

RETURNING CITIZEN'S REENTRY: A SECOND CHANCE

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BLESS REECE



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## Introduction

The United States of America, the land of the free, is notorious for holding the highest prison rate in the world with approximately 2.3 million people in state prisons, federal prisons, juvenile correctional facilities, local jails, Indian Country jails, military prisons, immigration detention facilities, civil commitment centers, and state psychiatric hospitals.<sup>1</sup>

The circular nature of American history can be seen starting with the enslavement of Africans, which was abolished following the 13th amendment stating, “Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.” This amendment abolished slavery but allowed convicts to be reimagined as slaves. During Reconstruction following the Civil War, black codes were passed starting in 1865 as a new form of control over African Americans. These varied by state, but examples include: blacks had to have written evidence of employment, and were not allowed to hold any occupation other than farmer or servant unless they paid an annual tax of \$10 to \$100.<sup>2</sup> If an individual was found in violation of these restrictive laws, they were subject to heavy penalties, including incarceration, which usually involved plantation work.<sup>3</sup> The following increase of black prisoners allowed the south to hold tight to both the survival of slavery and white supremacy.

Even after the black codes were overturned, history continued to circle back around when small “criminal offenses” such as “mischief” or “insulting gestures” were disproportionately enforced against blacks. This coupled with convict leasing<sup>4</sup> allowed the south to prosper again.<sup>5</sup> African Americans were being arrested in the thousands and give insurmountable fines and fees they were unable to pay and by extension sold into forced labor again. Incarceration grew ten times faster than the general population, and quickly became younger and blacker.<sup>6</sup> After convict leasing ended, the Jim Crow era began and yet again, black people were forced into an unjust system where they were disproportionately placed out of society’s eye and deemed less than human, rather than the label “slave”, it transformed to become “convict.”

As time continued these past systems crumbled and the pieces were reconfigured through Nixon’s 1971 declaration against drugs, “public enemy number one.” The “war” was focused on targeting specific types of substance abuse. He initiated increased federal funding for drug control agencies, introduced mandatory minimums for drug crimes, and treated drug abuse and dependence as a crime rather than a health issue. The 1970s became an era defined by mass incarceration through his rhetoric of law and order. Soon enough crime began to stand in for race.

<sup>1</sup>Sawyer, Wendy, and Peter Wagner. “Mass Incarceration: The Whole Pie 2019.” *prisonpolicy.org*. Prison Policy Initiative, 19 March. 2019.

<sup>2</sup> “Black Codes.” *History.com*. A&E Television Networks, 10 October, 2019.

<sup>3</sup> “Black Codes.” *History.com*. A&E Television Networks, 10 October, 2019.

<sup>4</sup> Convict leasing allowed prisoners who were contracted under the status of laborer to be sold to the highest private bidder, most of the work was for farming, railroad work, mining, and logging.

<sup>5</sup>Jones, Aristotle. “The Evolution: Slavery to Mass Incarceration.” *huffpost.com*. 6 October, 2016.

<sup>6</sup> Oshinsky, David M. *Worse Than Slavery: Parchman Farm and the Ordeal of Jim Crow Justice*. New York: Free Press, 1996.

His war on crime was referring to his “enemies,” the black political movements, the anti-war left, as well as women’s liberation and gay liberation movements.<sup>7</sup> His domestic policy chief, John Ehrlichman, explained in an interview, “We knew we couldn’t make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course, we did.”<sup>8</sup>

There was a slight break in these policies during Jimmy Carter’s presidency, but President Reagan along with his wife’s “Just Say No” campaign, reinforced and expanded the War on Drugs. Declared in 1982, this was known as the “modern war on drugs.”<sup>9</sup> Despite the fact that at the time, Americans did not believe drugs to be a large issue in the country, Reagan was determined to make it a problem. Simultaneously, there was a deep recession coinciding with Reagan’s cuts in domestic spending on programs such as education, welfare, jobs, and health care along with a steep increase in poverty.<sup>10</sup> Then crack, a variation of cocaine, was introduced and due to its ability to be given in small and relatively inexpensive doses and it began to take over communities, in particular black communities. The Anti-Drug Abuse Act of 1986 was introduced and established mandatory minimum sentences for certain drug offenses.<sup>11</sup> This act is known for its racial bias as it enforced longer sentences for offenses with the same amount of crack cocaine, used more by blacks, than those for powder cocaine, which was used more by whites.<sup>12</sup> For example, one would get the same sentence for 1 ounce of crack cocaine as 100 ounces of powder cocaine.<sup>13</sup> Overall, these policies lead to people of color being targeted and arrested on suspicion of drug use and/or distribution at higher rates than whites.<sup>14</sup> Communities of color were being broken up as the carceral system was taking more and more men of color and for extremely long amounts of time. The war on drugs became the culmination of criminalizing the problems of hyper-segregation, economic inequality, and drug abuse.<sup>15</sup> Time and time again black people were not understood to be full human beings, instead they were understood as the image of a criminal and a threat.

