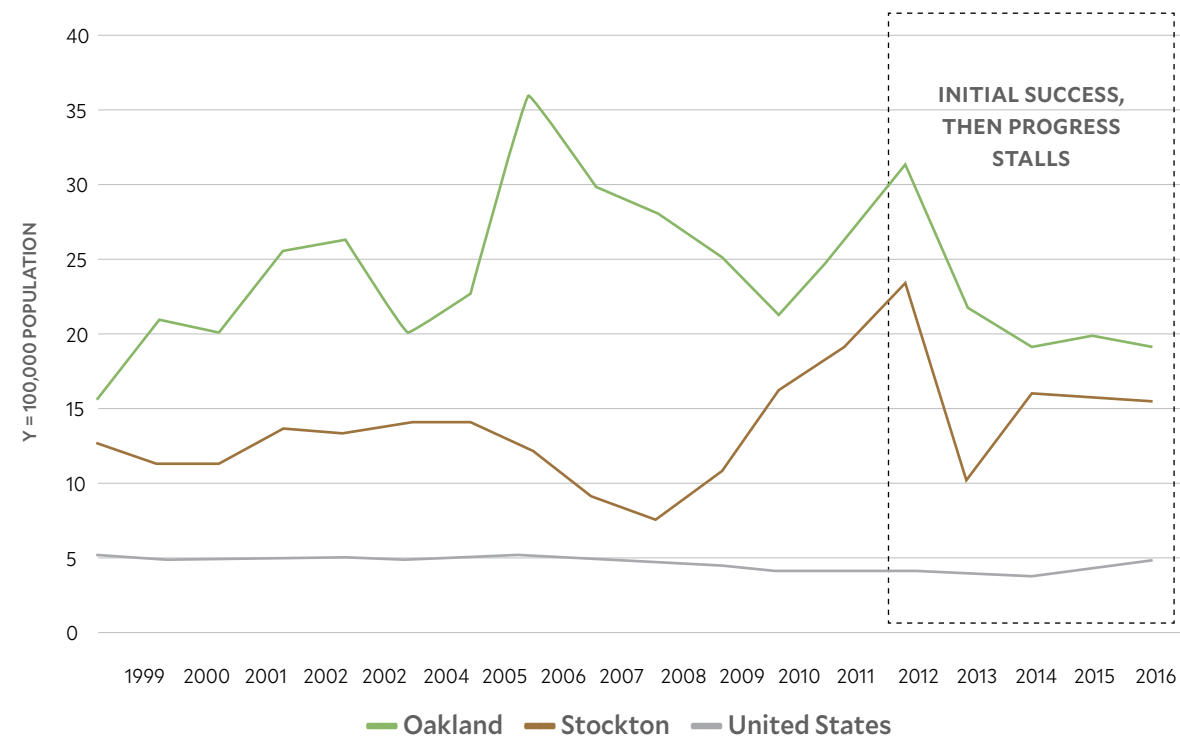
from OPD, the technical assistance from CPSC coordinating the recovery, and the institutional protection provided by city policies.

Notwithstanding this resilience, this risk highlighted the importance of continuing to institutionalize the intervention quickly and sustainably at the city level.

### Pursuing Profound Organizational Change

As mentioned, an important reason why progress stalled in Stockton was the city and police department's hesitance to engage in profound organizational change. The SPD had reoriented resources and instituted tactics to establish new enforcement mechanisms and strengthen data and analysis capabilities. But this had all been done by an ad-hoc, cross-unit team with mostly informal structures and processes, which created commitment and energy but was dependent on specific individuals and their relationships. Its internal processes and structures remained intact. Consequently, despite "checking all the boxes," the approach hit a wall.

Sustained progress required a new, formal organizational structure, but was met with severe resistance. First, the department was stretched thin, and redeploying resources meant diverting them from other ongoing efforts. Some of the competing initiatives, moreover, were much "easier" to understand and implement, such as procedural justice training, which built on the SPD's existing infrastructure for continuous learning and had no direct implications for operations or performance management.

Eventually, with strong support from Mayor Tubbs and CPSC, the SPD assigned a dedicated, senior deputy chief to the program; moved the Gang Violence Suppression Unit (GVSU) into the program (which helped seal an evidence-based, triple bottom line approach to investigations); and assigned a dedicated

Lieutenant with a dedicated team of street-level officers. It would, however, take until 2018 for the SPD to establish a dedicated Ceasefire Intervention Unit. These changes transformed the program from a temporary and independent set of tactics deployed by a few officers to an established, organizational strategy. CPSC emphasized the importance of sustaining these changes through efforts to obtain continuous buy-in from mid-level managers, through executive partnership meetings to educate, inform, and orient the executive leaders of the agencies, as well as to reconfirm their commitment to the strategy.

SPD also introduced a new PJ training specifically for the specialized units—the officers focused on the people at the highest risk of violence, as Oakland had also done a few years prior. Officers learned from outreach workers, residents who had lost family members to violence, and young people at risk of violence. This training is noteworthy for two reasons. First, it marks the appropriation of NI training by the SPD. For the first time, the SPD was no longer a mere recipient of a national curriculum; it was now (with the support of CPSC) tailoring and adjusting this training to its specific needs and priorities. Second, this training symbolized an important fusion between procedural justice and the broader strategy. The interaction between the approach and procedural justice reinforced both programs, with a final product greater than the sum of its parts.

Similar efforts occurred around the restructuring of Stockton's OVP. Since its origins, the partners emphasized the urgency of pursuing organizational change within OVP to focus on high-risk individuals. Over prior years, CPSC had worked to move OVP towards value-driven and data-based management of its intervention work. That effort culminated in the city hiring CPSC/NICJR consultant Daniel Muhammad to co-manage OVP and institute a new work plan.

Under Muhammad's leadership, between 2017 and 2018 OVP underwent key transformations, including: (i) a drastic reduction in the number of clients[1] to better focus limited resources on the most at-risk prospects, (ii) a retraining of Peacekeepers to focus on high-risk adult males, rather than their traditional, younger population, (iii) the implementation of a data-driven decision making and a performance management cycle, and (iv) strengthening the partnership and coordination with other partners and service agencies. The office established new departmental protocols for Peacekeepers related to outreach, intervention, and case management focusing specifically on high-risk clients, and implemented a new theory of change. Through these transformations, the office became a key city partner for the approach.

### Extending from Practice to Policy

At this point, both Oakland and Stockton had effectively reoriented resources and developed informal, temporary mechanisms to convene actors for the purposes of shared work. The cities had even gone as far as to create new, devoted infrastructure to attend to the problem of violence and had pursued several important organizational changes. Yet, this progress was still susceptible to the inertia of agency culture and performance incentives. CPSC helped the cities vouch for mechanisms that could alter incentives in a systematic way.

Oakland, for instance, developed two key city policies. One of these policies was Measure Z, which would replace the 10-year Measure Y tax that had funded much of the city's violence prevention infrastructure. Measure Z marked an important shift in the city's approach to violence with a clear emphasis on precision policing and services focused on individuals at a very high risk of violence. Its

approval was thus an indicator of the approach's early achievements in entering Oakland's political system to redefine the problem; build momentum and support and brand the approach as the city's best shot at tackling violence.
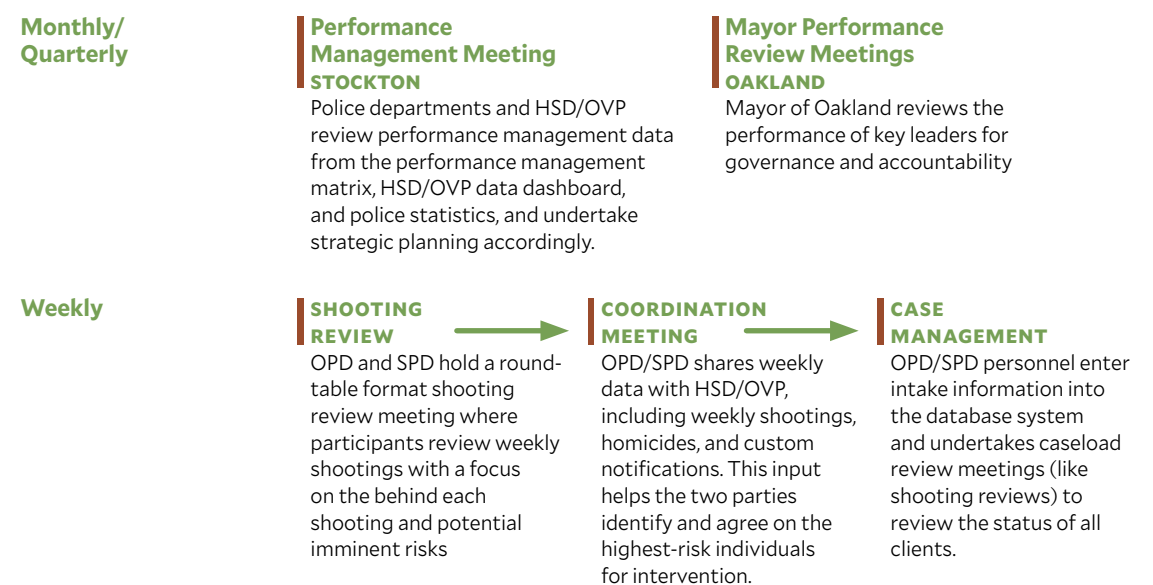
The other key policy was an executive directive, developed by CPSC and signed by Mayor Schaaf, which entailed the creation of a city governance structure for the approach, mandating its implementation, and anchored at the highest levels of city government. The executive directive had seven policies that aimed to create a comprehensive, institutional, and city-level implementation of the approach; for instance, by granting the authority to establish organizational processes across the city agencies, defining new reporting structures, and aligning the necessary resources to have a consistent citywide strategy. Along with Measure Z, the executive directive represented a critical step to make the approach the formal city policy and the central strategy for reducing violence in Oakland. Moreover, these policies provided institutional protection and continuity against threats, such as the leadership turnover and scandal.

### Governance Structures and Accountability

Once Stockton and Oakland had reorganized management within the police departments for the purposes of focus and accountability, the partners aimed to establish systematic coordination meetings as a mechanism to keep the city partners involved and accountable. It is important to note that this process happened at different moments for each city, depending on whether the needed organizational infrastructure was in place. Whereas Oakland was able to launch this process relatively early in its implementation as part of broader efforts for organizational change (2014), in Stockton this did not occur until much later (2017).

For both cities, CPSC, OPD, SPD, and relevant city partners drew heavily from emerging research to ultimately consolidate previous scaffolds into a thorough and consolidated administrative and performance management system that emphasized the strategy's commitment to evidence-based work. As illustrated in Figure 4, the management cycle was split into two types of meetings: (i) management and operations meetings,

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**Figure 4.** Governance Structures

| Monthly/ Quarterly | **Performance Management Meeting** STOCKTON | **Mayor Performance Review Meetings** OAKLAND |
|---|---|---|
| | Police departments and HSD/OVP review performance management data from the performance management matrix, HSD/OVP data dashboard, and police statistics, and undertake strategic planning accordingly. | Mayor of Oakland reviews the performance of key leaders for governance and accountability |

| Weekly | **SHOOTING REVIEW** → | **COORDINATION MEETING** → | **CASE MANAGEMENT** |
|---|---|---|---|
| | OPD and SPD hold a round-table format shooting review meeting where participants review weekly shootings with a focus on the behind each shooting and potential imminent risks | OPD/SPD shares weekly data with HSD/OVP, including weekly shootings, homicides, and custom notifications. This input helps the two parties identify and agree on the highest-risk individuals for intervention. | OPD/SPD personnel enter intake information into the database system and undertakes caseload review meetings (like shooting reviews) to review the status of all clients. |

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1 The office chose the language of clients as it reflected a respectful, service-oriented approach that departed from implications in alternative labels such as "cases," "subjects," or "patients."

which involved shooting reviews; coordination and case management meetings; and (ii) governance meetings, which consist of monthly performance management meetings (Stockton) and quarterly performance review meetings with the mayor (Oakland).

### Weekly coordination and data sharing

The weekly cycles consist of coordination and data sharing meetings for the institutions working on the ground. The first is the shooting review meetings. While they first emerged as a scaffold to temporarily account for the lack of communication and information sharing across and within institutions, shooting reviews gradually evolved into sophisticated routines that formalized the collaboration and information-sharing protocols between police departments and law enforcement agencies. They established a structure to gather intelligence, develop analyses, communicate priorities, and hold accountable strategies grounded in the problem analysis. Culturally, they helped shift longstanding police practices entrenched in place-based, strong enforcement towards person-focused, precision policing.

In addition to weekly shooting meetings, both the OPD and SPD implemented coordination meetings with the relevant city partners. At the early stages of implementation, it was virtually impossible to engage in coordination meetings of this nature, as the relevant city partners either did not exist, were not willing to come to the table with the police, or were not adequately focused on high-risk individuals. By this point, however, the sustained efforts to reorient the cities' violence prevention infrastructure allowed Oakland and Stockton to establish coordination meetings with the Human Services Department (HSD) and the Office of Violence Prevention (OVP), respectively, to discuss all shootings that occurred during the week, build on each other's knowledge to generate assessments of risk, and coordinate tailored strategies to provide comprehensive support. As city partners' capabilities further consolidated, these coordination meetings evolved into a managerial routine with a unified focus, clear responsibilities, and deliverables that prompted new organizational arrangements between stakeholders that had only interacted informally with the strategy. The meetings tailored a set of formal mechanisms to address coordination and resource issues, set working boundaries, and share feedback from stakeholders (particularly regarding law enforcement). Moreover, the meetings aligned organizational modifications inside the agencies. For instance, the meetings allowed for a shared definition among diverse agencies of who was at the highest risk, which also reframed institutional capabilities towards attending them.

OVP and HSD, too, ultimately established their own, internal data-driven meeting to review the quality, strategy, and implementation of the violence reduction efforts. Like the shooting reviews, the case management meetings provide an opportunity for outreach workers and relevant personnel to review and discuss the status of all caseloads. Crucial to these meetings are the data and referrals that the police departments share during the prior coordination meetings, which outreach workers use to develop short- and long-term group strategies for each of the individuals in the caseloads. In the case of Stockton, in particular, the existence of these meetings further attests to the transformational change within OVP: from a loose, unfocused Peacekeeper program to a focalized agency that speaks the same data-driven language as its institutional partners.

The new governance structures became important tools for change within the police departments and city agencies. Organizationally, they established a structure to gather intelligence, develop analyses, communicate priorities, and ensure accountability across stakeholders. The systematic meetings also marked a new opportunity for police and outreach cultures to coalesce around the same information—which was based on their previously negotiated and discussed shared values. Whereas cooperation during the early years depended on the personal relationships and disposition of individuals from different organizations, or on temporary scaffolds, the formalized organizational structures, increased capabilities, and consolidation of accountability and communication channels solidified these partnerships over time, taking them beyond individuals and the relationships between them to codify them in organizational processes, structures, and roles.

### Creating Accountability through Performance Management

In addition to the weekly coordination meetings, CPSC helped the partners implement performance management meetings. In terms of performance reviews, police, outreach, and community leaders come together monthly to monitor progress toward violence-reduction goals, refine strategies, and solve operational challenges. For each approach operational component, indicators help the partners understand whether they are: (i) focused on the small proportion of individuals driving violence, (ii) working at a scale that promises citywide results, and (iii) implementing their initiatives in a way that is consistent with both the partnership's values and accepted best practice. The organizations then undertake strategic planning based on monthly performance management data.

CPSC also helped the partners institutionalize performance reviews and monthly, quarterly, and annual reporting mechanisms. In Oakland, as part of the final piece of the development of a robust governance structure, in 2015, Mayor Schaaf proposed establishing performance review meetings to review progress on the implementation of the approach. Importantly, these meetings symbolized an inflection point when the mayor became directly engaged in operating the intervention. In Stockton, the SPD presents the results of its quarterly shooting review and informs OVP of emerging trends and patterns. The organizations subsequently hold discussions on how to interpret and tailor ongoing strategies when necessary and report to funders. Finally, the OVP publishes an annual report, which captures annual performance statistics. The office subsequently updates its strategic plan based on the outputs of this report.

The quarterly and annual accountability system offers an objective mechanism to monitor whether the partners, both individually and collectively, are attending to and achieving their stated objectives. In other words, everyone—including partners and funders—knows what each partner is supposed to be doing and has robust enough information to determine whether they are indeed complying and attaining the pre-established objectives.

Finally, there was an important handover process in terms of capacities. Early on, CPSC spearheaded most data analysis exercises, as these represented an otherwise overwhelming challenge both technically and resource-wise. During this period, however, CPSC undertook important efforts to ensure that the organizations could successfully uptake and institutionalize these processes such that, eventually, there would no longer be a need for CPSC. This was possible by parallel efforts to strengthen organizations' infrastructure; for instance, SPD growing out its analysis unit and OVP personnel engaging in extensive training. The two cities subsequently managed shooting reviews, case management meetings, and other coordination mechanisms without external support. Moreover, they have developed the capacity to not only generate and share this data, but also analyze it and make decisions accordingly.

### Institutionalizing the Approach

While performance management and account-ability cycles among the relevant partners undoubtedly contributed to the consolidation of the approach, the latter remained suscepti-ble to changing political winds and external shocks. CPSC therefore continued to encourage the partners to institutionalize the program as a citywide strategy. Indeed, formal institution-alization would provide codified city plans and procedures to ensure the program's stability despite these threats, and with that, organizational resilience.

With CPSC's support, OPD, Oakland Unite, the Mayor's Office, and community-based organizations developed institutionalization plans with corresponding deadlines. Moreover, to manage the implementation of each agen-cy's institutionalization plan, CPSC proposed four citywide sets of priorities. The perfor-mance indicators would orient the enhance-ment of key processes and formalize commit-ments across the relevant city agencies. The priorities for these plans entailed key staffing (mapping all vital executive, mid-level, and operational—not only top-level—positions for the operation of the approach), protocols (drafting protocols for service delivery, information exchange, public relations, and coordination), and analysis and governance (ensuring that the problem analysis would occur on an annual basis and consolidating the management cycle.)

After extensive efforts, the ambitious institutionalization agenda was only partially achieved. Abandonment or stagnation of such plans resulted from violence stopping to be a top-tier political problem. Moreover, the institutionalization plans were affected by a series of transitions within people and institutions, like the transition of the Oakland Ceasefire Director and Commander in 2018 and 2019.

### Empowerment of High-Risk Individuals and Feedback Loops

Part of this institutionalization also included strategies by Oakland and Stockton to formal-ize efforts to put at-risk individuals, or clients, at the center of the interventions. Oakland launched these efforts between 2014 and 2017 by establishing formal focus groups and feedback sessions with clients, although these efforts were interrupted by the onset of the scandal. In Stockton, these efforts began tenta-tively in 2016, but occurred more regularly in 2018, when the city's OVP established the leadership council. The team identified an initial cohort of young men who had previously been near gun violence but were now making concrete strides toward safety and opportuni-ty. Largely self-selected through regular attendance, participation, and follow-up, the group ultimately consolidated into an informal but strong core group that participated in personal and leadership development sessions, discussions, listening sessions with local police officers, and meetings with city and faith leaders. Beyond providing a shared space for participants—many of whom had at some point clashed with one another—to reflect on commonalities, the leadership council ulti-mately served as a key mechanism to provide feedback and input into the SPD and OVP. At times, this feedback even resulted in key, dynamic organizational change within these institutions; that is, to ensure that they are effectively serving the population.

### Impact Evaluation

Between 2012 and 2018, Oakland and Stockton experienced a significant reduction in homi-cides; for both cities, the homicide rate halved (Figure 4).

While the approach could claim success for much of this progress, some stakeholders pointed to other factors that could have



**Figure 4.** Homicide rate in Oakland, Stockton, and the United States (1999–2018)
Source: Federal Bureau of Investigation - Crime in the U.S.
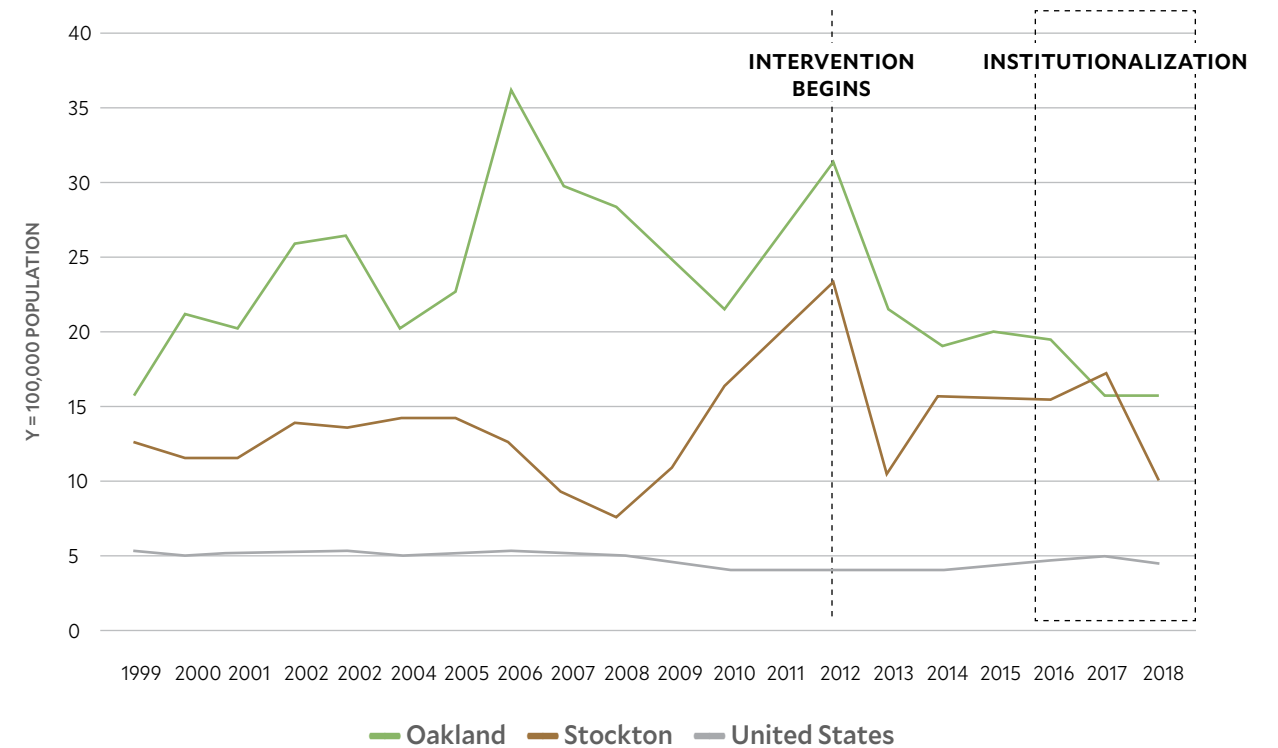
contributed to this reduction: the city was recovering from the 2007-2008 economic recession and the OPD had implemented effective policies under Whent's leadership to comply with the consent decree. Many com-munity members and activists also pointed to Oakland's increasing gentrification as the likely cause of reductions. To gauge—and divulge—the true effects of the approach, the partner-ship required evidence that isolated its impact.

After a competitive process, researchers from Northeastern University (Anthony Braga, Greg Zimmerman), Yale University (Andrew Papachristos), and Rutgers University (Brun-son) were selected to conduct a rigorous, academic evaluation of the program's impact. The research team tailored the impact evalua-tion to assess the strategy's triple bottom line goals and considered stakeholders' and the public safety subcommittee's input through four assessments: (1) place-based impact, (2) gang/group impact, (3) individual impact, and

(4) community/service impact, using both quasi-experimental and experimental assess-ments and in-depth qualitative interviews.

Overall, the evaluation showed conclusive-ly that there was a direct effect of the inter-vention in reducing violence in Oakland. The main reason for the positive results was not chance, economic recovery, or other policies; it was the result of the approach. The evaluation rendered legitimacy to a strategy that, despite many obstacles, continued to have strong political support.

The evaluation found that the approach was directly responsible for citywide reduc-tions in violence, appeared to contribute to reductions in victimization and recidivism, as well as potentially, for improved communi-ty-police relations. Overall, the places, groups, and individuals subjected to the intervention experienced reduced violence. The approach was associated with a 32% reduction in citywide gun homicides; a 43% reduction in

group and gang-involved shootings; and a 20% greater reduction in shootings in neighborhoods that experienced the strategy relative to those that did not. There was also an estimated 27% reduction in shootings by gangs that participated versus non-participants. Reflecting the broader organizational changes that the approach spurred in Oakland, the OPD also reduced the number of citywide arrests by over 60% from the yearly average prior to its implementation.

Beyond violence reduction, the assessment also found that the intervention had succeeded in its other objectives as per the triple bottom line approach, namely, building police-community trust and reducing recidivism. Respondents agreed that the approach had greatly enhanced the city's capacity to systematically and thoughtfully reduce shootings and homicides. Participants also agreed that community-police relations had improved steadily since 2012. Stockton presented similar results and patterns, but its relatively smaller scale limited the extent to which an equally rigorous evaluation could be conducted.

## Lessons Learned

The last ten years of implementing a data-driven, citywide triple bottom line approach through organizational change offers important lessons for cities wishing to pursue similar approaches to reduce violence and recidivism and improve community-police relations. The case showed how cities can use organizational scaffolds to experiment with and institute modular, stabilizing support to aid in developing new structures. The scaffolds helped the cities reorganize management to focus and become accountable for the problem of violence. With time, some of the scaffolds transformed into formal mechanisms. The cross-cutting lessons through this process include the need for shared problem definitions to facilitate alignment, the importance

of scaffolds to uphold change, the emergence of organizational structures, organizational complementarities, sources of resilience and continuity, and the empowerment of high-risk individuals.

### Lesson 1: Shared problem definitions facilitate alignment

The implementation of the triple bottom line approach in Oakland and Stockton shows that to achieve political alignment among institutions and stakeholders that do not necessarily speak or collaborate, it is essential to establish a shared, fact-based problem definition upfront. Notably, both cities found that although addressing a shared problem, different institutions often did so from a different understanding, leading to contrasting strategies or approaches. For instance, different stakeholders held different (and often inaccurate) understandings about who the victims and perpetrators of violence were. An objective, fact-based problem analysis allowed the different stakeholders to agree on a shared definition of the problem. This, in turn, facilitated the stakeholders to make public commitments to address the problem and subsequently, to convene partners and resources to take on that problem. Only through an initial, shared definition of the problem were the two cities able to build a citywide approach focusing on the highest-risk individuals.

### Lesson 2: The importance of scaffolds to uphold change

Once this alignment was established, different stakeholders who had not previously collaborated were quickly brought together to work on addressing a shared problem. The organizational structures of the citywide approach were supported by temporary, and often informal, structures or scaffolds to sustain the quick organizational change that the approach often demanded. The scaffolds allowed for experimenting with new inputs, activities, and objectives as the final process kept transform-

ing toward its final state. The initial shooting review meetings, for instance, were deliberately formed to bring together a diverse cross-section of line staff and managers around a shared problem, as no such structure yet existed. The shooting review eventually served as the anchor point for a formal, multi-faceted management system that mobilized police, probation, community intervention workers, community leaders, and others.

One important risk around scaffolds is that the initial scaffold creates results, and the implementing partners walk away thinking that the work is "done." The implementation of the approach in Stockton followed this path in 2013 when following initial reductions in violence due in part to temporary scaffolds, stakeholders believed that the problem of violence was solved and that they could redirect their efforts elsewhere—thereby putting the intervention at risk. The implementation plan for an intervention of this nature should call for the swift identification of the scaffolds necessary to offer modular, stabilizing support to uphold change while more sophisticated mechanisms are in development. There must, however, be a simultaneous plan for how the scaffolds will ultimately translate into formal working structures and processes.

### Lesson 3: Management structures

Some of these initial, temporary solutions did eventually formalize and emerge as new formal management structures that helped tear down silos and bring together stakeholders who did not systematically share information or work together toward a shared object of collaboration that was clear and useful. The resulting citywide architecture facilitated the creation of a data-driven governance system with periodic coordination and data exchange meetings, performance reviews, and accountability structures with a shared language around data that partners could agree to, communicate, distribute, and hold each other accountable for respective

activities. These management structures were essential for the approach to work.

Beyond the collaboration for the specific purpose of reducing violence, these sophisticated mechanisms could effectively be leveraged and deployed for other ends. Such is the strength, resilience, and data-driven rigor of these processes that they can exist independently of, and transcend, the contours of violence reduction efforts, specifically. These processes have gradually taken a life of their own and could mark a new way to organize resources around other city challenges, accordingly.

### Lesson 4: Leveraging organizational complementarities

Another lesson worth noting is the importance of organizational complementarities. The approach was not implemented in a vacuum; rather, it interacted with a range of other ongoing strategies, mechanisms, and transformations. First, encouraging intervention partners to focus on individuals at the very highest risk of violence as identified by police intelligence more effectively shares the challenge—and with it, the tools and intelligence—of reducing violence across police and non-police organizations. This directly contrasted with the prevention frame, where the police are "on their own" in regard to near-term violence.

Another example is procedural justice training in the early stages of implementing the approach. For cities that had long relied on place-based and zero-tolerance enforcement, transitioning towards intelligence-based policing and direct communication with and empowering justice-involved individuals proved counterintuitive. Procedural justice (PJ) offered a simple and intuitive mechanism to gradually instill these practices within the department. In parallel to the instructions to do policing differently, the OPD and SPD could come to terms with the structural dimensions and reasons behind this indication—an internal

procedural justice in and of itself. The approach and PJ—especially when complemented through new incentives, performance metrics, and leadership philosophy—reinforced and compounded each other, and the final product proved greater than the sum of the two parts. Implementing stakeholders thus agree that cities attempting to implement a triple bottom line approach should consider the prior, or at least parallel, implementation of PJ.

*Lesson 5: Early success, political governance, institutionalization, and technical support as sources of resilience and continuity*

It is also important to point to the remarkable resilience and continuity of the approach in both cities, even in the face of resistance to organizational change and plateauing reductions in homicides and shootings. Whereas in other cities, these events may have generated an impulse to revert to other strategies, throughout the years, Stockton and Oakland adhered to the approach (albeit with occasional stalls in progress). This occurred for several reasons. First, the strategy became associated with early victories, both from its prior iteration and following the results of the initial year (2013) and the impact evaluation (in the case of Oakland). Second, the cities' strong political governance, where key decision makers, elected leaders, and, particularly in the case of Oakland, community advocates—held the vision for the work over time and in spite of significant competing issues. The resilience and continuity were also possible due to the systematic institutionalization of the approach into formal city policies and structures, such as the Executive Directive and Measure Z funding. Finally, CPSC also acted as a continuous source of stability and motivation for stakeholders—even when the focus was temporarily lost.

*Lesson 6: Bring clients to the center*
A final noteworthy lesson of the approach is the gradual process of client empowerment.

Initially, individuals at high risk of suffering and exercising violence were at the margins of the strategy. The otherwise diverse cross-section of stakeholders that designed and launched the implementation of the approach systematically excluded the voices of the justice-involved individuals that the strategy was trying to serve. Gradually, the partners grew privy to the importance of carving out spaces for these voices across the different components of the intervention. Clients' participation proved necessary not only for trust-building and symbolic reasons but also for the strength and efficacy of the intervention itself. This is a strategy for clients; thus, they must be at the center.

## Looking into the Future

Despite the important organizational change and consequent triple bottom line results that the approach achieved in Oakland and Stockton, the intervention's structures are still precarious, and effectively sustaining them requires deliberate, full-time work. Perhaps at no time has this been more evident than over the past two years. After a steady trend of reductions in violence from 2012 through early 2020, in late 2020, years 2021 and 2022—with both new and long-standing challenges—rose again in both cities, when (i) a shift of political focus and management attention and (ii) key leadership transitions coincided with the (iii) external stressors brought about by the onset of the COVID-19 pandemic.

As mentioned throughout the study, the loss of political focus was a latent threat throughout the implementation of the approach. After years of declining violence, Oakland and Stockton may have deprioritized efforts to reduce violence as other political priorities emerged. Oakland, particularly, experienced large-scale reductions in violence, stable economic growth, and intense gentrification over the implementation period.

According to the National Community Reinvestment Coalition, Oakland (and San Francisco) was the U.S. city with the highest gentrification rate (31.3%) during the 2013-2017 period (Richardson et al., 2020). In this process, high-wage tech workers and expensive housing pushed lower-wage neighbors out of West Oakland—and social priorities changed. Newcomers perceived public safety needs very differently from ten years ago; notably, many had never experienced Oakland's homicide problem nor the effort it took to arrive at that present context. Voters' number one priority is now often homelessness, which has spiked 63% since 2017 (Associated Press, 2020).

The evidence demonstrates, however, that violent dynamics are driven by long-standing, structural factors that require constant, active management and attention. While violence is typically driven by a very small number of individuals, there are broader social processes that result in a somewhat continuous supply of new—if relatively small—cohorts of young men at extreme risk of violence. That is, the problem of violence is never fully "solved." The shifting of attention at this point thus hindered the important, necessary work to ensure that the reductions—still fragile—could be effectively sustained through time.

In addition to the shift in priorities, Oakland and Stockton experienced important leadership and management transitions. In Oakland, this primarily occurred at the executive and senior management level. The original senior Ceasefire management team transitioned in 2018 and 2019, followed by the appointment of a new Chief of Police and the first Chief of the Department of Violence Prevention. Stakeholders note that these new leaders did not fully support or understand the type of organization and management work necessary to keep the approach afloat, and therefore made decisions that undermined the strength of the intervention. Meanwhile, in Stockton, the architects of the approach moved on or were let go. Two important shifts in leadership took

place towards the end of 2020: the Deputy Chief and Lieutenant overseeing the intervention's day-to-day operation moved on from the SPD. Then, in January 2021 Michael Tubbs lost his re-election campaigns as Mayor; shortly after, Muhammad, the Director of OVP, was let go by the city. Finally, the California Partnership for Safe Communities contract was terminated. These changes in leadership directly coincided with a sharp uptick in shootings and homicides.

Then, the year 2020 and the advent of the COVID-19 pandemic served as an external stressor that further exacerbated these dynamics. First, according to data from the FBI, homicides in 2020 in the United States rose about 30% from the year before—the largest one-year increase in over a century. In addition to the rise in homicides that coincided with the pandemic, COVID-19 directly impacted many of the pillars sustaining the approach. Residents of Oakland and Stockton, like residents across the world, experienced higher social anxiety, job insecurity, evictions, and disruptions to learning during lockdown. Stakeholders note that the compounding of these factors may have contributed to a rise in violence. In contrast to previous years, for instance, experts in Stockton note that up to a third of homicides in 2020 were related to domestic disputes—a trend consistent with the rise of domestic violence that accompanied the pandemic worldwide.

In practice, the confluence of shifting priorities and high leadership turnover—exacerbated by the pandemic—led to decisions that went against the principles of the approach. First, the Oakland Police Department cut half of the staff dedicated to the approach, in turn reducing the ability of the section to do the necessary work. Oakland Unite became the Department of Violence Prevention (DVP) and began to drift away from high-risk individuals and towards a broader, public health mandate with a focus on a range of violence prevention issues. Homicide numbers quickly returned to crisis levels. Meanwhile, in Stockton, the

Community Response Team (CRT) appeared to drift from a data-driven focus, leading to several notorious confrontations with the community in 2020. Finally, the pandemic led to several COVID-related changes to bail practices in both counties, and although their exact impact is unknown, for some people sent a message that the justice system was out of business.

While both cities were at this point relatively well organized around the problem of violence, the internal and external stressors of 2020 and 2021 profoundly threatened the structural pillars of the approach. The increasingly sophisticated organizational and management infrastructure that the cities developed served as a protective factor for the cities' ability to prevent violence sustainably and effectively; however, even the capacity of this infrastructure became increasingly diminished with the changing violence dynamics, loss of political will, and the disappearance of robust management teams capable of doing the work.

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**References**

Abt, T., & Winship, C. (2016). *What Works in Reducing Community Violence: A Meta-Review and Field Study for the Northern Triangle*. Democracy International.

Associated Press. (2020, October 21). Oakland Approves New Homeless Encampments in Contentious Decision. *AP News*. https://gvwire.com/2020/10/21/oakland-approves-new-homeless-encampments-in-contentious-decision/

Braga, A., Papachristos, A., & Hureau, D. (2012). Hot spots policing effects on crime. *Campbell Systematic Reviews*, 8(1), 1–96. https://doi.org/10.4073/csr.2012.8

Braga, A. A., Weisburd, D., & Turchan, B. (2018). Focused Deterrence Strategies and Crime Control. *Criminology & Public Policy*, *17*(1), 205–250.

Richardson, J., Mitchell, B., & Edlebi, J. (2020). *Gentrification and Disinvestment 2020 » NCRC*. National Community Reinvestment Coalition. https://ncrc.org/gentrification20/

Weisburd, D. The Law of Crime Concentration and the Criminology of Place. *Criminology*, 53(2), *133-157.* https://doi.org/10.1111/1745-9125.12070

Weisburd, D., & Majimundar, M. K. (Eds.). (2018). *Proactive Policing: Effects on Crime and Communities*. National Academies Press. https://doi.org/10.17226/24928

# Checkerboard #4

**By Matt Katsaros**

**Jonathan Gold,** the first food critic to win the Pulitzer Prize, once said of his native Los Angeles that it is an "anti-melting pot—less a melting pot but a great, glittering mosaic." Cities like Los Angeles and my home city of San Francisco provide an urban backdrop where the idea of a multicultural melting pot is rejected, and, instead, a "glimmering mosaic" can emerge.

Countless new ideas in art, food, architecture and everything in between emerge not just from the individual pieces that produce these mosaics, but, as Gold says, when "huge numbers of multiple cultures that live in the city come together in this beautiful and haphazard fashion, the fault lines between them is sometimes where you find the most beautiful things." The image conjured from this metaphor is one that feels familiar as you drive the avenues of the Outer Sunset neighborhood. Repetition and patterns quickly emerge as one passes rows of originally identical Doelger homes now varying only in the tint of their salt-faded colors.

In my practice, I explore this metaphor through quilts and sculptures constructed from fabric colored with natural dyes mainly sourced from neighborhood flora. Using very simple patterns, like the checkerboard pattern seen here, a basic square repeated can quickly shift away from the mundane through only small, improvisational variations in color, size, or orientation.

*Matt Katsaros is the Director of the Justice Collaboratory's Social Media Governance Initiative (SMGI).*



Matt Katsaros
*Checkerboard #4,* **2023**
80 x 60 in.
Indigo, eucalyptus, pine bark, dyers chamomile, oak galls & iron, and coreopsis natural dyes on cotton canvas

# Communicating Injustice to the Outside World

**By Beth Parker**

**Recently I walked** out of a Washington, DC comedy club late at night with a group of friends. Two Black teenagers—maybe 17 or 18 years old—were getting into a car when four officers approached them. The teens were compliant, the car was searched and one of the boys was handcuffed. I watched tentatively as the scene unfolded, thinking about my own son who looks around the same age, but is white. One friend, an educated white woman who would describe herself as liberal, urged us to keep walking. "I'm sure they did something wrong, or the police wouldn't go after them."

Perhaps there was a time, before I became a communications director in the criminal legal field, that I would have viewed the scene the same way. But my friend's comment, the antithesis to what was going through my head, struck me. There have been so many high-profile cases of police violence—George Floyd, Breonna Taylor, Tyre Nichols, Eric Garner, Michael Brown, Tamir Rice, Freddie Grey, to name just a handful of victims that contradict this assumption, but still so many white Americans see them as exceptions to the rule. While people may agree that those *exceptions* should be corrected, these events are not always understood by even the most liberal as a pattern.

Before I began working with The Justice Collaboratory (JC) a couple of years ago, I thought I understood the justice system's defects. I knew the U.S. incarcerated more people than any other country and I knew Black and Brown people were much more likely to come in contact with and suffer at the hands of law enforcement. As a Jewish woman in America, I was intimately aware of the injustices facing Jews throughout history, the evil of the Holocaust, and the perpetual antisemitism in the U.S. and around the world. But there was still so much I didn't know about the depth and breadth of the injustices happening all around me.

I bring to my work at the JC the naiveté of someone not trained in the criminal legal field along with a newfound anger, and disillusionment, of someone who learns of new injustices daily—from the scope and devastation of mass incarceration to the overall structural imbalance of opportunity and justice among the human beings that inhabit this nation.

Perception is a result of exposure and experience. I believe it is up to those who have a deeper understanding of the criminal legal system to help expose truths to those who have been fortunate enough not to have been harmed by it.

To do this, academics and advocates can't only talk to one another about what they know. Groundbreaking, scientific research is being done across disciplines that expose, and offer solutions to help fix, the seismic cracks in the criminal legal system. We need to shape the national conversation by talking to all those people out there like my friend, who continue to give the system the benefit of the doubt and assume it is fair enough.

The media is a powerful tool for communicating injustice to
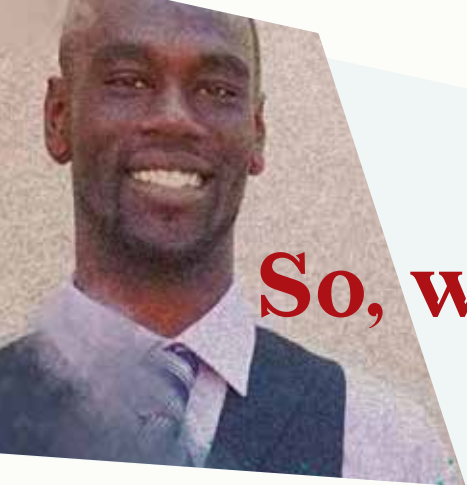
# So, what can we do?

the outside world and exposing others to the education I've begun receiving, but media coverage can be inconsistent and lack context. Wall-to-wall coverage of high-profile police shootings fade to silence within days. Crime "trends" are reported without context. The true cost of a broken system on individual lives, communities, and the nation, are often left unexamined. People like my friend are paying attention to the news, but they are still not getting it.

### Explain why it matters: public safety and economics.

A reporter will often ask: "Why does this matter to my audience and why does it matter right now?" To reach a wider audience, we need to start by explaining why injustice matters to *all* Americans. This answer differs by audience, but aside from those who care about protecting human rights and building equitable opportunity, most audiences will care about their own public safety and financial security, and that of their families and communities. What is the financial and public safety benefit to a prison reentry program? What is the cost of mass incarceration, and where could that money be spent instead? How do sentencing alternatives increase public safety and save taxpayers? These are the types of questions we'll need to answer.

### Don't assume any previous knowledge.

Before I began working for The Justice Collaboratory, I had never heard the term "criminal legal" used in place of "criminal justice." I would guess that the people outside of the criminal legal system haven't heard of—and would not understand—the significance of the terminology that those in the field use (or don't use) daily. What seems obvious to those inside the field of law and criminology may be completely foreign to those on the outside.

They may not have a sense of the scope of mass incarceration in this country and its impact. They likely don't know that a Black male has a 1 in 4 chance of being incarcerated during his lifetime. They probably don't fully grasp the scope of police misconduct. They may be unaware that children as young as ten years old can be tried as an adult in some states, that people can be incarcerated for years before they even have a trial, that there is no national database tracking police violence, or that nearly 80 million people in the U.S. have a criminal record and are living with the ongoing collateral damage, such as unemployment and food and housing assistance.

It's important to keep repeating the facts and sharing stories of injustice in the simplest, understandable terms possible.

> "It's important to keep repeating the facts and sharing stories of injustice in the simplest, understandable terms possible."

### Correct and clarify the record.

Bad and misinformation is a constant challenge, especially in the age of social media. In addition to blatant falsehoods in both traditional and social media, we see a manipulation of data, non-scientific generalizations, assumptions, and platitudes. Think of the terms "war on crime" and "crime wave." These should be challenged and clarified whenever possible. For example, when President Biden touted funding for "Community Policing" in his 2022 State of the Union, JC Co-founder Tom Tyler and Executive Director Caroline Nobo wrote an op-ed for *USA Today* questioning what that really meant and reviewing the true history and impact of community policing.

## Humanize the impact of injustice.

In discussions about policy and data, the reality that the criminal legal system impacts real lives, real families, and real communities is often lost. Percentages and numbers don't always translate to real people. We need to lead with the stories of human impact—the person wrongly imprisoned, the incarcerated mother torn away from her children, a child sent to Rikers because he couldn't afford bail, the man who returned to prison because he had no support during reentry. These are the stories that interest the media because they know it will connect to audiences.

This approach helped JC member and law professor Marisol Orihuela get national news coverage about women who were unlawfully being sent back to prison after being on home arrest during the pandemic. One article, which featured how a mother's return to prison was tearing apart a family, helped lead to her release.

JC member and Johns Hopkins Professor Vesla Weaver who runs the American Prison Writing Archive recently spoke to me about the value of firsthand stories: "I always believed strongly that if you want to understand you have to go to the people who actually live in the institutions—know them intimately—and hear how they describe what it is. Without their perspective, you'd be missing critical truths."

At the same time, it's important to protect and respect those who are willing to share their story of injustice and allow them to tell it in a way that is comfortable to them. When working with the media, it may mean setting ground rules with reporters up front that prohibit them from asking about a conviction or from printing last names or using photos.

The media is hungry for experts who can explain the criminal legal system in a simple way, with a human face, and for the stories that make its injustices relatable to "everyday Americans." Op-eds, media interviews and social media posts are all effective ways to communicate injustice to the outside world.

A large portion of this country, like my friend and like me, may never experience an unjust criminal legal system firsthand. Those of us who are knowledgeable of its flaws— whether through exposure or education, or both—have an opportunity to communicate what we know in a way that resonates. The media can be our megaphone. If we keep shouting in it, people will eventually start to listen, and even long-held assumptions may start to shift.

**Beth Parker** *is the Director of Communications for The Justice Collaboratory at Yale Law School.*

# Why Black Demands for Public Safety Leads to More Police and Prisons

**A conversation between Elizabeth Hinton and Vesla Weaver**

*From the 1967 Kerner Commission Report*

**SUBJECT:** Interview with Rev. Robert Hunter, an Episcopalian minister in Atlanta: Dr. Jordan, a militant young Negro physician; and Mrs. Dorothy Howard, a neighborhood aide in Vince City Neighborhood Service Center, October 23, 1967

After I Identified myself, Dr. Jordan stated that he was not interested in talking to me because this was just another report which was going to be done by the federal government and nothing would come out of it. He stated that what black people needed was not another report showing the problem, everyone knew what the problem was, what the people in Vine City needed were some jobs and more money and adequate housing.

In going back to the report, Mr. Jordan stated that American black people must be the most studied, researched, and thought about people on the face of the earth, but still nothing significant had happened through the government or any other agency in this country to improve the lot of most black people. He stated that in the South today, particularly in Mississippi, there were attempts being made to systematically starve and exterminate black people...

Dr. Jordan and Rev. Hunter stated that I was foolish if I thought that any report written by this Commission on Civil Disorder would make any real indent on the problems of poor back people in America...

**Chidinma Dureke,** *Elizabeth & Vesla,* **2023**
Oil, pastel and metal leaf on paper
14 x 17 in.

## Introduction

We decided to have a conversation to discuss and develop the concept we coined in our New York Times op-ed, "Did Blacks Really Endorse the 1994 Crime Bill?" (2016). In that op-ed we, along with Julilly Kohler-Hausmann, addressed a common defense (and one espoused by Democrat presidential nominee Hillary Clinton) of the 1994 crime bill and the era of mass incarceration: that Black citizens asked for it. We argued that while Black people wanted an immediate response to safety deprivation in their communities, many were asking for something different from the crime bill, and that punitive crime policy was a result of a process of selectively hearing Black voices on the question of crime.