Our criminal justice system is full of injustice, extending far beyond the confines of the hundreds of prisons littered across this country. It reaches within our school systems, providing students with a severe lack of education and opportunity, pushing them towards the streets and into incarceration, and upon their release, funneling them back into the system. The media has made a habit of showing black men overrepresented as criminals, much more than is accurate. Whether this is the local news showing the arrests of people of color, or popular television shows such as “Cops”, these images begin to shape the public perception to see these mostly black and brown people as violent offenders who need to be kept away from society, reinforcing the idea

7 *13TH*. Directed by Ava Duvernay, and Jason Moran. Forward Movement, Kandoo Films, Netflix, 2016.

8 “War on Drugs.” *History.com*. A&E Television Networks, 17 December, 2019.

9 *13TH*. Directed by Ava Duvernay, and Jason Moran. Forward Movement, Kandoo Films, Netflix, 2016.

10 “1980-82 Early 1908s Recession.” *berkeley.edu*. 2011.

11 “War on Drugs.” *History.com*. A&E Television Networks, 17 December, 2019.

12 “War on Drugs.” *History.com*. A&E Television Networks, 17 December, 2019.

13 *13TH*. Directed by Ava Duvernay, and Jason Moran. Forward Movement, Kandoo Films, Netflix, 2016.

14 “War on Drugs.” *History.com*. A&E Television Networks, 17 December, 2019.

15 *13TH*. Directed by Ava Duvernay, and Jason Moran. Forward Movement, Kandoo Films, Netflix, 2016.

that having prisons is equivalent to having a safe society. During the late 1980s and early 1990s, this generation of children of color were referred to as “super predators,” and were hyper criminalized. It was emphasized that these were no longer “kids” but criminals in order to make it easier to accept they were guilty and deserved the punishment of prison.<sup>16</sup> President Bush won the 1988 election with fear tactics, continuing to paint the black man as a criminal through “ambiguous” rhetoric. His ads against Michael Dukakis showed his opponent as soft on crime because he allowed Willie Horton, an African American man convicted of assault, armed robbery, and rape, into a weekend furlough program.<sup>17</sup> This feature brought back images of the violent black male rapist once again focusing on the criminality of the black man, and again instilling fear into the white imagination.

As the idea being “tough on crime” continued to be a staple in the past presidencies, Democratic candidates soon picked up that slack and adopted the same position to convince the public that they could also keep communities safe and Bill Clinton was elected. As a wave of violent crime came about, California enforced the “Three Strikes and You’re Out” law, stating that when one commits a third violent crime they will essentially be placed in prison for the rest of their lives. This was in line with the country’s mandatory minimum sentencing, which took away the context surrounding a crime, simply mandating a judge to enforce injustice. There was also the truth in sentencing law that enforced people to serve 85% of their sentence. Parole was to serve as a mechanism for taking people out of prisons when they were deemed no longer a threat to the public, but with these laws in place there was no longer this idea of rehabilitation. It was simply the overplay of a baseball game slogan, “three strikes and you’re out,” with little emphasis on the fact that those being sentenced to life without parole were doomed to die in prison.

Then the 1994 Federal Crime Bill was passed, utilizing \$30 billion for law enforcement and incarceration. Among many things it took away the ability for prisoners to apply for Pell Grants essentially taking away the majority of the inmate population’s ability to obtain a college education while incarcerated.<sup>18</sup> This bill expanded the prison system, providing states with funding to build prisons, as well as expanded police presence in the communities with as many as 100,000 officers on the street.<sup>19</sup> This boils down to the system we see today, the militarization of the police and the resulting increase in prison population.