Policymakers pointed to Black support for greater punishment and surveillance without recognizing accompanying demands to redirect power and economic resources to low-income minoritized communities. In short, when Black people asked for better policing, legislators selectively heard more policing.

More than seven years later, we look back on this concept, briefly laying out some historical and contemporary examples and consider some of its central dynamics and implications. Our discussion here is not exhaustive (and only lightly edited), but, rather, an opportunity to introduce the concept of "selective hearing" to an audience concerned with patterns to explain the rise, durability, and ongoing contestation over "law and order" politics, policing, racialized punishment, and safety deprivation.

## The Conversation

**Vesla Weaver:** I'm still wrestling with how to define this idea of selective hearing. Because where we started with the concept was to point out a pattern at the national level and I think all of the stuff I've been working on has been very local, and there've been efforts to disrupt selective hearing.

I've been thinking about how selective hearing relates to an idea put forward by one of my favorite scholars, Yanilda González (and her co-author Lindsay Mayka) and the concept of asymmetric citizenship (González & Mayka, 2023). I think part of how she's able to identify patterns that have remained elusive for scholars of American politics in a way is because she's coming at it from comparative politics. So, she's not coming at this question from the policing literature, but she's coming at it from the context of post-military dictatorships. Why is it that these enduring patterns of police repression endure, and not only endure, they get worse, and democracy facilitates it (González, 2020)?

Anyway, once we named and described selective hearing in the op-ed, we saw it everywhere.

**Elizabeth Hinton:** You see it everywhere now. Which is why in almost every talk I give when I get that question—"What about the fact that the elderly lady on the porch is calling for more enforcement and harsh punishment?"—selective hearing is always part of my response.

**Vesla Weaver:** So, what is "selective hearing"? How would you define it? How would you explain it to somebody who isn't necessarily familiar? I know how I would explain it to political scientists because we talk about political responsiveness to people's claims. And selective hearing is not ever something that has been measured. Political scientists explore when people ask for government intervention or support a policy, how much does it get on the political agenda? And how much does this vary for particular groups? But we don't look at the whole, we don't look at the fullness of what they're asking for, and then what within that gets promoted, and what gets discounted. Or consider how some groups not only get less, they get more of the disciplinary interventions.

**Elizabeth Hinton:** Exactly.

**Vesla Weaver:** And so, how would you define it? And how would you describe some of the central patterns and dynamics that we see in selective hearing?

**Elizabeth Hinton:** When I talk about it, because I haven't written about selective hearing academically, it's usually in Q&A after a lecture or a panel presentation. And I say that selective hearing has two elements to it. First is what you were just saying about political responsiveness, and I think this is exactly how you posed the question years ago. So I'm plagiarizing you, Professor Weaver:

> Why is it that, of all the demands that Black people in the U.S. have asked for historically, and what the freedom struggle has been about—essentially full political and economic citizenship—why, despite a very rich and robust tradition of struggle in Black American communities and in other communities of color, why is it that the only thing that they get is punishment?

I mean, yes, Jim Crow was dismantled. Slavery was abolished. Civil Rights Act passed. But why is it that really the only public good that Black people get are policing and prisons? That's been it. Those in power hear the demands, they hear demands that involve the kind of

marshalling of the carceral state, but not the bread and butter of the demands, or the way that those demands are even foregrounded in a more kind of robust set of social goods and a more robust democracy. I mean, go back to Du Bois—what is Abolition Democracy? What was Black Reconstruction about?

> It is not only about civic enfranchisement, but it's about access to schools, housing, health care, jobs. Those have been the central demands.

That's one aspect of this concept, that politicians and officials only hear—they selectively hear—the punitive, the demands for punitive measures. And then with that, and I think this is a direct line from our *New York Times* op-ed: When communities of color, say, "We want better policing," which is a very common demand, *politicians hear* only "more policing." They don't hear the "better" part. They hear the more part, and they're not really wrestling with the full range of things that Black people are talking about.

**Vesla Weaver:** Yeah.

**Elizabeth Hinton:** Actually, James Forman, Jr. came to my mass incarceration class, and the students, of course, asked, "Well, what about the Black woman, the grandma on the porch…" and we talked about that. But I think that is really the question that we all must have a better answer for.

But barring that—well, that gets to one of the main examples I wanted to share with you. It didn't occur to me until I was preparing for this conversation that the rebellions are a prime example of selective hearing. They're all rooted in socioeconomic demands, and the only sustained, long-term investment comes in the

form of law enforcement. In *America on Fire*, I wrote this whole chapter on the "other Kerner Commissions" (Hinton, 2021). We see it in the Kerner Commission, but it's also in these state and local Human Relations commissions, as they were called. In many cities, commission authorities go, they interview residents, they have hearings, they study the causes, and recommend things and it's always…they're just like mini-Kerner Commissions and the outcomes are mini-Kerner Commissions, because it's always the same diagnosis: the root cause is unemployment, and it's the slum landlords. And it's these public housing projects, and it's these failing schools, and it's racist teachers. The commissions always recognize the root causes of this violence are these larger socioeconomic inequalities that residents are demanding.[1]

And so, they recognize all the root causes of the problem, and then they say, just as the Kerner Commission did, and we also need to improve police community relations in the meantime. The commissions always have all these recommendations for the police department.

> And what ends up happening, of course—the Kerner Commission is the national example—the only thing that gets implemented are the policing measures, and it might be in the name of community policing, or it might be diversifying police departments, but it is actually escalating and increasingly militarizing police in the same communities that protested police abuse in the first place.

We continued to see this dynamic of selective hearing play out during the summer of 2020, where the policing issue ended up being really central in those conversations for

racial justice. We get the George Floyd bill which still hasn't been enacted.[2] The legislative response, was, "okay, we need to outlaw chokeholds and think about qualified immunity and a better accountability process." And then we get two years later Biden saying, "Fund the police" in his State of the Union, and also evoking that same idea—"This is what these communities want."

I think the last thing I'll say, and then I really want to hear what you've got to say, because I've been talking way too much. [VW: No, this is awesome.]

> The most frustrating thing to me, and what I hope that my work has shown, is that these policies consistently have not—they don't—keep communities safer. These policies haven't worked.

When gun violence spiked in 2020, that should have been looked at as proof that policing does not work. Policing is not actually addressing these problems. It's not saving lives like it's supposed to. And so, therefore, we need to try something else.

When social welfare programs don't work, after like two months and an evaluation, they're done. We're done. "We tried and that doesn't work." But we've now had 50 years of a war on crime, war on drugs, war on gangs—50 plus years—that has not demonstrated its results. And yet that's still the go to. It's, "Oh, homicides are up." It's never, "Let's question it." Even in 1965, '66, '67, as rebellions are picking up, Lyndon Johnson is never like: "Oh, let me rethink the war on crime." Or, "Maybe the war on poverty isn't going far enough," which is what the Kerner Commission said. These were mostly white moderates on the Kerner Commission telling Johnson we've got to expand the war on poverty. We need a

Marshall Plan. We need redistribution. We need all this stuff. And instead of that, it's always like: "Well, we just have to ramp up the war on crime." Ramp it up, ramp it up, ramp it up.

**Vesla Weaver:** When Black communities make claims for redistribution and the state doesn't deliver, in later rounds of policymaking, those very groups are stigmatized as ***the very thing*** they did not get—as overly reliant on welfare, for example. State failures become personal failures in our political narratives. So selective hearing is dangerous not only because some groups don't get what they need or claim on political agendas but also, it helps foster a racially criminalized citizenship by not heeding demands for investment and then stigmatizing people and whole communities for effectively what are state-produced deficits and harms.

**Elizabeth Hinton:** Beautifully said. I'm thinking of James's [Forman Jr.] response to the "this is what Black communities are calling for" question in the class, and I think this is something that we've talked about a lot…Maybe the root of selective hearing is that there's a lack of certainly political, but also a popular imagination to envision more robust ideas about what public safety is. Because in some sense, all of these demands are about public safety, they suggest that public safety doesn't always—or even have to—involve the police.

> Or when we think of the institutions that are supposed to make us safe, we're told that the police make us safe. That's the existing institution, and people can't necessarily imagine a body beyond the police to help make, to lead, to more safe and vital communities.[3]

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1    In addition to the Kerner Commission, see, for example Pennsylvania Human Relations Commission, Investigative Hearing Report—City of Harrisburg Dauphin Country (1969).

2    George Floyd Justice in Policing Act 2021. https://www.congress.gov/bill/117th-congress/house-bill/1280
3    These ideas are borrowed from James Forman Jr.'s response to a student question during a guest visit to Elizabeth Hinton's "Mass Incarceration in historical perspective" lecture course at Yale University on April 12, 2023.

**Vesla Weaver**: There's a lot of political science that would explain that result.[4] When you diminish some institutions, those that would provide for communal vitality, those that would provide for healthy housing and a health infrastructure, and would truly have education as a public good, to quote Ben Justice (2023) over time, what happens is when you have weakened all those institutions, this intense feedback effect occurs. Where the public responds by saying, "Well, there's nothing. There's nobody else to call. There's nothing else that does help us. Therefore: we need the police." The one institution that we've turned to and provided muscular investment in again and again and again, then is there at the ready to absorb and to be *the thing* that's called upon to do that kind of social provision. And so, one of the things I was thinking is almost whether there's a feedback effect of selective hearing itself. Because think about what you just said, Elizabeth, over time as you as you disinvest, and as you slowly migrate away from what people are actually asking for, what ends up happening...the violence, the safety deprivation that result *is itself* a product of these earlier episodes—whether it's Khalil Muhammad's historical case during the Progressive Era, where we invested in white ethnic groups flourishing and saw 'black crime' as character flaws and disinvested there (Muhammad, 2019).

> Over time, what ends up happening is this vicious feedback loop where then you get more safety deprivation, and so you get further cycles of well, "these communities have more crime, so we've got to fund policing."

And so, I know that we wrote about selective hearing in that one 1994 crime bill. But I'm almost wondering if, if I were to draw this on my whiteboard, we would see a pattern: we would see that every single historical moment we have, selective hearing leaves in its wake an outcome—unresolved safety deprivation—that then that outcome itself is used later for calls by the media, by lawmakers, by a scared (white) public to call for what? Law and order crackdowns. More selective hearing of Black claims. I mean, I'm literally seeing this on my campus right now, where our president is developing plans for an armed police force (on a campus that benefitted from and contributed to segregative, exploitative, extractive relations with Black Baltimore), and the rhetoric is: "I would love to be able to solve these root causes, but we need something *now* [to deal with insecurity and safety concerns]."

**Elizabeth Hinton:** That's what they always say. [VW: Exactly.] Even Nixon was saying that, "We know what the real problems are, but we gotta deal with it now, right?"

**Vesla Weaver:** And when you mentioned the Kerner Commission, one of the things that I was thinking about was how people in the communities with rebellions understood this pattern of selective hearing. I had looked through all the Kerner field team interviews, and there's this devastating quote (from the interviewer notes of a Black person interviewed in 1967 that they must be the most studied, least improved people in America). And basically, one of the respondents says: "*Nothing is going to happen with this report. You watch. We're gonna tell you what we've always told you. We're gonna tell you what's wrong. We're gonna tell you what we need. And basically, it's not going to amount to anything*." And so one of the things I've been thinking about is if you look at Black public discourse, they understand that what they have received policy-wise is selective hearing. They don't call it that, of course. But in so many



> "... We are going to elevate the black policeman in the black community to the same image-status enjoyed by the white community; that is, a protector of the citizenry and not a brutal oppressor. We find it impossible to operate within the framework of existing Police Associations. For example, we disagree categorically with the position of the Fraternal Order of Police supporting 'stop and frisk,' and their position supporting the order to 'shoot to kill' or maim looters during civil disorders.
>
> We will no longer permit ourselves to be relegated to the role of brutal pawns in a chess game affecting the communities in which we serve. We are husbands, fathers, brothers, neighbors and members of the black community. Donning the blue uniform has not changed this. On the contrary, it has sharpened our perception of our responsibilities as black males in a society seemingly unresponsive to the needs of black people. We see our role as the role of a protector of this community, and that is the role we intend to fulfill."

*Source: Afro-American Patrolman's League statement upon its formation in 1967-68, AAPL.*

words they say things like, "When we ask for this, that, and the other you're always going to hit us with the hammer." The person in the Kerner interview I mentioned literally says, "*Why am I even sitting with you being interviewed? The same thing is gonna happen. Nothing is going to be changed. We're going to sit here. We're going to expend our energy telling you what the problem is...*"[5] And if that isn't selective hearing....

One of the other things I was thinking about that it's not only that there's a punitive response. It's also that the response is one that provides limited representation but not a fundamental transformation of the racial order or structural violence. It's, "Let's add, a few representatives of your color to the situation and stir." [Laughter] And so it's, our investment is, actually, really just optics. It's not an investment that would reorient how we're responding and creating infrastructures of flourishing.

**Elizabeth Hinton**: That is kind of one hot take on the Civil Rights Movement. To be honest, I mean, representation is the biggest legacy.

**Vesla Weaver:** Yes, it's a racial liberalism. So, my historical example is, and I'm just so unbelievably shocked that I've been doing this work for 15 years, and this is the first time that I'm really understanding the Black police organizing that went on where in almost every city there was a Black Police League that forms. Some of them are early, some of them are, 1950s, but many of the political, the very politicized ones, like the AAPL (Afro-American Patrolman's League) are formed in the late 1960s.[6] And basically, they form because they're enduring beatings and threats by white police, racist assignments, and capped opportunity structures. They're seeing brutality on the streets. They're seeing that, policing harms their communities. They see themselves as representatives of the community, rather than as just

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4    As a general matter, not on policing specifically. For example, see the work of Suzanne Mettler, Jamila Michener, Amy Lerman, and Sven Steinmo.

5    Vesla is paraphrasing the interview depicted at the opening of this conversation essay. Civil Rights during the Johnson Administration, 1963-1969, Part V: Records of the National Advisory Commission on Civil Disorders (Kerner Commission), Subject Files of Robert Conot [Series 59], Atlanta, Georgia, LBJ Library, "Interview with Rev. Robert Hunter, an Episcopalian minister in Atlanta; Dr. Jordan, a militant young Negro physician; and Mrs. Dorothy Howard, a neighborhood aide in the Vine City Neighborhood Service Center, October 23, 1967."

6    This is based on a chapter of a larger book project with Gwen Prowse. The chapter is titled "When Black Police Almost Changed the World: Black Police Leagues Rebut Racial Authoritarianism."

kind of representatives of the police force and time and time again they are going up against Stop and Frisk (decades before the NY ruling and protests), mounted shotguns in police vehicles, they're supporting a civilian review board, and passing resolutions against police brutality, and regulating use of deadly force. The AAPL operates something called the League to Improve the Community. They're actually modeling what a democratic policing, what a policing that gives protection and that the affirms the worth of the community and provides for the community and responds to communal demands would look like. And every single time, they are retaliated against, they're suspended. They're transferred, and demoted.

The only reason we know about Fred Hampton is because the AAPL sent a representative to interview the one Black officer that was there, and they were the ones calling for an investigation. They were the ones putting up a counter narrative, saying something didn't go down right here. And they were doing all this stuff for the community, and meanwhile being retaliated against to the point where many of the members never came back to the police force. And this was most evident in Chicago. But you could see it in LA, Oakland, Detroit, Atlanta, Pittsburgh. And every single one of these black police organizations Guardian Civic League in Philadelphia and Pittsburgh, the Bronze Shields in Newark, the Ethical Police Society in St. Louis, developed structures of provision and responsiveness where they were almost totally lacking from state officials.

In every single time they basically were told, "Get back, don't organize. You're being too subversive." And the "too subversive" part was, "We just want you to not put a boot on our communities' necks." That was seen as too subversive. And anyway, and so I keep seeing evidence of where they're like, "Look, we want to model what actual regard would look for our community. These are our brothers and sisters." and so they're operating brutality and

complaint referral services and have affidavits that they're filling out about citizen claims of abuse incidents—I was just looking at one this morning. And they're crushed, and they're crushed because they're not operating within racial liberalism right?

<p style="color:red">They're not asking for a seat at the table. They're asking for a fundamentally different policing relationship and one that doesn't orient itself towards Black citizens as dehumanized subjects.</p>

And so to me, it's such a striking example, because it demonstrates that even within the police force, the same techniques that that are used on Black citizens in the community were used on the leaders, were used on Howard Saffold [president of the Afro American Patrolmen's League], to the point where Renault Robinson [the founder and executive director of the AAPL] shows up in his winter coat one day early [he wears his coat a day before police regulations allowed, say on Oct 31 instead of Nov. 1] and gets a suspension. I mean it's ridiculous. You can't even make this stuff up! The Shield Club in Cleveland forms because they were trying to protect Black officers who were trying to protect civil rights workers which were trying to integrate a dance hall, and white officers come and basically beat the Black officers. And then the Black officers get suspended.

And so, there's a local dynamic there that's playing out where it's not only the big policy agenda claims at the national level. It's whenever Black people actually tried to model—what's the inverse of selecting hearing?—what true community responsiveness and service and public goods provision would look like, it was deeply threatening to white-dominated police departments, and they were crushed.

You had Black officers passing resolutions to regulate use of force and to protect Black life, and going up categorically against Stop and Frisk, and every single time they are shut down

by the city leaders and police department, and opposed by organizations like the IACP, PBA, and the FOP.

The leagues also had a structural analysis of crime and made demands for social investment, including jobs. Indeed, they modeled this approach too—the Guardians Civic League ran a Community Justice Youth Project, where youth would undertake an extensive survey of community problems, canvassing residents in North Central Philly. They may have gotten more diversity on the force, but not their more transformative demands.

**Elizabeth Hinton**: This is fascinating, and I wonder if it's a third element of selective hearing, because I hadn't even made this connection before. But in my first book I write about the League to Improve the Community who had this whole plan for improving safety in the Robert Taylor Homes, which is essentially an independent tenant organization... [VW: I forgot about this in your book!] And the Carter Administration just basically took that and then implemented their plan and put it under their purview, as part of their crime and public housing program.

<p style="color:red">So that's a component of it that maybe we haven't thought about: selective enforcement of selective hearing. It's that selective hearing is also about the continued aversion to actually ceding real power and resources to community members.</p>

**Vesla Weaver:** Because they don't trust them to self-govern!

**Elizabeth Hinton:** And that's the underlying logic of selective hearing: When communities demand power, they get crime control resources.

**Vesla Weaver:** Indeed. I can see people asking us, "Well, what are the other cases of this?

Can we apply it to other groups? Are there white communities that experience selective hearing?" Something that I've been thinking about is that I don't want this to be a thin dynamic that is just merely about the inputs (the demands) and the output (the policies that result).

<p style="color:red">Because, fundamentally, why do you get a recurrent pattern of selective hearing? Well, you get it because the broader orientation of American democracy towards Black communities is one that sees a group deserving of suspicion. You wouldn't get selective hearing without this.</p>

And I think Khalil [Muhammad] (2019) shows this brilliantly in doing the kind of comparative case with white ethnic groups. You get it because fundamentally there's a distrust of Black political governance structures. There's a distrust and an orientation towards Black communities as well. "They need the strict arm of the law. Otherwise, they would run amok." And so, I really think we should think about that.

Yes, there's a general pattern to selective hearing. But I think it's undergirded by a broader orientation towards Black life. I think it is deeply racialized. The reason our popular imagination defaults to harsh visions of safety derives from particular ideas and constructions of *who* is dangerous and needs control verses investment...Because you're absolutely right, Elizabeth. I mean, Renault Robinson talks about what he was doing as head of Chicago Housing Authority, and how he was sending his officers to go help people in the Robert Taylor Homes and give them information and access to services.

And so, this is one thing that I wanted to read—an excerpt from Yanilda González and Lindsay Mayka's piece—because they're looking at this selective responsiveness from a different context—São Paulo, Brazil. But basically, this is what they argue:

*"When societal preferences over policing diverge along cleavages race and class, representative institutions prioritize demands for repression from more powerful societal actors, and selectively sideline the demands of marginalized groups yielding repressive criminal justice policies."* (González & Mayka, 2023, p. 2)

And then they go on to basically say, this is a different domain within our democracies, we can't think of it as we would other public policies right? And they say: *"We argue that in highly unequal settings, increasing citizen engagement produces asymmetric citizenship by amplifying one group's demands for protection through the imposition or threat of bodily harm against another group. Participatory security institutions deepen privileged participants' experience of citizenship."* (González & Mayka, 2023, p. 3) So, in other words, the other side of selective hearing is that some people get to experience supra-citizenship?

I don't have an answer worked out to this—but, is it an institutional story? Is it that our institutions here in the US, they tend to not handle sweeping claims for massive investment. It's a lot easier to get through something that punishes than provides.[7]

**Elizabeth Hinton:** That's the thing. This is the other piece I wanted to say when you were asking—I think this is a really good question—does selective hearing work for white people? Well, white people are repressed and criminalized, poor white people and especially white people with a low educational threshold. But they also did get a lot more rehabilitation and social services. And I was just talking to David Nasaw last night, an esteemed historian of World War II, who was saying that the G.I. Bill is actually one of the largest social welfare programs ever undertaken. A federal program that was intentionally targeted to benefit white men. The G.I. Bill shows us that

when these institutions want to do it, they can do it. And the federal government did it again in the post-Sixties moment. It reconstituted American law enforcement, invested hundreds of billions of dollars into expanding prisons, and created a whole new security surveillance state and industry in the moment of deindustrialization.

**Vesla Weaver:** So why is it that state capacity always seems to fail when we want something that would expand our livelihoods and state capacity is always called on, but expanded only when the logic is control, domination, containment, and punishment? And there's gotta be a way to theorize that pattern in relation to American democracy.

**Elizabeth Hinton:** I wonder if that goes back to the larger feedback loop that we're talking about. How selective hearing becomes a self-fulfilling prophecy. And actually, we've certainly seen this in the post-civil rights era, and through my lifetime, where it's like Health Care for All is off the table...talking about these basic things that—if we're looking at what democracy looks like around the world—are not that radical. They're pretty basic: universal health care, free secondary education for people, a prison system that's more humane and doesn't lock people up for their entire lives.

Our imagination in this country has shrunk because of what has been taken off the table. Once Black people got rights, once more people of color started coming into the country, then, then, what the government can do shrinks or what is possible shrinks.

So we don't even think that we can ask for it or it's the private sector, or it becomes privatized—like charter schools.

**Vesla Weaver:** But the thing that really irritates me is that then it forces people like you and I to respond to a question about violence that... we not only have selective hearing, we have selective memory because it's not like everybody walks around with that large pattern of the feedback loop in their head of the many times people and places were demanding state intervention and infrastructures of health, education, jobs, housing.

I think my larger point is we don't have that larger feedback loop, the systemic feedback loop that keeps happening again and again and again in view. And so, then how does crime get read? Crime and safety and violence gets interpreted not as a longstanding structural problem calling out for repair, but as a, well, those communities have more crime, so the natural solution is to crack down...and that's why I think the concept that we're developing is an urgent concept. Because how do you disrupt that larger feedback loop...if not to show that, in every single historical era where people, where people demanded something better, demanded economic justice, and policing as a public good? (Justice, 2023)

One of the takeaways that I love from Ben Justice's work is every time that policing or education even approximates, threatens, to come close to being a broad public good, and not just a white public good, it is through the efforts of counter-majoritarian movements, it is through Black activism. It is through Black activism saying, "Look at this deficit," and calling for something better. And so, you might almost imagine Black publics as being the only time that we've actually come close—they're perfectors of democracy.

**Elizabeth Hinton:** I mean, they are key to American democracy. Yeah. And this goes back to Du Bois' argument in *Black Reconstruction*.

**Vesla Weaver:** If I can pose a last question: Who or what would be on our reading list of selective hearing, if we were to compile one—Who would be on that?

**Elizabeth Hinton**: Michael Fortner would be on that list, because his book is actually a case of selective hearing, the evidence is there, even though he's framing it the opposite way.

**Vesla Weaver**: He's doing the selective hearing!

**Elizabeth Hinton:** At least engaging with Fortner's book is how we came up with the concept. When *The Black Silent Majority* came out in 2015, we started working with Julilly Kohler-Hausmann on a response. We started digging into the archives, the historical newspapers, and Black-led organizations to get a sense of what was also happening on the ground in Harlem during the 1960s and 1970s beyond Fortner's story about Black drug users and crime warriors. And then Hillary Clinton on the presidential campaign trail made those comments [about why they pushed a law that ended up expanding prisons and police encounters] that "Oh, well, the '94 crime bill was democracy at work. This is what Black people were calling for. We were just giving them what they wanted."

The critique of *The Black Silent Majority* and Clinton's comments came together in the concept of selective hearing. When we were brainstorming what to call this dynamic I remember, Vesla, you came up with selective hearing. I remember our long conversations with Julilly on all of this, from the fall to the spring when the op-ed was published.

**Vesla Weaver:** Indeed. There are many scholars I would put on the list, and some have already come up in our conversation. But one in particular I want to call into this discussion because I think it demonstrates how selective hearing unfolds as an explicit practice of filtering out demands for social investment in local contexts, not just bottom-up demands that get ignored as a matter of national institutional ineptitude. Have you seen the work of Tony Cheng?

I'm going to send you this piece. He basically did a systematic analysis of the NYPD's commu-

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7    See also Lisa Miller's 2014 article "Racialized State Failure and the Violent Death of Michael Brown" in *Theory & Event*.

nity meetings. I think it was called Build the Block meetings with police officers. It was all this, let's be responsive to the community and hear what they want (in the aftermath of uprisings against police violence that left them in legitimacy crisis). And he literally went to every single meeting and tracked exactly what was said by residents. He took notes on what officers took notes on, what they released publicly after the fact, what they put up on their whiteboards, what they released on Twitter after these meetings. And he shows that what happens is that police kind of curated public opinion and exercised what he calls cumulative discretion. At the beginning of these meetings, the community would show up, and people would complain about policing. They would talk about solutions to safety deprivation, and let's say that at the beginning of these meetings you had the full set of political discourse. He shows that over time—and he did this very systematically by tracing exactly what was said, recorded, and responded to by police—what the police department did is they would not write down the things that that went against their policies and they would minimize those publics saying things other than "more police."

He then goes and shows what they were tweeting and reporting out after, and it was always "Look, see, the community wants more enforcement and more police." They were strategically selecting a small share of what was actually said at these meetings and tweeting it out and saying, "Your voices were heard!" But they were going through a process of basically curating expressions they would then feed back out to the community and over time—It's exactly what you and I just hypothe-

sized at the national level over time. Guess who stops showing up at the meetings? The people that had the more expansive analysis and set of policy claims—we need investment. We need a broader set of responses. They're not being listened to, and they know it. They're like, this is futile.[8] This is how selective hearing is active, not passive. It's another case of "they want this, ramp it up," when in reality some community demands were disappeared and weeded out, and others were amplified.

**Elizabeth Hinton:** The Kerner Commission response...I mean that's part of it. It's people give up.

**Vesla Weaver:** Yeah, people give up. This is why what we're doing is not just about misaligned or inadequate policy tools. This is a broader story about how American governance responds to and is anti-democratic when it comes to Black claims for security and vitality. It's a broader dynamic.

**Elizabeth Hinton:** Now I wonder if selective hearing can actually be a concept that offers an important alternative to the overpoliced/underprotected framework. Selective hearing is historical and embodies an ongoing struggle, and it really gets to questions about democracy. About how democracy works, and what the limits are, especially when it comes to Black people. I hadn't thought of owning the term like that, but I feel there's something there.

**Vesla Weaver:** Definitely. And that every single time somebody, the media or academics are doing that thing that they do of "Look how

punitive public opinion is." Our framework then puts the onus on them to ask: Do you see dynamics of selective hearing?

> So anytime you're reporting out, anytime you're talking about a punitive public, you have to answer that question: What else is being said? And if you aren't examining the breadth of political demands, and if you can't answer that question, then you shouldn't be producing half-truths or distorted frames.

**Vesla Weaver:** Because the other question I have is what can disrupt this pattern of selective hearing of Black claims? How do we get out of this vicious feedback loop?

**Elizabeth Hinton:** Maybe that's the question we can end with. The big question is, how do we disrupt this? And then, well, that's the next JC Notebook!

But anyways, this was so amazing. We'll text, we'll talk.

**Vesla Weaver:** This was so good. Thank you, Elizabeth, I appreciate theorizing with you!

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**References**

Cheng, T. (2022). The Cumulative Discretion of Police Over Community Complaints. *American Journal of Sociology*, *127*(6), 1782–1817. https://doi.org/10.1086/719682

Cheng, T. (2024). *The Policing Machine: Enforcement, Endorsements, and the Illusion of Public Input.* University of Chicago Press.

Civil Rights during the Johnson Administration (1963-1969). Part V: Records of the National Advisory Commission on Civil Disorders (Kerner Commission), Subject Files of Robert Conot [Series 59], Atlanta, Georgia, LBJ Library, "Interview with Rev. Robert Hunter, an Episcopalian minister in Atlanta; Dr. Jordan, a militant young Negro physician; and Mrs. Dorothy Howard, a neighborhood aide in the Vine City Neighborhood Service Center, October 23, 1967." https://www.ojp.gov/ncjrs/virtual-library/abstracts/national-advisory-commission-civil-disorders-report

González, Y. M. (2020). *Authoritarian Police in Democracy: Contested Security in Latin America.* Cambridge University Press.

González, Y., & Mayka, L. (2023). Policing, Democratic Participation, and the Reproduction of Asymmetric Citizenship. *American Political Science Review*, *117*(1), 263–279. https://doi.org/10.1017/S0003055422000636

Hinton, E. (2021). *America on Fire: The Untold History of Police Violence and Black Rebellion Since the 1960s* (First Edition). Liveright.

Hinton, E., Kohler-Hausmann, J., & Weaver, V. M. (2016, April 13). Did Blacks Really Endorse the 1994 Crime Bill? *The New York Times.* https://www.nytimes.com/2016/04/13/opinion/did-blacks-really-endorse-the-1994-crime-bill.html

Justice, B. (2023). Schooling as a White Good. *History of Education Quarterly*, *63*(2), 154–178. https://www.cambridge.org/core/journals/history-of-education-quarterly/article/schooling-as-a-white-good/75203950F183752DEF76E91111E7FD59

Muhammad, K. G. (2019). *The Condemnation of Blackness: Race, Crime, and the Making of Modern Urban America, With a New Preface* (2nd edition). Harvard University Press.

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8    Specifically, Cheng's (2022, 2024)America's largest police force is curating the public's complaints—not ignoring them—from constituents strategically cultivated through community initiatives. Whereas existing studies conceptualize complaints as grievance tools or liability risks, this case reveals how police conceive community complaints as endorsements of services. This conception guides "cumulative discretion" or selective decision-making across multiple stages: police mobilize, record, internalize, and represent complaints demanding police services, while excluding those seeking reforms to over- and unequal policing. Gaps thus persist between the reforms that some residents seek and the services that police offer. This article offers insights into how organizational imperatives for legitimacy can undermine institutional reforms.","container-title":"American Journal of Sociology","DOI":"10.1086/719682","ISSN":"0002-9602","issue":"6","note":"publisher: The University of Chicago Press","page":"1782-1817","source":"journals.uchicago.edu (Atypon study found that just over half of what residents complained about went unsubmitted by police and when people wanted redress for unfair policing or nonresponsiveness, a whopping 88.5% of these were omitted from public record. Cheng shows how this curating leads to a feedback loop, transforming who participates or shows up at later rounds of Build the Block meetings. For example, when one resident raises a grievance at the meeting—Marcus—he is chided and ignored and ultimately stops attending.

# Nothing About Us Without Us



**By Stephane D. Andrade
and Jania Stewart-James**

## Reflections from Community Researchers in New Haven

The Justice Collaboratory is currently conducting a Community-based Participatory Action Research (CBPAR) study on gun violence prevention initiatives in New Haven, Connecticut. The study is led by Principal Investigator Tracey Meares and supported by Jania Stewart-James and Stephane Andrade, along with a team of community members. We use a CBPAR approach where community members with lived experiences of gun violence work as paid researchers on the study.

**Our initial group** of seven Community Co-researchers (CCRs) received training on research methods and ethics, how to conduct qualitative interviews, and how to secure data. CCRs contributed to developing research materials, recruiting potential participants, and conducting qualitative interviews. Interviews focused on how individuals and communities perceive the messages underlying gun violence prevention initiatives and the services provided by them.

Dawn Poindexter and Maurice Keitt are lead CCRs in the study and have played pivotal roles in recruiting and interviewing participants.

As a mother who had recently lost her son to gun violence in New Haven, Dawn Poindexter has a strong and personal commitment to addressing gun violence. Additionally, she has a Bachelor's in Social Work and a Master's in Public Administration along with over 30 years of experience in healthcare administration and 25 years of community engagement experience. Dawn is the founder of Abundant Harvest Community Engagement (AHOM), a community-based youth violence prevention program in the greater New Haven area.

In the words of Maurice Keitt, "It's not where you start, it's where you end up." Maurice's transformational journey as a New Haven native who returned home from incarceration in 2018 and immediately sought to give back to his community, provides firsthand testimony to the power of positive mentorship and guidance. He gained traction on his transition back into society initially as a participant at Emerge CT. Maurice now works as the Recruitment and Outreach Coordinator at Emerge, supporting other formerly incarcerated men on their transition after incarceration, and as a self-employed Licensed Insurance Agent. In addition, Maurice is a dedicated father and passionate about advocating for the social and economic freedoms of citizens. Overall, Maurice is committed to being a student of all of life's experiences.

In this conversation, Jania and Stephane ask Dawn and Maurice to reflect on their experiences with gun violence in New Haven and their role as CCRs in the project. We explore the complexities of their positionalities as they approach the work of gun violence prevention, their perceptions of the root causes of gun violence, and ideas of innovative solutions to engage with individuals at the center of violence.

## Interview

**Stephane**: What brings you to this gun violence prevention work?

**Dawn**: Honestly, I got a call from another person that had the same experience I had. My son was murdered in the city of New Haven in January 2020. The person who referred me to this work had been further in her journey. One of the things that helped her was that she got involved in an initiative that helped the healing process as she was grieving the loss of her son.

So, once I started working on this project, I realized that I really didn't understand the depth of this particular project. I thought that it was more of an initiative that was directed to doing something about gun violence. I guess the research part went over most of our heads in the beginning. And so, when we had the dialogue with the larger group, we were able to process the roles associated with the research project.

I understand research because it was a part of my degree in public policy. It took some adjusting to understand the depth of this community-based research because it's a little different. I have enjoyed the process from the beginning to where I'm at now.

**Maurice**: I'm grateful that I was able to participate in a project like this. Typically, people like me who have been on probation or parole are not able to. But I was able to make it through that time lapse to be eligible. And when I saw the passion behind the group of people that I was working with, I kind of adapted that same passion to it. Then, I realized what better space to be in being the fact that I was a part of the problem at a point in time. Everybody says that people closest to the problem are usually closest to the solution. So, I was testing that theory to realize that I was.

**Stephane**: And what was that experience like, your journey from the beginning of what you thought it was from your initial interview to now having gone through different iterations of the project, from training to now conducting interviews? What were some of the biggest challenges you experienced throughout the process?

**Dawn**: In the beginning, it was interesting just listening to everybody's perspective on why they were here and giving their feedback. There was an initial group of seven people, and the common denominator was that people were not experienced in understanding research from a community level. Everyone assumed that this was a project that would create a direct initiative in the community.

Some people opted out of continuing to do this research because they felt they were devalued based on the compensation. So, their perception was that Yale was coming into our neighborhood and using us for information where the benefits are only one-sided. People don't see benefits. Once you relate that value to time, people feel like they don't have time. They don't see the benefit. That's what it boils down to.

There were different dynamics and feedback from the group as we developed the questionnaire. Some people were more focused on why gun violence is happening in our community. It was a challenge just trying to come up with the questions that we needed in order to get the results for this particular research. Sometimes, the group would have heated discussions because there was a wide variety of experiences in the room from the community level. About seven out of the ten had personal perpetrator experiences. I was coming from the perspective of the victim side, so it was interesting to hear their thought process.

After we completed training and developed the questionnaire, the picture became very clear and more focused on the task at hand. When we got to the interviewing phase, it seemed nice and simple. I didn't anticipate all of the challenges that it brought once we actually started doing the work.

**Maurice**: I think a bigger challenge for all of us was trying to stay on the same page. We were so busy trying to see what your intentions were instead of getting to the work. I think we were so worried about Yale as an organization because Yale's name is kind of slaughtered in the city. I don't really, truly know why to be honest with you.

I think some days, our sessions got dragged out because somebody asked a question and they just refused to believe the answer. It was more based on their assumptions, based on previous situations. I think that's a dangerous mindset to have. You don't allow light in and you're staying in that same dark space with the information that you're getting. So, I think that was one of the bigger setbacks.

Another challenging part was trying to find a way to ask the right questions to a group of people who don't want to answer questions about guns. It's really a touchy subject, and it's being recorded. And people really don't trust themselves, let alone somebody else. I think it showed in our own group, we were kind of torn, and then we came and got together. When it was time to hit the ground running, I think everybody was faced with not wanting to be that person asking the tough questions to a group of people, without knowing how it may be perceived, how it may feel, or what it may trigger for somebody.

**Jania**: You mentioned some of the challenges throughout the process going through development of the questions, the research instrument, and even the training. What do you think were your expectations coming into this study and how have they changed since you started interviewing?

**Dawn**: For myself, being a victim of having a son that was murdered, the biggest challenge was listening to reasons why people committed gun crimes. So, that's probably more on the personal level for me that, at times, it did get kind of emotional, especially when I interviewed people who committed murders.

The second thing that I felt that was challenging was getting people to commit to sharing their stories. I always feel like some people are holding back. For some people, I think it's because they have matured, and they feel remorse about what they did. When we ask questions about the actual charges, you could tell that they just generalize and don't give specific details. I realized that participants aged 30+ and people who have served a

significant amount of time in jail, are more willing to talk openly about their experience. So, I've learned from each interview how to be more engaging in the process for the next time just from conversation.

Another challenge was choosing interview locations. It's good that we now have a set of safe locations for us as the researcher, as well as the person that's coming to do the research. Also, the time commitment was challenging. I guess we're busy and people don't see this as a priority.

> The biggest challenge when you make the connection is that nobody wants to talk about something that they did wrong, let alone schedule a time to talk about it.

In order to overcome those challenges, especially with new referrals, I ask people to share a brief explanation of the study so that person can understand the conversation that we're about to have.

**Stephane**: How has your positionality impacted you in carrying out this work?

**Dawn**: As a female, I always consider safety first but it's still uncomfortable. So, I'll give an example with one person I interviewed. It was in a very safe location, a private room in the library. After the interview, that person felt really comfortable oversharing personal information with me. That person didn't understand that it was just a one-time interview, and you get paid. They continued to contact me. From there, we talked about changing our strategy. So, we started using Google Voice instead of our personal phone numbers as a result of that incident. I felt that was more like a female/male dynamic. If a male interviewer conducted it, they wouldn't have probably shared that kind of information.

**Stephane**: So, one thing I was thinking about as well was in the conversations that you had, and we're talking about gun violence more broadly in New Haven, we're talking about experiences people have had as participants but as residents, more generally. In your conversations, what have you identified as something that maybe stood out to you as a trend in terms of the violence in the city or their experiences as residents, or perpetrators, or victims?

**Dawn**: Well, I was amazed at the fact that some people were exposed to guns as early as 13 years old. There was a trend of participants turning towards the streets and selling drugs in an effort to provide for themselves or their family financially. There's a competitive aspect to selling drugs that involves territory and association to a group or gang. That competition causes some type of rivalry or conflict that, ultimately, leads to somebody getting hurt. So, the participant was either the perpetrator or the victim. A few participants were involved in gun violence due to their family's prior involvement, so they inherited behaviors or beefs that exposed them to gun violence.

**Maurice**: The younger kids are not really seeing the path that they're on until they're held responsible for their actions, and typically they aren't held responsible. If you get juvenile kids on their 17th stolen car coming back home and the only point to steal a car is to go do something stupid in it.

> And then, you get the kid that's stealing cars chilling with the kid that got the gun, now you got a shooting.

Somebody is going to jail, somebody's telling, and now their friends are beefing over both of them doing stupid stuff. So, I saw that type of pattern talking to some of the young kids.

**Jania**: Given that a lot of our participants are over the age of 30 and they're from a specific era, did you find that they've been responding with comparisons between how they grew up in their generation versus the generation now? Did participants specify any differences in how gun violence was addressed in their era versus how it's being addressed now?

**Dawn**: The generational part that you see with the 30+ age group is that they feel like the street rules of carrying a gun were cleaner and more thought out in their era. And if there was beef between two people, they made sure that the gun violence stopped between them. Whereas now, the gun violence is more random, and the 30+ participants feel like the younger generation is more careless and dangerous.

**Stephane**: Thinking about that generational divide, what role do you see, if any, social media playing into a lot of what's happening now?

**Dawn**: I think social media platforms play a big role in expanding the exposure to violence. It's almost like TV back in the day. When I watched TV, you didn't even hear cussing. You didn't see clothes being exposed. You didn't do all of those things because you didn't see them do them. Whereas now, so many platforms, you can be exposed to so many things. So, I think that plays a major part even in sharing information right on social media about violence.

**Maurice**: Social media definitely plays a critical factor in the way everybody expresses themselves now. Before, people were trying to get money or protect themselves. Now, it's about getting attention for something.

There's a suicidal mentality going on now because of school shootings and all of this stuff. It's like every time you turn around, it's a feed of somebody with a gun. You don't know if it's legal or not legal. Back in the day, there were tests and studies about the video games, it's got to be even more exacerbated now with social media because you're actually seeing real people do these things.

**Stephane**: So, are you finding that there are a



lot of people who are attending these programs who don't have gun charges, and the programs are counting those people for that particular program as eligible participants?

**Maurice**: Exactly, I noticed that with the older population, a lot of them that were really growing up in a time where you literally had to eat or be eaten, kill or be killed. A lot of them weren't instructed to go to none of these gun programs at all. Why are the older dudes, the ones that need a program because they actually hurt somebody with a firearm, not going to some of these programs? We just

had a big release of inmates in Connecticut after changes were made to sentencing and commutations.

I'm in a unique position where it's harder to get people who actually have gun charges to go to these programs. I'm around people that stabbed or shot somebody, but none of these people were mandated to go to these programs. They should have went through a gun violence prevention program in jail then, came home, and went through it again. In reality, they were just told to get a job. It's kind of like setting them up for failure. Then, I got the kid that's in a stolen car with the other guy having a gun and took the gun charge and now he's in this program. I just couldn't understand the correlation between it.

What's the real purpose of these gun programs? What are you really trying to do? Is it really just a warning? Is it, literally, just getting all of these people in one spot while they're coming home from jail, and then seeing them all before they go tucking back in until you can't find them again? I don't think that the people that need to be in the programs are actually going to these programs. And then, the programs are trying to solve this shooting issue in a day. Not even a day, an hour.

**Stephane**: You're referring to the length of the meeting, right?

**Maurice**: Yeah, the length of the program. It's a meeting but it's classified as a program. So, the length of the meeting is an hour. Each meeting is the same message that resonates differently with different people. One of the big things that participants are bringing up is that we're asking the wrong questions. People want to know more about the access to firearms. Where are these guns coming from? Everybody is not driving on I-95 going to get some guns back. And they're asking about the type of guns that people are getting. We have weapons of mass destruction out here, kids running around, gun bigger than their whole body, shooting until the streetlights come on because they got 40, 50, 60 shots. It wasn't like that when we were growing up. I'm trying to figure out how much these guns cost. So, where are these firearms coming from?

**Dawn**: I had one interview with a person who trafficked guns. He wasn't involved in gun violence in the sense that he directly hurt somebody.

He had an official relationship where he traveled to one of the southern states and picked up these guns by the hundreds and imported them into the city of New Haven. He actually got a lot of time just from trafficking guns state to state.

**Stephane**: I'm also thinking about the folks that you've interviewed who had gun charges and lived experiences with gun violence in New Haven. Have you all found any potential solutions that people have offered or anything that's been really innovative or interesting to you?

**Dawn**: Well, I found that a lot of participants felt like the whole engagement process in New Haven got lost. They felt like when they were younger, there was more of a sense of community than what it is now. Now, there's a lack of being able to socialize on a humanistic level. There's less events and concerts. When those community events went away, it left a void in the city that created these silos where now, people are hanging on a corner and making up their own things that evolve to gangs and things like that.

When participants respond to the question about curbing gun violence, they always offer up preventative events and activities that would get teenagers more involved. Some participants think of the program as more of a scare tactic. That's one word they use. Or they might say that it's information that's good to direct you.

**Maurice**: I'm thinking about how you better not have no parade or no Freddy Fixer or none of them events nowadays. It's only a matter of time if you get two or three text messages and the opps there and now, you got innocent bystanders getting hit. I think that a lot of people don't really understand business when it comes to liability and insurance. Sometimes, bringing a whole bunch of people that can't

cooperate together is not that good of an idea. So, maybe it should start in little hubs in the community. Start there, build that trust with something like a basketball neighborhood league. You get the problem solving, the working as a team, constructive criticism, self-talk, and self-motivation.

If I were to summarize what everybody said, I would say more neighborhood events led by people who are trusted by the community. The intent behind that is to lead people to maybe a ball game where there's other incentives and things to win. It helps people look forward to events and want to be good. We're dealing with a lot of minors in adult bodies. So, we have to be patient, great listeners to give feedback, and hold them accountable to what they're striving to do.

I think that starts on the individual level first. You can't bring people together and think it's going to be kumbaya, not in a city with constant reminders of unresolved traumas and childhood issues. We need to start trying to find different creative activities to bring community together and raising awareness to engage the youth. Maybe it is a movie night or book club followed by a discussion, breaking down the messages in it. We got to plan for these events and anticipate incidents that could happen to be prepared for it ahead of time. We can't keep allowing these events to be cut from the budget when people don't want to pay for them anymore.

## Community Disinvestment

**Jania**: I think disinvestment has been a huge underlying theme. You both kind of touched on that and how throughout the years, the ways that the state and the city used to invest in community centers and youth programming doesn't exist in the same way that it did before. People who had gun charges as a youth years ago felt like they had access to more

opportunities and that there were more engaging activities for the youth opposed to gun violence.

**Dawn**: Years ago, the city had a lot more neighborhood cooperation. Each neighborhood had a community center. There was someone overseeing the neighborhood center in a role similar to the alderman role. That person advocated for activities to get funding from the city.

So, if there was a lot of activities in one area, it was because that person in that neighborhood was more active.

**Jania**: Within the re-entry space and gun violence prevention field, it's been difficult to engage with the younger participants, in the 20s age range. What do you feel like would be the most effective strategy to engage younger participants in this work? What can be done to support them and get their perspectives on curbing gun violence?

**Maurice**: You engage them by giving them something else to engage in. That's the most critical part. It's going to be sitting them down trying to get a group of people sitting down and asking them what you do y'all want. Like let's make a deal. I remember a time when I was in custody. At that time, there were so many thorough dudes in prison that knew stuff. The older generation knew how to take the lead. And the CO's used to put us all in the gym and have a conversation with us. How can we get this thing back to order, man? Clearly, there's more of you out there than there is us. Let's build treaties. If you violate the treaties, it's going to be full-on police presence. I think anything other than what they're doing right now is worth an attempt.

I know if somebody would have broken things down to me at an earlier age, I might have got in trouble once instead of six times. I would have heard the message and did

what I needed to do. But now, I'm sitting in that cell thinking about everything that I was just told and realizing I did have a choice.

We need credible people coming in telling the message to the ones that are still engaged.

*We need an active approach from the people in the community that do have that lived experience as credible messengers to show the youth or even the elders.*

I know older people that are stuck in their ways more than anything. I lost some friends this year because they just couldn't remove their mindset from the lifestyle. Typically, we don't care about a situation until it hits home. And it's about to start hitting home soon. So, I hope we do come up with a valid solution that we could see some type of results-based accountability.

**Dawn**: I'm still dealing with my grandchildren that are kind of transitioning to that age. And it's always a challenge trying to figure out activities or things to keep them involved in. I agree that you have to engage them in other activities that are positive. Most of my grandkids are engaged in AAU [Amateur Athletic Union]. With this travel team, they're getting exposure outside of the city. It occupies a lot of their time and attention between going to school and AAU. So, I definitely agree with Maurice that the engagement process is the key to these children.

## Surviving vs. Thriving

**Maurice**: It's about giving kids something to live for. You got to have a dream, but before you have a dream, you got to have somewhere to sleep. That's a big thing that I think people keep overlooking is that a lot of these kids are homeless. I wish I had the space to let some of them just come and rest. And I wish I could offer them some type of bed. I think a lot of



these kids are doing their best to express their frustration around people that's frustrated with them until they're frustrated with each other. That's where these crucial connections come into play. I realize that there are more friendships built on a common enemy than an actual friend.

**Dawn**: Well, most of the time, when you hear about participants' background, the family dynamics is broken down. A lot of times, the father is not there. It's the grandmothers in the household, not even the mother no more that's involved. The absence of the male is a whole other story in itself. Men produce men. And people's basic needs are not being met. So, you know food, clothing, and shelter are your basic needs. If you don't have shelter, you're going to do things to get shelter.

**Maurice**: I didn't know I was in survival mode until probably about four years ago. I actually tried to strive to put myself back in survival mode because I get the most done. And then, I started attracting all of these situations to

me. That state of peace or complacency that I'm not creating for myself starts to feel like I'm disconnected. And these kids have the ability to do that sooner. They're just unaware of it. They just don't know how to process it yet.

We're so stripped from our culture just as a melanated people, dealing with the stress of our ancestors. That trauma is still impacting us today. I don't care how new your clothes or sneakers are, you are still you. There are so many underlying conditions that have been exacerbated for so long that the resources don't even line up.

**Jania**: I've got one more question just to wrap it up. What do you both feel like is the value in doing this specific research project and also community-based research with people who have been impacted by the issue working on this research project?

**Dawn**: With community-based research, I think a benefit is that people closest to the problem are closest to the solution. You can analyze issues from a more humanistic perspective.

I feel like that has a greater value than a person that never had any of those experiences just coming in and making an assessment. I think that moving forward, community-based research will supersede the research that we have had in the past. And in this particular project, I think the value is in seeing those trends and understanding where the problem started.

There are many different roots to this problem, but it all really started in the homes with the household dynamics. The research tells us the symptoms of the problem. We're really trying to understand whether or not the programs' intervention strategies are working. And so far, the research is telling us that they're not working because they're not the right type of intervention strategies. I'm not saying that the programs don't have good intentions or that they're just doing it with the wrong motivation because I don't know. But the type of intervention strategies don't really fit the problems that are occurring. We need a lot more than those strategies and programs that are just duplicating services.

**Maurice**: I think it's important for credible messengers and people from the community to do this work instead of somebody coming in, and then fudging it based on whoever is paying or sponsoring them, or trying to keep that job instead of actually doing this to get results. The only way that I found to go against those type of forces and energies is to be persistent in your work and messaging to the point where people start to adapt that school of thought. They start to move in that way.

## Concluding Thoughts

In the conversation above, Dawn and Maurice reflected on their experiences with gun violence both as residents of the Greater New Haven community and as community researchers working to address its prevalence and impact on young men, adults, and their families. Their role in this work grew out of their personal experiences with gun violence which then catapulted their commitment to be closest to the solution. Dawn and Maurice outlined the challenges in pursuing these efforts, from building trust and contending with history of Yale and its relationship to the community, to discussing the delicate nature of individuals' experiences with gun violence, and how current prevention efforts fall short of understanding these complex dynamics. Collectively, Dawn and Maurice offered critical insights into some of the underlying issues surrounding gun violence in New Haven and point to the importance around sustained investments in community, taking a more humanistic approach to these issues, while centering the voices of those most impacted.

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# Fair Chance Hiring at Yale

**By Molly Aunger, Nadine Horton, and Johanna Elumn**



SEICHE Staff

**Since 2019,** The Justice Collaboratory (JC) at Yale Law School has advocated for the creation of a fair chance hiring policy at Yale University for candidates with justice-impacted backgrounds. In the absence of a written policy, we knew that highly qualified candidates were being turned away from working at the university with little to no recourse. To resolve this problem, the JC and other stakeholders worked alongside Yale's Human Resources department to create a hiring policy to make Yale a fairer and more equitable employer while increasing economic opportunities for New Haven residents.
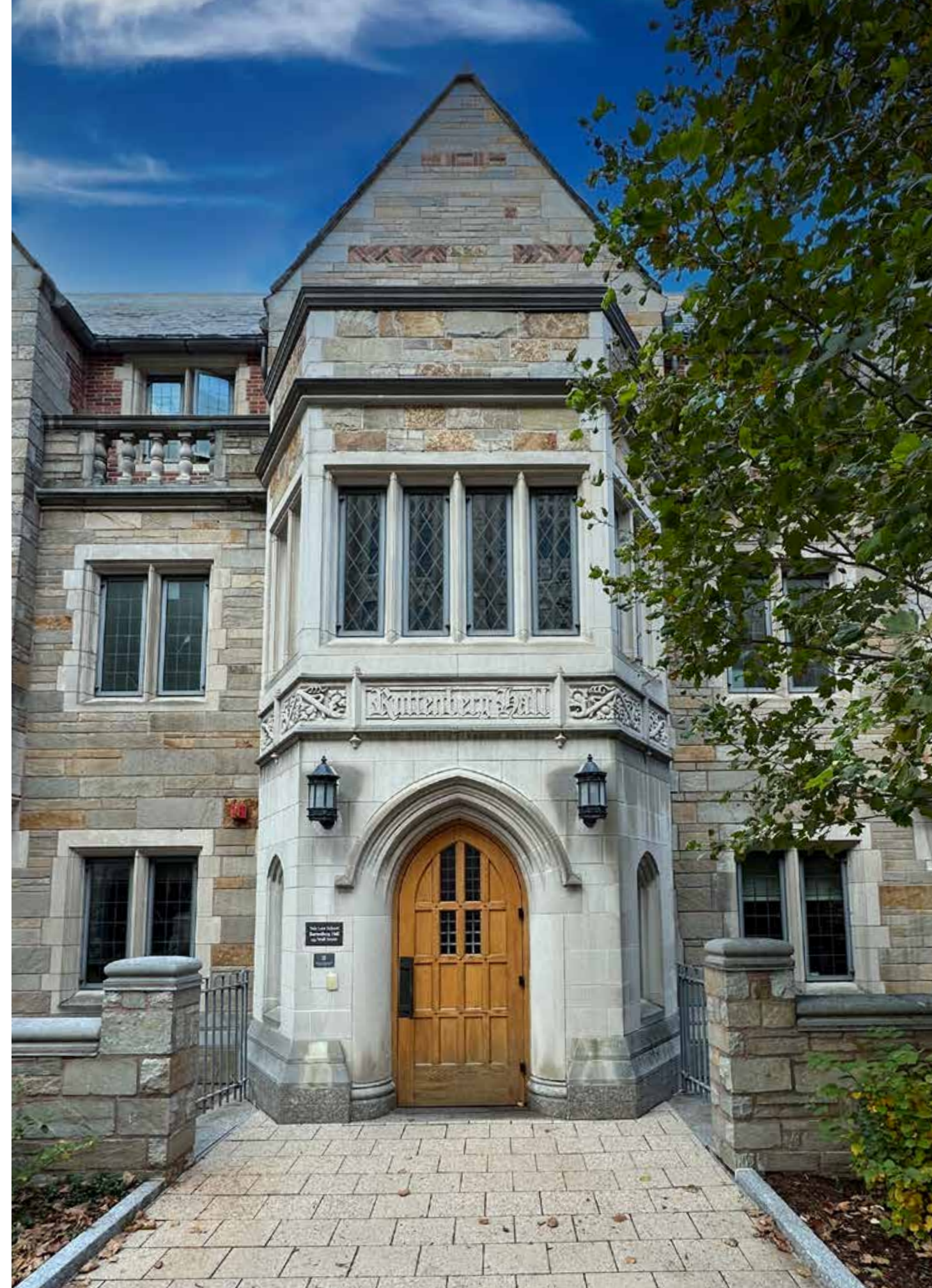
**The lack of a fair chance policy** created many hurdles for those with justice-impacted backgrounds attempting to apply for staff positions, such that qualified applicants were being denied employment or experiencing hiring delays, which negatively affected the applicant, the hiring manager, and research teams. The JC began looking into this matter after one of its faculty members attempted to hire a candidate as a casual employee to serve as a community-based researcher at the SEICHE Center for Health and Justice.[1] Even with the tremendous support of the hiring manager and team at SEICHE, letters of support and recommendation from the community, and an understanding from the funder that the researcher role was to be filled by someone with a justice-impacted background, hiring was extremely difficult due to the lack of a fair chance hiring policy at Yale.

The JC delved into the issue by conducting multiple interviews with formerly justice-impacted staff and hiring managers at SEICHE, finding other faculty members overseeing research in different departments who had also faced challenges when attempting to hire qualified applicants with criminal backgrounds. Our findings revealed that applicants required a significant amount of support from hiring managers to complete Yale's online application due to a lack of technology or comfort level using a computer, and it was common for those filling out the background check to be unsure of exact dates of arrest or convictions, required details which could nullify an offer of employment.

The JC also reviewed Yale's Human Resources policies relating to background checks and evaluated the external agency responsible for conducting those checks (Hire Right). We found multiple challenges for applicants ranging from a confusing process to a lack of transparency in internal decision- making

policies. We also found examples of other academic institutions struggling with the issue of fair chance hiring and institutions like Johns Hopkins working to address this issue. The JC presented its findings to Yale's Human Resources department and together we have been working in tandem to create a fair chance hiring policy.

The new fair chance policy drafted by Yale's Human Resources team importantly states that a prior criminal conviction does not preclude an offer of employment and that the pre-employment screening process be handled consistently and in a non-discriminatory fashion. The policy defines what steps are taken if a background check results in information that requires further review, details the various types of background checks Yale requires for specific roles, describes the overall process for applicants, and includes information on how to remediate disputes on a background check. It also clearly defines the final decision-makers at Yale to approve candidates with a justice-impacted background: The Pre-Employment Review Committee (PERC).

The PERC is made up of members from Yale's General Counsel office, Human Resources, and Risk Management department and has the final say on employment offers. The group had been in place before the creation of the new fair chance policy, however, it did not include a member with a broad understanding of the criminal legal system. The newly proposed policy adds a member from Yale's Public Safety department to the committee who will bring their law enforcement background to help the committee better understand any charges listed on a candidate's background check.

Resources provided to candidates in the new policy also include a thorough FAQ of the hiring process that addresses specific questions justice-impacted applicants may have, such as:

- What is the policy on hiring applicants with a criminal record?
- Do you have to be out of prison for a specific amount of time to be considered for employment?
- What information appears on a criminal background check?
- How many years back does the criminal background check search?
- What if I can't remember the exact date and or charge of my conviction, arrest, etc., and will this automatically disqualify me from employment?
- What roles require additional types of screening, including drug, motor vehicle, and unscored credit checks?

By including the voices of key stakeholders who have navigated Yale's employment process without a fair chance policy, many challenges for justice-impacted applicants have been addressed in the new policy. We see this as a first step in a process that we hope will also see data tracking, monitoring, and evaluation to ensure the policy stays up to date, is successful, and is best in class. Our hope is that Yale's work on fair chance hiring will become a model to influence human resources policy at other academic institutions across the United States.

## Background

**Research confirms** that justice-impacted people are heavily discriminated against by potential employers, notably those of Black, Latin, and Indigenous descent (Agan & Starr, 2017; Pager, 2003; Pager et al., 2009; Uggen et al., 2014) For persons living in communities such as New Haven with high rates of incarceration (Widra et al., 2022), there is an added rate of discrimination against Black and Latin applicants who may sometimes be ruled against based on an assumption that they will likely have a criminal record (Doleac & Hansen,

2016). Thus, employment opportunities for persons post-release are disproportionately skewed against people of color, impacting an individual's economic potential and overall housing, healthcare, and education opportunities.

However, hiring applicants with justice-impacted backgrounds makes sense for both Yale and the greater New Haven community as it reduces recidivism and increases public safety while adding to the community tax base by employing and housing more individuals (Atkinson & Lockwood, 2016). In terms of the reliability of hiring those with a justice-impacted background, retention rates are higher, turnover is lower, and employees are proven to be responsible and loyal (Atkinson & Lockwood, 2016). Given that costs associated with recruitment are high, researchers have found that employees with a justice-impacted background are a safe and good choice of candidates for employers ("New Survey Shows Openness to Second Chance Hiring Is Increasing, but Gains Are Still Needed," 2021).

Research from Solomon (2012) finds that background checks may often be overly broad in that they also might include extraneous details, like arrests that did not lead to a conviction, which then also excludes applicants from being hired. According to the 2013 testimony of a Justice Department official (Adams, 2013), a startling one in three Americans has some sort of criminal record, which often includes an arrest that did not lead to a conviction, a conviction that did not result in jail time, or a conviction for a non-violent crime. Yale's proposed policy states that in its assessment, PERC considers the nature of the position, the relationship of the offense to the job duties, the time passed since the offense, and the completion of any sentence. This new language will make an easier pathway for individuals qualified for positions but previously excluded from employment opportunities because of their background.

Additionally, since the beginning of the JC's involvement with this project, the United States has gone through a period of labor shortages and economic hardship due to the Covid-19 pandemic. The inability to fill vacant roles impeded Yale's hiring capabilities on both its university and hospital campuses (Porayouw, 2022), impacting its research, science, and healthcare delivery efforts. These difficulties continue to this day with 600 staff positions on average per month (pre-pandemic averages were 400 open positions per month). One solution for this is to look within the New Haven community for applicants who may otherwise be overlooked, a strategy that makes economic sense for both Yale and the city. In 2021, Yale committed $140 million toward economic growth in the city (Shelton, 2021). existing collaborative programs such as New Haven Promise[2] and New Haven Works.[3]

The university's position on hiring formerly incarcerated individuals stands in sharp contrast to that of Yale New Haven Health System, which partnered with the Connecticut NAACP in 2021 on The One Million Jobs Campaign[4] in committing to hire 5% of its entry-level positions from a pool of formerly justice-impacted individuals. Additionally, our research found that other universities, such as Johns Hopkins (Paulk, 2015), has committed to hiring justice-impacted individuals as an important step of their recruitment to fill roles and improve community safety and vitality in Baltimore.

## CASE STUDIES

*To vividly illustrate the challenges at Yale, we provide the following case studies of hiring candidates with a criminal record. The names of employees have been changed to protect their privacy.*

### Personal Implications: Joe's Story

In the spring of 2019, Joe was living in a halfway house in New Haven after his release from Connecticut state prison. He had spent most of his adult life behind bars since being incarcerated as a teenager, and as his release date became closer, Joe would lie in his bunk thinking about a future in the working world. During his time in prison, he focused on improving not only his own life but the lives of others and became a certified life and addiction recovery coach, a forensic peer support specialist, and a mentor for those returning to the community. His work while incarcerated translated into skills he could use upon his release.

One evening Joe attended a men's support group led by a community health worker from the Transitions Clinic.[5] The clinic provides healthcare and social support to people reentering their communities post-incarceration. The community health worker was impressed by Joe's enthusiasm and encouraged him to lead other group sessions for the clinic. It was during one of these sessions that he encouraged Joe to apply as a temporary casual employee to work on an important research study at SEICHE.

One year later, the SEICHE team secured new grant funding to hire justice-impacted individuals to act as community-based

researchers interviewing individuals returning home from incarceration for the RadxUP[6] study, and Joe made perfect sense to hire for this project. However, for applicants with a history of incarceration, or anyone with limited computer literacy, Yale's online hiring platform, STARS, can be daunting to complete. Just like other applicants with limited technology skills, Joe required help to complete both the application and the background check. With the help of the staff at SEICHE, Joe applied for the job and waited to hear back about when he could start as a Yale researcher, focusing on improving lives for those released from incarceration — exactly the type of work he was uniquely qualified for. While the weeks and then months dragged on, he found out that the delay was with Hire Right, the university's external background check system, who had flagged his application due to a prior conviction. Joe persisted with his application and presented documentation of the work he did while incarcerated and after his release to help other incarcerated/formerly incarcerated men. Despite this additional information, he received a confusing letter in the mail explaining that his application would not move forward and noting minor discrepancies in the employment dates he provided (e.g., providing the months of employment, but not the exact start and end dates) and the month he received his GED. Both were errors that anyone trying to recall precise dates for events might get wrong, but the letter had no mention of his prior criminal record, although PERC had inquired about it via email prior to the denial. The lack of clarity around what the committee's policy was made it challenging for applicants to know what to expect and left them unprepared to address the concerns of the university.

It was at this point The Justice Collabor-atory became involved to help the SEICHE Center team make the case for hiring Joe and

to help think through how to advocate for changes to Yale's hiring policy. Joe was the best candidate to fill the research aide role as his history made him uniquely qualified to work with SEICHE's research population. What followed was a multi-month wait that made Joe doubt his ability to qualify for this or any other job. Eventually, in 2021, the university hired Joe after a considerable campaign on his behalf, and he finally became part of the SEICHE team of community researchers. For Joe, the job brought a sense of pride and accomplishment, having gone from being incarcerated to being a researcher at Yale, something that he had never fathomed.

### Personal Implications: Michael's Story

Michael first met the team when he was released from federal prison in 2017 and was referred to the Transitions Clinic. After spending much of his life in prison, starting with his first incarceration at age 12, Michael was released to a halfway house, but at 64 years old, had limited prospects of finding work due to his age and criminal history. When he came to the clinic, Michael was feeling discouraged, and after several conversations with the Transitions team, it was clear that he had a lot to contribute to the work and research the SEICHE team was doing.

Michael was asked to join SEICHE on a project as a consultant, focused on healthcare during incarceration and trauma in men recently released from correctional facilities (Elumn et al., 2021). A key component of the project was that men with a history of incarceration would be co-researchers on the project, and Michael was instrumental in this project. He received training in qualitative research, helped to design the

2 New Haven Promise. https://www.newhavenpromise.org/
3 New Haven Works. http://newhavenworkspipeline.org/
4 The NAACP's One Million Jobs Campaign. https://www.millionjobscampaign.com/
5 Transitions Clinic. https://transitionsclinic.org/

6 RADx Underserved Populations. https://www.justicehappenshere.yale.edu/projects/radx

qualitative interview guide, and led many of the interviews of study participants.

> The work was transformative for both Michael and the people he interviewed. He saw that he could use his experience to engage other people with histories of incarceration and that the knowledge gained from his research would shed light on the problems incarcerated people face and could be used to advocate for change in the criminal legal system.

In addition, study participants saw that someone like them could work at Yale as part of a research team, opening the possibilities for their futures.

In 2022, Michael was contacted about returning to work at SEICHE on a new project that was focused on how incarceration affects sleep health. He had found a job where he felt welcomed, and although the team wanted to hire him, the process of applying, completing the background check, and the months of back and forth after the background check made the process frustrating. Requirements such as ensuring the dates of all his previous employment were exactly right, the inability to include any work history from the time he was incarcerated, and issues with verifying his previous work with the team as a consultant added mounting delays.

As part of Yale's background check process, applicants are required to list all previous convictions with dates and charges. For Michael, and many others recollecting these details, this can be challenging. His convictions were long in the past, and he did not remember the exact dates of sentencing or charges, as these often change from arrest to conviction or plea. While the process was taking a long time, there were mounting pressures on Michael. For him, as for many others, the family he was staying with had expectations that he would contribute to the household, and probation also expected him to find a job.

The months that the hiring process took only compounded pressure on Michael as he focused on staying positive but felt his prospects of being hired were minimal. After many months of going through the hiring process and background check review, Michael was finally hired in December 2022.

For Michael, his position was a dream job. When he told people that he worked at Yale, they often assumed that he worked in the dining hall or maintenance. He was proud to be part of a research team working to address the health impacts of mass incarceration. He loved learning from and sharing his expertise with everyone at the SECIHE Center and recently noted that the job saved his life.

## Personal Implications: Susan's Story

In 2017, Susan applied for the position of Research Assistant I in the internal medicine department at the Yale School of Medicine. The position was a natural fit for her, as it required someone with good communication, computer and organizational skills, self-motivation, and most importantly knowledge of New Haven from strong community relationships. As a native of New Haven, Susan was very active in community work and felt the position was tailor-made for her.

When Susan was interviewed for the position, she was told that she was considered the top candidate for the job. She had excellent references from people whom she had previously worked with in prior jobs and community work. However, despite all of this, Susan knew that due to her justice-involved history, there was a possibility that a background check could end her career at Yale before it ever had a chance to start.

PERC contacted Susan to inform her that due to her prior criminal history, she was being denied the position. Susan was not deterred and continued to advocate for herself by



making a case for her employment. While Susan did not dispute what was reported in her background check, she did make a case that the description of the research position that she applied for mentioned "first-hand experience as a formerly incarcerated individual," which would suggest applicants have a justice-impacted history, and that Susan was the right candidate for the job.

Finally, after many months of delays and confusing correspondence from PERC and with tremendous support from the team at SEICHE, Susan was offered a position. She has now been at the university for over five years, has been promoted, and acts as a project manager on an NIH-funded study. Her work has opened up a career path that Susan never thought was possible and has led to some of the most fulfilling and impactful work she has ever done, and relationships that she will value for a lifetime.

## Team Implications

The SEICHE Center for Health and Justice is a collaboration between the Yale School of Medicine and the Yale Law School and performs a combination of research, advocacy, and clinical care for people recently released from prison. Including the voices of persons directly impacted by mass incarceration is central to the work and research at SEICHE, and delays in hiring staff result in stress and delays for the team as a whole. Workloads may increase as the team waits for new staff to be approved and hired, which can lead to burnout as team members juggle multiple responsibilities that would have been filled by the new member. This also impacts the amount of time and attention the SEICHE team can provide to the formerly incarcerated population they serve through research, clinical work, and advocacy. When the team is stretched because of hiring delays, non-urgent endeavors that advance

important research may have to be put aside until the team is back up to appropriate staffing levels. Team members who have been through the background check review process on prior occasions may also be retriggered, as they see others face the same obstacles over and over again. It can also set up unrealistic expectations for the new person being hired, as there was so much effort advocating for their hire and highlighting their strengths, that there may be heightened expectations for their performance.

## Hiring Manager Perspectives

The hiring process, which can already be long, is significantly extended when hiring an individual with a history of incarceration. Variation in the process each time there is a new position can also lead to frustration for the hiring manager. The process can also drain the hiring manager's time as they may need to assist the applicant as they move through the process, work with the HR specialist, and ensure that the team's work continues. Also, advocacy burnout can result from repeating the process with each new hire.

For teams hiring for positions on research studies with specific time frames and deliverables, delays of several months in the hiring process may have wide-reaching impacts. Positions can go unfilled for many months, putting strain on existing study staff and the study's principal investigator. In addition, funders require regular reports on study progress and can retract funds if projects are not progressing.

As some of our past applicants have noted, there can be intense pressure to find a job from probation and parole officers, from family, and for basic survival. Hiring managers often risk losing the best applicants because the process takes so long. The applicant needs to decide

whether to wait for a job that they may not get or to take another job where they could start quickly. For those with limited employment options, this long wait can mean the difference between a potentially successful future in a coveted position at Yale or a return to criminal activity for survival.

## Best practices from Johns Hopkins

Johns Hopkins Medicine, an alliance of the Johns Hopkins Health System (JHHS) and the Johns Hopkins University School of Medicine, leads as a model of fair chance hiring in higher education, with a proven history of employing individuals with justice-impacted backgrounds (Paulk, 2015). The HopkinsLocal Initiative was created in 2015 to leverage the university's power to expand and enhance economic growth in the Baltimore, Maryland area via employment and investment using measurable goals. The number of justice-involved, or what they refer to as "returning citizens" hired through this initiative through FY22 was 1,131 (*HopkinsLocal Progress*, n.d.).

Their hiring process follows a path from application and interview, where there are no questions about past arrests or convictions, to a conditional offer where an offer is contingent on a universal background check. If an application is flagged during this stage, an individual assessment is conducted if prior offenses are considered to be job-related. In addition, various other factors are considered including the time, nature, number of convictions, attempts at rehabilitation, and the time passed between conviction and decision to hire. If the assessment is deemed unfavorable for the candidate, HR will allow the candidate to either provide further clarification or encourage the applicant to submit for other opportunities including adult internships[7] to gain more experience.

In addition, all Johns Hopkins job postings contain standard language stating their commitment to hiring formerly justice-involved individuals: "The successful candidate(s) for this position will be subject to a pre-employment background check. Johns Hopkins is committed to hiring individuals with a justice-involved background, consistent with applicable policies and current practice. A prior criminal history does not automatically preclude candidates from employment at Johns Hopkins University. In accordance with applicable law, the university will review, on an individual basis, the date of a candidate's conviction, the nature of the conviction, and how the conviction relates to an essential job-related qualification or function."[8]

Because of their initiatives and policies, Johns Hopkins has become one of the nation's leading institutions at the forefront of pushing toward better economic and community vitality for residents of the East Baltimore community where Johns Hopkins Medicine is located. The alignment of these values with its mission to improve the health of the community has led to various follow-up studies showing the success of its hiring program including one that found that justice-impacted staff were more likely to stay in their jobs for more than three years than non-offenders (Quinton, 2017).

## Findings

Before the creation of a fair chance hiring policy, we found many obstacles for Yale's justice-impacted candidates to overcome, especially for those applying without the support of a faculty or hiring manager to assist with their application or advocate heavily on their behalf. During our involvement, the Justice

Collaboratory built relationships with justice-impacted staff, hiring managers, Yale's Human Resources Department, as well as members of the President's Committee on Diversity, Inclusion, and Belonging. Together, we were able to push for the creation of a fair chance hiring policy.

The primary issue was a lack of clarity of policy on both background checks and the PERC committee, which goes against what federal Equal Employment Opportunity Commission guidance advises employers to do. Namely, to develop a narrowly tailored "written policy and procedure for screening applicants and employees for criminal conduct" (Equal Employment Opportunity Commission, 2012). The policies on background checks have since been addressed on Yale's new Background Check FAQ site.[9]

After Joe's application was flagged by Hire Right and then denied by PERC, the JC asked to see where the committee's policies were posted, learning that they were not publicly posted anywhere. The JC will continue to push for transparency from the committee so that hiring managers and applicants are clear about Yale's policies. This remains one of our top priorities moving forward as the policies of PERC are not included on the new FAQ site, which was created after we presented our findings to Human Resources.

Our remaining recommendations have since been addressed on the new FAQ website as well as in the Fair Chance Policy FAQ section. Those include:

7    Adult Community Programs. Human Resources Johns Hopkins Hospital & Health System. https://www.hopkinsmedicine.org/human-resources/education-programs/adult

8    Quoted from a Johns Hopkins August 2023 job posting #110265 (Sr Administrative Coordinator).
9    Background Checks | It's Your Yale. (2023). https://your.yale.edu/work-yale/manager-toolkit/recruiting-and-hiring/hiring-guide/background-checks

| JC Recommendation | Fair Chance Policy Result |
|---|---|
| Add a criminal legal expert to the Pre-Employment Review Committee (PERC), Before the creation of the Fair Chance Policy, the committee was made up of a representative from Yale's Risk Management, General Counsel's office, and Human Resources. | A new member from the Yale Police Department has been included in the committee. |
| Limit the scope of background check inquiries. | Yale has and will continue to consistently require background checks for all new hires which include a criminal history check, previous employment, verification of education and social security number, and in some instances a credit check. The Fair Chance Policy continues this practice, however, lists what positions will also include an unscored credit, motor vehicle, medical, or drug testing checks. |
| Assess each relevant conviction, considering the nature of the job and its relationship to the offense, and time passed since the offense. | According to the Fair Chance Policy, the PERC committee will "consider the nature of the position, the relationship of the offense to the job duties, and the time passed since the offense and completion of any sentence" when deciding on applicants flagged by Hire Right as being justice impacted. |
| Provide notice and an individualized assessment that includes consideration of rehabilitative steps (e.g., education and work experience) since the conviction. | Any education or employment skills gained both pre- and post-incarceration are considered valid experiences by the PERC committee and will be included on a candidate's resume. |
| Provide adequate notice of disqualification and refer to another opportunity. | For future consideration |
| Take affirmative steps to reach qualified job seekers with criminal records. | For future consideration |
| Track data, similarly to HopkinsLocal, of successes in outreach and hiring of job seekers with criminal records. | For future consideration |

## Looking ahead

Our work with Yale's Human Resources team and senior leadership has led to promising progress in the hiring of people with a history of incarceration. Initially, we had proposed the creation of a multidisciplinary committee of faculty and staff who would center persons who were justice-impacted to make recommendations to create a new fair chance hiring policy, and we hope that a committee is formed to track and review data and progress of the new policy and to make recommendations for future revision. Yale's Human Resources team met with SEICHE staff members and faculty to hear from those directly impacted by a lack of clear policy and appropriately addressed issues raised in the policy FAQ. In addition, Human Resources also engaged in deep dives with both Hire Right and PERC as part of their review to create the Fair Chance Policy. A draft was sent to the JC and SEICHE Center teams for feedback in late spring 2023, and Yale's Human Resource department is now in the process of reviewing the feedback and incorporating changes for approval in 2024. The movement forward in the last year is encouraging news for the JC, the SEICHE Center and its staff members, and most importantly for residents of New Haven and the surrounding area who have a history of involvement in the criminal legal system.

## References

Adams, S. (2013, June 21). Background Checks on Job Candidates: Be Very Careful. *Forbes*. https://www.forbes.com/sites/susanadams/2013/06/21/background-checks-on-job-candidates-be-very-careful/

Agan, A., & Starr, S. (2017). The Effect of Criminal Records on Access to Employment. *American Economic Review*, *107*(5), 560–564. https://doi.org/10.1257/aer.p20171003

Atkinson, D. V., & Lockwood, K. (2016). *The Benefits of Ban the Box: A Case Study of Durham, NC*. The Southern Coalition for Social Justice. https://southerncoalition.org/resources/ban-the-box-white-paper/

Doleac, J. L., & Hansen, B. (2016). *Does "Ban the Box" Help or Hurt Low-Skilled Workers? Statistical Discrimination and Employment Outcomes When Criminal Histories are Hidden* (Working Paper 22469). National Bureau of Economic Research. https://doi.org/10.3386/w22469

Elumn, J. E., Keating, L., Smoyer, A. B., & Wang, E. A. (2021). Healthcare-induced trauma in correctional facilities: A qualitative exploration. *Health & Justice*, *9*(1), 14. https://doi.org/10.1186/s40352-021-00139-5

Equal Employment Opportunity Commission. (2012). *Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions under Title VII of the Civil Rights Act*. Equal Employment Opportunity Commission. https://www.eeoc.gov/laws/guidance/enforcement-guidance-consideration-arrest-and-conviction-records-employment-decisions

*HopkinsLocal Progress*. (n.d.). Johns Hopkins University & Medicine | HopkinsLocal. Retrieved September 29, 2023, from https://hopkinslocal.jhu.edu/hopkinslocal-progress/

New survey shows openness to second chance hiring is increasing, but gains are still needed. (2021, May 10). *Stand Together Trust*. https://standtogethertrust.org/news/new-survey-shows-openness-to-second-chance-hiring-is-increasing-but-gains-are-still-needed/

Pager, D. (2003). The Mark of a Criminal Record. *American Journal of Sociology*, *108*(5), 937–975. https://doi.org/10.1086/374403

Pager, D., Bonikowski, B., & Western, B. (2009). Discrimination in a Low-Wage Labor Market: A Field Experiment. *American Sociological Review*, *74*(5), 777–799. https://doi.org/10.1177/000312240907400505

Paulk, P. D. (2015). *The Johns Hopkins Hospital Success in Hiring Ex-Offenders*. Johns Hopkins Medicine. https://www.bgcheckinfo.org/sites/default/files/public/5thMtg_1-0c-Plenary_Pamela_Paulk_Presentation.pdf

Porayouw, W. (2022, December 7). Despite 900 open staff positions, admin confident retention will return to normal levels. *Yale Daily News*. https://yaledailynews.com/blog/2022/12/07/despite-900-open-staff-positions-admin-confident-retention-will-return-to-normal-levels/

Quinton, S. (2017, April 29). A new idea for filling hard-to-fill health-care jobs: Ex-offenders. *The Washington Post*. https://www.washingtonpost.com/national/health-science/a-new-idea-for-filling-hard-to-fill-health-care-jobs-ex-offenders/2017/04/28/fece52ae-2a9b-11e7-b605-33413c691853_story.html

Shelton, J. (2021, November 17). With new $140+ million Yale pledge, Yale, New Haven promote growth, economy. *Yale News*. https://news.yale.edu/2021/11/17/new-140-million-yale-pledge-yale-new-haven-promote-growth-economy

Solomon, A. L. (2012). In Search of a Job: Criminal Records as Barriers to Employment. *National Institute of Justice*, *270*. https://nij.ojp.gov/topics/articles/search-job-criminal-records-barriers-employment

Uggen, C., Vuolo, M., Lageson, S., Ruhland, E., & K. Whitham, H. (2014). The Edge of Stigma: An Experimental Audit of the Effects of Low-Level Criminal Records on Employment. *Criminology*, *52*(4), 627–654. https://doi.org/10.1111/1745-9125.12051

Widra, E., Morris Desir, K., Ray, K., & Jeter, J. (2022). *Where people in prison come from: The geography of mass incarceration in Connecticut*. Prison Policy Initiative. https://www.prisonpolicy.org/origin/ct/2020/report.html

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# Optical Illusion

## Prison Landscaping and the Performance of Space

**By Dana Greene**

### It was the warden's idea.

I know this because he told me just as soon as we met. With cheerful zeal he asked me *if* I saw it. Really? How could I miss it? I was grateful he said something because I was trying to formulate a way to inquire without tipping my hand. I was unprepared for his enthusiasm and unable to generate a neutral tone with which to ask follow-up questions. It is a private institution, and I cannot imagine anyone authorizing funds for such an expenditure at a public facility.

A white picket fence wrapped partially around the outer perimeter of a high-security prison.



**What can I say?** I took the photo. I stood there. I walked the fence; it consciously does not go all the way around the perimeter. I've presented, published, and written about the irony, absurdity, and ghoulishness. Yet, it demands continued looking.

The white picket fence is a small, quaint material feature with a heft of meaning, Americana. It is a potent cipher, an illustrative shorthand, an emblem of white middle-class American suburbs, respectability, prosperity, pastoral nostalgia, private property, wholesomeness, and normalcy. It says all is well here, I am a good neighbor, an upstanding citizen, and my house is in proper order. Though it is an enclosure, it is a symbol of freedom and the American Dream. Startling at a prison, yes, but maybe not as discordant as it initially appears. After all *white* home ownership for which the white picket fence is the quintessential sign, was built on segregation and a web of racial injustices effectively fueled by federal legislation that demanded prejudicial lending and racialized zoning.

Though the picket fence montage was something I'd not seen before, at every correctional facility I have visited, there is a sort of "land-scaping," a deliberate decorative gesture, some subtle others elaborate, marking space. What space exactly? It is the space between the spaces. The territory, the district, the cosmos between the *inside* and the *outside*. This most definitely militarized zone is really neither *in* nor *out*, witnessed, utilized, and populated by only a select few. What is this space, just outside the razor wire, relatively unregulated in comparison to one side and wholly restricted in comparison to the other? Since my first prison visit in 1994 I've had my eye on this peculiar spectacle.

The images here come from my archive of over 14,000 photos. Anyone who has visited a prison knows it is not easy to get through the

gate. To be an outsider and get inside is a feat. I don't want to give away my craft, but in 2013 I was granted a full-access security pass to photograph each of New Mexico's eleven adult correctional institutions, six state-run and five privately operated prisons. Using a handheld digital camera, I spent three days at each site, exploring the facility and walking the perimeter during the day and at night. There are, deliberately, no people in my pictures. The images expose everyday penal realities with the aim of placing prisons in a material, historical, and geographical context.[1] I've named these pictures *prisonscapes,* a term that marries the fine art tradition of scenic imagery with what I was photographing.

The camera in my hand did not go
unnoticed. It blew something
open. My gazing at the unpeopled
setting raised the prison up as a
designed environment.

The very presence of a person, a civilian white woman, taking photos, put the surrounds into relief for its inhabitants. Like in The Truman Show, the camera shook off the everydayness and changed the environment. My action was somehow a counter to the omnipresent surveillance. It brought a reflexivity for everyone, me, those incarcerated, and corrections officers alike.

Landscape architecture's changeable elements are imported and exported across oceans, centuries, and state lines. It is a practice that is culturally, temporally, and geographically specific. The components vary. Nonetheless, the definition is relatively fixed, landscape architecture is "a manmade feature that resonates with the built structure to create an ecosystem and harmony between various elements" (Chauhan, 2020) The intention is to make something aesthetic that will affect a relationship between edifices

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1   All photos are in color. I do not crop, retouch, or edit the images in any way.

and their locations. Landscaping is meant as an entreaty that unites by forging a threshold between disparate milieus. It writes a script and inhabitants, pedestrians, and passersby are both players and audience. How then does this schema operate in the carceral sphere? What are these "manmade features" saying within the orbit of the manufactured prison? Who are the players? Just what is *this* performance and who is the audience? What of this landscaping gesture in *this* space between the spaces?

A very brief side note on prison architecture and history. By and large prison architecture is informed by the day's reigning criminological theory, form follows function. The nation's original prisons, built in the early to middle 19th century were located near or within community life. They incorporated grand foreboding architecture, including landscaping, and were meant to be seen. The criminological theory driving their construction was deterrence. As ideas and feelings about crime, rehabilitation, prison management, and

so-called 'criminals' shift the architecture follows suit. Local and federal economic and political pressures are also key determinates. These forces exist in historical time resulting in a range of variations including prisons moving to rural sites (an enduring practice today), the creation of penal farms, separate facilities for men and women, private for-profit incarceration, and the corporate production of prisons and their infrastructure. However, these socio-political influences do not account for the continued habit of marking the space between the spaces in a decorative way. While it may have made 'sense' when prisons were built front and center, why bother once these institutions are hidden away as they have been for 150 years?

I contend that the prisonscapes
presented here illuminate a carceral
logic—one intrinsically tied to
the meanings, signs, and symbols
associated with the nation's
landscaping customs.

The scenes are carefully constructed, with a bit of kitsch and artistry, to, I argue, expressly perform normalcy, and convey legitimacy. So much so that one institution, the site of the nation's most violent prison uprising, can proudly proclaim to all who drive by, its location on the Turquoise Trail—a nationally declared scenic byway meant to guide and attract tourists in the Land of Enchantment, New Mexico's effective promotional moniker. Note Geo Group's banal name and copyrighted logo confidently illustrate an international reach with a world map in the letter o. These photographs demonstrate a disciplining of the physical environment, convey the respectability of the institution and communicate that the 'criminals' are under control. To what I dub the carceral collective unconscious prison landscaping underscores pervasive myths by performing an intentional sleight of hand that not only reifies the respectability of these institutions but neutralizes them, rendering them normal ordinary buildings and obscuring the ethical and social disturbance they represent.

> Landscaping aims to veil
> the prison project and defuse
> these potent sites of state
> power and human suffering.

The wagon wheel, the tenderly planted cactus, the corporate insignia, and yes, the white picket fence—each artfully curated tableau—says this house is in order, reputable, it fits right into the neighborhood, nothing to excavate here folks! However, these scenes also serve as potent foils. For those of us, inside and out, not toeing the hegemonic line on prisons as essential customary instruments of public safety, the white picket fence spotlights horror, consequently demanding our gaze and inviting all the more scrutiny.

But who is this performance for? Prisons built in the 20th and 21st centuries are deliberately located far from urban centers or any passersby. They are built on swaths of land meant to engulf and disappear them. Even Santa Fe Penitentiary, proudly touting its place along the Turquoise Trail, is well beyond the sign and invisible from the roadway. Does this decoration "create an ecosystem and harmony" for the employees walking past or for those visiting their child, parent, lover, family member, or friend? Incarcerated people do not enter or leave prison through the front but come in and out through the sally port—a fortified series of gates with augmented surveillance and by my account no landscaping montage. Additionally, the construction and maintenance of prison landscaping are typically executed by people incarcerated in the institution. Does this provide an opportunity to be outside and creative? Probably. It is definitively another layer of the masquerade.

The white picket fence does not, cannot, hide the razor wire any more than orchestrated flora or ornament can. The warden certainly knows the fence is a prop, one he personally made sure I saw. Like the scenery on a stage, it is make-believe and serves no explicit penological function. There are two security fences with sensors in between them surrounding the entire prison; the plastic picket fence doesn't even bother to travel the full length of one side of the square perimeter. Everyone on site knows they are in a prison and that a so-called correctional facility is no ordinary building. Everyone. Is the landscaping meant to invite or restrict? In practice, the public is not actually welcome in the space between the spaces. In fact, civilians are not typically allowed close enough to even view the scene. There is a complex security system to keep the unauthorized far away from the prison gates. It comes to me then that the prison perimeter—much wider in area than the fencing itself—is in effect a redline and the prison a laager of state power and its attendant racial and economic disenfranchisement. The fortified space around these civic institutions operates to defend the prison from public view. The landscaping routine is a conceit to dress up the garrison-like quality of the nation's prisons, and like a funhouse mirror, contorts the macabre into a bucolic scene. These images are phantasmagorical.

> The audience is us, all of us.

These landscapes provide a basic ideological function, calling us in, forming identity with the carceral state. The script is well-worn, effectively shaping the national carceral collective un-conscious for two centuries. Prison landscaping conveys a place that is in community.[2]

This is an optical illusion. The pretense, buoyed by these tableaus, is that these institutions are *connected to* and *part of* the social fabric when in fact they are isolated forts and secluded factories of disconnection. Prisons fracture social cohesion, foster detachment, and rupture relationships, networks, *and* bonds between people and within communities.

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**References**

Chauhan, A. (2020, December 12). The evolution of landscape architecture. *https://www.re-thinkingthefuture.com/landscape-architecture/a2441-the-evolution-of-landscape-architecture/*



2   This is not to say that those on the inside (the incarcerated, the employed, and those visiting) do not have community, are not in community, or that they are not making community, inside and out.

# 7 Myths about the adolescent brain

**BJ Casey, Ph.D**

**Over the last** two to three decades, important discoveries have been made about the developing human brain, especially the adolescent brain. Yet, I continue to hear colleagues, journalists, and educators make overgeneralizations about the adolescent brain and behavior that have been debunked by science.
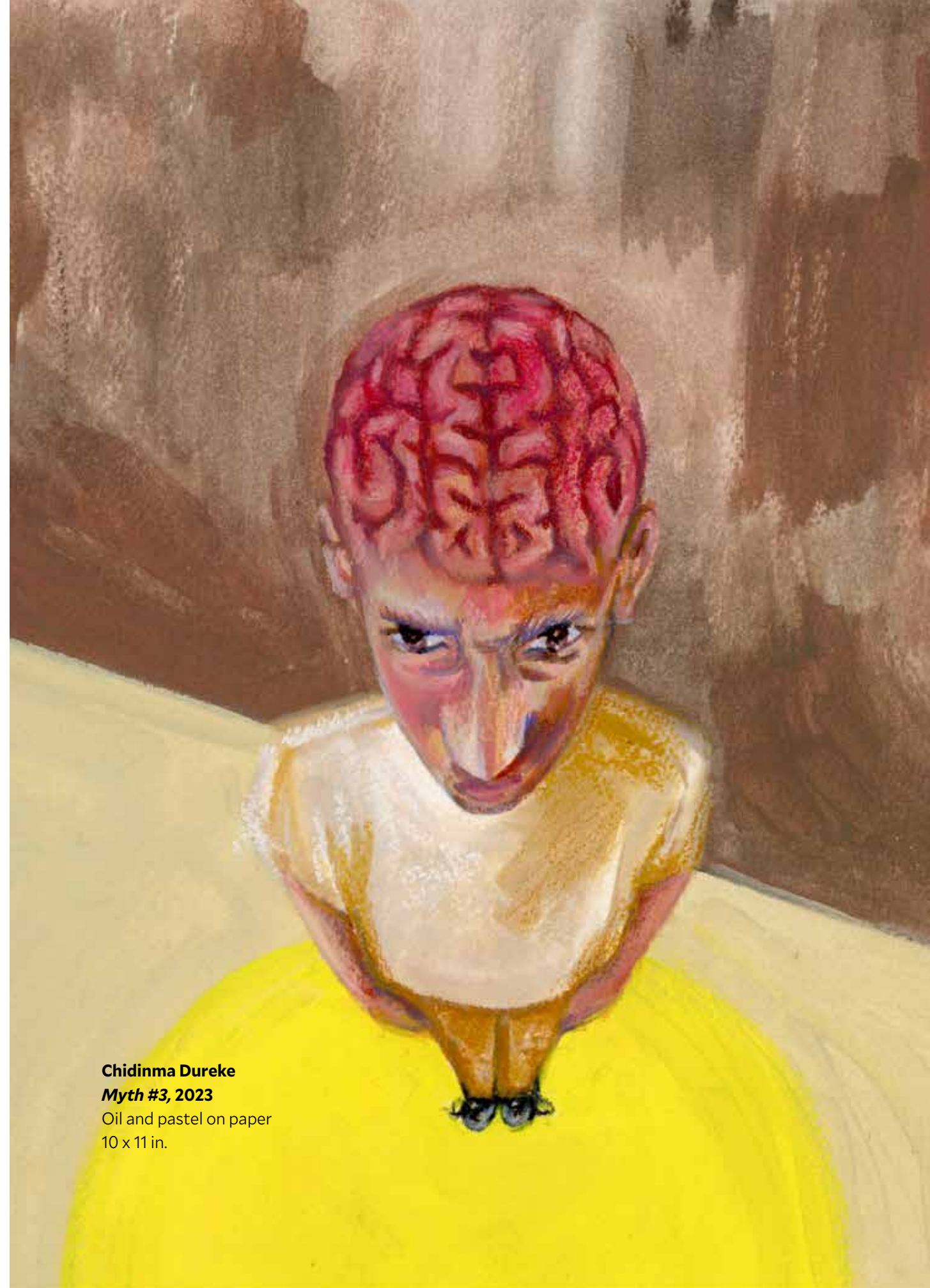


**Chidinma Dureke**
*Myth #3,* 2023
Oil and pastel on paper
10 x 11 in.

**These misconceptions** often paint the adolescent brain in a negative light, reducing it to a defective car, with no brakes or steering wheel, just an accelerator. This characterization is typically attributed to the immaturity of the prefrontal cortex, a region implicated in executive functions that enables us to make rational decisions, regulate our emotions and juggle multiple tasks in everyday life. Moreover, this negative depiction of the adolescent brain as defective suggests that adolescents are incapable of making rational decisions, only risky, emotional, and impulsive ones, and implies a condition of deviance rather than development.

The concern with perpetuating negative overgeneralizations about the adolescent brain is that they can influence how we perceive and treat young people within society and our legal system. If we assume adolescents are not competent to make decisions, then that can result in laws and policies that diminish their rights (e.g., limit their ability to make medical decisions or select a family placement for themselves); if we perceive youth to be deviant or even dangerous, then that can result in harsher sentences for young offenders (e.g., transfer to adult court, life without parole). This is especially true for adolescents of color or from low-income families who are disproportionately arrested, transferred to adult courts, and given harsher sentences. So, what does the current neuroscientific evidence tell us about the adolescent brain?