The above focused on a very general history of mass incarceration as a primer and introduction to the rest of this booklet. There is much more to the system that has not been discussed including, but not exclusively: bail, plea bargaining, jury shuffling, prison conditions, etc. the list could go on. This booklet focuses on reentry, simply defined as the reintegration of returning citizens, individuals who were formerly incarcerated, into society. The issue with reentry is that it is often overlooked when confronting the tangled web of interconnected topics within the term mass incarceration in the United States. However, its relevance cannot be understated. It should be noted that within one year of release 56.7% of returning citizens will be rearrested, within two years of release 67.8% will be rearrested, and within three years of release 76.6% will

16 *13TH*. Directed by Ava Duvernay, and Jason Moran. Forward Movement, Kandoo Films, Netflix, 2016.

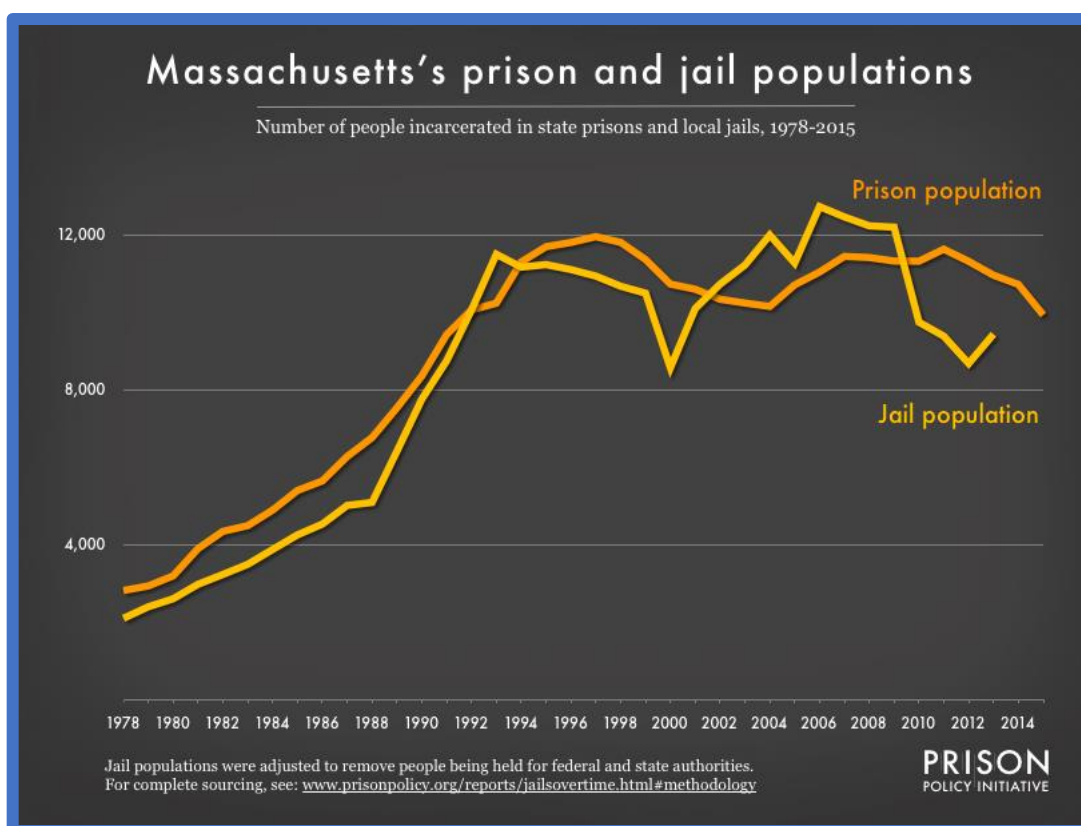
17 *13TH*. Directed by Ava Duvernay, and Jason Moran. Forward Movement, Kandoo Films, Netflix, 2016.

18 Lennon, John J. “How Biden Killed Prison Education.” *theatlantic.com*. 6 November, 2019.

19 *13TH*. Directed by Ava Duvernay, and Jason Moran. Forward Movement, Kandoo Films, Netflix, 2016.

be rearrested.<sup>20</sup> This is a direct result of the many hardships that returning citizens encounter upon reentering society post-incarceration including their inability to find secure and/or well-paid employment, housing, higher education, and support for mental health issues and drug abuse.