First, it is true that the prefrontal cortex shows marked developmental changes throughout the period of adolescence, which extends roughly from pubertal onset into the early to mid-twenties. However, the prefrontal cortex is not the only brain region that is changing, and importantly, brain development does not suddenly stop the day a youth turns 18, which is when they are deemed an adult within our criminal legal system. Rather, the brain shows the potential for change (plasticity) throughout the life course, but especially in the first few decades of life. With age and experience, connections throughout the brain that are important for integrating cognitive, emotional, and social information are sculpted and strengthened, which increase the efficiency and speed of neural communication among them, facilitating and optimizing decision-making in emotional and social contexts.

Second, while adolescents can be risky, impulsive, appear fearless and engage in criminal behavior more than other ages, there are situations in which adolescents are less risky, less impulsive, and even more fearful than at other ages. The science provides important information about in which circumstances an adolescent appears "adult-like" in their capacity and in which situations that capacity may be diminished.

Within this context, I highlight seven common overgeneralizations about the adolescent brain and behavior and provide empirical evidence that may serve to provide a finer appreciation for and understanding of this amazing—although challenging – period of development. A deeper understanding of adolescence may help to inform and reform current laws and policies to both protect youth from undue harm while still providing them with rights and opportunities necessary for building the very cognitive, social, and emotional skills needed for becoming a contributing adult member of society.

# Myth 1

## The adolescent has no brain or prefrontal cortex.

Indeed, adolescents not only have a brain but also a prefrontal cortex. At birth, the brain itself is relatively intact, including the part of the brain that makes up the prefrontal cortex, and there is evidence of prefrontal functioning even in infants. For example, by eight months of age, the infant can perform simple executive functions supported by the prefrontal cortex, such as holding onto information in memory over time and inhibiting inappropriate responses to obtain a goal (e.g., reaching around a partition as opposed to trying to go through a partition for a blocked object or finding a hidden toy in a new location rather than looking in the original location in which it was hidden; Diamond, 1990). It logically follows then that if an infant has a functioning prefrontal cortex, then so too does an adolescent who is even further along in their development. Moreover, if adolescent risky behaviors were solely due to immaturity of the prefrontal cortex, then the less mature prefrontal cortex of the child's brain should lead to even more risky behavior than that observed in the adolescent. Yet, we do not see the same behavioral profile in children that we generally see in adolescents, such as increased risk taking and sensation seeking. Therefore, attributing bad choices or risky behavior in adolescents solely to the immaturity of the prefrontal cortex does not logically follow.

What might explain the changes we see in adolescent behavior? While the prefrontal cortex continues to show significant changes in structure and function well into the 20s, other brain regions and circuits involving emotions show peak changes during the teen years. These regions include deep subcortical and medial cortical areas of the brain important for detecting, processing, and reacting to social and emotional information (e.g., rewards, threats, and peers). In part, these observed changes in the prefrontal cortex and emotional systems are due to changes in gonadal hormones and neurochemicals in the brain, such as dopamine, which has been implicated in reinforcement and fear learning. These systems show peak developmental changes by the late teen years, which is earlier than the extended changes that we see in the prefrontal cortex, especially in the lateral prefrontal cortex, which continue well into the 20s.

This differential development has been described as an imbalance between rational and emotional centers of the brain, with emotional centers showing peak changes during adolescence relative to childhood and adulthood, but the prefrontal cortex showing continued steady development from infancy into adulthood.

As such, in emotionally charged situations, emotional systems in the adolescent brain are postulated to hijack the more slowly developing regions of the prefrontal cortex, leading to less rational or optimal decisions and actions (Casey, 2015).

It is important to underscore that it is the continued refinement and strengthening of connections among different brain regions with age and experience that show extended development. This developmental pattern is manifested behaviorally in different ways depending on the social context and

underlying brain networks. For example, adolescents have the capacity to make rational decisions by the teen years in low stress situations, but this capacity is diminished when making decisions in emotionally or socially charged and stressful situations, the latter of which involves communication among several brain networks. Optimal decision-making and self-regulation in these arousing situations continue to develop into the 20s. As such, different cognitive and psychological abilities develop at different time points, along with brain development. Therefore, there is not one age demarcation for the development of these abilities but rather several that map onto separate and interacting cognitive, emotional, and social abilities.

# Myth 2

## Adolescents are riskier than adults.

A common characteristic of adolescence is that it is a time of risk taking and sensation seeking. It is true that as a group, adolescents show greater risk taking and sensation seeking than younger and older individuals. Yet, the circumstances in which adolescents make risky decisions vary greatly, and in some situations, they are actually more risk averse (make less risky choices) than adults.

> Tymula and colleagues (2012) have shown that when the odds of a gamble are known and there is a definite option of a smaller win versus a gamble of a potential larger win but also larger loss, teens do not take the gamble.

They tend to take the gamble less in these situations even though the gain is less than what they could potentially have won if they had taken the gamble. In other words, adolescents will take the sure bet even though the winnings are smaller than what they could have potentially won if they took the gamble where there was also the potential for loss. Adults in this situation tend to gamble more. However, if the odds of an outcome are ambiguous, adolescents tend to go for the gamble where they could win more money but also potentially lose more money, rather than taking a sure bet of a smaller reward. Therefore, they take more risks in their choices than adults do in these ambiguous situations.

Given that adolescents have less decision-making experience than adults, there are likely more ambiguous or uncertain outcomes of choices for adolescents than for adults. This tolerance of risk in uncertain situations may facilitate more exploratory trial-and-error choice behavior. This type of trial-and-error learning has been suggested to facilitate adolescents' rapid learning about their social world and societal rules on their own in preparation for ultimately transitioning into an independent adult within society.

# Myth 3

## Adolescents make bad choices and decisions.

The period of adolescence is one of significant learning as the individual gains knowledge that helps to prepare them for assuming adult roles. As stated, this learning impacts their choices and actions. Often, it is assumed that their heightened sensitivity to rewards leads teens to make bad choices and decisions in pursuit of winning over losing. However, teens are better than adults at learning about the probabilities of rewards and optimizing their gains in gambling tasks (Barkley-Levinson & Galván, 2014) and during reinforcement learning (Davidow et al., 2016). Therefore, their decisions are not always bad. In a given moment in time, an adolescent's decision can appear risky or bad, but with time and experience and the right supportive environment, that exploratory learning style can be beneficial and can alter their behavior positively.

# Myth 4

## Adolescents are more impulsive than adults.

It is true that adolescents can be impulsive, but there are circumstances in which they appear less impulsive than even adults. When events or cues in the environment that have been reinforced previously (e.g., a smiling face, a peer, substance) are used as distractors or are irrelevant to the task at hand, adolescents appear to be drawn to them more than children and adults, which ultimately can interfere with goal-directed behavior and lead to mistakes when instructed to ignore or not respond to these cues. This behavioral pattern is paralleled by increased activity in reward-related brain regions such as the nucleus accumbens (Galván et al., 2006; Bramms et al., 2015), which has been related to risky choice behavior in some circumstances (Galván et al., 2007).

However, rewards themselves can improve decision-making and diminish impulsivity when used as an outcome or as feedback for correct or optimal choices (as opposed to as a distraction). We tested this idea in adolescents and adults. We gave them choices of either pressing a left or right button to indicate the direction of motion of moving dots on a computer screen where a correct response for one direction of motion (e.g., left) was associated with a large reward (e.g., 5 points), but only a very small reward (1 point) was given for a correct response for the other direction (e.g., right). I should note that no points were given if the response was incorrect and the number of dots moving left or right among several randomly moving dots was manipulated to maintain similar levels of difficulty for each participant.

> We found that adolescents were less impulsive than adults in their decision-making when a larger reward was at stake (Teslovich et al., 2014). In other words, they took their time before finalizing their decision about the direction of motion when 5 points were at stake.

However, they were faster than adults when a smaller reward was at stake. This behavior was associated with more engagement of prefrontal circuitry implicated in decision-making and suggested that they let sufficient evidence accumulate before making a final decision, rather than responding impulsively. In other words, they wanted to be sure that they chose the correct direction of motion so as not to lose the large reward option. Thus, teens are not always more impulsive than adults, and we can use their heightened sensitivity to rewards to reinforce and potentially change their behavior in positive ways.

# Myth 5

## Adolescents are only influenced by their peers.

Adolescents show a heightened sensitivity to peers that decreases with age. A sensitivity to peer influences in this developmental period is not surprising given that adolescence is a time when we form deep connections with peers and begin to form an identity separate from our parents in preparation for becoming an independent member of society as an adult. Psychological and imaging experiments have shown that the mere presence of a peer during a decision-making task (e.g., whether or not to drive through a yellow light) increases risky decisions that are paralleled by activation of dopamine-rich reward brain circuitry in adolescents (Chein et al., 2011). Such behavioral and brain patterns are less common in adults and in adolescents when alone. The heightened influence of peers on the brain and behavior can lead adolescents to engage in potentially harmful behaviors beyond risky driving (e.g., use and abuse of illicit substances or stealing when spurred on by a peer). This sensitivity to peer influences in adolescents is also reflected in criminal-related behavior. Crimes committed by young offenders more often involve accomplices than those committed by adults. Although peers can negatively influence adolescent choices and actions, they can also have a positive influence on behavior. For example, group interactions that are coordinated toward a positive common goal (e.g., team sports, team debates, or organized civic activities) are prosocial goal-directed activities and can facilitate agency, purpose and pride; importantly, they have been related to a lower risk of mental health problems, such as depression.

Although peers have a significant impact on adolescent behavior, they are not the only ones. Adults and parents also influence adolescent behavior and serve as prosocial role models that can have lasting effects on adolescents' development. Often, we hear of how a mentor or parent helped facilitate a teen's passion for the arts, sciences, athletics, or civic activities and that a specific adult is credited for the subsequent success and accomplishments of that youth later in life. We also know from the psychological literature that an adult's presence (Silva et al., 2016) and advice can influence adolescent decision-making even more than same-aged peers (Lorenco et al., 2016), both positively and negatively. As such, youth need the opportunity to learn from prosocial group activities and from prosocial role models, which is limited in our punitive legal system and in its treatment of young offenders.

# Myth 6

## Adolescents are fearless and believe they are immortal.

I don't know how many times I've come across lay articles or lectures that suggest that teens engage in risk behaviors because they are fearless and think that they are immortal. If this is truly the case, then why do we see a peak in anxiety- and stress-related disorders at this age, illnesses that are undoubtedly related to aspects of fear? Moreover, studies that examine adolescents' perceptions of their own risk for disease and mortality when engaging in risky behaviors (e.g., unprotected sex or smoking) are not less but greater than or equal to those of adults (Henley & Donovan, 2003; Johnson et al., 2002; Reyna et al., 2006).

The notion that adolescents are fearless has been countered by a large collection of independent studies across species showing exaggerated responses to threats and stressors. For example, while children, adolescents and adults alike can very quickly acquire a fear memory (e.g., fear a tone that previously has been paired with shock), human and rodent adolescents show a diminished ability to extinguish a fear memory once learned (Pattwell et al., 2012).

This sustained fear response is correlated with more activity in the amygdala, a region implicated in threat and emotional processing, and less activity in the prefrontal cortex, a region implicated in the extinction of fear memories. Chronic stress and uncertain threats are likewise associated with decreased prefrontal activity and increased impulsive behavior in adolescents up to 21 years relative to adults 25 or older (Cohen et al., 2016; Rahdar & Galvan, 2014). These findings suggest that adolescents are not fearless but rather show heightened stress and threat responses relative to adults that are associated with behavioral reactivity (impulsivity). Threats activate the body's fight or flight response, which likely is even more critical for the survival of adolescents in potentially dangerous situations given their immaturity and given that their caregiver is less often present to protect them at this developmental stage relative to earlier ones. Therefore, being reactive or impulsive in these situations may be more adaptive than engaging prefrontal functions such as impulse control. Unfortunately, threatening and stressful situations can lead to inappropriate reactivity in other contexts, which are often the very circumstances in which young offenders come into contact with our criminal legal system.

# Myth 7

## Adolescence ends at 18 years of age.

The definition of adolescence and when it ends varies greatly depending on the perspective and situation. From a legal perspective, the age of majority—when an individual can sign legal documents without the need for an adult to co-sign and when they can vote—is currently 18 in the US. Thus, one assumption of the age of majority model is that an individual has full adult cognitive capacity at 18 and thus the same responsibility for their actions as an adult

in our criminal legal system, as they are no longer a minor.

In contrast, an emerging definition of adolescence from a neurodevelopmental perspective is that it extends from approximately 10 years of age—around pubertal onset—to 25 years of age, based on empirical evidence of significant neurocognitive changes throughout this time (Sawyer, 2018).

Many expert organizations and institutions recognize that psychological development continues well into the 20s (National Institutes of Health, the United Nations, and the World Health Organization) In fact, several US laws and policies also recognize this continued development (e.g., purchase of alcohol, age one can stay on parent's insurance or in foster care). Yet, the treatment of young offenders too often ignores developmental research and treats youth as adults. For example, even young children can be transferred from the juvenile system to adult courts for certain crimes and situations, with 20 states having no minimum age for transfer. Assigning adult status to a young child is not supported by either biological or psychological evidence, nor is it for youth in their early 20s who commit a crime in an emotionally charged situation based on the imaging and behavioral evidence presented above.

A better understanding of circumstances in which youth have adultlike capacity and those in which that capacity may be diminished can help to inform and reform laws and policies related to the treatment of youth in our legal system. These reforms hopefully will protect youth from cruel and unusual punishments for their offenses while still providing youth with rights to make personal decisions for themselves and opportunities for cognitive, social, and emotional development necessary for becoming a contributing member of society.

## Conclusions

The adolescent brain is not defective but has evolved to help meet the demands of this challenging developmental period as the individual learns from their social world and about societal rules to effectively transition from dependence to relative independence from the caregiver. It is a time of exploration and trial-and-error learning, the formation of deep bonds with peers and the emergence of a self-identity. Rather than perpetuating a negative narrative about the adolescent brain that can detrimentally impact how we view and treat young people in society, it is important to reflect on how the adolescent brain may be programmed to meet the very challenges of this developmental period. As such, how can we use defining characteristics of adolescence (e.g., heightened sensitivities to rewards, threats, and external influences) to both protect and benefit them? An all-or-none perspective of adolescent capacity does not allow us to understand in which contexts prosocial behavior can be fostered and in which contexts adolescents are susceptible. Labeling adolescents as "all bad" means that when people counter this view, it is then viewed in black and white terms rather than shades of gray, when what is important are the contextual differences that promote protection and risk. If we simply focus on adolescents as bad decision-makers, then that can significantly influence laws and policies that diminish their rights to make their own health- and family-related decisions, or worse it can lead to perceptions of young offenders as deviant (and even deserving of adult sentences for adult crime as was promoted in the 1990s), when in fact they are in a transitory phase of development.

**Chidinma Dureke**
*Myth #6,* 2023
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## References

Barkley-Levenson E, Galván A 2014. Neural representation of expected value in the adolescent brain. *Proc. Natl. Acad. Sci. U. S. A.* 111:1646–1651

Braams, BR, van Duijvenvoorde, ACK, Peper, JS, Crone, EA (2015). Longitudinal changes in adolescent risk-taking: A Comprehensive study of neural responses to rewards, pubertal development, and risk-taking behavior. *Journal of Neuroscience,* 35 (18) 7226-7238.

Casey BJ 2015. Beyond Simple Models of Self-Control to Circuit-Based Accounts of Adolescent Behavior. *Annu. Rev. Psychol.* 66:295–319

Chein JM, Albert D, O'Brien L, Uckert K, Steinberg L 2011. Peers increase adolescent risk taking by enhancing activity in the brain's reward circuitry. *Dev. Sci.* 14:F1-F10

Cohen A, Breiner K, Steinberg L, Bonnie RJ, Scott ES, Taylor-Thompson KA, Rudolph MD, Chein J, Richeson JA, Heller AS, Silverman MR, Dellarco D V, Fair DA, Galván A, Casey BJ. 2016b. When Is an Adolescent an Adult? Assessing Cognitive Control in Emotional and Nonemotional Contexts. *Psychol. Sci.* 27:549–562

Davidow JY, Foerde K, Galván A, Shohamy D. 2016. An upside to reward sensitivity: The hippocampus supports enhanced reinforcement learning in adolescence. *Neuron.* 92:93–99.

Diamond A. The development and neural bases of memory functions as indexed by the AB and delayed response tasks in human infants and infant monkeys. *Ann N Y Acad Sci.* 1990; 608:267-309.

Duell N, Steinberg L, Icenogle G, Chein J, Chaudhary N, Di Giunta L, Dodge KA, Fanti KA, Lansford JE, Oburu P, Pastorelli C, Skinner AT, Sorbring E, Tapanya S, Uribe Tirado LM, Alampay LP, Al-Hassan SM, Takash HMS, Bacchini D, Chang L. 2018. Age Patterns in Risk Taking Across the World. *J. Youth Adolesc.* 47:1052–1072

Galvan A, Hare TA, Parra CE, Penn J, Voss H, Glover G, Casey BJ. 2006. Earlier development of the accumbens relative to orbitofrontal cortex might underlie risk-taking behavior in adolescents. *J. Neurosci.* 26:6885–6892

Galván, A., Hare, T.A. Voss, H., Glover, G. & Casey, B.J. (2007). Risk taking and the adolescent brain: who is at risk? *Developmental Science*, 10(2), F8-F14.

Henley, N., & Donovan, R. J. (2003) Young people's response to death threat appeals: Do they really feel immortal? *Health Education Research*, Volume 18, Issue 1, 1–14.

Johnson R.J., McCaul K.D., Klein W.M.P. (2002). Risk involvement and risk perception among adolescents and young adults. *Journal of Behavioral Medicine*, 25, 67–82.

Liston, C., McEwen, B. & Casey, B.J. (2009). Psychosocial stress reversibly disrupts prefrontal processing and attentional control. *Proc Natl Acad Sci USA*, 106, 912-917.

Lorenco, F, Decker, JH, Pederson, G, Dellarco, D, Casey, BJ & Hartley, C, (2015). Consider the source: peers and adults differentially influence adolescent choices. *PlosOn*e. 10 (6), e0128047

Pattwell, S.S., Duhoux, S., Hartley, C.A. et al. (2012). Altered Fear Learning Across Development in Both Mouse and Human. *Proc. Natl. Acad. Sci. U. S. A.* vol. 109: 40, 16318–16323

Rahdar, A., & Galván, A. (2014). The cognitive and neurobiological effects of daily stress in adolescents. *NeuroImage, 92,* 267–273.

Reyna VF, Farley F. Risk and rationality in adolescent decision-making: Implications for theory, practice, and public policy. *Psychological Science in the Public Interest*. 2006; 7:1–44.

Sawyer SM, Azzopardi PS, Wickremarathne D, Patton GC. The age of adolescence. *Lancet Child Adolesc Health*. 2018 Mar;2(3):223-228.

Silva, K., Chein, J., & Steinberg, L. (2016). Adolescents in peer groups make more prudent decisions when a slightly older adult is present. *Psychological Science, 27*(3), 322–330.

Teslovich, T., Mulder, M., Franklin, N.T., Ruberry, E., Millner, A., Somerville, L.H., Simen, P., Durston, S., Casey, B.J. (2014). Adolescents let sufficient evidence accumulate before making a decision when large incentives are at stake. *Developmental Science*. 17 (1), 59-70.

Tymula A, Rosenberg Belmaker LA, Roy AK, Ruderman L, Manson K, Glimcher PW, Levy I. 2012. Adolescents' risk-taking behavior is driven by tolerance to ambiguity. *Proc. Natl. Acad. Sci. U. S. A.* 109:17135–17140.

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# A Restorative Pathway to Decarceration and Abolition

## By Catherine Besteman and Leo Hylton

This article is an edited and abridged version of a three-part series that first appeared in The Bollard (January, February and March 2023). We are grateful to editor Chris Busby for his invitation to write the original series.

**"Abolition"** means different things to different people. To us, abolition is a process of working towards a society that prioritizes the healing of trauma, creating strong community bonds, investing in services and resources people need to live a healthy and dignified life, confronting and dismantling systems of oppression, and responding to harm with practices and processes of accountability and justice. Abolition means putting in place the support structures and harm remediation systems that would make prisons and jails obsolete while making society safer and healthier. In short, abolition is a pathway to decarceration that works toward closing prisons and jails. It is based on building an entirely new society that invests in safety and security for everyone.

## What does safety and security look like?

It looks like affordable housing, healthcare, and education for all. It looks like robust community centers with before- and after-school programming for kids. It looks like a society willing to confront the abuses of the past by acknowledging and repairing contemporary inequalities that are rooted in histories of slavery, colonial land appropriation from indigenous communities, and sexism. It looks like schools as spaces of safety and intellectual risk taking where kids are free to pursue the ideas that excite them, to question authority, and to develop the emotional and interpersonal skills they will need as adults. It looks like jobs that pay a fair wage and controls on corporate greed. It looks like Substance Use Disorder (SUD) interventions that help rather than criminalize those who struggle with addiction. It looks like forms of intervention that interrupt intergenerational cycles of domestic violence and sexual violence through healing and rehabilitation. And it looks like ameliorating the gaping inequality that has led to widespread impoverishment for the majority while affording excessive wealth accumulation for the few.

## What will this vision actually require in practice?

We know the United States is the world's jailer, with 5% of the global population and 25% of the world's prisoners (Cullen, 2017). We know that the U.S. incarcerates a disproportionately high number of people of color, with Black people incarcerated at 5 times the rate of white people (Nellis, 2016), and that the rate of female incarceration has skyrocketed in the past two decades, primarily due to crimes related to drug use and possession (Herring, 2020). We know that changes in the law, and not rising crime rates, drove the 222% increase in the rate of incarceration in state prisons between 1980 and 2010 (Travis et al., 2014) Nationally, in 1974 the Bureau of Justice Statistics estimated that 1 in 20 adults would experience some form of incarceration each year (Bonczar & Beck, 1997). By 2001 the Bureau of Justice Statistics estimated that one in three Black men, one in six Latino men, and one in seventeen white men would go to prison during their lifetimes, and that the rate of going to prison for women had increased by a factor six between 1974 and 2001 (Bonczar, 2003). Every second person in the U.S. has had a close relative incarcerated (*Every Second*, n.d.).

Prison sentences in the U.S. are far longer, on average, than in all other countries (Kazemian, 2022; Widra & Herring, 2021). We have one of the highest recidivism (return to incarceration) rates in the world (Benecchi, 2021). We are one of the only countries on earth that sentences people to 'Death By Incarceration' (life sentences without the possibility of parole), holding 80% of the people serving Life Without Parole sentences in the entire world (Carter et al., 2021).[1] We spend twice as much on police, prisons and courts than on income supplements, food stamps and welfare (Ingraham, 2020; Lowrey, 2020). We have turned to incarceration as an ill-fated solution to social problems.

We have an incarceration problem, pouring money into a consistently failing system. As one report from Florida State University's Institute for Justice and Research and Development says, "What other social intervention has a cost of over $50 billion annually [although other experts put the cost at $80 billion annually], a failure rate of 60% to 75%, and has been tolerated for nearly four decades?" (Pettus-Davis & Epperson, 2015, p. 18) It's time for a change.

To reverse the trajectory that turned the U.S. into the world's jailer, we lay out a restorative pathway to decarceration and abolition with specific reference to Maine, where we live. We believe this pathway offers a far greater chance of success in addressing social problems and ensuring community safety than hyperincarceration ever could. Our vision is a long-term one that we will not likely see in our lifetimes but includes many building blocks we can fight for now, providing an encouraging foundation for future generations to continue the work.

## Maine Context

In Maine, about 7,000 people are under Correctional supervision, with about 1,700 people in Maine prisons, an additional 5400 people under some form of DOC supervision in their community, and another 2,000 in Maine jails at any one time (*Incarceration Trends in Maine*, 2019; MDOC Data Team, 2022). An estimated 40,000 people, held pretrial, cycle through Maine jails every single year (MDOC Data Team, 2022).

Maine's incarceration rates are racially unbalanced. Black, Indigenous, and People of Color (BIPOC) comprise 6% of the entire Maine population, but 20% of those incarcerated in Maine. Black people are 2% of the Maine population, but comprise 11% of the incarcerated population and 12% of those serving life/virtual life sentences in Maine (MDOC Data Team, 2022).

With over 7,000 people currently ensnared in Maine's carceral system, we have an opportunity to winnow the prison system out of existence. When we look at California's mass release of 3,500 people in 2020, the 45% reduction in the prison population in Massachusetts over the past 10 years, or the recent move by Kate Brown, the Governor of Oregon, to give clemency to 1,147 people (Waldroupe, 2022), we see a reason for hope in Maine. As a result of these efforts, there was no spike in crime. No spike in violence. With less than 2,000 people incarcerated in ALL of Maine's prisons, abolition is possible through safe, intentional, structured decarceration.

In what follows, we lay out our three-part restorative pathway to decarceration and abolition. 'Before' offers a plan for the things we should be doing to keep people out of prisons and jails in the first place through harm

There is no evidence that incarceration reduces illegal behavior, and rather, it might augment it. While we will always need ways to separate those who are causing serious harm, using jails and prisons to address a wide range of social problems is not only ineffective, it hurts communities and families.

reduction and meeting everyone's basic needs. "Middle" details what needs to happen inside prisons and jails to transform them from places of harm and hopelessness to places of repair and healing. "After" offers a roadmap to a restorative pathway to re-entry after a period of incarceration.

### I. BEFORE:
#### Building safe, healthy communities while keeping people out of prison and jails

There is no shortage of evidence about what works to interrupt harm, build safe communities, and minimize the number of people sentenced to jail or prison time. Sending people to jail or prison seldom accomplishes the goal of making communities safer; in fact, evidence suggests that spending time in jail or prison is traumatic, criminogenic, and ineffective at impeding recidivism. In short, there is no evidence that incarceration reduces illegal behavior, and rather, it might augment it. While we will always need ways to separate those who are causing serious harm, using jails and prisons to address a wide range of social problems is not only ineffective, it hurts communities and families. It drains resources

from communities, and the financial, emotional, and social costs are enormous. Developing alternative responses to harm and investing in the services and resources that build safe communities are essential pathways toward a better future.

### Invest in Youth

Children need to feel safe in their communities, heard and nurtured in their schools, loved in their families, and healthy in their bodies. Right now, in Maine, we are failing at every single one of these measures. One in five Maine kids is food insecure (Maine Equal Justice, 2021). One in twelve lacks health insurance. One-fifth of Maine youth are involved in the justice, welfare or behavior systems, are homeless, or are disconnected from school (Layton et al., 2021). Around fifteen percent of Maine youth fail to graduate from high school (*High School Graduation Rates by County*, 2023) and fourteen percent live in poverty (*2023 Maine Kids Count Data Book*, 2023). We can–and must–do better.

To break the school-to-prison pipeline that condemns so many children to a life cycle of imprisonment, we need to do the following:
• **Implement Restorative Justice practices** in all schools to replace disciplinary systems that rely on punishment, suspension, expulsion,

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2    For additional information, see complaint to the United Nations Special Rapporteurs which includes multiple signatories and statements from individuals sentenced to LWOP and their loved ones, available at https://www.deathbyincarcerationistorture.com/_files/ugd/22acfc_8b4c9394670c44099f562da0481cd2d1.pdf

and policing. Maine spends about $12,500 to educate one student (*Resident Student Per Pupil Operating Costs*, n.d.) but $530,181 to incarcerate one young person under the age of 18 for a year (*Bring Back Parole! A Guide to LD 178*, n.d.). It is far better to invest in restorative justice and therapeutic approaches for kids than to incarcerate them.

• **Reform school curricula.** As much as forty percent of the people in Maine prisons failed to graduate from high school. We should ensure every child has access to curricula that reflect their experience in American society, feed their curiosity and emotional growth, teach financial literacy, and grapple in meaningful, effective and hopeful ways with injustices in our national history.

• **Provide free or affordable higher education** to everyone who wants access. Maine Community Colleges cost under $15,000 a year; imprisoning someone costs up to $78,000 a year. Private colleges and universities should extend targeted scholarships to those who are justice-impacted.[2]

• **Fund community** *centers* that provide credible mentors; free health, dental and counseling care; gardening programs; nutritious food; nutrition education; and enriching before- and after-school programs. Youth need to feel that their communities care about them and are willing to invest in places that are dedicated to their health and well-being.

• **Provide extra supports for kids with incarcerated parents.** During January 2015-May 2020, there were 3,403 children in Maine with a parent in prison (Foley et al., 2020), a statistic that does not include parents in jails or on probation. Having an incarcerated parent is a traumatic. Adverse Childhood Experience[3] related to heightened levels of homelessness,

mental health problems, behavioral challenges, low educational attainment, and involvement with the justice system. Children with incarcerated parents are six times more likely to become incarcerated themselves (Martin, 2017).

• **Eradicate juvenile incarceration** and replace it with community-based supportive housing and a statewide restorative justice diversion program for youth that is run by Restorative Justice professionals and not by law enforcement or Department of Corrections.[4] Diversion for juveniles should be the norm because evidence shows that diversion rather than incarceration reduces the likelihood of another arrest, incarceration, and violent acts, and increases the rate of school completion and earned income in adulthood.

• **Extend the presumption of diversion over incarceration** to those aged 18-27 years old, following the lead of efforts in states like California, Delaware, Maryland, Massachusetts, New Hampshire, New York, and Utah. Until 1976, the *maximum* sentence for those up to 28 years old convicted of any crime in Maine was three years, a law that changed with the punitive turn of criminal justice reform in 1976. In the face of such overwhelming evidence that shows harsh punishments do nothing to deter crime, how are we more punitive in our legal system now than we were almost 50 years ago?

## Invest in Families and Communities

Maine families are struggling with high living, housing, and heating costs, skyrocketing levels of anxiety and depression from the pandemic (DeAngelis, 2021), rising inequality, lack of decent and affordable childcare options, low wages, and an out of control healthcare system

that is so awful that healthcare costs are the number one cause of bankruptcy in the U.S. Under all of these pressures, people are suffering from the sheer effort of trying to be healthy and well. A recent public opinion poll shows that 74% of the 3,876 voters surveyed define "safe communities" as those that invest in good jobs, schools, housing, healthcare, and infrastructure rather than in more police, jails, prisons, and harsh sentences (*Findings from Messaging Research on Crime and Public Safety*, n.d.). Most crimes are crimes of need and perceived need, so a top social priority must be ensuring that everyone's basic human needs are met by shifting funds from corrections and policing to social supports like secure housing, healthy food, healthcare, mental health care, childcare, public transportation, internet access, and basic utilities. If it costs $78,000 to incarcerate one person for one year in Maine, imagine if that money went to supporting an entire family instead?

• **Invest in jobs.** Mandate a living wage for all. Maine's minimum wage is $12.75/hour, while a living wage for a single adult with no children is estimated at $16.53/hour (*Living Wage Calculation for Maine*, n.d.).

• **Invest in housing.** 25,000 people are currently waitlisted in Maine for Section 8 housing vouchers. According to a recent report, it costs more than twice as much to incarcerate someone in state prison than it would cost to provide them with "housing, weekly counseling, and medication-assisted treatment for a year at current MaineCare reimbursement rates" (*A Better Path for Maine*, 2022).

• **Invest in healthcare.** Universal health coverage.

• **Build a mental health response network.** The U.S. has one of the world's highest rates of suicide, depression and anxiety, but the one of the lowest rates of mental health practitioners per capita among other industrialized countries (Snyder, 2022). Canada, Switzerland, and

Australia have *twice* as many mental health professionals per 100,000 people as the U.S. To correct this deficit, we need to redirect funding from police to care workers, mental health responders, and drug counseling and treatment professionals.

• **Expand free access to substance use disorder treatment programs.** According to a 2022 report, "Between 2014 and 2019, inflation-adjusted spending on substance use treatment through the MaineCare system increased 2 percent. However, over the same period, state and local spending on corrections increased 13 percent, while spending on police enforcement increased 14 percent" (*A Better Path for Maine, 2022*). And according to the Maine Recovery Advocacy Project, Maine currently has a mere two detox centers with a total of only 20 beds available to people who are uninsured (Lundy, 2022.The vast majority of incarcerated mothers in Maine are sentenced for drug infractions. Due to the length of their sentences, many lose custody of their children while incarcerated, causing devastating and unnecessary trauma to both parent and child. Making drug treatment rather than incarceration available to everyone will keep families together and is more effective for treating substance use disorder than prison.

• **Transform foster care.** When children are neglected or abused, the behaviors tend to be driven by mental health issues and/or unaddressed trauma in the life of the person causing them harm. There are some situations where children are legitimately at risk and must be removed for their own safety. Maine needs to explore and adopt a mandated supporting model[5] (Child Welfare Information Gateway, 2021) that keeps children with their families while providing meaningful support, services, and resources to the struggling caregivers, whether parent(s) or guardian(s). A risk/needs assessment that takes into account the racial bias that underpins a quicker removal of

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2    Maine currently offers free tuition to community college to people who graduated from high school in 2020, 2021, and 2022. This should be the norm.
3    Adverse childhood experiences are traumatic events or environmental factors during childhood that threaten the child's sense of safety, stability, and bonding.
4    For ideas and additional information, see "Community Driven Approaches" at nokidsinprison.org., available https://www.nokidsinprison.org/solutions/community-driven-approaches and "Youth-LED Justice: Leadership, Education, and Diversion," at youthledjustice.org

5    For a primer on mandated supporting models, see https://jmacforfamilies.org/mandated-supporting

children from BIPOC and impoverished families should also be developed (Child Welfare Information Gateway, 2021). In cases where a lack of resources is due to a lack of access to meaningful education, training, and employment, there needs to be support provided to meet these basic needs, rather than a punishment and mandate to attain that which is out of the caregiver's grasp.

### Decriminalize People and Demilitarize Systems

As of 2017, the number of Mainers in jail increased 649% since 1970 and those in prison increased 151% since 1983 (*Incarceration Trends in Maine*, 2019). Much of this rise in incarceration is due to the vast implementation of new drug laws and the proliferation of actions and behaviors being criminalized through statutory law. Contrary to the hyperviolence rhetoric, the vast majority of 911 calls to the police are for situations unrelated to crime, harm, or violence and thus should be handled by professionals with expertise in mental health crises, substance use disorder, and social work.

• **Decriminalize drugs.** From 1980-2015, the number of women in Maine jails increased 1,981% and in Maine prisons 794%. The dramatic rise is primarily due to drug laws; Maine Department of Corrections reports that 72% of women in Maine prisons are convicted of drug-related charges. Class A drug arrests doubled during 2008-18, and in 2021 almost 40% of all people entering prison were convicted of drug furnishing, possession, or illegal importing. According to a 2022 report, Maine spends $111 million every single year to arrest, detain, and sentence people who use drugs (*A Better Path for Maine*, 2022). The report states, "Maine's law enforcement spends $8,427 alone for each drug-related arrest. This amount could cover seven months of rent in Cumberland County, two-thirds of the cost of educating a public school student for a whole year, or four months of intensive outpatient treatment

for someone on MaineCare." Instead of incarcerating people who use drugs, Maine needs to make drug counseling and medication-assisted treatment widely available and easily accessible.

• **Decriminalize sex work and houselessness.** In both cases, the people being punished are often victims of crime and harm. Rather than criminalizing survival behaviors, Maine needs to provide support and protections against sexual and financial exploitation–without using this as a way to expand reasons to incarcerate people.

• **Prioritize alternatives to incarceration.** Nationwide, only 10-15% of cases go to trial and the rest are decided through a plea deal. We need to change the presumption that this must involve incarceration and prioritize alternatives, sending people to prison only as a last resort when absolutely necessary for public safety.

• **Demilitarize the police and transform** police culture from the inside out. Across the U.S., $7 billion of decommissioned military equipment has been transferred to local police departments.

• **Fund and construct non-police crisis response systems** for people facing mental health challenges so the police do not have to become involved (Kim et al., 2021).

• **Revise the Maine Criminal Code** to remove 'truth in sentencing' and sentencing enhancements that keep people locked up for far too long. The American Bar Association states that sentences of over ten years do not deter crime and do more harm than good. Almost a quarter of the prison population in Maine is serving sentences of longer than ten years.

• **Build an effective public defender system.** Maine is the only state in the U.S. without one, primarily relying on unregulated and unsupervised court-appointed attorneys to represent poor and indigent people accused of crimes.

• **Eliminate cash bail.** A 2019 Maine Law Review article calls Maine's bail system "antiquated, problematic, and arguably unconstitutional" (Walton, 2019, p. 177). Cash bail has

already been eliminated for the most minor crimes, like littering, but an estimated 80-100% of the people in Maine jails are pre-trial.

• **Reform probation policies** to ensure minor violations do not result in reincarceration. In recent years, over 45% of prison admissions were for probation revocations.

### Build Community-based safety and responses to harm

Much of the language about abolition and transformative justice looks to 'the community' to address harms. Thus, we have to rebuild our sense of community, reverse the onslaught of new laws that put people in jail and prison, and develop community practices to support people who have been harmed and hold those who have caused harm accountable. And we need to do these things in a way that is restorative, not punitive. A recent report from the Alliance for Justice and Safety, Crime Survivors Speak, shows that those who have experienced violent harm are not healed when the person who hurt them is sent to prison (*Crime Survivors Speak: The First-Ever National Survey of Victoms' Views on Safety and Justice*, n.d.).

Instead, they want a justice system that: 1. centers their need for healing, 2. effectively addresses what caused the harm in the first place, and 3. relies on community-based interventions rather than incarceration to ensure that the person who caused the harm does not harm them again or cause harm to others.

• **Research what drives contact with the criminal legal system and incarceration.** Communities need full access to how law enforcement, courts, sentencing, and corrections institutions are working. DAs should build data dashboards to report on arrests and decisions about diversion, prosecution, and sentencing.

• **Create individual and community/neighborhood safety plans.** Each of us has the ability to create a safety plan[6] on how to respond to interpersonal harm without involving the police. And, while situations of domestic and sexual violence are more sensitive and complex, models exist for survivors and supporters to promote safety while taking account of power disparities and marginalization.[7]

A recent report from the Alliance for Justice and Safety, Crime Survivors Speak, shows that those who have experienced violent harm are not healed when the person who hurt them is sent to prison.

- **Develop an effective response to domestic violence and sexual abuse.** Most people experiencing intimate partner violence do not call the police for fear of retaliation, abuse from the police and criminal legal system, fear, shame, and economic/housing insecurity if their abuser goes to jail. The carceral responses to domestic violence promoted since the 1970s are not working (Carpenter, 2020); we are not incarcerating our way out of appalling levels of domestic violence and sexual abuse. We need to develop new approaches that involve much more robust ways to keep those being harmed safe through housing and economic supports and trauma-informed interventions, while also finding new ways to interrupt the behavior of those causing harm through effective transformative justice and accountability interventions.[8]

- **Build capacity of community-based restorative justice** *organizations* to support community building circles and restorative justice conferencing. Restorative Justice Conferencing is a three-phase model that guides harmed people and the people who harmed them through a process of meaningful accountability and repair (Whelan & Weil, 2015).

- **Create restorative options for addressing harm** that are not restricted to victim-offender conferencing, such as those outlined by the leading prosecutor and founder of Fair and Just Prosecution and those pioneered by Common Justice in New York and the Alliance for Safety and Justice.[9]

- **Elect and support DAs who are committed** to restorative justice and diversion pathways to harm reduction.

- **Enact safe and sane gun laws.** A primary characteristic that distinguishes the crime rates in the U.S. from those in other countries is easy access to guns. To start: raise the minimum age

and ban assault rifles without criminalizing and incarcerating those in possession of the weapons. Confiscate and dispose of the weapons without disposing of the people who have them.

## Confront growing wealth inequality

Inequality in the U.S. is growing. This is important because higher inequality within a society is positively correlated with higher rates of violent crime. Today, 10% percent of American households hold 76% of all wealth (Sumar, 2022). As of late 2021, the top 1% of Americans held more wealth ($45.9 trillion) than the middle 60% of the population ($35.7 trillion). The 788 billionaires in the U.S. collectively own $3.431 trillion. CEOs now bring in salaries that are wildly disproportionate to employees. And real estate is becoming increasingly concentrated under corporate control: in 2021, 50 very large corporate buyers held billions of dollars in apartments and single-family-rental home portfolios (Szymoniak, 2022). We need to confront growing wealth inequality to create a more just society.

- **Revise the tax code.** The contemporary wealth gap is unprecedented and largely due to inherited wealth and low tax rates on business assets, corporate assets and capital gains, all of which are policies that favor the already wealthy.

- **Reduce corporate control of real estate,** impose rent control, and invest in housing for poor and middle-income families.

- **Support alternative forms of ownership** by supporting community-based land trusts, cooperatively owned agricultural and residential sites, and alternative economic networks (time banks, cooperative finance, etc.).

- **Rethink public financing.** Transform the

systems and entities we run a deficit to pay for. Every year Congress allocates *more* money than requested by the military, while refusing to fund education, housing, healthcare, childcare and other reparative public goods at necessary and life-sustaining levels (Appel, 2020).

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### I. MIDDLE:
### Transforming prisons and jails into spaces of healing and rehabilitation, rather than punishment and harm

Prisons don't work. They don't make communities safer, they don't solve social problems, they don't effectively address mental health challenges, poverty, or substance use disorder, and they don't stop violence. Instead, they compound these problems.

Change takes time, energy, effort, collaboration…and more time. There are some steps that can be taken within prisons and jails to turn them into spaces of healing and rehabilitation rather than punishment and harm, and that can lead toward eventual decarceration. of currently incarcerated people will eventually return home. Jails and prisons need to be set up to help people be best prepared for that day.

### Build a restorative culture inside

Prison culture is one of suspicion, distrust, and constant surveillance. Everyone who steps foot into this system is immediately warned that manipulation, exploitation, and unprovoked violence are ever present. The U.S. prison system is based on a deeply entrenched culture of separation, dehumanization, and othering. Thankfully, here in Maine, the shift toward uplifting the inherent dignity and worth of each human being in the system (staff, residents, and administrators) has begun. Yet, as with

any such effort, this culture change work is at various stages on the inside, reflecting a visceral struggle between what has been and the hope that exists for what can be.

Prisons are traumatizing to those who live there and those who work there. Most residents arrive at the prison already deeply traumatized. Many staff members come to work at the prison following stints in the military or law enforcement that leave traumatic memories. Incarcerated people and staff alike need to have opportunities to engage in meaningful trauma healing work to support holistic success after prison. Prison culture needs to shift enough to support this type of vulnerable inner work, as there is still a deep concern that sensitive information people reveal about themselves in programs will be used to harm them outside of those spaces. The shift toward a restorative culture on the inside needs to be supported and adopted by residents, staff, and administrators in these ways.

- **Expand trauma healing programs for residents and staff.** With the growing acknowledgment that men as well as women suffer from trauma and the exacerbated impact of living in a culture that conditions men to suppress any non-masculine emotion, there needs to be an expansion of trauma-informed, healing-centered programming.

- **Implement restorative justice** for staff, residents, and administrators to dismantle the debilitating "us vs. them" mentality and rehumanize everyone within the system. Circle practice is a framework for building community in a way that brings people together with the intentionality of suspending positional power.  Leo Hylton has developed a framework that can be adjusted and implemented in nearly any hierarchical institution.[10]

- **Establish generative dialogue circles.** Residents and staff can create spaces of

8    See "Ending Mass Incarceration, Centralizing Racial Justice, and Developing Alternatives: The Role of Anti-Domestic Violence and Sexual Assault Programs" webinar archive housed at the National Clearinghouse for the Defense of Battered Women (NCDBW) available at https://www.ncdbw.org/webinars-end-mass-incar-series-list
9    For more information, see Common Justice at commonjustice.org and Alliance for Safety and Justice at https://asj.allianceforsafetyand-justice.org/

10    See open access document, "Restorative Community-Building Circles" at https://docs.google.com/document/d/1-VckeZ3bkwiJSEZwe-GUxsLGjnD5dP9rm0mxsLC93tuc/edit

generative dialogue[11] through which to build an action-oriented group to implement restorative dialogue and practices throughout the prison or jail.

**• Build a team of Restorative Justice (RJ) practitioners to address harm.** Train staff and residents in restorative justice practices and processes,[12] ultimately building a robust team of RJ practitioners to hold community building circles and support RJ conferencing processes on the inside.[13] Once up and running, the RJ team could take the place of the disciplinary board, make decisions about responses to harm, and support accountability and repair in the aftermath of interpersonal harm and conflict.

**• Shift policy away from discipline and punishment toward accountability and repair.** Remove any disciplinary write-up that is not related to interpersonal harm. For various classes of infractions that do cause harm, respond with restorative pathways toward meaningful accountability.

**• Support creative staff-resident collaborations.** Overcoming the "us vs. them" mentality is integral to shifting prison culture to a more restorative one.

**• Initiate staff-resident-administration events with food.** If a restorative culture based on mutual respect is to be built, it must have a foundation of interconnectedness and mutual understanding.  Jails and prisons need to initiate interactive staff-resident-administration events that involve breaking bread together, such as through sports tournaments, craft fairs, co-learning classes, collaborative creative projects, mini-conferences, or other multi-hour events where there is a break for lunch or a substantial snack.

**• Expand the principle of normality throughout facilities.** The principle of normality as stated in the Norway system is that "No one shall serve their sentence under stricter

circumstances than necessary for the security in the community, and offenders shall be placed in the lowest possible security regime. During the serving of a sentence, life inside should resemble life outside as much as possible." (Bottolfs, n.d., p. 75) This model should extend throughout every carceral unit to the extent possible without legitimately compromising security and safety. Even where higher security is warranted, decency, compassion, and respect need to be the norm for all interpersonal engagement. When it comes to behavioral interactions and expectations, decisions about rules should be based on these questions: is this normal in outside communities, and is this harmful? If the behavior is normal and not harmful there should be no punitive consequences.

**• Allow residents to personalize their living quarters.** When incarcerated people are allowed to personalize their living area, through paint, decorative options, posting pictures, drawings, and calendars, they are more likely to take care of their space.

**• Demilitarize staff uniforms.** The majority of incarcerated people have endured trauma in their lives related to police (Lee & Callahan, 2022). Militaristic uniforms are triggering. Carceral institutions should get rid of paramilitary ensembles.

**• Base Corrections Officer training in supportive rather than militaristic techniques.** This shift should be adopted throughout all carceral facilities, ensuring that contact officers—security officers whose purpose is dynamic security—are trained in creating safety through establishing rapport, connection, and trust.

**• Encourage the universal use of first** names. Stripping someone of their first name is one of the innumerable ways the prison system dehumanizes people. Using first names

can afford staff, residents, and administrators the opportunity to reaffirm their humanity and personhood in a way that is otherwise denied them.

## Normalize professional development

Our taxes pay for lives to be wasted inside. People who come to prison are expected to watch tv, play video games or cards, work menial jobs, read as many fantasy books as possible—anything to waste time. The carceral system is designed to cultivate prisoner's lethargy: a total lack of energy, willpower, and the motivation for personal growth. Opportunities need to be expanded to include professional training, pathways to certification and licensure, and opportunities for professional networking and development in preparation for release.  Everything in this section that we are calling for in relation to incarcerated people holds true for staff members as well.

**• Initiate or expand formalized peer mentorship training.** Maine State Prison currently runs a certified intentional peer support training for residents.[14] Staff should be offered this training and compensated for completing the mentorship training, which could facilitate a shift toward the "contact officer" model from Norway that has proven transformative for Correctional security (Norwegian Correctional Service, n.d.).

**• Shift policy to allow for peer crisis intervention.** Most incarcerated people have experienced trauma prior to their incarceration, and becoming incarcerated is itself inherently traumatic. Self-injurious behavior, including suicide attempts, is prevalent in carceral systems (Pope & Delany-Brumsey, 2016). Rather than relying on force or the power of carceral authority, incarcerated people should be trained to deescalate situations that have not

yet turned violent.

**• Initiate or expand professional training opportunities.** A determined prisoner can work their way through *all* of the programming available within the first two years of their incarceration, at which point opportunities to gain professional certification must be made available.

**• Allow incarcerated people to become Vocational Training Instructors (VTIs).** When incarcerated people are trained to become trainers, paid free world wages, they attain a level of professionalism that will prepare them for their own release, which will significantly reduce the chances of recidivism.

**• Expand available vocational programs across all facilities.** The demand for tradespeople is currently at an all-time high (Irwin, 2021), and incarcerated people can be trained in high-demand occupations.  The National Center for Construction Education and Research (NCCER) offers over 80 programs from basic trades work to project management in multiple levels of experience. Other programs, such as Habitat for Humanity, can support community service efforts like housing for veterans and low-income portable homes, homes for people transitioning out of prison, and more. Other vocational programs could be implemented such as welding, barbering, hairdressing, carpentry, auto mechanics and autobody, cabinet making, and furniture making.

**• Train staff and residents in restorative justice.** A Restorative Justice course[15] can provide a firm foundation for the implementation of circle practice, the adoption of a restorative mindset, and a reframing of accountability in a way that highlights the difference between punishment and accountability, showing how people can be held accountable for the harm they cause in a way that facilitates healing

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11   For more information, see "What is Dialogue?" at https://www.whatisdialogue.com/about/
12   See Maine Calling radio program, "How Restorative Justice Works, and How it is Being Implemented in Maine" at https://www.maine-public.org/show/maine-calling/2022-05-23/how-restorative-justice-works-and-how-it-is-being-implemented-in-maine
13   For more information on RJ Conferencing, see https://ossa.msu.edu/restorative-justice/restorative-conferencing

14   Further details can be found at https://www.maine.gov/dhhs/obh/training-certification/intentional-peer-support
15   For an example, see "Restorative and Transformative Justice: Peer Led Course and Practicum" curriculum available as an open source document at https://docs.google.com/document/d/17bbP3jPcqm8dL4Q37h8gQ0YTOF4Fdrt1/edit

instead of causing more harm. This peer-led curriculum should be implemented widely in jails and prisons as an officially recognized certification course for staff, residents, and administrators alike.

• **Open opportunities for residents to work for outside organizations.** Facilities with internet capability should have a framework[16] for residents to be able to work remotely for any organization willing to hire them and pay free world wages, with only court-mandated fines, fees, restitution, and victim compensation withheld. These opportunities can build agency and accountability into the current system so people can pay taxes and care for their families, while also making a meaningful dent in their financial obligations (currently not possible with menial wages available to residents inside).

• **Normalize outside bank accounts.** A bank account is a basic necessity in today's world. It should be common practice for caseworkers to help incarcerated people open an outside savings account using their warden's ID from their facility.

• **Expand access to higher education inside.** All incarcerated people should have access to higher education since one of the strongest factors in reducing recidivism is increasing education level. In Maine, less than 1% of those residents who attended college while incarcerated recidivated after their release (Miller, n.d.).

### Enhance community and family connections

One of our most basic human needs is human connection. When people go to prison or jail, they leave a hole in their family and community. When people return home from incarceration, they need to know they are returning to

connection. Parenting from prison is an incredibly difficult and painful experience.[17] Imagine trying to hear about a child's day at school; support their caregiver in whatever instruction, guidance, or correction they offered that day; *and* read a bedtime story to your child...all in 15 or 30 minutes.

• **Build inside-out connections.** There are numerous ways to build connections between people on the inside and people on the outside: integrated college courses; inside-out reading and discussion groups; humanities projects; mentoring (both ways); professional development courses; public speaking engagements and community discussions. Building these connections enables a level of social capital that will support increased community safety and connection, not just for those returning home, but also for those who are welcoming them.

• **Change the narrative about incarcerated people.** Those who have created the greatest interpersonal harms are often the most committed and passionate about creating healing in the same place that they caused harm. Stories of individuals who are striving to be better, to do better, to serve more are the stories that need to be told. Podcasters, columnists, journalists, family members, activists, advocates, community members of all kinds–we all have a role to play in shifting the societal narrative around who incarcerated people are.

• **Expand victim-offender dialogue (VOD).**[18] When people cause harm, it should be their responsibility to work to repair the harm they caused. The current system does not allow for that. VOD is currently the only restorative justice option available in the Maine adult criminal legal system after a person has been

sentenced, and it can only be initiated by the victim. This avenue of healing must be expanded so that victims are no longer placed in a position of unnecessary risk and vulnerability toward revictimization. What if the person who harmed them is not ready to take accountability for what they did? More harm is caused. Instead, VOD should be expanded so an incarcerated person is able to reach out to the Victim Services Department to take responsibility for what they did and request the initiation of a victim offender dialogue process.

• **Create surrogate avenues for victim-offender dialogue (VOD).** Victim offender dialogue is not always safe or appropriate between the actual parties of an interpersonal harm. We need to create avenues and capacity for surrogate victims and offenders. This would require a coordinated effort to create an infrastructure or database of people who have been the victims and offenders of specific crimes. People who are ready to take accountability for the harms they caused can stand in and answer the questions of people who have been harmed in similar ways to facilitate partial repair. Surrogate victims who have been harmed can participate in similar ways for those who have harmed others to share how they have been affected by the crime committed against them.

• **Fully revamp visitation.** When a person is sentenced to jail or prison, there's no consideration given to the impact on their family. Visitation needs to reflect this burden. Visitors should be allowed to bring food, to sit down and eat and enjoy being with their incarcerated loved one. Children should feel free to play with other children during visitation. To reflect the considerable distance that many people need to travel, visitation should be multiple hours.

• **Make conjugal visits available.** Incarceration wreaks havoc on families and romantic relationships. Within the confines of jails and prisons, there is absolutely no expectation

of privacy. The idea of engaging in an intimate conversation with the person you love evokes fear when a total stranger is within earshot at all times. How can a loving relationship thrive without intimacy? How can a child feel comfortable talking to their parent(s) about being bullied in school or about their first time falling in love? Conjugal visits are necessary. People in intimate relationships should have the ability to engage one another in private without the prying ears and eyes of security and total strangers. There should be visit spaces that support privacy, intimacy, and romance if loving relationships, marriages, and intact families will have any chance of surviving incarceration.

• **Set up educational parenting visits.** Parents don't stop being parents when they become incarcerated. Each facility should schedule separate, education-oriented visits where incarcerated parents can use this time to read to their kids and help them with homework. With the expansion of technology, it is also now possible to facilitate parent-teacher conferences and child visits when travel is prohibitive.

• **Implement a restorative conference-type process with family members.** Everyone is harmed when a person is incarcerated, which requires healing. Victim-offender dialogue can also be implemented as a restorative conference process between an incarcerated person and their family members. An evidence-based process is used in both Maryland and Massachusetts for re-entry purposes.[19] Engaging in re-entry mediation has shown to reduce recidivism by 6% for each meeting (*Evaluation Results – CMM Re-Entry Mediation*, n.d.). If an incarcerated person engages in all three mediation opportunities, their chances of recidivating are lowered by roughly 18%.

• **Make phone calls and video visits free.** With all of the financial expenses that burden families of incarcerated loved ones, the ability to receive assurance of their well-being, give and receive guidance and support, and remain

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16    See open-source guide, "Outline for Remote Work from MDOC facilities" at https://docs.google.com/document/d/1D5-eNxccWoqN-Wtw__3JQx32Y_8peTDgQt06W9_CQqwE/edit
17    For a conversation on the difficulties of parenting in prison, see Freedom & Captivity's audio program "'We're Creating the Next Generation of Broken People: Parenting and Prison" at https://www.freedomandcaptivity.org/7-were-creating-the-next-generation-of-broken-people-parenting-and-prison/
18    To view the Maine Department of Correction's Policy entitled "Victim/Prisoner or Victim/Resident Dialogue," see https://www.maine.gov/future/sites/maine.gov.corrections/files/inline-files/6.8%20VICTIM%20PRISONER%20OR%20VICTIM%20RESIDENT%20DIALOGUE.pdf

19    For examples, see Community Mediation Maryland's Programs and Initiatives at https://mdmediation.org/programs-initiatives/

> *Older residents can see an opportunity to provide the guidance that they did not receive in their youth and yearn for an opportunity to provide mentorship in a healing, guiding, and loving fashion. Opportunities to provide this type of mentorship before these young people become legal adults should be allowed, shifting policy as necessary to support it.*

connected over time and distance should not be one of them.The lack of regulation around the pricing of video visits has allowed for the duopoly of Global Tel Link and Securus to charge exorbitant fees for video visits (i.e., a 20-minute video call costs $5.95; Ross, 2021). A recent federal breakthrough can provide meaningful protection against this.[20]

• **Grant all residents access to email.** We live in the age of technology. Denying incarcerated residents the opportunity to communicate through the medium so widely used by their loved ones only enforces an unnecessary level of separation. So many people have been incarcerated throughout the rapid technological expansion that the value of email access extends beyond the interpersonal and into the professional, rehabilitative, and developmental.

• **Open mentoring opportunities between adult and juvenile facilities.** A deeply painful experience for older incarcerated people is seeing young people enter the carceral system and recognizing the hurt, pain, unhealed

trauma, and lack of support so many young people in the system are experiencing. Older residents can see an opportunity to provide the guidance that they did not receive in their youth and yearn for an opportunity to provide mentorship in a healing, guiding, and loving fashion. Opportunities to provide this type of mentorship *before* these young people become legal adults should be allowed, shifting policy as necessary to support it.

• **Support full civic engagement.** Maine is one of two states that allow incarcerated people to vote (Uggen et al., 2022). In a country that touts its status as being a democratic nation, incarcerated people should be supported in fully engaging in democratic processes and duties, including testifying at legislative hearings and local community meetings. Such civic engagement reduces their chances of committing new crimes upon release (Bazemore & Stinchcomb, 2004).

• **Open public institutions to the public.** Corrections facilities need a generous policy

of allowing outside people inside, such as for talent shows; educational, programmatic, and professional conferences; speakers and performers; outside participation in inside civic group meetings, and more.

• **Expand and normalize greater family connection.** Family connections would be significantly strengthened through regular furloughs, expanded visitation, and parenting support. Under Maine Statue, the Maine Department of Corrections Commissioner has the freedom to furlough incarcerated residents who have served half of their sentence (Title 34-A, § 3035. Rehabilitative Programs and Correctional Facilities under the Commissioner's Control., n.d.).  People who are deeply connected to their families and their communities are extremely unlikely to cause harm to those families and communities. ring back regular furloughs.

• **Allow incarcerated people to teach and facilitate across the walls.** With the growing number of college-educated incarcerated people, opportunities should be created to allow them to teach and facilitate classes, programs, and community discussion groups with outside participants about relevant topics such as restorative justice, transformative justice, trauma, trauma healing, transitional justice, personal development, existential struggles, emotional literacy, and creative expression. With MDOC support, we successfully co-taught a college course last year,[21] collaborated on the Freedom and Captivity Curriculum Project currently underway,[22] and contributed to the Transitional Justice Course[23] that Leo Hylton coordinated last Fall.

### Support healthy living.
Chronic illness is a byproduct of incarceration. Among other common maladies, arthritis,

asthma, cancer, diabetes, heart disease, hepatitis C, high blood pressure, and strokes are prevalent (*Data and Statistics about Correctional Health*, 2023). In addition to physical health issues, mental health illnesses are prolific in carceral spaces, whether they are diagnosed or not. Some of the top contenders include anxiety, depression, hypertension, substance use disorder, and bipolar disorder. As of December 2022, 985 out of 1654 incarcerated residents in Maine were prescribed psych meds (MDOC Data Team, 2023). While not as commonly discussed, financial unhealth can be just as devastating as physical and mental health problems in an incarcerated person's life and re-entry efforts. So long as jails and prisons exist, they should serve as places of healing, restoration, and transformation.

• **Strengthen and open medical and mental health services inside.** Receiving proper medical or mental health care in carceral spaces has been an ongoing issue. Jails and prisons tend to be built in remote areas, making it extremely difficult to recruit qualified medical professionals. This leads to chronic understaffing, which causes unnecessary suffering and lack of proper medical or mental health care. Medical and mental health care services on the inside need to be more transparent and more responsive. If medical providers are unable to provide sufficient care, carceral institutions should have the freedom to receive services from other vendors.

• **Restructure treatment of substance use disorder (SUD).** While controversial,[24] medication assisted treatment (MAT) has proven to be effective in lowering overdose-related deaths in jails, prisons, and the general public (*Over-Jailed and Un-Treated*, 2021). The Maine Department of Corrections has been lauded for its adoption and rollout of

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20    See recent legislation signed by President Joe Biden: https://www.mainepublic.org/npr-news/npr-news/2023-01-01/biden-signs-a-bill-to-fight-expensive-prison-phone-call-costs

21    See "Meet Leo, the College's first incarcerated professor," at the Colby Echo found at https://colbyecho.news/2023/03/17/meet-leo-the-colleges-first-incarcerated-professor/
22    More information can be found at: https://www.freedomandcaptivity.org/category/action/#Freedom%20&%20Captivity%20Curriculum%20Project
23    More information can be found at: https://drive.google.com/file/d/1WFZ4gW-6UYgeklD6gB6LX1P8qOWLoHNv/view
24    For an overview of the argument, see https://uprisehealth.com/resources/medication-assisted-treatment-a-solution-or-substitution/

MAT throughout its facilities. This has led to a reduction in overdoses inside MDOC facilities and post release. And yet concerns remain that MAT on its own fails to treat the underlying issues that led to substance use disorder in the first place; therapeutic treatment is also essential.

**• Introduce more healthful food.** From the time he was Warden at Maine State Prison, Commissioner Liberty has rightfully been praised for his efforts at introducing more healthful foods throughout MDOC facilities ("Bringing the Movement for Food Justice inside Prisons and Jails," n.d.). The introduction of the Master Gardener program[25] and now the Master Food Preserver course[26] has expanded the amount and variety of produce cultivated on MDOC properties. This move away from starches and sugars that contribute to the chronic illnesses so pervasive among residents is necessary if returning community members are going to return home healthy, rather than bringing their health burdens on their families.

**• Install actual stoves so residents can learn how to cook.** One of the hallmarks of Maine State Prison's Earned Living Unit is the stove upon which residents are able to cook the food that they grow (Hirschkorn, 2022). Far too many people don't know how to cook. By installing actual stoves and providing more opportunities for incarcerated residents to learn how to cook, people become better prepared for their eventual return to their communities.

### Move toward decarceration

As we have emphasized, the Maine Department of Corrections is doing a lot of things right. They are prioritizing educational opportunities, reforming internal culture, opening opportunities for professional development and community connections for residents, and evaluating models for normalization. These are critically important reforms for ensuring that prisons are places that help people get back on track with their lives rather than places that only traumatize and dehumanize those who live and work there.

We also have to face the fact that prisons have become holding tanks for a carceral system that has been out of control since the 1970s, when the number of people sent to prison and the length of sentences began to explode. Empirical evidence now shows that long prison sentences do not deter crime but do cause enormous social harm, costing taxpayers millions upon millions of dollars while having no positive impact on community safety (Travis et al., 2014). A restorative pathway to decarceration and abolition must include pathways of decarceration that address and undo the misplaced policies that sent too many people to prison for insanely long sentences.

**• Establish a re-entry plan at the time of admission for every resident.** Re-entry and reintegration needs to be the focus for every person who goes to prison from the time of their sentencing. A clear outline of what programs exist, how to be successful, and what will move residents toward release should be clear from day one.

**• Make security classifications transparent.** Security classifications determine various aspects of a resident's life inside: access to communication technology, living units, programming, activities, work, furloughs, and more. We need to have clear direction on what residents need to do to secure lower security classification and ultimately move toward community confinement.

**• Prepare documentation prior to release.** A surprising number of residents lack the basic documents required for normal life on the outside. Prior to their release, caseworkers must ensure that every resident in every facility has obtained a state ID, birth certificate, and social security card, and is prepared for a driver's test.

**• Enact Second Look and Second Chance**[27] policies to review all sentences after the first ten years of incarceration, as recommended by the American Bar Association.

**• Retroactively cap sentences for emerging adults aged 18-28 years at the time of their crime.** Recent scientific studies suggest that 'emerging adults' are still developing neurologically as reflected in the age-crime curve, which shows a peak of criminal activity in the late teens and early twenties, followed by a swift decline in later years. Incarcerating *a single* 18 year-old with a virtual life sentence costs the state $2.8-3.7 million. In recognition of these facts, the 130th Maine legislature (2021) passed LD 847,[28] which would have provided young adults with options to avoid justice system involvement. The bill was vetoed by Governor Mills.

**• Instate compassionate geriatric release.** Why keep someone in prison when they are no threat to society? The cost of medical care for elderly people in prison is enormous. Allow elderly prisoners to return to their families. While "Maine provides compassionate release to incarcerated individuals with severely incapacitating or terminal medical conditions" (*FAMM Compassionate Release Maine*, 2021), it does not provide for early release of the elderly.

**• Reinstate parole.** Maine abolished parole in 1976. Executive clemency—unused for years—Is now the *only* remaining avenue to allow those incarcerated individuals with long sentences who pose no risk to society to carry out their sentences under community supervision rather than in prison. Every incarcerated person should become eligible to be considered for parole after serving one-third of their sentence.

**• Eliminate life without parole (LWOP)** *sentences,* which most other countries in the world already prohibit, and which international human rights organizations condemn as cruel and inhumane.

**• Close prisons as numbers dwindle.** Develop a five-year and a ten-year plan for closing prisons and retraining COs for other, better, more meaningful jobs.

We know the challenges that will be involved in shifting carceral culture toward repair, healing, accountability, and personal growth. And yet we believe that we collectively have no other choice. Prisons are institutions originally designed to punish, stigmatize, disappear, and humiliate. Why would we imagine that subjecting people who have caused harm to such a culture would enable them to grow and return to their communities healthy, stable, and self-confident? If we are to live in a world where prisons exist, we need to be thinking good and hard about what we want them to do, how we want them to contribute to community safety, how we want them to contribute to repairing harm, and how we want them to treat people who will be returning to their families and communities. For us, prisons must be spaces of repair and healing, or they will only continue to destroy lives, families, and communities, at our collective expense. And since there is no evidence to suggest that prison sentences should be longer than ten years for most crimes, we urge a retroactive evaluation of lengthy sentences so we can return to their families and communities those people who pose no risk to public safety.

25    For more information see UMaine News article:
26    See https://extension.umaine.edu/food-health/food-preservation/master-food-preservers/
27    More information and the full argument can be found at https://docs.google.com/document/d/1smxRm3RtBIMg4tjWxCy3f0xP4pOrnp4EXphk-MVSU0CI/edit#heading=h.cph6h5d5y1ay
28    Full language of legislation can be found at https://legislature.maine.gov/legis/bills/getPDF.asp?paper=HP0615&item=2&snum=130

## III. AFTER:[29]
### Ensuring those released from prison rejoin their communities safely

What happens when someone leaves prison after years or decades? How are they supposed to adjust to a drastically different world than the one they left? What challenges do they face and what is our responsibility as a society to alleviate those challenges? Should stigmatizing policies and laws continue to target people who have been incarcerated after they have "paid their debt to society" through their incarceration, or should our policies and laws be designed to support rather than hinder a successful re-entry?

Nationwide, people with a criminal conviction are subject to more than 44,000 collateral consequences that hinder their ability to reenter society, support their families, find a job, find housing, obtain a professional license, vote, serve on juries, access credit and educational loans, and much more (*Collateral Consequences: The Crossroads of Punishment, Redemption, and the Effects on Communities*, 2019). The impact is devastating and directly contributes to the appalling percentage of people—79% nationwide!—who are rearrested within 5 years of their release (Butler & Taylor, 2022). Maine has capped some collateral consequences. For example, people with felony convictions are allowed to vote, serve on juries, and run for public office, each of which is an important dimension of civic duty and belonging (Binnall, 2019). Yet, Maine still ranks in the bottom ten states in the Reintegration Report Card by the Restoration of Rights Project (Love, 2022) based on an evaluation of policies on issues like pardon, conviction relief, judicial and administrative certificates of relief, deferred adjudication, non-conviction records, employment, and occupational licensing.

Within the four years between 2015 and 2018, 20% of those released from prison in Maine returned to prison (and this number does NOT include those who returned to jail, which many incarcerated people and corrections personnel will affirm is a regular occurance). We need to do things differently to ensure that those community members returning from prison are able to support their families, contribute to their communities, and feel a sense of belonging, rather than meeting them with a barrage of stigmatizing rules and policies that are punitive and exclusionary.

In addition to confronting the barriers created by stigma and policy, people leaving prison face a bewildering and destabilizing set of challenges for how to navigate their return to society after time in prison. Too often, people are released with no idea how they are going to live beyond prison. Returning community members are supposed to receive guidance on what services, resources, and connections exist that could support them during their time of transition. Unfortunately, many have not been properly prepared to absorb the inevitable kick in the teeth that awaits them upon their re-entry. Unless they have family and a well-established support system, people step out of prison with next to nothing aside from what they hear from word of mouth or have received from a particularly invested caseworker. Oftentimes, people get down to a week before their release with no bank account, no state ID, and no idea of housing, released with $50 and a bus ticket. And that's from prison. When people are released from jail, they get out with NOTHING.

Re-entry in Maine is currently managed through three pathways: straight release, release to probation, or release to home confinement through the Supervised Community Confinement Program (SCCP). In 2021, 712 men and 58 women were released from prison in Maine (MDOC Data Team, 2022). In the same report, 360 men were released directly into society and 352 were released on probation. For women, 38 were straight releases, and 20 were released on probation. Our rate of success for helping incarcerated people transition to life in the free world is pretty dismal. In 2021, there were 694 new prison admissions, or almost two each day (MDOC Data Team, 2022). In the same report, forty five percent of those admissions were for probation violations (usually for a behavior that would be legal if they were not on probation, like drinking an alcoholic beverage or failing to attend a treatment class that costs money they don't have).[30] With such high return-to-prison statistics, we are doing something wrong. What should we be doing differently?

### Stop the Stigma

The "tough on crime" era ushered in a rash of stigmatizing penalties used against people who spent time in prison, including regulations barring them from access to public housing, applying for federal educational loans, and obtaining licenses or certifications for a range of professions. Additionally, prospective employers, renters, educational institutions, and financial institutions can demand information about an applicant's criminal history. Losing one's freedom and serving time in prison is the penalty for a conviction; ongoing stigma and exclusion only cause more harm. Here we address some of the cultural dimensions of stigma; we will address other barriers that are driven by and reinforce this stigma in later sections.

• **Eradicate stigmatizing language.** Language matters, and when people returning from prison are identified by terms like "convicted felon," "violent offender," and "criminal," these labels stick and bite. Once someone is convicted of a crime, their name will forever be associated with that crime through criminal history background checks and the media. Even in death, newspaper obituaries commonly name the offense for which the deceased was once incarcerated, and all too often this is the *only* information provided about them.[31] Lifelong labeling for a conviction has to stop.

• **Interrupt misogynistic language for formerly incarcerated women.** Women who spent time in a cage face a particularly gendered form of stigma not so readily applied to men, such as being identified as "bad mothers" for having made a poor choice or used drugs. Such negative labels can be psychologically crippling for women reentering from prison who are trying to rebuild their lives while reuniting with their children.

• **Pass Primary Caregiver bills** to allow community-based sentences instead of incarceration for primary caregivers, keeping families together and avoiding the stigma and destruction of prison time.

• **Eradicate stigmatizing policies.** Stigmatizing policies against formerly incarcerated people apply to housing, employment, education, and probation in ways we address in detail below. We have to eradicate the stigma of having been incarcerated to offer a fair chance to people reentering.

• **Make justice-impacted people a protected class.** People returning to society from prison should be identified as a protected class. Incarceration disproportionately impacts people who are poor, traumatized, and struggling with a substance use disorder or mental illness. We know our criminal legal system is racially biased, resulting in the dramatic

30    Of the 694, 333 were men admitted to prison with new crime violations, and 288 were men incarcerated due to probation violations. Forty-seven were women entering prison on new charges, and the final 26 were women reincarcerated for probation violations. A third of the violations for men and half of the violations for women were drug-related offenses.
31    A recent, and typical example, is an obituary that appeared in the Bangor Daily News on September 7, 2023, with the headline, "Man Convicted of Murdering His Girlfriend Dies at Maine Prison." No other information about the deceased was provided. See https://www.bangordailynews.com/2023/09/07/news/penobscot/mountain-view-correctional-facility-resident-shannon-atwood-dies/

hyperincarceration of people of color. One route to addressing the burden of these inequalities is to offer protected status to those who spent time inside the carceral system, ensuring their criminal history cannot be used against them. To counteract this burden and allow for a meaningful probability of success and reintegration, it is vital to afford them protected or privileged opportunities, such as subsidized housing and employment preferences during the year following their release. This would benefit all of us.

### Reform Post–Release Supervision Policies

When people are released from jail or prison, they should be supported in that effort. Current Post Release supervision policies are insufficiently supportive and unnecessarily heavy on surveillance. While this paradigm seems to be changing for the better (with a grateful nod to MDOC leadership for this), the experience of probation is still overwhelmingly one of walking on eggshells, wondering when the return to prison or jail will come, expecting that to be an inevitability rather than an

exception. The feeling connected to post-release supervision is one of a surveillance state waiting to catch you messing up, rather than one invested in your success. If our communities are going to be safe and our returning community members successfully reintegrated, the focus of post-release supervision policies and practices must shift from surveillance to support.

• **Eradicate reincarceration for technical violations of probation.** The stated purpose of probation is "to assist the person to lead a law-abiding life, including, without exception, a condition of probation that the person refrain from criminal conduct" (Title 17-A, §1807: Conditions of Probation, 2019). Too often this assistance turns into another form of punishment. Even if a person's probation is revoked just a day shy of their completion date, it is as if they never served a day of it (Title 17-A, §1812: Court Hearing on Probation Revocation, 2019). Upon release, they will have to start their entire probation over again. To make this shift real, reincarceration for technical violations must end.

Women who spent time in a cage face a particularly gendered form of stigma not so readily applied to men, such as being identified as "bad mothers" for having made a poor choice or used drugs. Such negative labels can be psychologically crippling for women reentering from prison who are trying to rebuild their lives while reuniting with their children.

• **Abolish income withholding.**[32] While we wholeheartedly support victim compensation (addressed below), financially crippling returning community members through the docking of pay for fines, fees, and restitution actually hinders this from happening. Re-entry after incarceration is hard enough as it is. Being able to afford housing, transportation, healthcare, food, and insurance is almost too much to bear before factoring in the difficulty of attaining a job that pays a living wage. Oftentimes, people must work two or three jobs just to get by. Forcing employers to withhold the wages of their workers is damaging not just to the employee, but also to the employer who is forced by the system to inflict pain against their will.

• **Remove fee requirements from probation.**[33] When a person's freedom is based upon their ability to earn money, this breeds the conditions of desperation. From supervision fees to electronic monitoring and substance testing fees, to the application fee to request permission to travel, a person's freedom should not be tied to their financial means.

• **Review and revise restitution policies.**[34] Rather than facilitating healing, the current restitution policies demand that a person who has been harmed justify their status as a "victim" in order to receive compensation (Title 17-A, §2005: Criteria for Restitution, 2019). This is wrong and must be changed. People who have been harmed should be directly involved in determining what they need to be made whole. Any necessary restitution should go directly to them—not the state or the General Fund.[35]

• **Expand the Supervised Community Confinement Program (SCCP) to include long-term prisoners.** The American Bar Association says that after 10 years,

incarceration becomes counterproductive (*How Many People Are Spending Over a Decade in Prison?*, 2022). In 2021, the SCCP, which allows a person within 30 months of completing their sentence to transition to home confinement, had a 91% success rate. Maine should remove the 30-month time bar restriction, and review re-entry preparation at 10 years for those serving long sentences. If an incarcerated person has successfully engaged in rehabilitative and transformative engagement over time and been able to establish a support network to welcome them home, why continue to spend $78,000 a year to keep them incarcerated?

• **Re-establish parole.** Following the positive recommendations of the 2022 Commission to Examine Reestablishing Parole, the Maine Legislature is considering LD 178, An Act to Support Reentry and Reintegration into the Community. This bill would provide incarcerated community members with a clear pathway toward parole eligibility that encourages genuine growth, rehabilitation, and personal transformation. It would create a supportive, restorative, victim-sensitive parole system. Most prisoners (over 95%!) will eventually be released—whether they're set up for success upon release is the question. Parole offers a rehabilitative pathway toward reintegration into society.[36]

### Housing

Maine faces a massive housing crisis and has exactly zero halfway houses. There are 68 recovery houses, according to Maine Association of Recovery Residences (MARR), ten of which are designated for women, 16 for men, and three designated as neutral.[37] None are designated for families. The dearth of re-entry houses brings people without substance use

32   For full language of the law, see https://www.mainelegislature.org/legis/statutes/17-A/title17-Asec2007.html
33   For full language of the law, see https://www.mainelegislature.org/legis/statutes/17-A/title17-Asec1807.html
34   A full list of Maine restitution policies can be found at https://www.mainelegislature.org/legis/statutes/17-A/title17-Ach69sec0.html
35   For full language of the law, see https://www.mainelegislature.org/legis/statutes/17-A/title17-Asec2006.html
36   For more information, see parole4me.com.
37   We arrived at this number through counting the houses provided at https://www.mainerecoveryresidences.com/certification-1#/

issues into close living quarters with people "white-knuckling" their sobriety–jeopardizing the successful re-entry of both. The need for meaningful housing support is clear.

• **Improve casework inside.** Caseworkers may be proactive and work as a team with resource providers and peer support to ease the re-entry of their clients, or they may view re-entry as just a series of boxes that need to be checked. Successful re-entry depends on a uniform and dedicated professional approach to caseworker re-entry support.

• **Establish independently run 3/4 houses.** We need to establish places where people who are coming home from jail or prison can have some semblance of stability, a foundation upon which they can rebuild a life. Formerly incarcerated people trained in peer support could run the houses, with a salary paid by the rent collected from tenants. Who better to support returning citizens than someone with lived experience? For such efforts to be successful, we collectively need to get away from the "Not In My Back Yard" (NIMBY) mentality. If we want to build community safety, we need to build community.

• **Remove all barriers to low-rent, subsidized, and public housing for those with criminal histories.** Remove 'disqualifying' felonies and the waiting period (those with felony convictions must wait 5 years before being allowed to apply for Section 8 housing). This is one more way to keep people trapped in a place of desperation and recidivism until the very few left standing have made it out of the anticipated recidivism window. Do not allow insurance companies to discriminate against renters with a criminal history by barring them or raising the insurance rates of the owners.

• **Revive the Fair Chance Housing Act.** LD 1572, The Maine Fair Chance Housing Act, died in the legislature in 2020. It would have "[estab-

lished] the Maine Fair Chance Housing Act, the purpose of which is to ensure that a person is not denied housing based solely on the existence of a history of criminal convictions. This bill prohibits a housing provider from considering an applicant's criminal history until after the housing provider determines that the applicant meets all other qualifications for tenancy." These protections are necessary for returning community members.

• **Provide meaningful funding for returning community members.** Incarcerated people in former Maine State Prison had the ability to earn up to $10,000 a year for their work in the Woodshop/Industries program. Now, the average wage is $2 an hour, yielding less than half what people used to make. When we take into account basic hygiene and food items, and the occasional sacrificial ability to send some money home to support children or struggling family members, people don't have much left over to save for their release. We need to open opportunities for paid work at free world wages on the inside so that those reentering have saved enough money for first and last month's rent and security deposit.

• **Provide low-interest loans with matched funding for first time homebuyers.** Many people don't know about the Family Development Account Program offered by CASH Maine.[38] This program provides $4:1 matched funds up to $8000 for qualified savings goals that include first-time home buying. Yet, the ability to save $2000 for the maximum match still feels desperately out of reach, given the financial struggles of returning community members.

• **Build re-entry bridges for families.** No one is taking women with their kids into recovery homes, forcing women to choose between reuniting with their children or living in a supported home to re-enter. Currently, no visitors are allowed for the first 30 days in

a sober house and there are no reunification support structures for moms with minor children if they have struggled with drug addiction. We need recovery communities, built through no-interest loans and supportive tax and regulatory structures for families so women living in them can be near or with their children. Why can't communities take over old armories or other buildings and set up supported living environments where women can live with their children AND receive support?

• **Create, publish, and disseminate an annual re-entry information booklet.** A straightforward, comprehensive re-entry information booklet needs to be created, published, and disseminated on an annual basis. This can include housing availability, number of available beds throughout the state, available programming, financial assistance, and more.

### Employment

The country is facing a labor shortage. We need to release people from prison who have taken accountability for the harm they caused and are rehabilitated, allowing them to enter the job market and become contributing members of the economy while they serve out their sentences. A recent study from the Colby Laboratory for Economic Studies found that releasing just 100 people on parole in Maine would contribute $14 million to the Maine economy once they took jobs in the industries most commonly accessed by people leaving prison (Boyd & Donihue, 2023). And yet we keep people in prison for unnecessarily long sentences with no pathway to re-entry in recognition of rehabilitation, and emplace a range of barriers and hindrances that make it difficult for people released from prison to apply for and take up professions for which they received training inside. Maine receives a grade of 'C' by the Restoration of Rights Project for our pathway

to employment for those leaving prison (Love, 2022). We have to do better. Here are some first steps:

• **Expand Ban the Box.** Maine's Fair Chance Employment Act went into effect in November 2021, and forbids employers from prohibiting people with criminal records from applying to an advertised job.[39] But once a candidate has been determined to be qualified, then the employer may ask about criminal history, and once a conditional job offer has been extended the employer may conduct a criminal background check and choose to withdraw the offer. We need to go further and ban the box altogether. Do not require job-seekers to reveal a criminal history unless there is an overwhelmingly important reason directly related to public safety. Time served is the punitive repayment we demand of people who have broken the law. Once their sentence is completed, so is their repayment, and past actions should not follow them into the future.

• **Remove all the barriers to certification for professions that are unnecessary for maintaining public safety.** While some professional licensing boards allow for appeals, the disheartening effect of rejection makes appealing a barrier unrealistic given the lived experience of how poorly the appeals process works in prison.

• **Eliminate mandatory waiting periods for many professions.** Right now there is a three-year waiting period to apply for licenses for many trades and professions and a ten-year waiting period to apply for licenses in medicine, dentistry, osteopathy, social work, nursing, chiropractic medicine, physical therapy, alcohol and drug counseling, respiratory care, podiatry, counseling, occupational therapy, massage therapy, radiology, nursing home care, pharmacy, and emergency medical services (Title 5, §5303: Time Limit on Consideration of Prior Criminal Conviction, n.d.).[40] Some of these are professions for which incarcerated people

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38    Details can be found at https://www.cashmaine.org/build-your-savings/family-development-account-program/

39    Full language of the law can be found at https://legislature.maine.gov/legis/bills/getPDF.asp?paper=HP0845&item=1&snum=130
40    For full language of the law, visit https://legislature.maine.gov/statutes/5/title5sec5303.html

receive training inside, like drug and alcohol counseling, therapeutic and peer counseling, Certified Intentional Peer Support (CIPS) training, CCAR Recovery Coach Academy,[41] and Personal Support Specialist training for hospice volunteers. However, society is denied their expertise because of these unnecessary and punitive waiting periods.

**• Integrate the business community with release.** There should be direct communication between employers and corrections facilities that enables residents to build connections with potential employers, grow their professional networks, and receive professional trainings to prepare for employment upon release.

**• Allow incarcerated people to hold jobs on the outside.** As incarcerated people develop or hone their professional skills through educational and rehabilitative programming inside, we need to open pathways toward employment in meaningful professions at free world wages, including for those held at medium and maximum-security facilities. There is no reason incarcerated people cannot teach college, consult in areas of their specialty, offer contract services, or hold regularly waged remote jobs for which they are qualified. Allowing incarcerated people to hold normal jobs at free world wages will ease their re-entry, allow them to develop their professional skills and build an employment history, support their families, fulfill any victim's compensation they owe, and become taxpaying members of society. Why wouldn't we want this?

**• Educate business owners and managers about existing incentives.** A number of incentives currently exist that support the hiring of currently or formerly incarcerated people. For example, there is a federal bonding program that provides special insurance to employers and the Worker Opportunity Tax Credit. Also, there are several benefits cited in the California Employers Fair Chance Hiring Toolkit that include: performance on the job, loyalty to the company, and boosts to the economy and individual productivity (*California Employers' Fair Chance Hiring Toolkit*, 2018).[42]

**• Provide Universal Basic Income (UBI).** UBI seems both necessary and doable. In fact, there are nine programs currently in effect in the U.S. that engage in universal basic income/cash transfer programs (Napoletano, 2022). To help reduce poverty rates, improve employment prospects, reduce food and security, and improve health, UBI can help us move towards the future we want.

## Transportation

Just like everyone else, anyone returning to society from prison has to use a car in order to search for work, visit their probation officer, and attend to the daily demands of life (e.g., grocery shopping, medical care, caring for children or aging parents, etc.). Given the impoverishment and removal from the financial sector that comes with incarceration, obtaining a loan is challenging, and many people are forced into subprime loans at high interest rates. Financing a car can end up costing more than housing (Livingston & Ross, 2022). Because the debt load that so many carry from buying a car is so high, solving transportation problems for those re-entering society from prison or jail will also help everyone else.

**• Invest in public transport.** Maine used to have a much more developed system of public transportation linking rural and urban areas. There is no reason we cannot reinvest in a public infrastructure plan to reverse the decades of prioritizing individual automobility, especially given the realities of climate change and the costs of gas and vehicle maintenance.

**• Develop private-public transport partnerships.** The government can work with the private sector (Uber, Lyft, car rental companies, rides arranged directly by employers, etc.) to create and support a stop and ride system that gets people to their jobs.

**• Open a low-interest loan fund** for car loans for those below the poverty line. Poor people are unduly hampered by the high cost of cars, loans, and insurance. Until our public transportation infrastructure is better developed, poor people, including those returning from jail and prison, should be able to access low-interest loans to ensure their access to transportation.

**• De-link traffic violations from probation revocations.** Since "any contact with police can be rendered a violation of the terms of [probation or] parole," (Livingston & Ross, 2022, p. 62) a simple traffic violation can send someone back to jail or prison. This should never happen.

**• Remove excessive fines for traffic violations.** In the U.S., you cannot be jailed for failing to pay your debts, and in Maine you cannot be jailed for a traffic violation. And yet a failure to pay a fine can mushroom into late penalties, interest, a court warrant, a "failure to appear in court" charge, a license suspension, a fee for reinstatement, compounding court fees, and, finally, arrest for driving without a license (or driving after suspension).

**• Limit license suspensions.** Maine currently has 64 violations that lead to a license suspension, 59 of which carry fines that vary from $50-200 to lift the suspension. These fines do not include court fees. In 2021 alone, Maine issued 36,847 license suspensions (*Report of Suspensions for Year Ending December 2021*, 2022). License revocations should be extremely limited, and only for situations that are truly dangerous to public safety, not for petty fines and infractions.

## Medical Care and Wellbeing

Prison is an unhealthy environment that produces poor health outcomes. Healthcare in prison is generally poor and incarceration is traumatizing. Furthermore, post-incarceration syndrome (PICS) is a mental disorder that occurs in those currently incarcerated or recently released; symptoms are most severe for those who encountered extended periods of solitary confinement and incarceration (*Post Incarceration Syndrome*, n.d.). Several facets of PICS include: institutionalized personality traits, post-traumatic stress disorder, antisocial personality traits, social-sensory deprivation syndrome, and substance use disorders. Dealing with PICS requires a holistic approach to medical care and wellbeing.

**• Assign health navigators to track the health care needs of those re-entering.** This is perhaps most important for those managing substance use challenges. A person is not likely to remain free if they do not receive support in addressing the underlying want/need that drives them to use substances. A health navigator that starts with a person on the inside and transitions with them to the outside will raise the likelihood of their successful re-entry.

**• Develop a transitional healthcare plan.** Maintaining prescription medications after re-entry is challenging. Corrections medical providers can change or refuse to fulfill prescriptions ordered by doctors, and prescribed medications are only provided for a few weeks upon re-entry. What happens after that is totally uncoordinated; there is no plan for how to transition medications from the inside to the outside. Furthermore, women have unique needs with regard to reproductive healthcare that often go unmet while incarcerated. Routine appointments for mammograms or pap smears involve shackles and jumpsuits, and many women refuse. Corrections facilities do not match up genders for appointments, and women may be taken to appointments by male transport officers, which makes some women—

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41   For more information, visit https://addictionrecoverytraining.org/
42   For an in-depth learning experience on numerous benefits for companies to hire fair chance workers, business leaders can check out Jobs for the Future's Fair Chance Employer Training Program at https://www.jff.org/work/center-for-justice-economic-advancement/.

especially those with trauma histories—extremely uncomfortable. Trauma from intimate reproductive healthcare inside extends to the outside.

**• Extend MaineCare for the first year of re-entry.** If a person does not meet MaineCare requirements upon re-entry, they go without healthcare. For the first year after re-entry, the threshold needs to change for those who are working multiple low income jobs that do not carry insurance but who earn enough aggregate income to put them over the threshold. Everyone re-entering should be covered for a year.

### Community Support

The world doesn't stop when people go to jail or prison. An expectation that a person stepping out of jail or prison should immediately catch their stride will ensure disappointment. Without support, mentoring, and care during re-entry, failure is an approximately 76% guarantee. To interrupt these cycles of recidivism, we propose a few potential solutions.

**• Support better coordinated re-entry services.** Maine Prisoner Re-entry Network currently employs three full-time Community Re-integration Specialists (CRS's), who support about 10% of the re-entering population from Maine's prisons. Substantial funding is needed to support the hiring of more CRS's throughout the state.

**• Initiate re-entry community support groups in every county.** Of the 40,000 people cycling in and out of Maine's jails each year, and the several hundred more released from Maine's prisons each year, people are coming home every day in every county across the state. Many people who wind up in jails and prisons never had a support network to begin with or lost those networks in the wake of harm. If we really want to improve community safety, we need community-specific re-entry support groups to surround and embrace people who are coming home to smooth the transition, provide spaces of connection, and offer safety for those who need help—start a group, join a group, or support a group.

**• Offer free life skills courses in every county.** Many returning community members need help learning how to secure clothing, attain and use phones and technology, housing, food and nutrition, cooking, counseling, a job, therapy, counseling, financial literacy, and building a trusted network. Zoom is a major asset. Classes can now be held virtually anywhere and can be open to participants from anywhere.

**• Implement a reparative reintegration process.** Whenever someone goes to jail or prison, someone is hurt. Family members of incarcerated people suffer right along with them. Reparative processes are needed that support family healing and reunification efforts. Community Mediation of Maryland has created a great evidence-based re-entry mediation process model that has also been reproduced with success in Massachusetts. Restorative justice organizations might be well suited to take on this task.

**• Provide special support for returning mothers.** Many women sent to prison are often household heads and primary caretakers of minor children and aging parents. Typically, women shoulder much larger burdens within their families, with the expectation that upon release they will automatically slide into former primary caretaker roles. Returning mothers need extra support in all of the ways mentioned above.

### Reform the criminal code and amend the Maine State Constitution

Maine's 1976 reform of the criminal code resulted in more people going to prison for longer sentences, instituted life sentences without the existence of parole, and dramatically lengthened the amount of time that young adults spend behind bars. That reform, instituted in the context of the 'tough on crime era' and 'War on Drugs' era, has resulted in harm, trauma, and intergenerational impoverishment that is totally unnecessary for maintaining public safety. Per capita expenditures on incarceration now outpace expenditures on education, mental health treatment, and substance use disorder supports. The reform also eliminated the ability of the state to adjust sentences in recognition of rehabilitation and public safety. In order to correct the mistakes of the old reform, it is time for another reform of Maine's criminal legal system to prioritize public safety over punishment, rehabilitation over warehousing, restorative pathways to re-entry rather than absurdly long sentences and exclusionary stigmas, and support for those who have been harmed. Let's start with these changes:

**• Retroactively eradicate 'truth in sentencing' laws,** which mandate that one must serve the amount of time ordered by the court, without any allowance for rehabilitation, illness, family needs, or the public good;

**• Retroactively eradicate life sentences** since in Maine these are de facto life without parole sentences, which are viewed almost everywhere else in the world as abhorrent, cruel, and unusual;

**• Retroactively eradicate lengthy sentences for emerging adults,** in the recognition that young adults are still maturing and their likelihood of committing harm drops dramatically after their mid-30s;

**• Vastly reduce the length of sentences,** in recognition of the recommendations of legal experts like the American Bar Association, which calls for sentencing review after ten years;

**• Vastly reduce the number of offenses that carry a prison sentence;**

**• Cap all sentences** at 45 years;

**• Retroactively end accomplice liability** for felony murder;

**• End revocations of probation and community supervision** for everything that is not directly related to public safety;
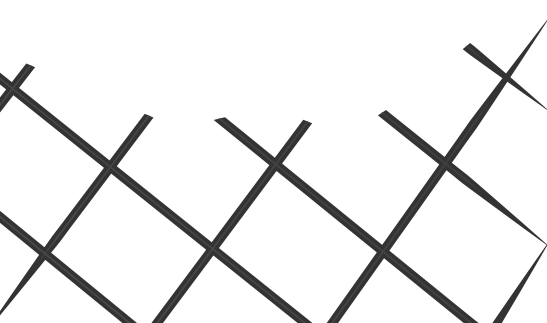
**• Reinstate presumptive parole** so that people who pose no risk to public safety can return to society as contributing family and community members;

**• Expand good time credits** to allow people to return to their communities sooner;

**• Amend the Constitution** to allow people to return home before the end of their sentence when experts determine they can safely return to their families and communities. Currently the only way to release people before the termination of their sentence is through gubernatorial clemency, which has hardly ever happened. We need other options: through the courts, a board of experts, the medical community, and a parole board.

> Typically, women shoulder much larger burdens within their families, with the expectation that upon release they will automatically slide into former primary caretaker roles. Returning mothers need extra support in all of the ways mentioned above.

## Conclusion

Looking into the future, we are struck by the Maine governor's recent budget. This budget includes a $45 million biannual increase for Corrections, yet minimal increases in funding for mental health support and support for those who have experienced trauma. Let's imagine for a moment what Maine's communities could look like if that $45 million went to support restorative justice and restorative practicing organizations and community-based organizations that offer supportive care?

We long for the day when our gubernatorial budget will reflect the needs of Maine's community members. In this article we did not cover all of the needs nor all of the solutions. This is but the first swing at radical visioning of what a healed Maine might look like. We are moving forward into this future with a determined hope that, even if we don't see it to its full fruition, we might see the first steps toward a restorative, decarcerated, healing-centered future for Maine.

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## References

*2023 Maine Kids Count Data Book*. (2023). Maine Children's Alliance. https://www.mekids.org/site/assets/files/2024/2023_kidscount_databook_interactive.pdf

*A Better Path for Maine: The Case for Decriminalizing Drugs*. (2022). Maine Center for Economic Policy and ACLU Maine. https://www.aclumaine.org/en/publications/better-path-maine-case-decriminalizing-drugs

Appel, H. (2020). Reparative Public Goods and the Future of Finance: A Fantasy in Three Parts Hannah Appel - American Ethnological Society. *American Ethnologist Website*. https://americanethnologist.org/online-content/collections/post-covid-fantasies/reparative-public-goods-and-the-future-of-finance-a-fantasy-in-three-parts/

Bazemore, G., & Stinchcomb, J. (2004). A Civic Engagement Model of Reentry: Involving Community Through Service and Restorative Justice. *Federal Probation, 68*(2), 14–24.