Reentry into society is an extremely important part of the carceral system as it not only defines the remainder of an individual's life, but also the community they will be serving. Returning citizen's hardships can no longer be largely ignored, through effective programs beginning during their sentence and continued through their integration back into society, recidivism rates *can* be reduced and returning citizens *can* regain a sense of identity as well as purpose in their community, and society as a whole. Every human has the ability to reconcile with their past and come forth better, and for this rehabilitative work that the system *should* be providing, each of these individuals should get the basic human dignity and respect that they deserve.



Above is the Massachusetts's prison and jail populations from 1978 to 2014 sourced from the Prison Policy Initiative.<sup>21</sup>

<sup>20</sup> "Recidivism. *Nation Institute of Justice*. nij.ojp.gov.

<sup>21</sup> Aiken, Joshua. "Massachusetts's Prison and Jail Populations." *prisonpolicy.org*. Prison Policy Initiative, May, 2017.

## What is Reentry?

Reentry is a returning citizens' process of reentering society after serving their sentence. For such an important aspect of our criminal justice system, the system largely ignores its failures in its reintegration of approximately 650,000 people post-incarceration every year. Despite the recent bipartisan push towards reform of reentry services, this light progress through legislation such as the Second Chance Act, needs to be enhanced.

This booklet hopes to confront and acknowledge this aspect of the system that many people push to the margins. Society needs to begin with a stark analysis of what incarceration does to an individual. This goes beyond the obvious mental and physical effects resulting from a general deprivation of rights, to the actual isolation away from family, friends, and community, especially for longer amounts of time. The actual conditions within a prison or jail in which one is housed will have an effect on one's being for the remainder of their life regardless of their experience behind bars. Many reentry programs do not actually work with the soon to be returning citizens during their sentence. However, in order to have a fully successful reintegration into society, one needs to start as soon as they are placed in custody. Reentry is not just leaving the facility and returning "home," it is much more complex.

One has the ability to be rehabilitated within these facilities, if they are given the correct opportunities. Participation in educational reentry programs has been shown to result in a steep decline in recidivism. Through programs such as the Bard Prison Initiative (BPI), prisoners have the ability to become productive citizens when they are released. Many people oppose programs such as this because they believe that incarceration is meant to be punishment. How is acquiring a BA during your sentence a punishment? Why should my tax dollars be spent educating people convicted of crimes?

"We spend so much time in America speaking about the violent criminal. I am not worthy of redemption, and part of the reason why we think this is because of the wording: violent criminal. It is not the violent act you committed 15 or 20 years ago, you *are* the violent criminal, there is something that is inherent about you that we must protect the rest of society from. This person did something terrible, they should be punished for it. But, he's a person, he or she is a person and they might change. They might not be a bad person. They might not be a bad person."<sup>22</sup>

People are very willing to cast aside these members of society because for so many years feeding into the present, they were treated as noncitizens. They are separated from society and dehumanized, their names reduced to an inmate number and their rights stripped away during and following their sentence. They walk around society with a scarlet letter on their person. The chains follow them after their release, hanging invisibly around their wrists, they have served their time and for our society that is not enough. We as a society have to understand the humanity of those we deem noncitizens. Each of these individuals has a story that needs to be heard and considered.

Approximately 97% of the people currently incarcerated in the United States did not go to trial. The congestion within our court systems allows lawyers and judges to coerce defendants by overstating the value of plea deals, pressure to stem from horrific conditions in pre-trial detention, as well as outside occupational and familial obligations, all of which detract from the defendants'

<sup>22</sup> *College Behind Bars*. Directed by Lynn Novick. PBS, 2019.

supposed power through plea bargaining. We see unfortunate stories of those such as Kalief Browder who was arrested at 16 years old for a crime he did not commit and was kept on Rikers Island for three years waiting a trial because he was unable to pay his bail. He stayed in these horrendous conditions moving in and out of solitary confinement, receiving beatings from fellow prisoners and correctional officers because he did not want to take a plea and be convicted of a crime he did not commit. Once he was released and reunited with his family, the memories of his time in prison stayed with him, and without proper help he committed suicide. Stories such as Kalief's happen every single day, and often they go unnoticed because defendants will take these deals to escape prison. However, upon being returned to society they often realize that the plea came at the price of an invisible badge declaring them a convict and thus they gain the inability to obtain housing, employment, voting rights (depending upon the state), among other basic human rights.