Benecchi, L. (2021, August 8). Recidivism Imprisons American Progress. *Harvard Political Review*. https://harvardpolitics.com/recidivism-american-progress/

Binnall, J. (2019). Felon Jurors in Vacationland. *Maine Law Review, 71*(1), 71.

Bonczar, T. P. (2003). *Prevalence of Imprisonment in the U.S. Population, 1974-2001* (Bureau of Justice Statistics Special Report NCJ197976). U.S. Department of Justice, Office of Justice Programs. https://bjs.ojp.gov/content/pub/pdf/piusp01.pdf.

Bonczar, T. P., & Beck, A. J. (1997). *Lifetime Likelihood of Going to State or Federal Prison* (Bureau of Justice Statistics Special Report NCJ-160092). U.S. Department of Justice, Office of Justice Programs. at https://bjs.ojp.gov/content/pub/pdf/Llgsfp.pdf

Bottolfs, H. (n.d.). *The Principle of Normality—In Regular and Extraordinary Times*. https://www.unafei.or.jp/publications/pdf/14th_Congress/14_Ms.Heidi_Bottolfs.pdf

Boyd, O., & Donihue, M. (2023). *Rethinking Parole in Maine*. Colby Laboratory for Economic Studies. https://storymaps.arcgis.com/stories/43edf1b083f345ce888b115e99ad3596

*Bring Back Parole! A Guide to LD 178*. (n.d.). Parole 4 Maine. https://parole4me.com/wp-content/uploads/Bring-Back-Parole-Guide_022622_final.pdf

Bringing the movement for food justice inside prisons and jails. (n.d.). [Impact/Justice]. *Food in Prison*. Retrieved September 30, 2023, from https://impactjustice.org/innovation/food-in-prison/

Butler, L., & Taylor, E. (2022). A Second Chance: The Impact of Unsuccessful Reentry and the Need for Reintegration Resources in Communities. *Dispatch, 15*(4). https://cops.usdoj.gov/html/dispatch/04-2022/reintegration_resources.html

*California Employers' Fair Chance Hiring Toolkit*. (2018). Root & Rebound.

Carpenter, Z. (2020, October 7). A Reckoning Inside the Domestic-Violence Movement. *The Nation*. https://www.thenation.com/article/society/domestic-violence-police/

Carter, T., López, R., & Songster, K. (2021). Redeeming Justice. *Northwestern University Law Review, 116*(2), 315–382.

Child Welfare Information Gateway. (2021). *Child Welfare Practice to Address Racial Disproportionality and Disparity—Child Welfare Information Gateway* (Bulletins for Professionals). U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau. https://www.childwelfare.gov/pubs/issue-briefs/racial-disproportionality/

*Collateral Consequences: The Crossroads of Punishment, Redemption, and the Effects on Communities*. (2019). [Briefing Report]. United States Commission on Civil Rights. https://www.usccr.gov/files/pubs/2019/06-13-Collateral-Consequences.pdf

*Crime Survivors Speak: The First-Ever National Survey of Victims' Views on Safety and Justice*. (n.d.). Alliance for Safety and Justice.

Cullen, J. (2017). *The United States is (Very) Slowly Reducing Incarceration | Brennan Center for Justice*. Brennan Center for Justice. https://www.brennancenter.org/our-work/analysis-opinion/united-states-very-slowly-reducing-incarceration

*Data and Statistics about Correctional Health*. (2023). Center for Disease Control. https://www.cdc.gov/correctionalhealth/health-data.html

DeAngelis, T. (2021). Depression and anxiety escalate during COVID. *Monitor on Psychology, 52*(8), 88.

*Evaluation Results – CMM Re-entry Mediation*. (n.d.). Community Remediation Maryland. Retrieved October 5, 2023, from https://re-entrymediation.org/evaluation-results/

*Every Second*. (n.d.). Fwd.Us Education Fund. Retrieved September 29, 2023, from https://everysecond.fwd.us

*FAMM Compassionate Release Maine*. (2021). Families Against Mandatory Minimums.

*Findings from Messaging Research on Crime and Public Safety*. (n.d.). Vera Action. https://vera-action.s3.us-east-2.amazonaws.com/Vera+Action+public+safety+messaging+deck+-+website+version+FINAL.pdf

Foley, J., King, E., & Benner, C. (2020). *Breaking the Cycle: Interrupting Generational Incarceration in Maine*. Place Matters. https://digitalcommons.usm.maine.edu/justice/35

Herring, T. (2020). *Since you asked: What role does drug enforcement play in the rising incarceration of women?* Prison Policy Initiative. https://www.prisonpolicy.org/blog/2020/11/10/women-drug-enforcement/

*High School graduation rates by county*. (2023, March). Kids Count Data Center. https://datacenter.aecf.org/data/tables/9881-high-school-graduation-rates-by-county

Hirschkorn, P. (2022, June 1). *Maine state prison officials say they've reduced solitary confinement to a memory*. WMTW.Com. https://www.wmtw.com/article/maine-state-prison-officials-say-theyve-reduced-solitary-confinement-to-a-memory/40171183

*How Many People Are Spending Over a Decade in Prison?* (2022). The Sentencing Project. https://www.sentencingproject.org/app/uploads/2022/10/How-Many-People-Are-Spending-Over-a-Decade-in-Prison.pdf

*Incarceration Trends in Maine*. (2019). Vera Institute of Justice. https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-maine.pdf

Ingraham, C. (2020, June 4). U.S. spends twice as much on law and order as it does on cash welfare, data show. *The Washington Post*. https://www.washingtonpost.com/business/2020/06/04/us-spends-twice-much-law-order-it-does-social-welfare-data-show/

Irwin, D. (2021, March 18). U.S. Skilled Trades Labor Shortage Heightens as In-Demand Jobs Remain Unfilled the Longest. *Business Wire*. https://www.businesswire.com/news/home/20210318005265/en/U.S.-Skilled-Trades-Labor-Shortage-Heightens-as-In-Demand-Jobs-Remain-Unfilled-the-Longest

Kazemian, L. (2022). *Long Sentences: An International Perspective*. Council on Criminal Justice Task Force on Long Sentences. https://counciloncj.foleon.com/tfls/long-sentences-by-the-numbers/an-international-perspective

Kim, M. E., Chung, M., Hassan, S., & Ritchie, A. J. (2021). *Defund the Police-Invest in Community Care A Guide to Alternative Mental Health Responses*. Interrupting Criminalization. https://static1.squarespace.com/static/5ee39ec764dbd7179cf1243c/t/60ca7e7399f1b-5306c8226c3/1623883385572/Crisis+Response+Guide.pdf

Layton, D., King, E., Foley, J., McMullan, S., & Sanchez, M. (2021). *Transitioning From Youth to Adulthood: Mapping the Impact of Systems & Places on Youth Pathways*. Justice Policy. https://digitalcommons.usm.maine.edu/justice/37

Lee, R., & Callahan, L. (2022). *Trauma-Informed Approaches Across the Sequential Intercept Model*. The Council of State Governments Justice Center. https://csgjusticecenter.org/publications/trauma-informed-approaches-across-the-sequential-intercept-model/

*Living Wage Calculation for Maine*. (n.d.). Living Wage | Calculator. Retrieved September 30, 2023, from https://livingwage.mit.edu/states/23

Livingston, J., & Ross, A. (2022). *Cars and Jails: Freedom Dreams, Debt and Carcerality*. OR Books.

Love, M. C. (2022). *The Many Roads from Reentry to Reintegration*. Collateral Consequences Resource Center. https://ccresourcecenter.org/the-many-roads-to-reintegration/

Lowrey, A. (2020, June 5). Defund the Police. *The Atlantic*. https://www.theatlantic.com/ideas/archive/2020/06/defund-police/612682/

Lundy, R. (2022, May 22). Amid surge in substance use, 20 beds are available for uninsured Mainers to go through monitored withdrawal. *The Maine Monitor*. https://themainemonitor.org/amid-surge-in-substance-use-20-beds-are-available-for-uninsured-mainers-to-go-through-monitored-withdrawal/

Maine Equal Justice. (2021). *The State of Poverty in Maine, 2021*. Maine Equal Justice. https://maineequaljustice.org/site/assets/files/2284/stateofpovertyinmaine8_5x11_1-4-21.pdf

Title 5, §5303: Time limit on consideration of prior criminal conviction. Retrieved October 5, 2023, from https://legislature.maine.gov/statutes/5/title5sec5303.html

Title 34-A, § 3035. Rehabilitative programs and correctional facilities under the commissioner's control. Retrieved September 30, 2023, from https://legislature.maine.gov/statutes/34-A/title34-Asec3035.html

Title 17-A, §1807: Conditions of probation, (2019). https://www.mainelegislature.org/legis/statutes/17-A/title17-Asec1807.html

Title 17-A, §1812: Court hearing on probation revocation, (2019). https://www.mainelegislature.org/legis/statutes/17-A/title17-Asec1812.html

Title 17-A, §2005: Criteria for restitution, (2019). https://www.mainelegislature.org/legis/statutes/17-A/title17-Asec2005.html

Maine's Pretrial Incarceration Crisis. (2019, May 10). *ACLU Maine*. https://www.aclumaine.org/en/news/maines-pretrial-incarceration-crisis

Martin, E. (2017). Hidden Consequences: The Impact of Incarceration on Dependent Children. *National Institute of Justice Journal, 278*, 10–16.

MDOC Data Team. (2022). *2021 Year End MDOC Adult Data Report*. Maine Department of Corrections. chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.maine.gov/corrections/sites/maine.gov.corrections/files/inline-files/January%202022%20Monthly%20Adult%20Data%20Report.pdf

MDOC Data Team. (2023). *December 2022 MDOC Adult Data Report*. Maine Department of Corrections. chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.maine.gov/corrections/sites/maine.gov.corrections/files/inline-files/January%202022%20Monthly%20Adult%20Data%20Report.pdf

Miller, S. (n.d.). *Higher Education Behind Bars: Expanding Post-Secondary Educational Programs in New England Prisons and Jails*. New England Board of Higher Education. https://files.eric.ed.gov/fulltext/ED612581.pdf

Napoletano, E. (2022, May 12). An Unexpected Outcome Of The Covid-19 Pandemic: A Slew Of Universal Income Programs [Review of *An Unexpected Outcome Of The Covid-19 Pandemic: A Slew Of Universal Income Programs*, by K. Bailie]. *Forbes*. https://www.forbes.com/advisor/personal-finance/universal-basic-income-programs/

Nellis, A. (2016). *The color of justice: Racial and ethnic disparity in state prisons*. The Sentencing Project. http://arks.princeton.edu/ark:/88435/dsp01bz60d032q

Norwegian Correctional Service. (n.d.). *The Important Role of a Prison Officer* (pp. 34–37). Prison Officer. https://drive.google.com/file/d/1oyViu33D5E5PRbCgyCPGOof-yjIFV9yH/view

*Over-Jailed and Un-Treated.* (2021). American Civil Liberties Union. https://www.aclu.org/report/report-over-jailed-and-un-treated

Pettus-Davis, C., & Epperson, M. W. (2015). *Smart Decarceration: Guiding Concepts for an Era of Criminal Justice Transformation.* Institute for Justice Research and Development. chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://ijrd.csw.fsu.edu/sites/g/files/upcbnu1766/files/media/images/publication_pdfs/SmartDecarceration_GuidingConcepts_0.pdf

Pope, L., & Delany-Brumsey, A. (2016). *Overview of the problem: Suicide and self-harm in correctional facilities* (Creating a Culture of Safety). Vera Institute of Justice. https://www.vera.org/publications/culture-of-safety-sentinel-event-suicide-self-harm-correctional-facilities/culture-of-safety/overview

*Post Incarceration Syndrome: Can This Affect Drug Addiction?* (n.d.). Vertava Health. Retrieved October 1, 2023, from https://vertavahealth.com/addiction-treatment/dual-diagnosis/post-incarceration-syndrome/

*Report of Suspensions for Year Ending December 2021* (LS-RP-12-Rev.05/22/2020). (2022). Bureau of Motor Vehicles. https://www.maine.gov/sos/bmv/stats/susp21.pdf

*Resident Student Per Pupil Operating Costs.* (n.d.). Maine Department of Education. Retrieved September 30, 2023, from https://www.maine.gov/doe/funding/reports/perpupil

Ross, K. (2021, February 24). Tablets, video calls coming with costs for inmates, families. *The Journal Record.* https://journalrecord.com/2021/02/24/tablets-video-calls-coming-with-costs-for-inmates-families/

Snyder, R. L. (2022, June 9). We Need Hope to Combat Violence. That Won't Arrive Without Action. *The New York Times.* https://www.nytimes.com/2022/06/09/opinion/shootings-domestic-violence.html

Sumar, F. Z. (2022, November 1). Why inequality is growing in the US and around the world. *The Conversation.* http://theconversation.com/why-inequality-is-growing-in-the-us-and-around-the-world-191642

Szymoniak, L. (2022, May 4). The Consolidation of Wealth in U.S. Residential Real Estate | Housing Justice.

Travis, J., Western, B., & Redburn, S. (Eds.). (2014). *The Growth of Incarceration in the United States: Exploring Causes and Consequences.* National Academies Press. https://doi.org/10.17226/18613

Uggen, C., Larson, R., Shannon, S., & Stewart, R. (2022). *Locked Out 2022: Estimates of People Denied Voting Rights.* https://www.sentencingproject.org/reports/locked-out-2022-estimates-of-people-denied-voting-rights/

Waldroupe, A. (2022, September 28). The story of one US governor's historic use of clemency: 'We are a nation of second chances.' *The Guardian.* https://www.theguardian.com/us-news/2022/sep/28/oregon-governor-kate-brown-clemency

Walton, M. (2019). Bail Reform and Intimate Partner Violence in Maine. *Maine Law Review, 71*(1), 139.

Whelan, Z., & Weil, J. (2015). *Restorative Conferencing Facilitator's Handbook.* Restorative Resources.

Widra, E., & Herring, T. (2021). *States of Incarceration: The Global Context 2021.* Prison Policy Initiative. https://www.prisonpolicy.org/global/2021.html
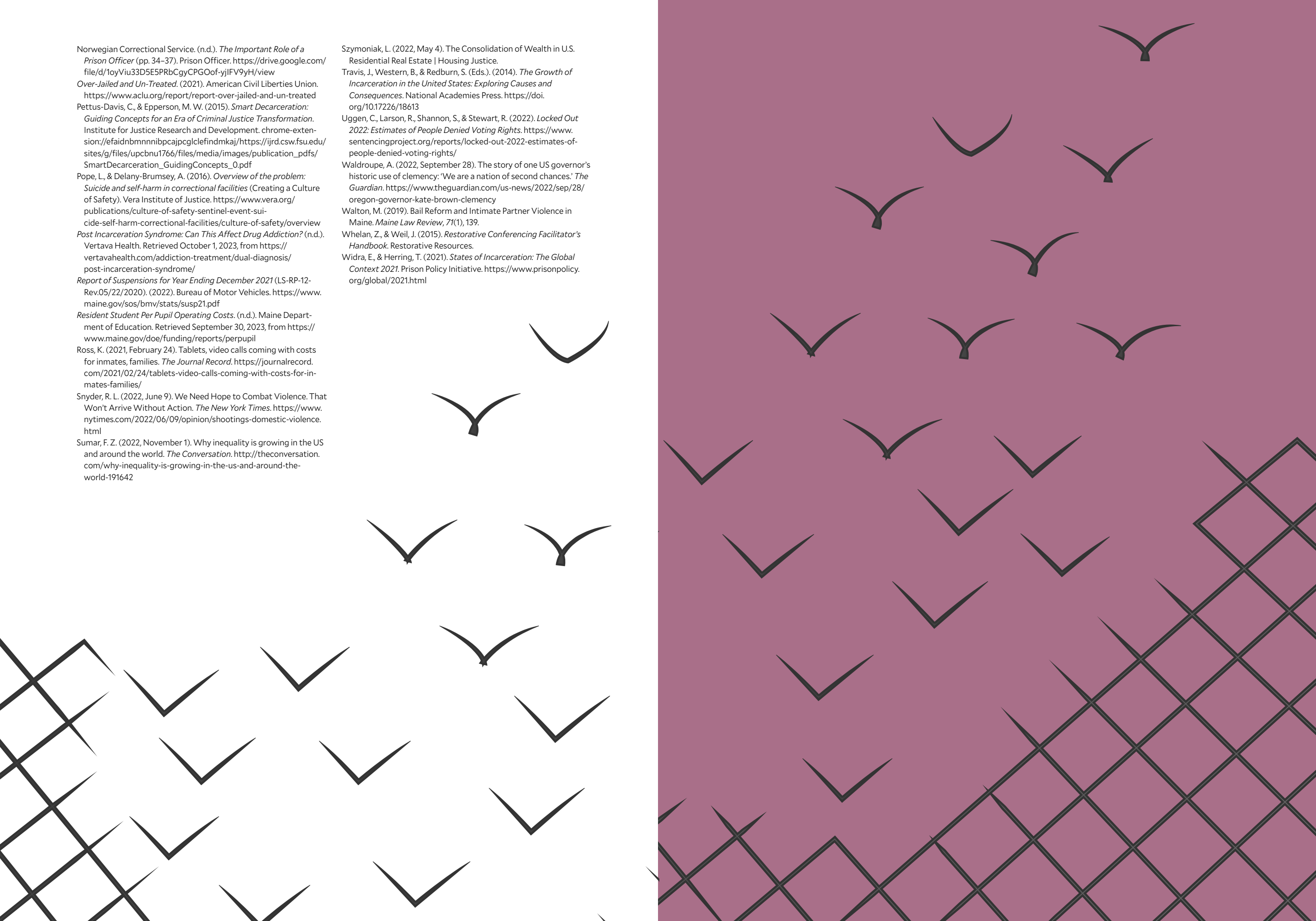
# Is justice happening here?

**By Emily LaGratta**

> "
>
> Allow 1st amendment activity.
>
> I think the judge was not compassionate by any means.
>
> Explain the charges and plea better for first-time offenders.
>
> Have more lawyers to help those low advantage.
>
> I was so happy and grateful that my email was responded to so professionally and with respect to me.
>
> Why are the clerks rude? Say they're waiting for the judge but they're eating tacos.
>
> Excelente todo! Muchas gracias.
>
> Listen to my complaints against my accomplices.
>
> "

**f**or many, the word *justice* has been rightfully ousted from the description of the criminal legal system. Of all the varied perspectives and theories that fuel individual and community-level notions of justice, a reckoning is underway to acknowledge that it's not happening sufficiently under any of these definitions. But gaining some consensus—as professionals, as community members, as human beings—as to what justice looks like and feels like is central to advancing it. To what extent is it already happening in certain contexts? And who or what is the authority on that assessment?

**This piece wrestles with the question:** *Is justice happening here?* I explore this question through the theoretical frameworks of legitimacy and procedural justice, which I have spent the past 15 years trying to advance in courtrooms and prosecutor offices and prisons. We know from extensive research that people feel that they experience fairness and justice based largely on their experience of the process, not just the outcome.

Beyond the research literature, I am compelled by this framework's reliance on the perspectives of those experiencing "justice" (or not). "Justice" is inherently subjective and can't be captured in administrative data alone. I believe strongly that meaningful advancements will not happen without routine and sustained efforts to hear and learn from the voices of those most impacted.

In 2020 and 2021, my small consulting firm partnered with nearly 20 courts around the U.S. and the State Justice Institute to test new ways to capture this lived experience in modest but scalable ways. We did something novel: we asked people in these courts a few basic questions about justice. Leveraging the procedural justice framework, leadership at all of these courts asked at least one question about perceived fairness, such as, "Did the court treat you fairly today?" or "Did the judge treat you with respect?"

Different from a traditional survey, we prioritized quantity over quality and asked just a few minutes of people's time. Participation

was self-directed on an iPad in the courthouse or a clickable link in an email, on a court website, or within a virtual court context.

This was a notable first for most of these courts, few of which had ever requested feedback from the public. Some courts worried no one would respond. Others feared the iPads would be stolen. Others yet wondered whether the feedback would be valuable. In just a few months with each court, thousands of court users participated, most of whom had likely never been asked to contribute to justice improvement conversations. None of the iPads were stolen or damaged.

The courts were primarily municipal courts, hearing low-level infractions and misdemeanors, but also included district and county courts hearing a range of civil and criminal cases. Represented jurisdictions were small, large, and in between, and spanned the continental U.S.

Consistent with traditional studies asking questions about perceived fairness, the responses were mostly positive. In 2022, a national poll of registered voters put public confidence in local courts at 60 percent, a declining but still-positive percentage.

But numbers only tell a partial story, of course.

Presented here is a subset of the write-in responses received across these courts in response to the final, open-ended question: "How could the court improve its service?" The responses have been minimally edited for clarity. During the active pilot projects, local findings were shared with each participating court to guide policy and practice improvements and court accountability measures. Here, the responses are presented as a collective to spark conversation and movement on a broader scale.

> "Justice" is inherently subjective and can't be captured in administrative data alone. I believe strongly that meaningful advancements will not happen without routine and sustained efforts to hear and learn from the voices of those most impacted.

# How could the court improve its service? These voices can help answer that.

**Add** information on how long it will take to receive the email of the transcript of the conversation. Other than that it was great!

**Allow** 1st amendment activity.

**Allow** in person trials or video-conference like other municipalities.

**Accept** credit card payments like the rest of modern civilization.

**Amazing,** just be a bit quicker.

**Answer** my question clearly.

**Be** more considerate of handicapped.

**Be** more fair against cases where cops are just abusing their power.

**Be** more helpful, thoughtful, more support, and understanding.

**Be** respectful.

**Because** of COVID-19 the amount of wait time is understandable.

**Better** coordination.

**Better** customer service.

**Better** notifications.

**Better** public defenders working truly for the (innocent) people of the state and not for the courts just doing what they are asked by the prosecutors etc …

**Chop** chop

**Clerk** was soooooo pushy trying to hurry me, not listening to what I was asking. Sent me to wrong place. Other clerk in courtroom mad they sent me to her.

**Clerks** rude was slow.

**Confused** with where to go after the front person talks to me.

**Continue** to reinvent the wheels of justice.

**Continue** with video court sessions.

**Correct** information on summons, better communication by code enforcement officer.

**Deputy** was rude.

**Do** a follow up email regarding court date and zoom credentials.

**Do** better with your clients.

**Do** more virtual and less in-person.

**Don't** like judge running late. Been here early.

**Don't** take all day.

**Due** to the unforeseen circumstances of the death of one son, the illness of the other son and my own recovery from spinal surgery, I ask forgiveness from my parking ticket.

**Each** court has different routines, procedures, etc. We have struggled to learn how to proceed.

**Easier** way to pay and get information back for older people.

**Educate** on laws.

**Everyone** was rude.

**Everything** was great!

**Excelente** todo! Muchas gracias.

**Exempt** ticket fines for proper appearances.

**Expedite** the time online business can be completed.

**Explain** the charges and plea better for first-time offenders.

**Find** prosecutors who are sympathetic and don't laugh and make fun when you have to appear in court on your birthday.

**Fridays** are workdays for tons of people.

**Front** clerks when you walk in rushing me. Not even let me talk, confused.

**Get** me off probation.

**Get** rid of it.

**Give** me some sort of advice on how to handle this matter.

**God** blessed me today. Nice judge.

**Good** but clerk talks too fast not sure what she was saying.

**Great** set up but front clerk too busy pushing everyone out, not really listening to us in line.

**Have** a better phone service to where I can actually talk to someone maybe.

**Have** a number to call.

**Have** all the paperwork ready and the right times.

**Have** more lawyers to help those low advantage.

**Have** more people answer the phones.

**Have** more people here to help.

**Have** the wait time be a little less.

**Help** me find out why I have a ticket still.

**Help** more with payments over phone and options for classes for driving infractions.

**Help** not come back, lol.

**Here** on time but no judge.

**Horrible** attitude.

**How** about a simple one-on-one and really settle these transactions accordingly.

**I didn't** get any emails yet of my new court date.

**I don't** have all day.

**I don't** understand how somebody is found guilty without the judge looking at a video for evidence … The system is rigged for citizens to fail and be found guilty no matter what.

**I feel** like the whole process down here is crazy unacceptable and nasty. Single mom having hard time in life get treated like a piece of black crap.

**I had** to stop working because I thought I had court, but later on I haven't received anything about court. I also called the courthouse number.

**I have** been attempting to get a court date to plead not guilty to a ticket, and after showing up on my date, I found out no one was prepared to handle my case. I was told to call back. After calling back the court was still not ready, and after not receiving any notifications, I got an email stating I missed my date. Later, I called back and they informed me that they are still not ready to handle my case. It has been months now and I'm extremely confused and still waiting to plead not guilty to my ticket.

**I just** felt a little rushed.

**I received** a parking violation ticket … Now I'm being told that the officer has two years to file it. I don't believe I should have received it. Now I have to wait for up to two years. Crazy.

**I think** the judge was not compassionate by any means. The phone representative made an offer then spoke to the judge and she rejected it and made me pay for both. I think due to Covid she's trying to just get all the people's money.

**I took** off work and showed up for a court appearance in-person only to be told it was going to be held via Zoom. Prior notification would have been beneficial as I wouldn't have had to lose time at work.

**I was served** well by the court today. It could be even better, however, if I were able to pay my citation the day after receiving it.

**I was so happy** and grateful that my email was responded to so professionally and with respect to me. Thank you so much.

**I was told** by the officer that the request for deferred disposition could be handled totally online through the website, but that was not the case. It only describes deferred disposition. I had to call to find out I could email the court for the request. That was time consuming. The website should either state the message that you email the court and provide the email address or you should be able to request it online.

**If I could** pay by debit card it would make it easier for me because I had to move away. I have no transportation.

**I'm old** fashioned. I prefer face to face.

**I've been** rescheduled twice that wasn't my fault.

**It took** way too long for my name to be called and no one was even here.

**It was** great, much faster than expected.

**It was great,** even went in order of whoever logged in first.

**It was** much quicker and easier than I expected. Thank you!

**It went** well for my first time but I thought this was my official court proceeding but it wasn't … So it was reset again until after January. I was hoping to resolve it by now.

**It's** fine.

**It's hot** in here.

**Just** quicker I guess.

**Keep** people who care.

**Later** times.

**Less** court cost.

**Let** more people come to court at the same time.

**Let** one person in with the defendant.

**Let** people make bond when they have money on them.

**Limit** the people.

**Listen** to my complaints against my accomplices.

**Listen** to my question.

**Listen** without judging.

**Maybe** have more phone operators.

**Maybe** work on learning how to send us back to the waiting room then to talk to someone then back to the waiting room. What I'm trying to say maybe a little more training how to use zoom when it comes to sending the clients to different rooms without sending to the wrong rooms.

**Mom** and I both say thanks.

**More** face-to-face … isn't that what the vaccine mandates are for?

**Move** faster.

**Never** having been in court. I was nervous. I found the process and the judge and everyone I interacted with to be very kind, helpful, and respectful.

**No complaints.**

**No court** appointed lawyer. Not fair.

**No respect** for my time or effort.

**No suggestions.**

**Nobody** at the desks on Friday. I took the day off to file this paperwork.

**Not my** job to advise y'all

**Not sure** how to improve.

**Offer** in person and online.

**Once** I paid for ticket. I was not allowed to upload documents.

**Overall** rude.

**People** be nuts up in here.

**PO** is racist.

**Poor** attitude.

**Poor** attitude and bad service.

**Provide** more info about the ways to resolve the issue, but the person who answer phone calls might not have that's responsibility and authority.

**Provide** water, mask.

**Reduce** fines.

**Reminders** on when the next court date is instead of warrants.

**Rude.**

**Rude** clerks when I walked in, officer sent me to check in. Lady was rude not letting me talk. Left her, had to ask another clerk cashier to help me.

**Rude** if you have time to be in court and the judge is not on time.

**Sad day** for the Justice System! Judge failed to deliver justice in the courtroom and lost touch with reality.

**Send** me the actual payment plans.

**Service** was fine.

**Set** court times at various part of the day. I was in court for 9:00 am but didn't see the judge until 2:00. I missed a whole day of work.

**Single** black mom no help waiting to go to two offices and I have to wait to be seen. I'm a victim of domestic violence, and I have to pick up my son from school. I'm trying to stay safe.

**Stop** charging people with random charges.

**Stop** giving out tickets for no license.

**Stop** pulling me over.

**Takes** toooo long

**Takes** too long because of parking

**Terrible** with people that have a job.

**The appointed** time said 8am, nothing started until after 9am.

**The courts** have been more than accommodating for a mother of four with a full-time job.

**The judge** was kind and very helpful. Everything was convenient and user friendly.

**The officers** at the entrance are barbaric with their actions and their vocabulary is provoking.

**The online** parking ticket payment portal does not tell you to leave off the ".01" after your ticket number … could not pay ticket. Had to contact the court to get proper method of payment.

**The service** was easy to navigate as an educated person. I worry for those less educated.

**The staff** exceeded my expectations. Everyone was professional and helpful.

**The staff** could be more helpful. I couldn't ask them a question without being made to feel as if I was bothering them.

**There's** no way all these people are vaccinated without their masks.

**They** did not get my information. They just talked to the offenders. I am handicapped and was taken advantage of and I just want justice.

**This** place smells like piss.

**Throw** out ticket. That is a speed trap.

**Time** should be shorter. Speak louder when calling people names.

**Too** long waiting.

**Too** slow.

**Took** long to get judge to hear case. Clerks sitting waiting for judge to arrive.

**Very** respectful staff.

**Very** shocked at how easy this was.

**Waited** in line too long just to make a payment.

**Waiting** on judge why if told to be here on time.

**Was** somewhat helpful. Hopefully my issues with the neighbor gets resolved!

**We have** to come here for things that can be done over the phone.

**Website** has bugs, some links need to be fixed.

**Why** are the clerks rude? Say they're waiting for the judge but they're eating tacos.

**Why** do I have to wait so long? I see the judge talking with his clerk.

**Why** does it take so long? Prosecutors don't believe you anyway.

**You** could lessen traffic by telling code enforcement officers not to write tickets during a pandemic for lawns that are visibly in the process of being cut.

**You** guys keep us waiting for hours. Start at 10.

## Is justice happening here?

The surprising answer seems to be, yes, sometimes. Amidst the frustration and calls for improvement, there is shock—almost delight—when it isn't as bad as people fear.

Many comments are positive or neutral. Many focus on mundane and bureaucratic details. Few mention outcomes or the fairness of sentences or fines. Instead, most constructive feedback focuses on small to modest improvements that individual professionals or systems could make.

On one hand, the feedback and ideas offered here reflect a low bar for our legal system. On the other hand, this feedback is realistic and actionable alongside deeper investments.

Overhauling a broken system may feel daunting but there's no excuse for not starting on these small adjustments. If these are too easy, prove it. If they're hard, let's be honest about why. In any case, perhaps more justice can happen here.

*Emily LaGratta, J.D.,* is a justice reform consultant and innovator who has worked with criminal justice agencies across the country since 2009.
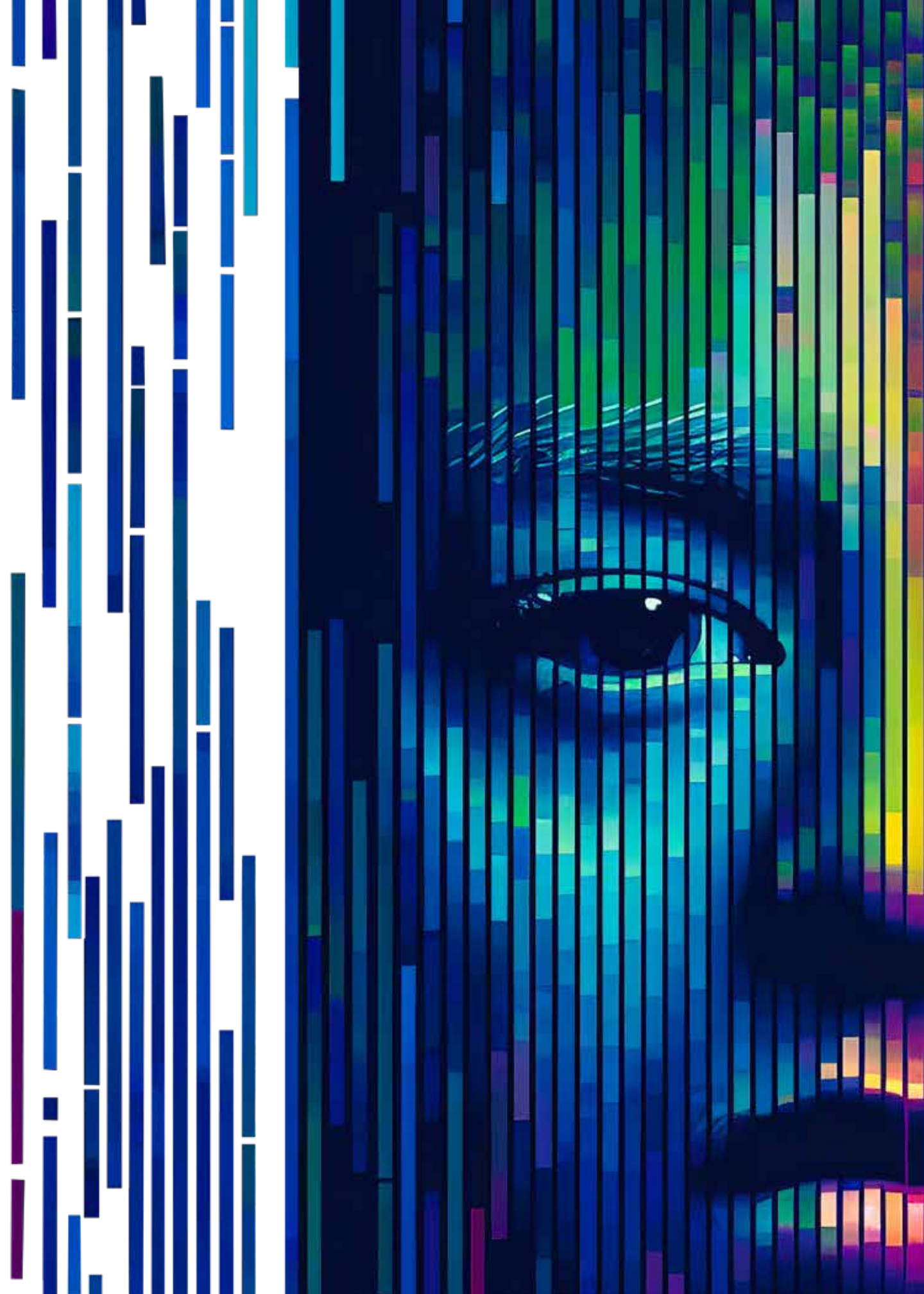
# We Are All

ENGINEERING CULTURE

# Are All

ONLINE GOVERNANCE

# Tech

CHALLENGES OF SOCIAL CHANGE

# Builders

By Sudhir Venkatesh

**The contemporary technology sector creates an uneasy set of contradictions for the rest of society.**

On the one hand, there's really no way to live without products that rely on digital technologies. On the other hand, no one likes relying on these products let alone suspecting that their producers are intentionally hiding aspects of their business, acting unethically, or playing fast and loose with the data they release.

Some of us make our livelihoods challenging and confronting this sector. Independent journalists, activists, and academics, to cite the most well-known examples, successfully extract significant goods from tech firms — money, fines, data, disclosure — and use these goods to improve our understanding (think detailed exposés of tech practices and whistle-blower reports to large-scale research studies, and the like). Despite the occasional victory, it is reasonable for the outsider to conclude that, at the end of the day, we are really just powerless in the face of Silicon Valley.

**And, equally reasonable is the sense that this *must* change.**

**So, *how* can this change?**
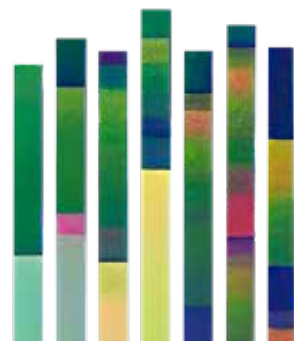
My point of view on this question arises from having spent ten years working in the tech industry, managing product teams, building academic advisory boards, releasing data to the public, and helping shape corporate policy. I've been both an employee and a consultant. This disclosure is critical because my job has included either explicitly safeguarding company data or finding ways to reconcile their needs with the asks of change makers—journalists, academics, activists. My teams have executed data release agreements, funded academic research, tested and launched disclosure reports, and supported independent journalists. Mine is an insider's view.

Outsiders underestimate the value of *imminent* critiques and how such standpoints might help them to leverage social change. So far, we've tilled the ground with pleas from the outside—pleas based on ethical standards, human or civil rights, fair market competition, and other *externally-driven* standpoints of criticism (external because they are not grounded in the logic of the industry). Critiquing tech from an outside vantage point is valuable and necessary. In this essay, I am suggesting we need to add a perspective grounded in the lingua franca of the tech industry itself, namely, the logic of product development. Exposing the internal contradictions of product development in the tech sector will enable us to diagnose some of the challenges that arise, challenges such as adverse social impacts and negative imprints on well-being. Will this imminent posture be more efficacious to change efforts? Is this approach any better than the other options? I'm not entirely sure and leave those questions to others.

Let's unpack my point of view.

### Governance & Product Culture: technology built by consumers

Most outsiders who seek goods from the tech industry spend little time under-standing how tech works. I don't mean how a computer works. Instead, I mean how people in the tech sector labor together.[1] In fact, I'd argue that most of us look at the industry and think, "Looks like just another place where people make money selling me stuff. Doesn't seem all that different than shoes or baby food from the standpoint of business. The magic must be in that damn computer."

There's some truth here. Tech is a lucrative business like many other businesses. But, there's a difference worth considering that has nothing to do with arcane technical knowledge or complex hardware. People who build many kinds of tech products do so in *collaboration* with you and me, which is unlike many other industries. It doesn't really look like it, I get it. Seems as though we run to the Apple Store to buy that nifty new iPhone *after* it is built. But, that's not really the case. For any such tool, let's call tech products "tools" for simplicity—

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1   This also complements studies, such as those of Sarah T. Roberts (2019), that critically examine the industry's complex labor arrangements with contractors, vendors, and other external parties.

what is *initially* available is only one-half of the story. What remains is the way consumers use the tool. An electric car, a bank website, an online hotel booking service, or a social media platform. The specific type of tool is irrelevant. A firm builds a version of the tool, but the company is waiting on consumers to put that tool to use. Thus, what is built on Day 1 is not what will exist on Day 9000. In fact, we should really think of the tool on Day 1 as an unfinished product—which is unlike other products, like shoes or baby food.

This is important for two reasons. First, this process is the principal factor generating tech's social imprint, including notably the harmful effects on the wider society. It is what generates a wide range of problems, ranging from child exploitation to election interference to online bullying. Second, this process is at the heart of the issue of power and control—or more to the point, outsiders' feelings of powerlessness and their literal lack of control.

A couple of quick caveats. There are some tech products that seem less pernicious, or look like other industry products, like shoes or baby food. Software as a Service (SaaS) is one example of an "off-the-shelf" tool; so too, can one point to enterprise products, like Adobe's many creative tools. We can debate endlessly whether these too have negative social outcomes, but that's beyond the scope of this essay. To keep things simple, let's limit the scope of the observations below to tech products that depend on user-generated content.

Let me use a fictitious example to ground the discussion. Imagine two digital tools, created by two different companies, each built

> ## Day 1 is not what will exist on Day 9000. In fact, we should really think of the tool on Day 1 as an unfinished product.

to help parents motivate their children to read. Parents use Tool #1 for communication; most of the time, they share books their children love, and offer summaries of those selections alongside helpful reading strategies. Alternatively, parents use Tool #2 to discuss health concerns and review and locate pediatricians.

In two years, the company building Tool #1 is acquired by a large publishing house. They see Tool #1 as a catalyst for their children's book publishing business. They rebrand the tool as part of their overall online marketplace and focus on attracting the kinds of advertisers interested in this kind of tool. By contrast, the leaders at Tool #2 realize that they are essentially building a referral service where parents can share health care information. So, they rebrand themselves as an online health company and shift their advertising, marketing, etc., to reflect this new direction.

Uncomfortable as it might sound, it is you and I that have helped build these two tools, for the respective companies. It was our activity—our active engagement, our willingness to share personal information, our time and energy that came to create Tool #1 and Tool #2. Put this way, we should start feeling that we are participating in a grand experiment—that we are taking a risk by using an untested and unproven tool in our lives. Unfortunately, the firms who launch experimental tech products do not feel the need to announce that they are in an experimental phase. Without any meaningful disclosure beyond their Terms of Service, they routinely carry out ongoing testing and refinement without our knowledge. (One might reasonably argue that product development for tools

based on user-generated content *are always in experimental mode*.)[2]

That the firms developing Tool #1 and Tool #2 began in similar places, with similar goals, will likely be a forgotten element of the story. By the second year, they will be classified differently in the App Store or Google Play, and this classification will shape how the public perceives them for the foreseeable future. (Think of Twitter, reclassifying itself as a "News" app in 2016.) Nevertheless, they both began in the same way: by depending on consumers to hand over to them key aspects of their life— thoughts, book preferences, their child's health data, eating habits, friendships, etc. In addition, each of the firms must gather and analyze the information that consumers are sharing with them. Only then can they adjust the tool so it fits what consumers are doing. If the firms fail to analyze the data and retrofit their tool, then consumers will stop using it and find (and help create) another tool that meets their needs.

> ## Firms who launch experimental tech products do not feel the need to announce that they are in an experimental phase.

### Implications for Product Builders

That you and I, and the company, together build such digital tools is nothing new and has been the subject of much critical inquiry.[3] Here, we want to explore some of the implications for changemakers. Let's start by pointing to some of the complicated situations that arise when you and I help build products for companies.

For starters, as I mentioned, it is unlikely that the company disclosed that *you* would be part of an experiment. As a result, you might justifiably feel cheated, used, or deserving of compensation. We've got lots of rules in society about false advertising and about unethical research, and it is fair to ask whether tech companies are getting away with something in this regard. Second, you might feel trapped. You might feel that there's not much of a choice in the matter. Tech is everywhere. Who has the time to pause and ask, "Before I ride this plane, turn on this app, or do some online shopping, I *have* to get in touch with the company to talk about my role as one of their product builders!" Further, as we know from national elections and health epidemics, entire communities depend on digital tools for critical, sometimes lifesaving, information. It's hard to fight against those who developed tools that have become instrumental for living.

There's a third way that this situation can be complicated and unsavory. To see this, we must continue to unpack our example of the two companies building online tools to support children's reading.

Imagine that the firm building Tool #2— the one that helps parents exchange stories about children's health—notices problems having to do with unwanted consumer use of their tool. They notice that users are harassing each other, engaging in hostile and hateful political debate over health practices such as vaccination or drug approval, and there are incidents of child "grooming" or early-stage exploitation. The firm did not anticipate these

2    Here, I invite the reader to read the work of two scholars, Christin (2020) and Benjamin (2019) .
3    For more on this, see Gillespie (2018).

problems. They were in "startup" mode, which means their focus was to bring as many users to the site as possible. This means they did not build a large internal safety team. They might be upset about facing such problems, but it is likely they neither have the experience or infrastructure to handle these issues, nor does their leadership team want to redirect resources away from what the industry calls "growth" prerogatives to "safety" needs. For them, all hands are on deck to increase the number of users. This metric, not safety indicators, enables them to secure investment and keep the lights on.

Say you are one of the users who has had an undesirable or negative experience with Tool #2. It is likely that you are not alone. Depending on their rate of growth, tech firms have hundreds of thousands, perhaps millions, of people who face safety-related issues at any one time. If you approach the firm, you probably won't be treated as a co-builder, that is, as an insider helping to create the tool with the firm. It is far more likely that you will be told, that according to the "Terms of Service"— the legal agreement that describes your rights—you have limited recourse. The firm's response is very much a direct function of the product development process. How they treat not only consumers, but activists, academics, and journalists who wish to study these situations is based on this co-creation effort. To put it another way, their likely response would be that you should have realized your role was to help the company *grow*.

### Defining Governance

The term for how firms manage this collaborative building process is *governance*. Governance is an old word in social science, and you may already be familiar with it in different contexts. Ergo, a quick caveat. I use it here not in the traditional sense— namely, the study of how a company's leaders fulfill the basic administrative, policy and financial functions of a firm. In techspeak, governance refers to the challenge of building products in which content is created by users, members, subscribers, and customers.

I contend that paying attention to how tech workers organize the collaborative building process with consumers—how they *govern*— will help us to get at those bigger goals of power, control, and accountability.

### Reactive Policymaking

Most tech firms are marked by a separation between *product* and *policy* units. Product teams build and maintain the technology infrastructure—including the hardware and software, and the design of the experience. Policy teams are responsible for legal functions, and, importantly for us, they manage the relationships with the outside world via communications, contracting, crisis response, data release, and government engagement. When it comes to the consumer, both policy and product units are relevant, but they think about the consumer in different ways. Product teams help consumers use the tool. Policy teams help answer questions and address concerns about the tool.

Thus far, I've been making the point that there's a difference between tech products and other products, like baby food or shoes. We can expressly see this by looking at the disparate work of product and policy teams. In companies that build traditional products, like baby food or shoes, the policy team typically writes the rules and policies for the consumer coterminous *with* the building of the product itself. When the product is launched in the market, the rules are already in place. In tech, however, recall that the product is not complete until you and I use it. What this means is that policymaking is also half-finished. Only after people use the product, can the teams of policy associates observe the specific use cases, and *then* develop and formalize the policies/rules. Furthermore, as those uses change, the associates will rewrite the rules—including writing new ones that directly contradict earlier versions. As so often happens, at one time, you could do or say something with a tool, and then suddenly, the same speech or behavior is unlawful and subject to a fine, law enforcement investigation, etc. It is up to you to stay abreast of all the rules, especially whether it they've shifted to require a different user responsibility.

If this feels a bit unfair or worse, unlawful, that's a legitimate reaction. The company is changing the rules to protect themselves as they find new and unanticipated consumer uses. It is reasonable to ask, *How can a tech company construct their policies reactively, and shouldn't they be held liable for failing to understand what might go wrong—and for failing to prevent the problems from occurring (especially the harmful ones)*?

Yes and no. If asked this question, the firm would likely have a two-fold response. First, as noted, they would tell you, "We've done nothing wrong. Please read our Terms of Service (ToS) where we've explained our product and your rights." Alas, in practice, consumers rarely review the ToS. They might also point you to S.230 of the Communications Decency Act that does not hold them liable for user-generated content on their tool. Neither of these are entirely satisfactory, so let's drum up a more helpful response based on the point of view of this essay: namely, how tech works.

We can start by acknowledging that this reactive policymaking is *itself part of the product building process,* not an anomaly or

vestigial component. Tech firms release products that are often little more than hunches—the fancier, polite word for this is "prototype." They don't know what you'll do with their tool, so they throw out a version, buy some advertising, and then watch as consumers put that tool to use.

Think about our example of the two hypothetical firms building online tools to support child reading (i.e., Tool #1 and Tool #2 above). Neither firm knew what they had really built until two years of consumer use had passed. When they started, they simply released a product that had a huge promise attached to it (e.g., *We can help your kid to read!*). If a consumer has a negative experience or suffers harm when using the product, they might demand that the company provide redress.

Consider this from the standpoint of the firm's *product development* process. Would it be unreasonable for us to conclude that the negative experience was *necessary?* It sure looks like the firm needs to see that a consumer was harmed before they acted. And, as we will discuss in the next section, it might be the case that the firm needed to see the harm occur many, many times—because their internal detection mechanisms (human review, automated algorithmic review, etc.) might only detect the harm after it becomes an established pattern. Put in the language of product development, a harm occurring at a large volume creates a signature or fingerprint that enables detection and creates the conditions for future intervention.

That harm is tolerated, nay even encouraged, by a process that tech leaders have

> The company is changing the rules to protect themselves as they find new and unanticipated consumer uses.

adopted for some of their products should not feel acceptable. The situation becomes even more complicated and distressing as we play out these dynamics.

### Automation by Myth

In most tech companies, the scale of consumer use of the tool blunts the effectiveness of policy as a safety tool. The consumer use patterns might be manifesting in real-time and at such a large scale—that is, at such a fast pace and at such a high volume—that policy associates are simply unable to develop systematic rules and enforcement protocols for the problems that the product teams send them. Think of products that are being used by millions of users around the world. In most cases, the policy associates will not have the background to adroitly predict all the cases (we address this below). Policy associates are dependent on the product teams for making it a priority to detect and report incidents of consumer problems. At best, companies typically advertise a consumer help line or email address, and most do not always have access to user reports of harm, if indeed such reporting options are even in place. For this reason, we must be careful to draw assumptions from the largest companies, like Meta or Google or Twitter/X, where policy teams *are* sufficiently large and well-resourced. The vast majority of companies feature policy teams that are small and have limited capacity to investigate consumer experiences.

### The Two Myths of Online Governance & Safety

To create safe products when the scale of content created by users is high, other techniques must be adopted. Namely, the governance workers must turn to computer algorithms that can review and act upon content at a fraction of a second. These computational programs are primarily deployed to identify repeated instances within a large sample of violating content. That is, each piece of content moves through a process of algorithmic review. Based on a simple binary decision-making model, the output is a value assigned to that content. Either it requires action, or it can continue to be featured in the consumer's overall experience. In some cases, the action may be to *proactively* remove that content so a user never sees it. Alternatively, the action might be to *reactively hide that content from further exposure* (i.e., ensure that future users do not see that content anymore).

But, how to instruct the computer on which pieces of content to remove proactively or hide after-the-fact? To answer this question, we need to introduce the concept of *myth*.

In any tech firm, there will be beliefs in place about the best way to manage with the social and behavioral challenges that arise from using their tool. The word for the set of beliefs is *myth*. In organizational analysis, *myth* is a common analytic to explain why members of an organization make decisions in a particular way. A myth is a feature of collective social life. It is not a falsehood. Myths are durable, deeply ingrained sets of beliefs and notions that motivate behavior. And, they are features of groups that emerge over time. Myths are

> In some cases, the action may be to proactively remove that content so a user never sees it.

commonly associated with large, abstract groups, such as societies, subcultures, and nations, but they are also particularly useful in examining interactions in bounded organizational settings—at school, among workplace groups, and so on.

In some contexts, a myth can have the connotation of obviousness—something unremarkable. Consider the well-worn phrase, *if you work hard, you can get ahead*. Whether true or false is beside the point for those who live according to this myth. It is a convenient means for individuals to express views, reinforce collective bonds, and transmit values and expectations across generations. In many tech firms, a common myth is "Be your Authentic Self." You might see this on posters or within online employee discussion forums. It is partly a means of handling diversity in a global workforce—where dress might take different forms for different social and cultural groups. Over time, a myth may end up making things feel natural or timeless. It may be impossible to identify the precise origins of any particular myth. Here, we invoke the writings of Thomas Kuhn on *paradigms*—which is a close cousin to the concept of myth, as it is used here. Kuhn (2012) writes, "[C]onsiderable time elapses between the first consciousness of breakdown and the emergence of a new paradigm. When that occurs, the historian may capture at least a few hints of what extraordinary science is like". Following Kuhn, the best we can do in this essay is to "hint" at some of the conditions under which the myths shaping governance labor in a tech firm arose.

We can point to two overarching myths that animate the governance work of tech firms. Taken together, these two myths provide a benchmark for determining *who* will perform governance-related labor and *how* governance work should be accomplished. In other words, myths have a normative element by virtue of setting expectations for acceptable or proper conduct. The first myth is *governance is an engineering problem*. This myth teaches that

managing users at scale requires prioritizing engineering-based approaches. The second—*the myth of self-sufficiency*—tells tech workers that the governance team should work on its own, and ideally should have limited, if any, engagement with outside parties or experts. Taken together, then, employees of a tech firm are expected to understand that, above all else, those who direct the engineering functions of the firm have the greatest say in prioritizing resources and making decisions. And the governance team should rely on their own engineering and product-driven expertise to solve the consumer problems with the tool.

### Myth #1: Governance is an engineering problem

Our first myth—namely *governance is an engineering problem*—arose as part of the overall transformation digital technology. Some of the earliest tools looked more like baby food or shoes in terms of product development. Companies built them, charged a fee for their use, sent them to users on floppy disks or other portable objects, and then consumers used them but without necessarily sharing their use patterns in real-time with the company. This changed, some have argued, as advertising models replaced single purchases of stand-alone products, and as technology enabled firms to surveil users as they used products and services in real time. It was possible to watch hundreds of millions of users sharing their information, and then adjust the product to keep those users interested and engaged—in most cases, a firm simply gave away the product for free and made their money on advertising.

In today's model, the reliance on rules and enforcement to stimulate healthy and safe consumer behavior will be minimally effective, so this story goes, given the volume of content that appears on most platforms is generated so rapidly and is so large. It would be a waste

of time to devote extensive resources to proactive policy development for the reasons mentioned above. Spending time predicting what rules will be needed, based on what consumers will do with the tool, is too slow and cumbersome a process. Nor is it worthwhile to educate users by providing them materials up front that set expectations for healthy behavior. The prevailing belief in tech firms is that most of the problems on the platform are likely caused by adversarial actors who would not respond to education; regardless, there are simply too many users and not enough time to educate them all. Instead, the firm is better off relying on their engineers to do their magic, namely harnessing automation and advanced computational processes (e.g., machine learning-based decision making, algorithmic-based recommendation systems, and the like) to handle governance needs. In practical terms, as I note below, this way of thinking enables engineering teams and their leadership to minimize other units inside the company that might challenge their authority.

The myth of *governance is an engineering problem* is a powerful force inside firms *not* because leaders have consciously tested and verified their beliefs against other beliefs or points of view that are available. Instead, as the scholar Tarleton Gillespie, notes, the unquestioned belief in the efficacy of product-based approaches has become a self-fulfilling ideal for the tech industry that no longer needs to be scrutinized: "This link between platforms, moderation, and AI is quickly becoming self-fulfilling: platforms have reached a scale where only AI solutions seem viable; AI solutions allow platforms to grow further" (Gillespie, 2020, p. 2).

## The Engineering is a Governance Problem Myth in Action

A simple hypothetical scenario, one that is common to nearly all firms managing user content, will highlight the ways that the views and beliefs—*myths*—of team members shape their governance work. Let's return to our example of the two companies building reading products for children—Tool #1 and Tool #2. Say each company faces a rising incidence of uncivil, harmful user content. Each company is concerned about user safety as well as a flurry of negative media attention.

Within one of the companies, Tool #1, the staff looks closely at user posts. They find problematic behavior occurring in the posts, including hateful speech and threats to harm other users. In the second company, Tool #2, the staff notice unwanted and harmful user behavior in the comment field. Each company rolls into action. Those in Tool #1 label the user posts as "harassment," whereas the team in Tool #2 classifies the unwanted comments as "toxic" behavior.

An immediate task for the respective teams within each company is to develop a perspective on the unwanted behavior in question—why the meanness or incivility is occurring, who is responsible, what are the effects, and of course, what should be done. Let us say that in each company, a specific team—call it a Governance Team—is charged with developing such a perspective. They will be creating an operational point of view that enables each Governance Team to act on the respective problem.

As we noted, tech products typically have thousands, if not millions, of users. Which means an even larger number of posts, comments, emotional reactions, etc. It is simply too difficult to review every post or comment by hand in real time. This means that the governance team in each of the two companies will be using automation (i.e., a computer-driven or computational process) to anchor their approach.

Ultimately, each team must be able to identify and segregate a creator's harmful content so they can be reviewed in advance before it reaches other users. This way, the impact on the community is minimal.

*Tool #1*

Say that the governance team for Tool #1 decides that the user's gender, age, and political persuasion are the most useful variables for predicting a potentially "harassing" post. In their reasoning, the propensity that any user decides to share harassing comments can be well predicted by knowing these three personal traits about the user. So, they build a computer model to segregate all posts in which the creator of that post has a particular gender, age, and political makeup. Once these are segregated off, the team labels them as "Potentially Harassing Posts." This strong perspective, or point of view, motivates the team to select posts based on these three determinants or *signals*. Everything else is *noise*. A metaphor might be that they have used a large net to capture a large number of fish with three specific traits. Before we look at what they do with the captured fish, let's turn to the company building Tool #2.

*Tool #2*

The governance team in the company building Tool #2 takes a different approach in line with their own unique proposition. Recall that they called the mean-spirited behavior on their platform—occurring in the comment field— "toxic." (Not "harassment.") They believe that the user's *history of rule violation* will be the key predictor of whether any comment is likely to be "toxic." They do not prioritize gender, age, and political persuasion as relevant for prediction. These variables do not end up in their own computational model, which takes into account only one factor—namely, whether a user has violated rules in the past. Put another way, their net captures a lot of fish based on a different approach, and they probably have caught all different kinds of fish.

Keep playing out this process across the industry. One can imagine a third company—creating Tool #3— that is offering another online resource to improve children's reading. And a fourth and so on. Each will probably devise a unique approach to battling unwanted comments based on how their internal governance teams understand human motivation. The final choices that a governance team will make reflect their own proprietary data, and their myths and beliefs about humankind and society.

It is useful to consider such points of view on human behavior because conventional discussions of technology workflows often describe the labor of tech firms as highly technical. Sure, there are some very arcane tasks like building a machine classifier or writing a software program. However, in reality, these technical efforts should be thought of as truly social—that is, they depend very much on the particular people and what they believe about the world—in this case, what they believe about people who break rules.[4]

They find problematic behavior occurring in the posts, including hateful speech and threats to harm other users.

4    For further reading see Seaver (2017) and Christin (2020b).

## Developing a POV on Human Behavior

For this reason, the first task for a governance team's seeking to automate the management of large volumes of content is to develop a point of view on human behavior. In this initial stage of problem scoping, well before any algorithm is created, a team must develop such a proposition about very particular behavioral phenomena—mean-spirited posting, uncivil comments, terrorism, child exploitation, and the like. They must agree with one another about *why* people acted in one way or another. After coming to a consensus, they can then set goals for the team and select corresponding measures of success for their product work.

I have offered an admittedly highly simplified account in this example to highlight that the creation of an algorithm is the *culmination of a social process*, not the independent generator of a governance team's actions. As I said, I draw this distinction because conventional discourse often anthropomorphizes algorithms as animate objects capable of driving action independent of the people who build and utilize them.

But what qualifies this Governance Team to solve a behavioral problem like harassment, incivility, hate speech, etc.? What is their expertise, and do they come to their work with deep training in these behaviors? It is to this aspect of tech firms that I now turn—which we've already introduced, in fact, with our notion of *the myth of self-sufficiency*.

## Myth #2: Self-sufficiency and the Tyranny of Design Thinking

Silicon Valley in particular, and the tech industry in general, loves design-thinking approaches to building their products and solving their problems. The design-thinking approach is a decades-old framework for supporting company teams that need to weigh options, make decisions, and create a common path forward. Nearly every type of tech company, building nearly every kind of tool, will use this approach. Design-thinking processes have been shown to be particularly useful for figuring out how to enhance the consumer experience, such as shifting a color scheme or reducing friction for new consumers when adopting a tool. But this approach can also face challenges and have less utility when tech firms need to address social and behavioral problems. Let us understand why.

The ultimate goal of design-thinking within tech firms is to support the *governance is an engineering problem* myth. That is, design-thinking processes are brought in because the team must quickly establish a perspective or point of view on a behavioral challenge, like toxic speech or harassment. The product manager instructs the entire team to move quickly so that the engineers can begin creating a computational model. This immediately puts team members in the position of making a tradeoff: they cannot afford to spend excessive amounts of time in a discovery and learning mode, lest the money allocated to the highly-compensated engineers becomes wasted. Alternatively, move too fast and they

They work on challenges, such as child predation, bullying, gender violence, and terrorism, that can cause deep emotional distress.

may develop an inadequate understanding of the problem. In this context, the initial challenge for the team is to dedicate a defined period of time to sort out an approach to combating unwanted behavior. Design-thinking becomes a way to legitimate their work and reach their desired end state quickly and with minimal cost.

Once again, we turn to our example of building an online tool to help children read. To keep things simple, the focus is on a single company, the one in which parents use their tool to share health-related information.

Say that this company detects an excessive amount of hate speech and there is a disagreement among members of the company's governance team regarding the causes. Some team members view the mean-spirited behavior as being the product of a user being inexperienced on the platform. Other team members say it is probably a function of the political leanings of users. Since time and resources are limited, decisions will need to be made quickly regarding their preferred cause. Recall that they must build a computational model—an algorithm—that predicts the behavior and segregates the potentially hateful comments before they reach the entire community. Do they build an algorithm that captures the content of all inexperienced users and reviews it for hate speech? Or, do they build a model that sets aside the content posted by those belonging to a political group—regardless of their experience with the tool? A computational model will look much different if the predictive variables include politics (or not) or experience (or not). So, whose perspective is right—or right *enough* to provide direction to engineers to start building a computational model? Time, resources, the viability of the business and the quality of the consumer experience all depend on the right decision.

To manage this uncertainty, a team will undertake a period of internal review to establish their point of view and identify key factors (*signal*) and discard others (*noise*). In

this case, they may be deciding between many potential variables, including but not limited to inexperience and politics. Typically, over the course of a week or two, a sub-group—ten to twenty company employees—gather to understand the problem and identify approaches and potential solutions. Those who come together can include different functional roles—researchers, designers, perhaps an engineer or two. Subject matter experts that might have valuable knowledge on relevant topics, such as hate speech, are typically not included. At most, they may be invited to share their knowledge for a few minutes, but the prevailing view is that non-employees don't really understand the tool so their value is limited.

It is worth noting that the design-thinking approach occurs as governance teams operate under conditions of multiple, unenviable stressors. They work on substantive challenges, such as child predation, bullying, gender violence, and terrorism, that can cause deep emotional distress. Governance teams are not composed of social workers, counselors, therapists, and probation officers trained to handle distressing issues. Moreover, tech firms rarely provide access to mental, psychological, and health supports for these teams. Their executive leadership is also likely to be impatient. Consumers, the media, and/or possibly government officials are continuously scrutinizing problems with their tools. Employing the well-worn tech sector mantra, "move fast," executives will demand that the team identify a viable approach. Viable could mean many things, including creating a meaningful distraction until the press moves to another news topic.

With the possible exception of larger firms, it is unlikely for a company to place individuals with any significant knowledge of human behavior relevant to safety matters on a governance team. Rarely does the recruiting team responsible for governance team positions connect with schools of social work,

policy, law, or criminal justice. In addition, people move freely inside the company, landing on governance one year, only to cycle off to sales or marketing or another division soon thereafter. This process makes it unlikely that a governance team will have a majority of its members with training in a relevant field.

The net effect on the work process is significant. With time pressures and knowledge limitations, most governance teams are forced to draw on their existing knowledge for the design-thinking approach. You can imagine the dangers if the team is largely drawing on untested and underexamined stereotypes regarding human behavior. A common stereotype that pervades every firm is the belief that the world is made up of two kinds of people: good and bad. Translated into product language, there are good and bad users, the former who play nice, follow rules, act civil, etc. and the latter who are not redeemable and should not be allowed to use the tool.

This belief instructs that bad users should be punished, harder and harder, until they behave or leave. It is an escalating set of punishments—removal of privileges, frozen accounts, banning, referral to law enforcement, etc.— that is the best way to safeguard the *good* consumers from bad ones. The *Good & Bad User* notion does not derive from an official training program or a set of manuals that instruct team members how to understand anti-social behavior. It is a view that pervades the broader society, and so its prevalence among teams working on tech company governance is simply a fact they are human.

### Destroying the Myths & Building Better Governance

In a tech firm dominated by the product development gestalt, the twin myths of *self-sufficiency* and *governance is an engineering problem* puts into place distinct conditions of working. For changemakers challenging such firms, several ideas should be considered.

*1. Fight Common Sense*

Tech workers tend to think that an understanding of human behavior is fundamentally an extension of common sense—*not* a form of specialized expertise. The initial declaration of self-sufficiency inures team members to the notion that their own point of view will be materially enhanced with any consultation of, or engagement with, experts. Recall that the opposite is, in fact, occurring. The prevailing believe is that outsiders—even those who work at other online companies!—will not really understand the inner workings of *their* product or tool or service.

In the face of this point of view, outsiders should consider a range of strategies that might be available. So far, we've relied on political organizing, leveraging government oversight powers, requests for data sharing, and other externally driven efforts that appeal to general rules, standards, and norms in society at large. To this, we should consider ways to dismantle the pervasive naïveté that proliferates across tech firms in regard to social and human behavior. The general view inside the tech sector, which is strengthened by their use of design-thinking approaches, is that a smart and capable group can crowdsource a solution to any problem. Fighting the absurdity of this proposition is paramount. To date, this view seems sensible in tech because most behavioral issues are repositioned in simplistic terms—why can't people just follow the law? If I can behave, why can't they? And so on. But, I doubt that groups working in other industrial sectors would plan a bridge construction effort or provide a medical diagnosis simply by virtue of their intellect and teamwork skills alone. At some point, the specific knowledge of transportation engineers and physicians would be required. Nevertheless, in tech firms, the twin myths of *self-sufficiency* and *governance is an engineering problem* makes it difficult for the firm to solicit help—and the individual employees to feel comfortable asking.

*2. Exploit Potential Alignments in Product Development*

There are some notable examples in which external parties have worked in an *imminent* fashion, using the product development process as a leverage to create change. Consider the adoption of transparency reporting for governance-related issues. In established firms and smaller entities, what began as voluntary disclosure of government requests for user data have now become comprehensive public reporting on a much wider range of governance and safety issues. We all now benefit from the industry norm that creates expectations for firms with user-generated content to disclose incidence, prevalence, and content management metrics for governance issues. The consultation with experts ended up as a powerful force that eventually transformed how the company measured and disclosed issues—inevitably leading to a new Transparency Report for Community Standards. Transparent reporting also created new pathways for external experts to advise the company on building safety products that could more effectively reduce harm, and eventually other firms followed suit. Consider that today, the extraordinarily impactful human rights, social activist, and governmental oversight work that can be carried out is a direct beneficiary of these reports.

At Facebook, this reporting did not arise because activists and the firm's policy team worked harmoniously. In fact, it was the product teams who were critical to the release of this information. The development of such reporting for governance issues was spear-

A common stereotype that pervades every firm is the belief that the world is made up of two kinds of people: good and bad.

headed by the engagement of external subject matter experts who worked directly with the product teams responsible for keeping surfaces such as Groups, Pages, and Newsfeed safe for Facebook users. Various external parties— including academics, activists, and journalists— realized it was critical to partner with product teams to shape how the company measured problems, collected relevant data, and prepared public releases. As noted in this essay, the process of product development rests on accurate measurement to support the development of usable, safe products. So, the product team was incentivized to work with these external experts. In effect, these experts bypassed the policy directors whose responsibilities include *shielding* the external expert from involvement in product processes.

We can contrast this example with the more highly publicized Facebook Oversight Board, whose impact has been minimal in terms of truly reaching a large number of Facebook users. Ironically, the Oversight Board initiative began as a series of dialogues between Facebook's product leaders and academics who urged the adoption of an independent council for building "ground truth" into scalable enforcement practices. This was a sensible idea, and at first, the product teams were thirsty for such support and believed such ground truth mechanisms could make the product better and thereby create safety across the globe. But over time, the activists, lawyers, and academics who were recruited to build the initiative decided that it would be more influential to shape corporate policymaking rather than the product itself. The company's executive had no reason to resist since this

meant they could limit their need to have outsiders shape the core business. The net effect of the move into policy implementation, and away from the product development process, was to limit the overall impact of the Oversight Board. Today, most users are not affected by the work of Board, which reviews only a limited number of cases each year and has minimal insight into how Facebook's (now Meta's) products are built.
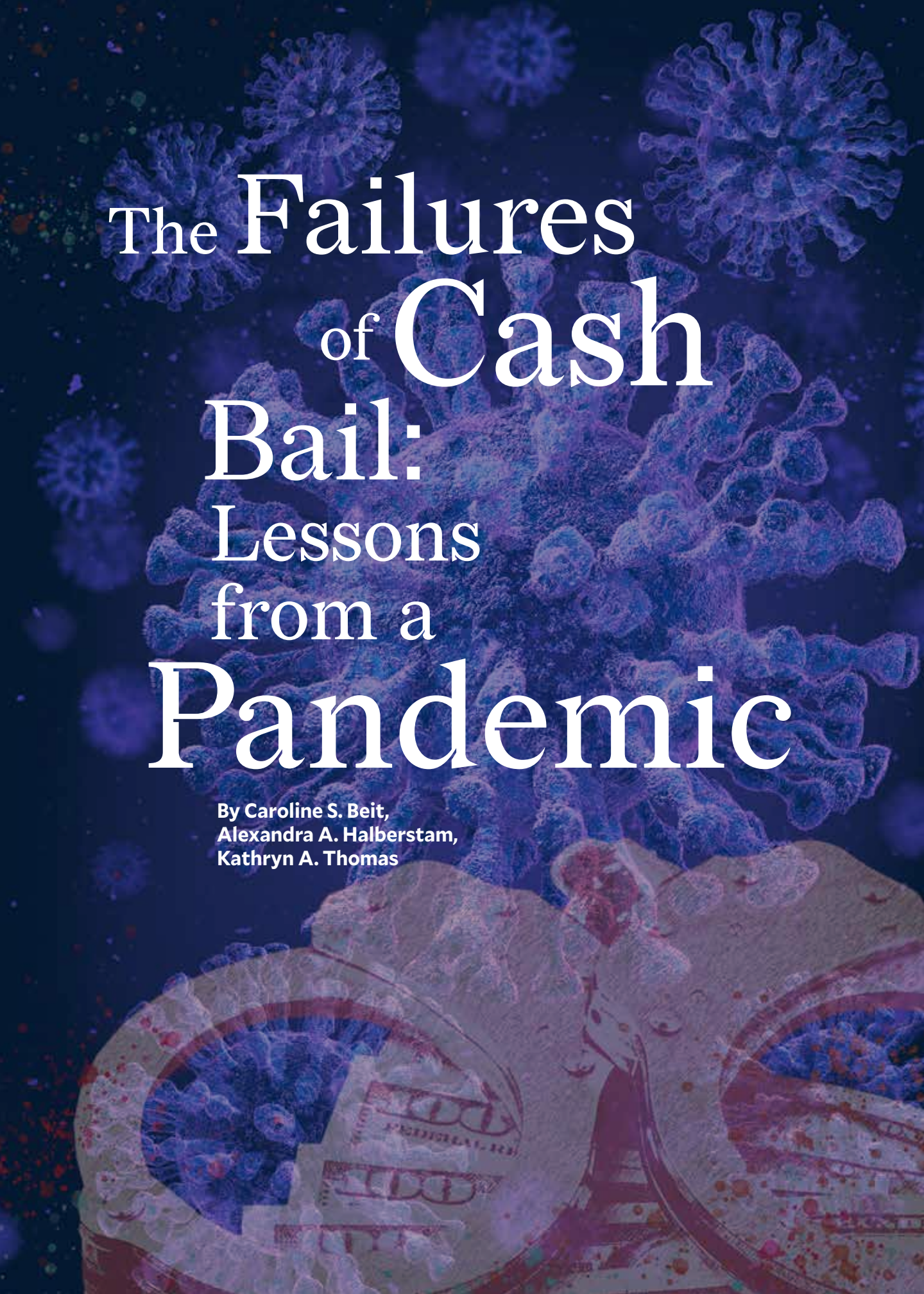
At the end of the day, to move the tech industry forward in a more responsible direction, we need a range of approaches, including adversarial activism, government oversight, and academic-driven data disclosure. To this, we should add a focus on understanding and leveraging opportunities within the product-development process.

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## References

Benjamin, R. (2019). *Race After Technology: Abolitionist Tools for the New Jim Code* (1 edition). Polity.

Christin, A. (2020a). *Metrics at Work: Journalism and the Contested Meaning of Algorithms*. Princeton University Press.

Christin, A. (2020b). The Ethnographer and the Algorithm: Beyond the Black Box. *Theory and Society*, *49*(5), 897–918. https://doi.org/10.1007/s11186-020-09411-3

Gillespie, T. (2018). *Custodians of the Internet: Platforms, Content Moderation, and the Hidden Decisions That Shape Social Media*. Yale University Press.

Gillespie, T. (2020). Content Moderation, AI, and the Question of Scale. *Big Data & Society*, *7*(2), 2053951720943234. https://doi.org/10.1177/2053951720943234

Kuhn, T. S. (2012). *The Structure of Scientific Revolutions: 50th Anniversary Edition* (I. Hacking, Ed.). University of Chicago Press. https://press.uchicago.edu/ucp/books/book/chicago/S/bo13179781.html

Roberts, S. T. (2019). *Behind the Screen: Content Moderation in the Shadows of Social Media* (Illustrated edition). Yale University Press.

Seaver, N. (2017). Algorithms as culture: Some tactics for the ethnography of algorithmic systems. *Big Data & Society*, *4*(2), 2053951717738104. https://doi.org/10.1177/2053951717738104
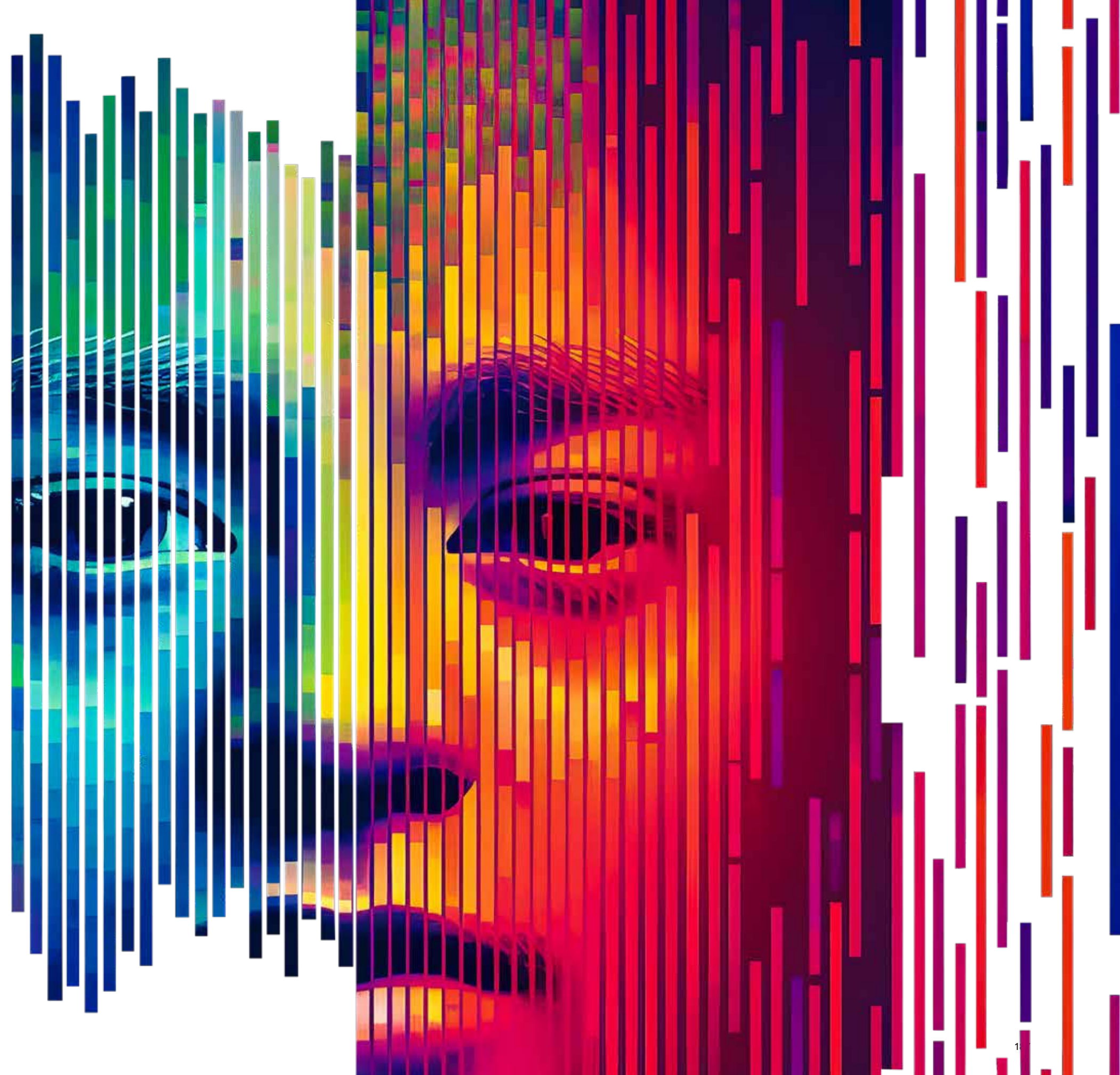
# The Failures of Cash Bail: Lessons from a Pandemic

By Caroline S. Beit,
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## Cash Bail: A Detriment to Health and Justice

When individuals are arrested in the United States, they may be required to pay a sum—or "cash bail"—to leave jail pre-trial. Many take high-interest loans from a bond company to cover the cash bail deposit and owe massive interest post-trial. Others are not given an option to make bail during their pre-trial hearing, cannot afford bail, and/or choose not to take bond company loans. These defendants—disproportionately non-white and low-income—await trial in jail, and are exposed to the health risks of incarceration—particularly infectious diseases like COVID-19 (Page & Scott-Hayward, 2022; Wang et al., 2020) we analyze how the field of bail operates (and why it operates as it does. Thus, cash bail is a public health crisis and health justice issue in need of urgent reform (Seibler & Snead, 2017).

This paper investigates how the goals of cash bail—decarceration, community protection, and trial attendance—have been lost or ignored. We argue that cash bail is a public health crisis, especially during a pandemic. We briefly review the literature on how COVID-19 exacerbates inequities of cash bail and two cases demonstrating the urgency of change. We next trace how cash bail became a key facet of mass incarceration that disproportionately increases confinement and harms low-income, non-white individuals' health, while profiting bail bond companies. Finally, we argue for the abolition of cash bail and suggest replacement with community-based programs that promote decarceration and more effectively foster community vitality.

### COVID-19 and Bail

Pandemics like COVID-19 expose an urgent need for reform of incarceration, pre-trial detention, and cash bail. As of 2023, over 2900 people have died from COVID-19 while incarcerated in U.S. prisons, jails, and detention centers (Carson & Nadel, 2022; *COVID Prison Project, n.d.*). COVID-19 harmed those convicted and those awaiting trial who could not make bail (Reinhart & Chen, 2020). Racial and socioeconomic disparities in bail practices mean the health risks of pre-trial detention disproportionately affect low-income, non-white communities. Research has revealed that Black individuals arrested for violent crimes are 33 percent more likely to be denied bail than comparable white defendants (Schlesinger, 2005). Among those given bail, bond amounts differ by race, such that Black, Asian, and Hispanic defendants face bond amounts averaging $15,352, $34,258, and $13,529 higher than white defendants, respectively (McDowell, 2019).

Jail time increases disease exposure, as the spread of COVID-19 and other infectious diseases is accelerated by overcrowding and limited social distancing, hygiene protocols, and healthcare (Wang et al., 2020).

> Cash bail increases the jail population, thus exacerbating the negative impacts of COVID-19, and other infectious illness, on incarcerated people and contributing to community spread (Equal Justice Initiative, 2021; Reinhart & Chen, 2020).

For instance, cycling through Cook County Jail was associated with nearly 16% of Chicago's and over 15% of Illinois' COVID-19 cases (Reinhart & Chen, 2020). The COVID-19 pandemic led to delayed bail hearings, further increasing detention time and exposure to COVID-19 (Azhar-Graham & Gallo, 2021). Research revealed that reducing the number of people incarcerated in jail would dramatically reduce national daily COVID-19 case growth rates (Reinhart & Chen, 2021).

Further, COVID-19 exacerbated the mental health consequences of incarceration, and poor mental health, in turn, lowered immunity and increased disease vulnerability (Brinkley-Rubinstein, 2013; Mental Health America, n.d.; Shah & Seervai, 2020; Cash bail increases exposure to, and length of, pre-trial incarceration which is more stressful than post-trial incarceration due to high personnel turnover and lack of services in most jails (Toman et al., 2018). In fact, suicide rates are almost three times higher in jails than the general public (Cain & Ellison, 2022) and six times higher in pre-trial detention populations than convicted populations (Patton & Vars, 2020). The COVID-19 pandemic heightened the mental health harms of pre-trial incarceration, as many carceral facilities suspended their mental health treatment due to the pandemic (L. Johnson et al., 2021; Mayo Clinic Staff, 2023).

Ironically, the bail bond industry uses health risks of pre-trial detention to advertise industry services (Matt Mckeehan Bail Bonds, 2020). Release on bail reduces infectious disease exposure, yet bond companies have lobbied to maintain the practice of bail, thereby systematically increasing the number of people detained. While bail bond companies help individuals post bail, abolishing or drastically reforming bail practices would systematically decrease the number of individuals detained, and more effectively reduce disease exposure.

Following are two cases of pre-trial detention during the COVID-19 pandemic to characterize current discussions of infectious disease, cash bail, and health inequality. These cases make clear the hazard bail poses to health, and the urgent need for reform.

### JERMAINE SMITH:
### Bail Increases Risk of Disease

**Jermaine Smith's case** illustrates the decisions faced by individuals held on bail. Smith was incarcerated pre-trial on December 16, 2019, with a $150,000 bail in Bridgeport, Connecticut, for non-violent charges (Lyons, 2020b). Even if a judge does not deliberately set a prohibitive bail, financial resources often decide if a defendant is released. For instance, over 60% of federal defendants are detained pre-trial because they cannot afford bail (U.S. Commission on Civil Rights, n.d.) During a pandemic, then, financial status dictates disease exposure. Given that 56% of Americans do not have more than $1000 expendable dollars (Gillespie, 2023), Smith's bail price virtually guaranteed his incarceration until trial.

While state laws vary, often individuals are released on a percentage of their bond. If the individual fails to attend trial, they owe the entire amount. To leave jail, Smith could either pay $15,000 (10 percent of his bond) or pay the bail company a $5,000 deposit. For someone like Smith, who supports a family and will be unemployed while incarcerated, $15,000 is insurmountable, but the required loan for the $5,000 deposit means years of debt (Lyons, 2020b).

> Remaining in detention risked COVID-19 exposure, and a higher likelihood of losing his case (as planning a defense in pre-trial detention is correlated with higher conviction rates; Lowenkamp et al., 2013a; Lyons, 2020b).

And pandemic-related court delays cause longer pre-trial detention periods thereby increasing health risks (Witte & Berman, 2021).

### DANIEL OCASIO:
### Mental Health, Bail, & COVID-19

**Daniel Ocasio's case** highlights jail's effect on mental health, especially during COVID-19 (Lyons, 2020a). Ocasio, jailed on a low bail that he was unable to afford, died by suicide with a facemask around his neck. Ocasio was not the first incarcerated individual to die by suicide in Connecticut in 2022.

As COVID-19 exacerbates incarceration's mental health risks, treatment options in many correctional settings, including where Ocasio was incarcerated, were largely suspended (L. Johnson et al., 2021; Mayo Clinic Staff, 2023). Following service cuts in Connecticut, only those assigned a high "mental health score" by the facility were eligible for "elective" psychotherapy; 96% of Connecticut's incarcerated population have scores that disqualify them from receiving therapy (Chase & Tsarkov, 2020; Lyons, 2020a).

> These scores, too, compound racial disparities, as white individuals are disproportionately more likely to qualify for psychotherapy as compared to Black individuals (Chase & Tsarkov, 2020; Lyons, 2020a).

We next build on existing scholarship by considering the extended history of cash bail and prior reform attempts, specific alternatives to the bail system beyond bail decision-making reform, and pre-trial detention across state and federal systems.

### History of Cash Bail

Cash bail is not new. In the late 7th century, Britain developed cash bail to support decarceration and lower the need for prisons. Jails began to release arrested individuals to someone who claimed responsibility for ensuring trial attendance (Schnacke et al., 2010). This "surety" paid a sum that would go to the victim if the arrested individual failed to appear in court, preventing a trial (Seibler & Snead, 2017).

Already in 1274, cash bail enabled corruption. Some sheriffs intentionally detained poor defendants with high bails and released "dangerous" defendants when bribed (Schnacke, 2018; Schnacke et al., 2010). Attempts to reduce corruption had little success until the 1679 Habeas Corpus Act,[1] which, in language adopted by the United States Bill of Rights, declared: "excessive bail ought not to be required, nor excessive fines imposed" (Schnacke, 2018; Schnacke et al., 2010; Seibler & Snead, 2017).

> In Colonial America, however, the Habeas Corpus Act insufficiently prevented excessive bail (Schnacke et al., 2010).[2]

For instance, in a famous 1735 trial, Peter Zenger, facing accusations of libel, was jailed for ten months pre-trial on a prohibitively high bail (Lewis, 1960). Zenger cited the Habeas Corpus Act during his bail hearing to no avail (Lewis, 1960).

In 1787, the United States Constitution prioritized protections against excessive bail (Tyler, 2021). But while the 8th Amendment prohibits excessive fines for those who received bail, it does not guarantee the right to bail. Thus, judges could still guarantee detention by denying bail. The 1789 Judiciary Act, the very first bill the Senate passed, attempted to remedy this, guaranteeing bail for those charged with a non-capital offense (Legal Information Institute, n.d.).

#### 1960s Concerns

Cash bail legislation remained virtually untouched until the mid-20th Century, when policymakers identified the concerns that cash bail continues to have today (L. B. Johnson, 1966). President Lyndon B. Johnson recognized that cash bail exacerbates and criminalizes individual poverty. Pre-trial detention caused individuals to lose jobs and miss work (L. B. Johnson, 1966), and the bail system disproportionately detained low-income individuals. Johnson explained: "[A person] stay[s] in jail for one reason only… [:] because he is poor" (L. B. Johnson, 1966).

Johnson also recognized that cash bail burdens taxpayers. Cash bail increases incarcerated populations and incarceration duration, requiring staff and facilities (L. B. Johnson, 1966). In the 1960s, New York City spent $10 million [$87 million in 2022] yearly on pre-trial detention (The President's Commission on Law Enforcement and Administration of Justice, 1967). Today, pre-trial detention's cost means that limited public funds are directed towards jails, rather than community services.

Johnson's Commission on Law Enforcement and Administration of Justice also found that judges inequitably levied high bails to incarcerate defendants they feared would commit additional crimes pre-trial. While at first glance, such a practice might seem useful, it is of dubious legality and efficacy. First, legally, the use of cash bail was *solely* intended to ensure trial attendance: "in noncapital cases, the principal purpose of bail is to assure that the accused will appear in court for his trial."[3] Second, the 5th Amendment demands defendants be considered innocent until proven guilty; yet, selective pre-trial detentions involve judges making unilateral decisions to incarcerate based on an assumption of guilt. Third, levying high bails to keep incarcerated someone presumed to be dangerous was ineffective. Those most likely to commit additional crimes were members of professional crime organizations; accordingly, they often had access to extensive resources and faced little difficulty posting high bail (The President's Commission on Law Enforcement and Administration of Justice, 1967).

#### A Moment of Reform

Thus, the Johnson Administration had already identified three of the most persistent problems with cash bail: exacerbation of individual poverty, taxpayer cost, and inequitable sentencing based on socioeconomic status. Johnson attempted to address these concerns with the 1966 Bail Reform Act, which presumed that non-capital defendants would be released on bail (Bail Reform Act of 1966, 1966; L. B. Johnson, 1966). If such a release would not guarantee trial attendance, the judge could add qualifications from an ordered list, including, for instance, travel restrictions and curfews. Critically, judges did not impose conditions based on their perception of the defendant's dangerousness, but rather *solely* to guarantee trial appearance (Bail Reform Act of 1966, 1966).

In fact, community endangerment was only mentioned for capital cases, where defendants should be treated just as in non-capital cases, "unless the court or judge has reason to believe that no…conditions of release will reasonably assure that the person will not flee or pose a danger to any other person or to the community" (Bail Reform Act of 1966, 1966). Interestingly, if the court or judge believed the defendant dangerous, the Act did not recommend a high bail, but instead gave the court power of preventative detention: "If such a risk of flight or danger is believed to exist…the person may be ordered detained" (Bail Reform Act of 1966, 1966). Financial resources, then, would not dictate release.

Johnson's Act lowered the number of individuals held in pre-trial detention from 52% in 1967 to 38% in 1979 (Peter Jr., 1989). The Act also affirmed constitutional rights of defendants by presuming pre-trial release, and recentering trial attendance as bail's goal. These gains, however, were undermined in following years, such that the problems identified in the 1960s worsened.

#### Gutting Protections

Over the next decades, politicians marshaled emerging concerns about "law and order" into a new attitude toward federal cash bail legislation (Carlucci, 2020; Smith, 2018). Despite the absence of systematic evidence, politicians relied on several high-profile crimes committed pre-trial to suggest that the 1966 Act increased crime.

Law enforcement officials, activist groups, and the bail bond industry—which includes bond, insurance, and private equity companies, and lobbying organizations like the American Bail Coalition—drew on public fears to limit reforms (*As Criticism Grows, Supporters of Bail Reform Describe Fight as a Civil Rights Struggle*, 2020; *Bail Reform: A Curated Collection of Links*, 2023; *What Are Bail Bonds and Who Provides Them?*, n.d.; Carlucci, 2020; Gronewold & Durkin, 2022; Kennedy & Henry, 1996; McKinley et al., 2019; Schnacke et al., 2010; Scott & Barlyn, 2021; Smith, 2018). Public support for state-level bail reform declined while support for preventative detention grew (Peter Jr., 1989; Smith, 2018).

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1    United States Constitution amend. I - X. 1789
2    28 United States Constitution §153; 31 Cha. 2 c. 2 (1969).

3    S.REP. No. 750, 89th Cong., 1st Sess. 6 (1965).

Preventative detention laws followed the 1966 Act's capital crime case exception, allowing judges to detain individuals they deemed potentially dangerous without bail. Federal legislation began to undo the 1966 Act. Richard Nixon's Attorney General John Mitchell drew on the 1966 Act's qualification that those charged with "capital crimes" could be detained pre-trial without bail.

Mitchell argued that the justification for this exception—namely that these defendants posed a risk to public safety—applied equally to those who committed "noncapital but dangerous crimes" (Mitchell, 1969). This logic propelled a looser interpretation of the 1966 Bail Act, widening the number of defendants judges deemed "dangerous," and detained preventatively (Mitchell, 1969). Defendant advocacy groups immediately raised concerns that this practice propelled socioeconomic and racial discrimination (Center on the Administration of Criminal Law, 2017).

Ronald Reagan replaced Johnson's 1966 Act with the Bail Reform Act of 1984 (Carson & Nadel, 2022). The 1984 Act authorized judges to order preventative detention of any defendant (not only those charged with capital crimes) to guarantee trial attendance or protect public safety and to consider factors beyond guaranteeing trial attendance (*e.g.*, history of alcohol abuse) in release decisions. The Act also (1) expanded the list of release conditions enumerated in the 1966 Act (Bail Reform Act of 1984, 1984); (2) granted law enforcement officers additional authority to arrest those in violation of release conditions; and (3) flipped the 1966 Act's presumption of release to a presumption of detention in several cases, including when a person had appealed their conviction (T. E. Scott, 1989).

Most concerningly, the 1984 Act left assessment of "danger" and bail assignment to judges without provisions to prevent bias (Bail Reform Act of 1984, 1984). This leeway

effectively allowed courts to punish accused individuals regardless of guilt, and judge evaluations of "dangerousness" were often biased, as racial bias alters impressions of flight risk and potential danger (Arnold et al., 2018; Riley, 2020; Schlesinger, 2005). The 1984 Act was unsuccessfully challenged in the 1987 *United States v. Salerno* (Carlucci, 2020).[4]

### Need for Reform

As Johnson recognized nearly 60 years ago, pre-trial incarceration is expensive—especially for communities hurt by a pandemic's financial strain—and contributes to inequitable sentencing practices, which were exacerbated by Reagan's 1984 Act.

Cash bail fails to achieve the goals it was designed to achieve: decarceration, community protection, and trial attendance. By setting bail at exorbitant rates or denying it, bail fails to promote decarceration or guarantee trial attendance (Lowenkamp et al., 2013b; Súilleabháin & Kristich, 2018; *The Hidden Costs of Pretrial Detention Revisted*, 2022). Far from protecting communities, as the 1984 Act prioritized, pre-trial detention increases crime and recidivism, and harms the health of individuals and communities (Cochran et al., 2018; Cochran & Mears, 2013; Gupta et al., 2016; Nagin et al., 2009; Súilleabháin & Kristich, 2018; *The Hidden Costs of Pretrial Detention Revisted*, 2022; Williams, 2020). Support for bail reform is mounting, including support from prosecutors and law enforcement (*More Than 80 Current and Former Prosecutors and Law Enforcement Leaders Call for Bail Reform in Legal Filing*, 2019), and recent research has revealed that eliminating bail is not associated with increased danger or trial non-appearance on a city or state level (Barno et al., 2020; Riley, 2020).

We must reduce bail costs and preventative detention—and ultimately eliminate

bail—to promote community vitality and protect the health and safety of defendants and communities. Such reform requires a multi-pronged approach that focuses on reinvestment, uses caution regarding risk assessment, and creates community alternatives to bail.

### Policy Recommendations:

*Reinvest Resources Into Communities.*
Reducing pre-trial detention—which cost $13.6 billion in 2017—would save resources, limit incarceration-related health harms (and associated costs), and allow individuals to continue working (Rabuy, 2016). Several organizations suggest recovered funds should be reinvested in community infrastructure and social services (Sakala et al., 2018). Studies suggest that in a city of 100,000, ten additional community-led organizations addressing violence and strengthening social ties would lower murder rates by 9% (Sharkey, 2018).

*Use Caution When Relying on Risk Assessment Algorithms.*
Actuarial risk assessment tools, which use algorithms to predict risk of violence or recidivism, are commonly considered as an alternative to cash bail. Partly created to reduce bias, significant research criticizes risk assessment algorithms for exacerbating sentencing racial disparities (Hogan et al., 2021). These algorithms incorporate statistics (such as recidivism rate and past arrests) that are subject to racially disparate policing and arrest practices (Hogan et al., 2021; Kochel et al., 2011). Thus, these risk scores may incorporate and reproduce bias.

*For instance, the number of people falsely predicted to commit additional crimes is higher for defendants from racial or socioeconomic groups with disproportionately high recidivism and re-arrest rates (Angwin et al., 2016; Hogan et al., 2021).*

In addition, risk assessment algorithms tend to only be poorly or moderately accurate in predicting risk of recidivism or violence (Douglas et al., 2017). Further research is needed to address racial bias and predictive validity before risk assessment algorithms can be considered a viable alternative to cash bail.