These stories of the innocent and wrongly accused suffering within the system should be publicized, but these are not the only stories we should be focusing on. We also need to focus on those who did commit a crime, owned up to their mistakes, and learned to become better in the future. It is important to note the context of each of these cases, looking into the environment in which these people were brought up, and the conditions in which their crime was committed. Even those who it appears had no true reason or past to explain their wrongs, to give them a chance to be rehabilitated and to learn from their mistakes is to recognize these people as human. Bryan Stevenson, acclaimed public interest lawyer and author of *Just Mercy*, says that, "Each of us is more than the worst thing we've ever done."<sup>23</sup> I think we need to start believing that.

## Mental Health

According to a Supreme Court mandate from the 1976 case, *Estelle v. Gamble*, there is a specific standard of care required for all incarcerated individuals.<sup>24</sup> After obtaining an injury while completing a work assignment, a Texas inmate filed a complaint alleging that the lack of adequate medical care was subjecting him to "cruel and unusual punishment," thus violating his Eighth Amendment rights.<sup>25</sup> Gamble attempted to work after initially getting the injury, but it only aggravated his back. He was brought to the hospital and was given a certain amount of time to relax his strain. However, despite this time off his back continued to bother him for months after and he began to experience chest pains and irregular cardiac rhythms. He was hospitalized and given medication due to these symptoms, but when he began to experience chest pains again and asked to meet with the prison doctor his requests were denied for two days. In the case it was determined that because prisoners were deprived of their liberty, they were unable to care for themselves and it was the public's duty to provide such care.

<sup>23</sup> Stevenson, Bryan. *Just Mercy: A Story of Justice and Redemption*. First Edition. New York: Spiegel & Grau, 2014.

<sup>24</sup> Thompson, Anthony C. *Releasing Prisoners, Redeeming Communities*. New York, New York University Press, 2008, p. 90.

<sup>25</sup> Thompson, p. 90.



Unfortunately, this case's decision was less clear in terms of treating mental illnesses, instead the case *Bowring v. Godwin* (1974) established that mental health care was a constitutional right based on the Eighth Amendment. The Court further drew on *Estelle v. Gamble* principles in *Wilson v. Seiter* (1991). Wilson claimed that his prison conditions exposed him to cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments.<sup>26</sup> However, the court ruled against Wilson and stated that the prisoner has to show a serious deprivation, and that the prison official had a "culpable state of mind," that showed deliberate indifference towards the prisoner's safety.<sup>27</sup> A few years after this case was decided, the case *Farmer v. Brennan* (1994) arose when Farmer, a preoperative transsexual, was incarcerated with the general male population and once transferred to another prison was beaten and sexually assaulted by other inmates.<sup>28</sup> Farmer argues that the prison officials knew and deliberately failed to protect a prisoner. The court ruled that Farmer never complained or expressed concern about safety and decided that the prison official can only be liable if they know and disregard excessive risk to inmate health and safety and are aware of facts insinuating substantial risk and harm exists.<sup>29</sup>

Some studies have said there are approximately 283,000 people with mental illnesses in our state and federal prisons.<sup>30</sup> Many of the people who enter the carceral system have a number of health issues, inside of the actual system many either contract an illness or develop an ongoing one. In fact, most of the people being treated for serious mental illnesses are not in hospitals, but in our three largest jails.<sup>31</sup> This increase in incarcerated individuals with mental illness has increased because of deinstitutionalization of mental hospitals, social service cutbacks, and the lack of community and inpatient psychiatric treatment. This is in conjunction with the criminalization of the mentally ill due to "broken window policing," which promoted the clean-up of visible signs of disorder to prevent further serious crime, and the overall prison population increase resulting in increased tensions and an increase in mental illnesses.<sup>32</sup>

Mental health treatment in prisons has a significant impact on reentry outcomes. Most often those with mental illnesses come in contact with the criminal justice system because it is one of the ways in which police officers deal with behaviors that deviate from the public norm. Without the correct treatment these individuals have an extremely difficult time navigating on the outside, especially when the system already has the odds stacked against them in terms of housing, employment, etc. Quickly these individuals become trapped in a cycle of petty crime, incarceration, release, homelessness, and reimprisonment.<sup>33</sup>

In order to provide successful reentry services, these provisions must be intensive and continuous. With case management strategies parolees can access multiple services for a treatment plan that fully encompasses the services each individual requires. One of the greatest obstacles in

<sup>26</sup>"Wilson v. Seiter." Oyez, [www.oyez.org/cases/1990/89-7376](http://www.oyez.org/cases/1990/89-7376). Accessed 30 Jan. 2020.

<sup>27</sup> Thompson, p. 91.

<sup>28</sup>"Farmer v. Brennan." Oyez, [www.oyez.org/cases/1993/92-7247](http://www.oyez.org/cases/1993/92-7247). Accessed 30 Jan. 2020.

<sup>29</sup> Thompson, p. 91.

<sup>30</sup> Thompson, p. 91.

<sup>31</sup> Thompson, p. 91.

<sup>32</sup> Thompson, p. 99.

<sup>33</sup> Thompson, p. 103.

providing the recently released with mental health care is connecting them to community-based treatment providers. While preparing for release prison officials need to have an organized plan to ensure the continuation of treatment upon reintegration into society. An effective plan contains information about their community-based treatment, employment, housing, and financial as well as social support. A study conducted by Peter and Hills (1997) looked at interventions for offenders with co-occurring disorders and found that when interactions between the criminal justice and treatment staff occur, they improve the client's outcome.<sup>34</sup> However, approximately one-third of correction agencies, as of 2001, do not provide transitional services targeted for re-entry success to mentally ill inmates.<sup>35</sup>

### **Keep Your Head Up**

Bryan Stevenson's Equal Justice Initiative, EJI, is a private nonprofit organization in Montgomery, Alabama that works to end mass incarceration and excessive punishment in the United States by confronting racial and economic injustices and protecting basic human rights. EJI also has a long-term supervised reentry service catering to juvenile clients who entered the criminal justice system before the age of 16 and were released as adults. Started in 2007, the service provides assistance with the "basics" of reentry such as obtaining a driver's license, finding housing and employment, educational programming, dealing with changes in technology, managing finances, as well as therapy and counseling for their clients.

## **Substance Abuse**

Our society treats substance abuse as a crime rather than a health issue. According to the National Survey on Drug Use and Health (NSDUH), 19.7 million American adults, 12 years and older, suffered from a substance abuse disorder in 2017.<sup>36</sup> Although genetics have been shown to play a part in the cause of addiction, emphasizing this fact allows for a narrowed view on the causes and disparities that underlie substance abuse. Environmental factors have been shown to heavily increase an individual's risk of addiction. These factors include, chaotic home environment, parent's relationship with substance abuse, peer influences, poor academic achievement, etc. In order to address this health issue, we have to acknowledge the fact that it is defined as a chronic brain disease that affects the reward, memory, pleasure, and motivation systems of the brain.<sup>37</sup> One does not become addicted to substances nor do they conquer their addiction in a single day.

<sup>34</sup> Lurigio, Arthur J. et al. "The Effects of Serious Mental Illness in Offender Reentry." *uscourts.gov*, Federal Probation: A Journal of Correctional Philosophy and Practice.

<sup>35</sup> Lurigio, Arthur J. et al. "The Effects of Serious Mental Illness in Offender Reentry." *uscourts.gov*, Federal Probation: A Journal of Correctional Philosophy and Practice.

<sup>36</sup> Thomas, Scott. "Alcohol and Drug Abuse Statistics." *americanaddictioncenters.org*, American Addiction Centers, 2 January, 2020.

<sup>37</sup> "The Addiction Cycle: Phases of the Chronically Relapsing Disease." *americanaddictioncenters.org*, American Addiction Centers, 25 November, 2019.

Approximately 60% of people in major American cities were using drugs at the time of their arrest, and approximately 70% of state prisoners and about 50% of federal prisoners suffer from drug or alcohol addiction.<sup>38</sup> A Bureau of Justice Statistics study showed that more than 75% of surveyed state prison inmates used drugs, and more than 50% reported using drugs within the month prior to committing the crime they were incarcerated for.<sup>39</sup> These statistics provide a startling look into the system of substance abuse that is heavily prevalent within the criminal justice system. It has been proven that drug abuse treatment has significant results in terms of reducing recidivism rates. Despite these facts, correctional facilities offer many reasons for their lack of cooperation including budget constraints, lack of counselors and space, not enough volunteers or interest in the programs, etc.<sup>40</sup> While these reasons may be legitimate, the carceral system is not providing prisoners with adequate access to treatment that could facilitate their transition back into their communities.