*Consider Alternative Practices that Support Trial Attendance and Decarceration.*
Some states and cities have established alternative practices, such as community-based trial attendance encouragement programs, to improve trial attendance and support decarceration. In Spokane County, Washington, individuals released under a set of conditions or on their own recognizance attended hearings more often than those on bail (Richards & Griffin, 2019). In Orange County, California, replacing bail with non-monetary release and risk assessment increased attendance (Barno et al., 2020). Kentucky, Maryland, and Washington DC have started citing people in lieu of arrests, thus allowing them to stay home until their ordered court appearance (Rabuy & Kopf, 2016). In Seattle, the Law Enforcement Assisted Diversion program connects arrested individuals with social services rather than jail when cited (Rabuy & Kopf, 2016). In Los Angeles and Brooklyn, providing court reminders reduced non-appearance and secured attendance (Cyrus, 2022; Riley, 2020). The Bail Project advocates for subsidized transportation and childcare, and social support agency connections to increase court appearance (The Bail Project, 2020). Thus, there are a variety of established alternative practices to ensure trial attendance in place of cash bail and pretrial incarceration.

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4    *United States v. Salerno,* (481 U.S. 739 1987)

## Abolishing Cash Bail to Reduce Health Harms

Cash bail exposes individuals who have not been convicted to an environment that damages their health and the health of their communities, especially during pandemics like COVID-19. These individuals are disproportionately non-white and from low-income backgrounds. Cash bail has enabled racially and socioeconomically discriminatory pre-trial detention practices since its start in 7th Century Britain. Ensuing reform attempts, even when responding to persistent problems with cash bail, have failed to effectively and lastingly curb the health injustices of cash bail. Abolishing cash bail promises to reduce health harms, both by sparing people from dangerous jail conditions and by redirecting funds to address structural disadvantage that contribute to crime, thus promoting community vitality. The U.S. should replace cash bail and pre-trial detention with investments in community infrastructure and community-based reminder and trial attendance support programs. Such change would better achieve the goals of trial attendance, decarceration, and community safety that cash bail has sought to achieve in all of its historical iterations.

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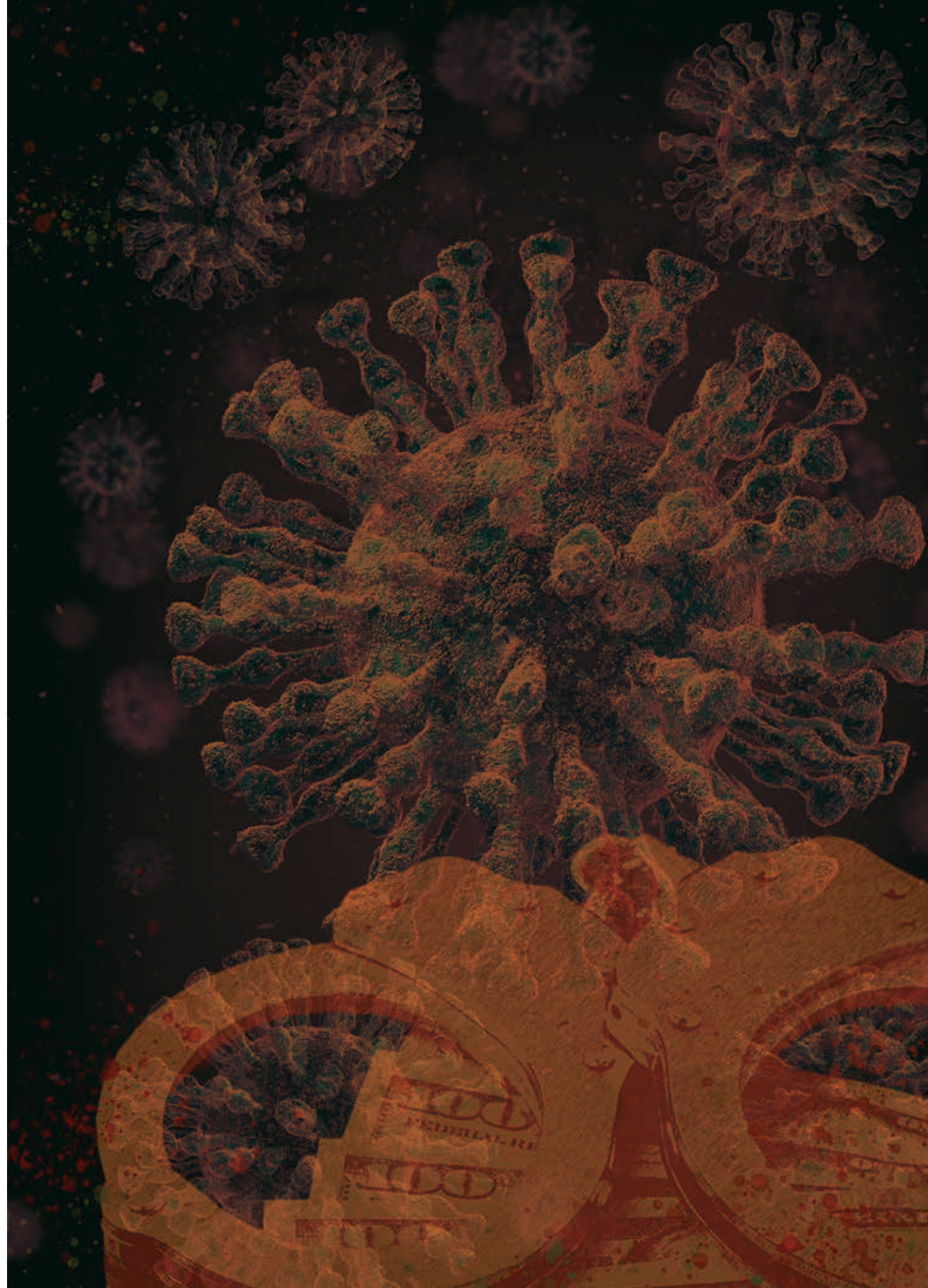
## References

Angwin, J., Larson, J., Mattu, S., & Kirchner, L. (2016, May 23). Machine Bias. *ProPublica*. https://www.propublica.org/article/machine-bias-risk-assessments-in-criminal-sentencing

Arnold, D., Dobbie, W., & Yang, C. S. (2018). Racial Bias in Bail Decisions. *The Quarterly Journal of Economics*, *133*(4), 1885–1932. https://doi.org/10.1093/qje/qjy012

*As criticism grows, supporters of bail reform describe fight as a civil rights struggle.* (2020, January 16). WRVO 89.9. https://www.wrvo.org/politics-and-government/2020-01-16/as-criticism-grows-supporters-of-bail-reform-describe-fight-as-a-civil-rights-struggle

Azhar-Graham, A., & Gallo, C. (2021). Reimagining public defense advocacy in times of Covid-19: Lessons from a task force. *Current Issues in Criminal Justice*, *33*(1), 126–130. https://doi.org/10.1080/10345329.2020.1840914

*Bail Reform: A Curated Collection of Links.* (2023, September 29). The Marshall Project. https://www.themarshallproject.org/records/1439-bail-reform

Bail Reform Act of 1966, Pub. L. No. Public Law 89-465 (1966).

Barno, M., Martínez, D. N., & Williams, K. R. (2020). Exploring Alternatives to Cash Bail: An Evaluation of Orange County's Pretrial Assessment and Release Supervision (PARS) Program. *American Journal of Criminal Justice*, *45*(3), 363–378. https://doi.org/10.1007/s12103-019-09506-3

Brinkley-Rubinstein, L. (2013). Incarceration as a catalyst for worsening health. *Health & Justice*, *1*(1), 3. https://doi.org/10.1186/2194-7899-1-3

Cain, C. M., & Ellison, J. M. (2022). Identifying Individuals at Risk of Suicide and Self-Harm in Jail. *Corrections*, 1–16. https://doi.org/10.1080/23774657.2022.2031350

Carlucci, W. (2020). Death of a Bail Bondsman: The Implementation and Successes of Nonmonetary, Risk-Based Bail Systems. *Emory Law Journal*, *69*(6), 1205.

Carson, E. A., & Nadel, M. (2022). *Impact of COVID-19 on State and Federal Prisons, March 2020-February 2021* (NCJ 304500). U.S. Department of Justice, Office of Justice Program, Bureau of Statistics.

Center on the Administration of Criminal Law. (2017). *Preventative Detention in New York: From Mainstream to Margin and Back*. NYU School of Law.

Chase, M., & Tsarkov, A. (2020). *Memorandum on Mental Health Care Need Classifications in Connecticut's Incarcerated Population*. The Connecticut Sentencing Commission. https://ctsentencingcommission.org/wp-content/uploads/2022/12/Mental-Health-Memo.pdf

Cochran, J. C., & Mears, D. P. (2013). Social isolation and inmate behavior: A conceptual framework for theorizing prison visitation and guiding and assessing research. *Journal of Criminal Justice*, *41*(4), 252–261. https://doi.org/10.1016/j.jcrimjus.2013.05.001

Cochran, J. C., Siennick, S. E., & Mears, D. P. (2018). Social Exclusion and Parental Incarceration Impacts on Adolescents' Networks and School Engagement. *Journal of Marriage and the Family*, *80*(2), 478–498. https://doi.org/10.1111/jomf.12464

*COVID Prison Project.* (n.d.). COVID Prison Project. Retrieved September 28, 2023, from https://covidprisonproject.com/

Cyrus, R. (2022, September 6). *The Alternative to Cash Bail Is a Simple Reminder—The American Prospect*. The American Prospect. https://prospect.org/justice/the-alternative-to-cash-bail-is-a-simple-reminder/

Douglas, T., Pugh, J., Singh, I., Savulescu, J., & Fazel, S. (2017). Risk assessment tools in criminal justice and forensic psychiatry: The need for better data. *European Psychiatry: The Journal of the Association of European Psychiatrists*, *42*, 134–137. https://doi.org/10.1016/j.eurpsy.2016.12.009

*Excessive Bail Prohibition: Historical Background.* (n.d.). Legal Information Institute. Retrieved September 28, 2023, from https://www.law.cornell.edu/constitution-conan/amendment-8/excessive-bail-prohibition-historical-background

Gillespie, L. (2023, June 22). Bankrate's Annual Emergency Fund Report. *Bankrate*. https://www.bankrate.com/banking/savings/emergency-savings-report/

Gronewold, A., & Durkin, E. (2022, March 27). Democrats' fight over bail reform might be a fight for the party's direction—POLITICO. *Politico*. https://www.politico.com/news/2022/03/27/democrats-bail-reform-partys-progressive-moderate-00020455

Gupta, A., Hansman, C., & Frenchman, E. (2016). The Heavy Costs of High Bail: Evidence from Judge Randomization. *The Journal of Legal Studies*, *45*(2), 471–505. https://doi.org/10.1086/688907

Hogan, N. R., Davidge, E. Q., & Corabian, G. (2021). On the Ethics and Practicalities of Artificial Intelligence, Risk Assessment, and Race. *The Journal of the American Academy of Psychiatry and the Law*, *49*(3), 326–334. https://doi.org/10.29158/JAAPL.200116-20

*How Staying in Jail Can Negatively Impact Your Health.* (2020, October 26). Matt Mckeehan Bail Bonds. https://www.bailbondspensacola.com/how-staying-in-jail-can-negatively-impact-your-health

Johnson, L. B. (1966). *Remarks at the Signing of the Bail Reform Act of 1966 | The American Presidency Project*. The Presidency Project. https://www.presidency.ucsb.edu/documents/remarks-the-signing-the-bail-reform-act-1966

Johnson, L., Gutridge, K., Parkes, J., Roy, A., & Plugge, E. (2021). Scoping review of mental health in prisons through the COVID-19 pandemic. *BMJ Open*, *11*(5), e046547. https://doi.org/10.1136/bmjopen-2020-046547

Kennedy, S., & Henry, D. A. (1996). *Commercial Surety Bail: Assessing Its Role In the Pretrial Release and Detention Decision*. Pretrial Services Resources Center.

Kochel, T. R., Wilson, D. B., & Mastrofski, S. D. (2011). Effect of Suspect Race on Officers' Arrest Decisions. *Criminology*, *49*(2), 473–512. https://doi.org/10.1111/j.1745-9125.2011.00230.x

Lewis, W. (1960). The Right To Complain: The Trial of John Peter Zenger. *American Bar Association Journal*, *46*(1), 27–111.

Lowenkamp, C. T., VanNostrand, M., & Holsinger, A. (2013a). *Investigating the Impact of Pretrial Detention on Sentencing Outcomes | National Institute of Corrections*. Laura and John Arnold Foundation. https://nicic.gov/resources/nic-library/all-library-items/investigating-impact-pretrial-detention-sentencing-outcomes

Lowenkamp, C. T., VanNostrand, M., & Holsinger, A. (2013b). *The Hidden Costs Of Pretrial Detention*. Laura and John Arnold Foundation. https://nicic.gov/resources/nic-library/all-library-items/investigating-impact-pretrial-detention-sentencing-outcomes

Lyons, K. (2020a, August 18). COVID, cash bail and "drive-by therapy": A deadly combination. *CT Mirror*. http://ctmirror.org/2020/08/18/covid-cash-bail-mental-health-reduction-deadly-combination/

Lyons, K. (2020b, November 18). "Why are we suffering if he's innocent until proven guilty?" Cash bail in the COVID era. *CT Mirror*. http://ctmirror.org/2020/11/18/why-are-we-suffering-if-hes-innocent-until-proven-guilty-cash-bail-in-the-covid-era/

Mayo Clinic Staff. (2023, July 22). COVID-19: How to manage your mental health during the pandemic. *COVID-19 and Your Mental Health*. https://www.mayoclinic.org/diseases-conditions/coronavirus/in-depth/mental-health-covid-19/art-20482731

McDowell, C. (2019). Assessing the Influence of Race on Monetary Bail. *UGA Journal of Economics*, *1*(2), Article 2. https://econjournal.terry.uga.edu/index.php/UGAJUE/article/view/36

McKinley, J., Feuer, A., & Ferré-Sadurní, L. (2019, December 31). Why Abolishing Bail for Some Crimes Has Law Enforcement on Edge. *The New York Times*. https://www.nytimes.com/2019/12/31/nyregion/cash-bail-reform-new-york.html

Mitchell, J. (1969). *Address by Honorable John N. Mitchell, Attorney General of the United States, Delivered Before the Annual Conference of United Press International Editors & Publishers*.

*More Than 80 Current and Former Prosecutors and Law Enforcement Leaders Call for Bail Reform in Legal Filing.* (2019). Georgetown Law Institute for Constitutional Advocacy and Protection. https://www.law.georgetown.edu/icap/our-press-releases/more-than-80-current-and-former-prosecutors-and-law-enforcement-leaders-call-for-bail-reform-in-legal-filing/

Nagin, D. S., Cullen, F. T., & Jonson, C. L. (2009). Imprisonment and Reoffending. *Crime and Justice*, *38*, 115–200. https://doi.org/10.1086/599202

*New Study Finds Crowded Jails Seeded Millions of Covid-19 Cases.* (2021, September 7). https://eji.org/news/new-study-finds-crowded-jails-seeded-millions-of-covid-19-cases/

Page, J., & Scott-Hayward, C. S. (2022). Bail and Pretrial Justice in the United States: A Field of Possibility. *Annual Review of Criminology*, *5*(1), 91–113. https://doi.org/10.1146/annurev-criminol-030920-093024

Patton, D., & Vars, F. (2020). Jail Suicide by Design. *UCLA L. Rev. Discourse*, *68*, 78.

Peter Jr., G. (1989). Preventative Detention in the United States: Crime Fighting Weapon or Political Tool of the Right? *Journal of Prisoners on Prisons*, *2*(1), 31–34.

*Position Statement 56: Mental Health Treatment in Correctional Facilities.* (n.d.). Mental Health America. Retrieved September 28, 2023, from https://www.mhanational.org/issues/position-statement-56-mental-health-treatment-correctional-facilities

Rabuy, B. (2016, July 12). Pretrial detention costs $13.6 billion each year. *Safety and Justice Challenge*. https://safetyandjusticechallenge.org/blog/pretrial-detention-costs-13-6-billion-year/

Rabuy, B., & Kopf, D. (2016). *Detaining the Poor: How Money Bail Perpetuates an Endless Cycle of Poverty and Jail Time*. Prison Policy Initiative. https://www.jstor.org/stable/resrep27303

Reinhart, E., & Chen, D. L. (2020). Incarceration And Its Disseminations: COVID-19 Pandemic Lessons From Chicago's Cook County Jail. *Health Affairs*, *39*(8), 1412–1418. https://doi.org/10.1377/hlthaff.2020.00652

Reinhart, E., & Chen, D. L. (2021). Association of Jail Decarceration and Anticontagion Policies With COVID-19 Case Growth Rates in US Counties. *JAMA Network Open*, *4*(9), e2123405. https://doi.org/10.1001/jamanetworkopen.2021.23405

Richards, C., & Griffin, D. (2019, August 30). States are trying to change a system that keeps poor people in jail. The bail industry is blocking them. | CNN. *CNN Investigates*. https://edition.cnn.com/2019/08/30/us/bail-reform-bonds-lobbying-invs/index.html

Riley, S. (2020, April 15). As coronavirus spreads, cash bail is a virtual death sentence. *USA TODAY*. https://www.usatoday.com/story/opinion/policing/2020/04/14/coronavirus-cash-bail-virtual-death-sentence/5125312002/

Sakala, L., Harvell, S., & Thomson, C. (2018). *Public Investment in Community-Driven Safety Initiatives*. Urban Institute. chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.urban.org/sites/default/files/publication/99262/public_investment_in_community-driven_safety_initiatives_1.pdf

Bail Reform Act of 1984, H.R. 5865, 98th Congress, 1983–1984 (1984).

Schlesinger, T. (2005). Racial and ethnic disparity in pretrial criminal processing. *Justice Quarterly*, *22*(2), 170–192. https://doi.org/10.1080/07418820500088929

Schnacke, T. R. (2018). A Brief History of Bail. *The Judges' Journal*, *57*(3), 4–7, 35–36.

Schnacke, T. R., Jones, M. R., & Brooker, C. M. B. (2010). *The History of Bail and Pretrial Release*. Pretrial Justice Institute.

Scott, A., & Barlyn, S. (2021, March 26). U.S. bail-bond insurers spend big to keep defendants paying. *Reuters*. https://www.reuters.com/article/us-usa-insurance-bail-jails-insight-idUSKBN2BI1BP

Scott, T. E. (1989). Pretrial Detention under the Bail Reform Act of 1984: An Empirical Analysis. *American Criminal Law Review*, *27*(1), 1–51.

Seibler, J.-M., & Snead, J. (2017). *The History of Cash Bail* (213; Legal Memorandum). The Heritage Foundation. https://www.heritage.org/courts/report/the-history-cash-bail

Shah, A., & Seervai, S. (2020, June 17). How the Cash Bail System Endangers the Health of Black Americans. *Advancing Health Equity*. https://www.commonwealthfund.org/blog/2020/how-cash-bail-system-endangers-health-black-americans

Sharkey, P. (2018, January 25). Op-Ed: Community investment, not punishment, is key to reducing violence. *Los Angeles Times*. https://www.latimes.com/opinion/op-ed/la-oe-sharkey-violence-community-investment-20180125-story.html

Smith, R. (2018). Condemned to Repeat History? Why the Last Movement for Bail Reform Failed, and How This One Can Succeed. *Georgetown Journal on Poverty Law and Policy*, *XXV*(3), 451–473.

Súilleabháin, A. Ó., & Kristich, C. (2018). *Cruelty and Cost: Money Bail in Buffalo*. Partnership for the Public Good.

The Bail Project. (2020, January 14). After Cash Bail: A Framework for Reimagining Pretrial Justice. *The Bail Project*. https://bailproject.org/learn/after-cash-bail/

*The Hidden Costs of Pretrial Detention Revisted*. (2022). Arnold Ventures. chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://craftmediabucket.s3.amazonaws.com/uploads/HiddenCosts.pdf

The President's Commission on Law Enforcement and Administration of Justice. (1967). *The Challenge of Crime in a Free Society*. (p. 351). Office of Justice Programs.

Toman, E. L., Cochran, J. C., & Cochran, J. K. (2018). Jailhouse Blues? The Adverse Effects of Pretrial Detention for Prison Social Order. *Criminal Justice and Behavior*, *45*(3), 316–339. https://doi.org/10.1177/0093854817753018

Tyler, A. L. (2021). *Habeas Corpus: A Very Short Introduction*. Oxford University Press.

*U.S. Commission on Civil Rights Releases Report: The Civil Rights Implications of Cash Bail | U.S. Commission on Civil Rights*. (n.d.). Retrieved September 28, 2023, from https://www.usccr.gov/news/2022/us-commission-civil-rights-releases-report-civil-rights-implications-cash-bail

Vasile, C. (2020). Mental health and immunity (Review). *Experimental and Therapeutic Medicine*, *20*(6), 211. https://doi.org/10.3892/etm.2020.9341

Wang, E. A., Western, B., Backes, E. P., & Schuck, J. (Eds.). (2020). *Decarcerating Correctional Facilities during COVID-19: Advancing Health, Equity, and Safety*. National Academies Press. https://doi.org/10.17226/25945

*What are bail bonds and who provides them?* (n.d.). Minnesota Freedom Fund. Retrieved September 29, 2023, from https://mnfreedomfund.org/for-profit-bail-explained

Williams, J. (2020, February 18). Stop Assuming Money Bail is an Effective Tool for Criminal Justice. *American Bar Association | Appellate Issues*, *2020 Winter Edition*. https://www.americanbar.org/groups/judicial/publications/appellate_issues/2020/winter/stop-assuming-money-bail-is-an-effective-tool-for-criminal-justice/

Witte, G., & Berman, M. (2021, December 19). Covid court backlog delays justice—The Washington Post. *The Washington Post*. https://perma.cc/Q8Z5-JF9J

**Chidinma Dureke , *Intrusive Thoughts,* 2023**
Ink, gouache and newspaper print on paper, 8 x 11.5 in.

# Dirty House

**By Monica Bell**

I've heard stories about people who have lost their children.

I was in high school—They would say:

"So-And-So got her kids taken because her house was too dirty."

I was scared to death.

I have heard of people.
that if your house isn't clean and They come in there and
your house is really filthy—

They would take your kids.

How filthy do your house have to be?

I'm not the neatest person
My house is comfortable—

How dirty does your house have to be for them to take your kids?

When they said "dirty," What do they mean?

When I look at "Hoarders"— I don't know if you know "Hoarders"—

I was thinkin',
This must be what they mean?

because I would think if they saw a pile of dirty clothes or whatever:

I wouldn't think they would say:
"I'm going to take your daughter."

How dirty does your house have to be?

# The JC Glossary

### By Jessica Pardim Araujo and Michael Bochkur Dratver

The Justice Collaboratory is dedicated to the thoughtful and deliberate use of language. In our commitment to maximize *The Notebook's* impact and accessibility, we have identified and defined key terms found primarily in the publication's pages as well as in the work of the JC at large. Each definition allows the reader—layperson, practitioner, or scholar—to better grasp an essential concept explored by one of the authors. We believe that this promotes a richer understanding and deeper connection with each piece. By ensuring that *The Notebook* can reach the broadest possible audience, the JC takes a fundamental step in promoting community vitality: ensuring resource availability. This guide is composed of current working definitions, while acknowledging that, as usage and thought continue to develop, so will meanings and applications. Thus, this tool is a dynamic, living composition of words and phrases most consequential to our theory-driven work. Additionally, the definitions here consider both the contexts of each individual piece that include the specific entries as well as broader criminal legal usage. We invite you to turn to this glossary as you read the articles, and in your conversations about the criminal legal system.

## A

**Adverse Childhood Experiences (ACEs)** Traumatic or distressing events children may face during their formative years (0-17). These experiences include physical or emotional abuse, neglect, and household dysfunction such as substance abuse and parental incarceration. Research has found ACEs to have significant and long-lasting effects on an individual's physical, mental, and emotional well-being, thus increasing the risk of various health issues, behavioral problems, and social challenges later in life. These negative impacts are exacerbated by the combination of multiple ACEs, and multiple less severe ACEs may have an equivalent impact as a single, more severe ACE.

## C

**Carceral** Refers to matters related to the prison or correctional system, including punitive policies, practices, institutions, and the broader societal impact of incarceration. This encompasses conditions, regulations, and consequences associated with confinement and control of individuals.

**Cash Bail** The system in which a judge may deem it necessary for a defendant to pay a sum of money to the court before and during their trial on the condition that it will be returned only if the defendant appears at all mandated court sessions. This system has been shown to have a disproportionate, adverse impact on people of color and those of lower socioeconomic statuses.

**Collective Unconscious** Carl Jung's concept that refers to a part of the deepest unconscious mind that is inherited through genetics rather than shaped by personal experiences, and it is common to all humans, influencing beliefs and instincts such as spirituality and fear. It is expressed through universal symbols called archetypes, shaping our thoughts, behaviors, and dreams.

**Commutation** The process by which incarcerated individuals may apply to have their sentences reduced, either in number of years, e.g., from 20 to 15 years in total sentence length, or from life in prison to a lesser term. This request is rarely accepted.

**Community-based interventions** An intervention framework that involves implementing programs and strategies within a local community that address social issues, rehabilitate individuals, and provide support services. It is considered a better alternative to incarceration as it emphasizes rehabilitation over punishment, aiming to reduce system involvement by addressing root issues and offering counseling, mental health services, and job training. These interventions are more cost-effective, promote community integration, and avoid stigmatization, thereby fostering a compassionate and humane approach to social challenges while creating a safer and more inclusive society.

**Community-based organizations (CBOs)** Non-profit, grassroot entities that operate at the local level to address specific needs and issues within a community. These organizations are typically formed and led by members of the community they serve and may focus on various domains, such as social services, education, healthcare, environment, or advocacy. CBOs are crucial in mobilizing resources, providing support and services, and empowering the community they serve.

**Community-based mentors** Individuals who voluntarily offer guidance and support within a specific community for a determined period of time. They spend one-on-one time with community members and share their expertise, offer advice, and help them navigate challenges in both social-emotional and academic domains.

**Community-based Participatory Action Research (CBPAR)** A research framework whose driving ethos is the inclusion of the most impacted individuals at the center of the respective issue being addressed. Community member inclusion may take on many forms—examples include being involved in developing research questions, data collection and analysis, and interpretation. These community members offer unique expertise and invaluable insight into the issues that the studied community is facing, which enhances the real-world implications and applicability of this research.

**Community justice** A justice framework that encompasses a diverse set of crime prevention and justice initiatives that openly involve the community in their procedures and aim to improve quality of life. These initiatives include community crime prevention, community policing, community defense, community prosecution, community courts, and restorative justice sanctioning systems. Together, they focus on solving problems at the community level, restoring victims and communities, and successfully integrating individuals impacted by the legal system.

**Community Violence Intervention (CVI)** A comprehensive and collaborative approach to reducing violence and promoting community safety. It involves various evidence-based strategies and programs that aim to prevent and respond to acts of violence, especially gun violence, through community engagement and targeted interventions. Community members, law enforcement, social service organizations, and other stakeholders work together to identify individuals at high risk of involvement in violence and provide them with support, resources, and opportunities to change their behaviors. These interventions often include conflict mediation, mentorship programs, job training, and access to social services to address the root causes of violence and create a safer environment for everyone in the community.

**Community vitality** Community vitality is the holistic state of well-being, which includes economic strength, social cohesion, and public safety, which impacts both individuals and the collective. This concept serves as the bedrock for fostering a just society, in which the strength of communities directly correlates with their safety, health, and prosperity.

**Criminal legal system** An advantageous alternative to "criminal justice system," "criminal legal system" acknowledges inherent biases and flaws within the system. The term "criminal justice system" may imply an idealized notion of fairness and equity, which can overlook the disproportionate impacts and injustices marginalized communities face. Using "criminal legal system," we recognize the need to address structural issues and work towards a more just and equitable system that upholds the principles of justice for all.

## D

**Decarceration** An idea and strategy to reduce the number of people held in prisons and correctional facilities. It involves implementing policies and practices that prioritize alternatives to incarceration and focus on addressing the root causes of crime.

**Dehumanization** The psychological process of portraying or treating individuals or groups as less than human, often with the intention of justifying mistreatment, discrimination, or violence against them. It involves denying the fundamental qualities, rights, and dignity inherent to being human, leading to the objectification and degradation of the targeted individuals or groups. Dehumanization can take various forms, including derogatory language, stereotypes, or propaganda portraying the targeted individuals as subhuman, unworthy, or dangerous. This process is often employed in situations of conflict, oppression, or discrimination, and it can have severe and long-lasting consequences on the affected individuals and societies, perpetuating cycles of violence and injustice.

## E

**Empirical Research** Qualitative or quantitative research that relies upon observation, description, or measurement of real-world phenomena, in contrast to pure theory.

## F

**Fair Chance Hiring**  A policy that seeks to give justice-impacted individuals more equal employment opportunities to those who have not been impacted by the legal system. Typically, this policy states that employers may inquire about a candidate's history in the legal system only after thoroughly considering the candidate's qualifications relevant to the position and extending a conditional offer. If a background check of a candidate reveals a history of involvement in the legal system, then employers are urged to consider the nature of the history, the time passed since this history, and the nature of the position in which they have proved qualified.

**Family regulation system**  The extreme surveillance and regulation of families by government agencies and courts. Central to its operation is the view that parents pose as potential sources of threat and danger to their children and that the most effective way to protect them is separation. This strategy fails to acknowledge its outsized harm done on children and families, and it further fails to address the significant issues—housing, income, or health—that families may be facing.

**Focused Deterrence**  A crime prevention strategy that aims to reduce criminal behavior and violence by intervening in the actions of specific high-risk individuals, groups, and areas while employing a mix of law enforcement, community engagement, and social services. An intervention meeting, or "call-in," is often the first step in the process, where at-risk persons are informed of the repercussions of their behavior and given incentives to stop.

## G

**Gatekeeping**  The practice of individuals or groups in positions of power controlling and limiting access to certain resources, opportunities, or information.

**Generative dialogue**  A form of constructive and collaborative communication to foster creativity, mutual understanding, and innovative problem-solving among participants. In a generative dialogue, individuals engage in open and respectful discussions where they actively listen to one another's perspectives, share ideas, and explore diverse viewpoints without judgment or defensiveness. The emphasis is placed on creating a safe and inclusive space that encourages exchanging ideas and insights, leading to new possibilities and shared understanding. This type of dialogue encourages collective learning and empowers participants to co-create solutions that transcend individual perspectives, contributing to positive change.

**Government oversight**  Often referred to as Congressional oversight, it is the process by which legislative bodies review, monitor, and supervise government agencies, programs, and policy implementation. This oversight holds the government accountable, ensures transparency, and evaluates various programs' efficiency. Methods of oversight include committee hearings, investigations, reports, audits, and budgetary control.

## I

**Implicit bias**  Individuals' unconscious attitudes, beliefs, and stereotypes towards certain groups. These biases can influence how people perceive, interact with, and make judgments about others, even if they consciously hold egalitarian values. Implicit biases are formed through repeated exposure to cultural messages and societal norms, and they can affect decision-making processes in various domains, including hiring, education, law enforcement, and healthcare.

## J

**Justice-impacted individuals**  Individuals who have been incarcerated or detained in a prison, immigration detention facility, local jail, juvenile detention facility, or any other carceral setting, as well as those who have been charged but not proven guilty, those who have been arrested, and those on parole and probation, are all considered justice-impacted individuals. Additionally, "justice-impacted individuals" is a non-stigmatizing language alternative for terms such as "criminals," "offenders," or "convicts."

## L

**Legitimacy**  The perception of how rightful and justified an authority is to govern, make decisions, or take actions aligned with accepted norms, laws, or principles within a given context. Legitimacy is a crucial element in maintaining social order, stability, and trust in governance and leadership, as it ensures that power is exercised fairly and in the best interest of the community or society at large.

## M

**Mass incarceration**  Refers to the deliberate and disproportionate imprisonment of a large portion of a population, often due to inequitable criminal legal policies, including mandatory sentencing, three-strikes laws, and the War on Drugs. This term is frequently used to describe the phenomenon of an abnormally high number of individuals, particularly from marginalized communities, being incarcerated for various offenses, perpetuating the dehumanization of people of color and long-term social and economic consequences.

**Mandated supporting**  An advantageous alternative to mandatory reporting. Professionals who are mandated reporters must notify their state's respective Child Protective Services (CPS) organization of any suspicions of child maltreatment or abuse. While in some situations children are legitimately at risk and must be removed for their own safety, other times keeping children with their families while providing meaningful support, services, and resources to the struggling caregivers better prevents harms that families endure as a consequence of a CPS complaint.

**Melting pot**  A metaphor intended to describe the American ethos of oneness, imagining the U.S. as a land in which a variety of cultures and peoples "melt" together, or assimilate to one another, to form a unified, homogenous group. Superficially, this ideal has its merits in its promotion of community values. However, recent scrutiny of the concept has pointed to its disregarding of the unique characteristics, contributions, and challenges that individual groups have despite being a part of the greater American society. The artwork by Mr. Katsaros plays off of the concept of a "melting-pot," or more precisely, an "anti-melting pot."

## O

**Othering**  The act of treating certain individuals or groups as outsiders (us vs. them), often based on factors such as race, ethnicity, religion, nationality, or socioeconomic status, which can lead to stigmatization, marginalization, unfair treatment, and exclusion of these individuals or groups.

## P

**Principle of normality**  An approach used by the Norwegian Correctional Service in which punishment is considered the restriction of freedom and no additional rights are removed by the court. As a result, the detained person is entitled to the same rights as any other Norwegian citizen, including the right to an education. The convicted individual must be put in the lowest security regime feasible, and no one shall serve their sentence under more stringent conditions than are essential for the community's protection. Ultimately, life inside should match life outside as closely as possible while a person is serving their sentence.

**Place-based policing**  A research-backed alternative to person-based policing. Place-based policing focuses on areas where crimes are concentrated and assumes that something about a location makes crimes more likely to occur there. Place-based policing offers a method that, in terms of allocating police resources, is more effective than person-based policing.

**Procedural Justice (PJ)**  The idea of fair processes. This theory highlights that people's perception of fairness is strongly influenced by their experiential quality, not just final outcomes. The perception of fairness is determined by four key factors: (1) whether the individual was treated with dignity and respect, (2) given a chance to voice their concerns, (3) dealt with by impartial and transparent decision-makers, and (4) felt that the motives behind the decision were trustworthy.

**Prosocial behavior**  Refers to behavior that benefits or helps others, constructively contributing to individuals' or groups' well-being, cooperation, and social harmony.

**Public safety**  Collective measures and initiatives undertaken by governments and communities to safeguard the well-being and security of the community. It involves a wide range of efforts, such as law enforcement activities, emergency response, and community engagement programs.

**Punitive justice**  A justice framework that emphasizes punishment as the primary method of deterring future harm and incapacitating "evil" people. This approach narrowly focuses on the individual and their criminal actions, which does not holistically address or resolve the root causes leading to their behavioral issues.

## R

**Racial bias**  The conscious or unconscious tendency or inclination of individuals or institutions to hold prejudiced attitudes, beliefs, or stereotypes that can lead to unfair and discriminatory treatment based on a person's race or ethnicity. Racial bias can manifest in various ways, such as racial profiling, unequal opportunities, discriminatory practices, and negative perceptions or assumptions about individuals based on race. It is essential to recognize and address racial bias to promote equality, social justice, and a more inclusive society that respects and values the diversity of its members.

**Recidivism crisis**  A characterization of the alarming rates of recidivism, the phenomenon of reentry into the criminal legal system after an initial arrest. Based on a report by the Bureau of Justice Statistics, within 5 years of one's arrest, there is a 76.6% chance that one will be rearrested and a 55.1% chance that one will be reimprisoned. Experts point to a lack of access to housing, employment, education, and substance-abuse rehabilitation programs post-release as some of the variety of factors that contribute to this pattern.

**Reparation**  A goal and call to action for current systems of power to make amends with the past's injustices, particularly for Black Americans impacted by slavery and the country's subsequent history of racism. Reparation itself may take on many forms, ranging from state-funded social programs that aim to address certain issues facing particular populations to direct monetary compensation.

**Reparative public goods**  A specific category of public goods aimed at addressing historical injustices, systemic inequalities, and social disparities. Reparative public goods center on the idea of redress and reparation, seeking to go beyond what has traditionally been considered "universal" public goods. Instead of merely providing services to the general population, reparative public goods are intentionally designed to target and benefit marginalized or disadvantaged communities that have been affected by discrimination and exclusion. These goods are envisioned as essential components of a world where social housing, healthcare, education, art, meaningful work, and a life free from violence and material deprivation are prioritized.

**Reintegration**  A process of welcoming individuals who have been marginalized, excluded, or alienated back into society, communities, or mainstream life. It most often applies to individuals who have experienced social or legal challenges, such as former incarceration. It involves providing resources, support, and opportunities like education, job training, and counseling to prevent future exclusion and promote a sense of belonging.

**Restorative Justice (RJ)**  A legal framework that seeks to heal victims and ameliorate harms with a focus on the inclusion of all parties related to an offense, including the actor who caused the harm, victims, bystanders, witnesses, governing agencies, and law enforcement. RJ's theoretical impetus is that by ensuring that all parties are able to communicate their perspectives, the individual who caused the harm may better understand the negative impacts of their behavior and take responsibility for their actions in order to disrupt the cycle of harm. This communication may take on many forms, but one example is moderated meetings that aim to establish understanding, accountability, and the most beneficial steps forward.

## S

**School-to-prison pipeline**  The disproportionate trend of minors and young adults from disadvantaged backgrounds becoming incarcerated. This phenomenon stems from the implementation of increasingly harsh school and municipal policies and educational inequality in the U.S. Experts have identified several contributing factors to this pipeline, including school disturbance laws, zero-tolerance policies and practices, and the presence of police in schools. These elements collectively create the "pipeline" effect, channeling vulnerable individuals towards the criminal legal system.

**Stigmatizing language**  Words, phrases, or expressions perpetuating negative stereotypes, prejudice, or discrimination against individuals or groups based on specific characteristics, identities, or involvement in the legal system. For instance, using terms such as "criminals," "offenders," or "convicts" to describe individuals who have been accused or convicted of crimes can dehumanize them and perpetuate inequitable treatment. Such language may reinforce societal biases and hinder the reintegration and rehabilitation of justice-involved individuals. Adopting non-stigmatizing language, such as referring to individuals as "justice-involved persons" or "people with past legal involvement," promotes a more respectful and empathetic environment, recognizing the dignity and humanity of all individuals.

## T

**Transitional Justice (TJ)**  A framework containing measures and processes that societies undertake to address past human rights abuses, widespread violence, or mass atrocities in periods of political transition or after conflict. It aims to promote accountability, justice, reconciliation, and healing for victims and affected communities, thereby facilitating the transition to a more stable and democratic society. Transitional justice mechanisms can include trials for perpetrators, truth commissions to uncover and document past abuses, reparations for victims, institutional reforms, and other initiatives to address the legacies of violence and ensure that such atrocities do not recur. Transitional justice aims to balance addressing past injustices and building sustainable peace for the future.

**Trauma-informed intervention**  An intervention approach that acknowledges the widespread impact of trauma on individuals' lives, focusing on creating a safe, empowering, and understanding environment. It acknowledges the significance of the effects of past traumas on emotional, physical, and psychological well-being, actively avoiding retraumatization, and fostering healing and resilience through trust, choice, collaboration, and sensitivity to unique needs. By integrating trauma-informed practices into their work, legal professionals can create a safe and supportive environment. This can be done by utilizing communication styles sensitive to trauma survivors, offering choices and control whenever possible, and collaborating with mental health experts when necessary, thereby fostering greater understanding, empathy, and healing. Ultimately, this approach promotes more just and equitable outcomes in the legal system.

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## References

*9-140.000—Pardon Attorney*. (2018). Department of Justice. https://www.justice.gov/jm/jm-9-140000-pardon-attorney

Adams, C. (2021, March 26). *Evanston is the first U.S. city to issue slavery reparations. Experts say it's a noble start.* NBC News. https://www.nbcnews.com/news/nbcblk/evanston-s-reparations-plan-noble-start-complicated-process-experts-say-n1262096

*Adverse Childhood Experiences (ACEs)*. (2023, June 29). https://www.cdc.gov/violenceprevention/aces/index.html

Apel, H. (2020, August 25). *Reparative Public Goods and the Future of Finance: A Fantasy in Three Parts Hannah Appel - American Ethnological Society*. https://americanethnologist.org/online-content/collections/post-covid-fantasies/reparative-public-goods-and-the-future-of-finance-a-fantasy-in-three-parts/

Bastian, B., & Haslam, N. (2011). Experiencing Dehumanization: Cognitive and Emotional Effects of Everyday Dehumanization. *Basic and Applied Social Psychology, 33*(4), 295–303. https://doi.org/10.1080/01973533.2011.614132

Bidwell, L., & Polley, L. (n.d.). 'Mind your language': What people in prison think about the language used to describe them. *The Howard Journal of Crime and Justice, n/a*(n/a). https://doi.org/10.1111/hojo.12515

Bodamer, E., & Langer, D. (n.d.). *Justice-Impacted Individuals in the Pipeline: A National Exploration of Law School Policies and Practices | The Law School Admission Council.* Retrieved August 2, 2023, from https://www.lsac.org/data-research/research/justice-impacted-individuals-pipeline-national-exploration-law-school

Bottolfs, H. (n.d.). *The principle of normality – in regular and Extraordinary Times.*

Bourne, R. S. (2018, September 12). *Against the Ideal of a 'Melting Pot.'* The Atlantic. https://www.theatlantic.com/politics/archive/2018/09/immigration-randolph-s-bourne/569836/

Burns, J., Cooke, D., & Schweidler, C. (2011). A Short Guide to Community Based Participatory Action Research. *Advancement Project-Healthy City Community Research Lab.* https://hc-v6-static.s3.amazonaws.com/media/resources/tmp/cbpar.pdf

Bryant, E. (2021, December 1). *Why We Say "Criminal Legal System," Not "Criminal Justice System."* Vera Institute of Justice. https://www.vera.org/news/why-we-say-criminal-legal-system-not-criminal-justice-system

Checkr. (2022, February 24). What are Fair Chance Hiring Practices? | Checkr Blog. Checkr. https://checkr.com/blog/what-are-fair-chance-hiring-practices

*Community Based Violence Intervention and Prevention Initiative (CVIPI) | Overview.* (n.d.). Bureau of Justice Assistance. Retrieved August 2, 2023, from https://bja.ojp.gov/program/community-violence-intervention/overview

Cowell, B. (2008, January 24). *Place-Based Policing.* National Policing Institute. https://www.policinginstitute.org/publication/place-based-policing/

Durose, M. R., Cooper, A. D., & Snyder, H. N. (2014). Recidivism of Prisoners Released in 30 States in 2005: Patterns from 2005 to 2010. *Washington, DC: US Department of Justice, Office of Justice Programs, Bureau of Justice Statistics., Vol. 28.*

*Focused Deterrence In Depth.* (n.d.). Retrieved August 2, 2023, from https://www.rand.org/pubs/tools/TL261/better-policing-toolkit/all-strategies/focused-deterrence/in-depth.html

Friedman, B. (2021). *What is Public Safety?* (SSRN Scholarly Paper 3808187). https://papers.ssrn.com/abstract=3808187

Goldner, L., & Ben-Eliyahu, A. (2021). Unpacking Community-Based Youth Mentoring Relationships: An Integrative Review. *International Journal of Environmental Research and Public Health, 18*(11), Article 11. https://doi.org/10.3390/ijerph18115666

Griffiths, C. T., Dandurand, Y., & Murdoch, D. (2007). *The social reintegration of offenders and crime prevention.* National Crime Prevention Centre.

Hatch, R. (2017, June 2). What is Community Vitality? *McConnell Foundation.* https://www.mcconnellfoundation.org/what-is-community-vitality/

Hawks, L., Lopoo, E., Puglisi, L., Cellini, J., Thompson, K., Halberstam, A., Tolliver, D., Martinez-Hamilton, S., & Wang, E. (2022). Community investment interventions as a means for decarceration: A scoping review. *The Lancet Regional Health - Americas, 8,* 100150. https://doi.org/10.1016/j.lana.2021.100150

*How to Have Generative Conversations That Matter.* (2021, July 28). https://www.resonancerising.org/blog/how-to-have-generative-conversations-that-matter

Hurd, I. (n.d.). *Legitimacy.* The Princeton Encyclopedia of Self-Determination. Retrieved August 2, 2023, from https://pesd.princeton.edu/node/516

*Implicit Bias | SWD at NIH.* (n.d.). Retrieved August 2, 2023, from https://diversity.nih.gov/sociocultural-factors/implicit-bias

Karp, D. R., & Clear, T. R. (2000). Community Justice: A Conceptual Framework. *Criminal Justice, 2.*

*Mandated Supporting.* (n.d.). JMACforFamilies. Retrieved August 2, 2023, from https://jmacforfamilies.org/mandated-supporting

Menkel-Meadow, C. (2007). Restorative Justice: What Is It and Does It Work? *Annual Review of Law and Social Science, 3*(1), 161–187. https://doi.org/10.1146/annurev.lawsocsci.2.081805.110005

Pettus-Davis, C., & Epperson, M. W. (2015). *From Mass Incarceration to Smart Decarceration.*

*Procedural Justice and Police Legitimacy.* (n.d.). Retrieved August 2, 2023, from https://post.ca.gov/procedural-justice-and-police-legitimacy

*Procedural Justice—Yale Law School.* (n.d.). Retrieved August 2, 2023, from https://law.yale.edu/justice-collaboratory/procedural-justice

Ray, R., & Perry, A. (2020). Why we need reparations for Black Americans. *Brookings.* https://www.brookings.edu/articles/why-we-need-reparations-for-black-americans/

Seligman, A. I. (2022). Community-Based Organizations. In *Oxford Research Encyclopedia of American History.* https://doi.org/10.1093/acrefore/9780199329175.013.794

Stabile, S. J. (2009). "Othering" and the Law. *SSRN Electronic Journal.* https://doi.org/10.2139/ssrn.1301720

*What Is Transitional Justice? | International Center for Transitional Justice.* (n.d.). Retrieved August 2, 2023, from https://www.ictj.org/what-transitional-justice

Williams, S. A. S. (2011). Bias, Race. In S. Goldstein & J. A. Naglieri (Eds.), *Encyclopedia of Child Behavior and Development* (pp. 235–237). Springer US. https://doi.org/10.1007/978-0-387-79061-9_329

Wilson, D. J. (2018). The Recidivism Problem. *CoreCivic.* https://www.corecivic.com/hubfs/_resources/_factsheets/FACTSHEET-Reentry-Commitment.pdf

# About the Artist



**Chidinma Dureke** is an American painter and graphic artist whose work synthesizes elements of African art history, traditional portrait painting, and modern-day mass media. Born in Washington D.C. to Nigerian parents, a cross-cultural perspective characterizes her art, which investigates and celebrates Black identity across both continents. Her work has been featured in *The Baltimore Sun*, *Essence.com*, and *Buzzfeed*.

Dureke is also the founder, principal designer, and lead curator of CHDesignz — a full-service graphics, illustration, and design studio committed to helping brands and organizations tell their stories through thoughtful, bold, and extraordinary designs. She earned a BFA from Frostburg State University in Graphic Design and Painting and is currently pursuing her MFA at the Leroy E. Hoffberger School of Painting at the Maryland Institute College of Art (MICA).

In 2023, Dureke was selected as a production designer for the ColorCreative Inaugural Film *Cohort Find Your People Program* (FYPP), featured in the Hollywood Reporter.

Visit Chidinma-Dureke.com or CHDesignz.com to follow Chi-Chi's creative journey!