The history of the criminalization of drugs plays a key part in this discussion. During the 1970s and 1980s, there was a movement against drugs starting with Nixon's declaration deeming drugs, "public enemy number one." Following this were numerous laws creating strict and unfair sentences for those convicted of drug use or distribution and were known for being racially biased. Increasingly, large numbers of prisoners required treatment at both the federal and state levels, but their needs were not being met.

Due to this convergence of issues: lack of access to education, job training, with a lack of substance abuse treatment, reentry becomes a much more difficult process. The burden of each returning citizen's reintegration into their community begins to weigh heavily on their parole agent or community service providers, which often do not fully address the far reaches of these problems. With a lack of demand being met, many individuals will reenter the carceral system and trapped in a cycle, they have to start again. In 1995, 200,972 probationers and 110,802 parolees were incarcerated for violations of their probation or parole, many of which were drug tests.<sup>41</sup> Treatment is critical and needs to begin once the individual enters the system and must be continued after their release. Some individuals may be forced clean during their sentence regardless of their participation in a program; however, upon release they return to past dosages their bodies can no longer handle and often times they risk overdose and potentially death. Studies have shown that when individuals receive the medications, they need to treat their disorder, criminal activity upon release, infectious disease transmission, and overdose deaths are lower.<sup>42</sup>

Unfortunately, the National Academy of Sciences reported that only 5% of people who have an opioid abuse disorder in jails and prisons receive medical treatment, usually when treatment is offered it consists of behavioral counseling, and/or detoxification and no follow-up treatment.<sup>43</sup> In 2008, Congress passed the Second Chance Act which gives grants to help improve

<sup>38</sup> Thompson, p. 92.

<sup>39</sup> Thompson, p. 92.

<sup>40</sup> Thompson, p. 93.

<sup>41</sup> Thompson, p. 93.

<sup>42</sup> "Criminal Justice: Drug Facts." *drugabuse.gov*, National Institute on Drug Abuse, June 2019.

This study was conducted with inmates who were using treatments for opioid use disorder specifically.

<sup>43</sup> "Criminal Justice: Drug Facts." *drugabuse.gov*, National Institute on Drug Abuse, June 2019.

individuals' reintegration into society including the Second Chance Reentry Program for Adults with Co-Occurring Substance Abuse and Mental Health Disorders. This program's main objectives were creating a standardized screening process for mental illnesses and substance addictions for those entering the carceral system, provide systems to assess different risks (criminogenic risk, mental illness, etc.), provide evidence based and cognitive behavioral treatments before and after release, as well as develop case plans based on their assessments for different risks and to create a performance measurement plan that outlines who is responsible for the data collection, input, and analysis.<sup>44</sup>

Effective treatment includes a comprehensive program including behavioral therapies, medications, and services provided after release. Behavioral therapies include cognitive-behavioral therapy and contingency management therapy. Cognitive-behavioral therapy helps the individual to address their thoughts and feelings when confronting addiction including managing triggers and stress.<sup>45</sup> Contingency management therapy provides the individual with motivational incentives such as vouchers or cash in order to reinforce positive behaviors.<sup>46</sup> Without effective treatment the system will continue to entrap individuals into a cycle of recidivism. Our current administration has been quoted concerning the opioid crisis in America as, "The only way to solve the drug problem is through toughness," reverting to the Nixon, Reagan, Clinton, and Bush way of dealing with drug addiction.<sup>47</sup> Prison is not the solution for substance abuse issues, in order to address this issue in terms of recidivism and reentry, we have to provide individuals with the resources they need to deal with their disorders. Without it we are giving these people little choice but to reoffend.

## Shelly Klier<sup>48</sup>

Shelly Klier grew up with eight other siblings in California. She was a generally good student who received good grades. However, she was deemed a problem in school when she got in continuous trouble earning her three expulsions. By the time she was twelve she had started using meth and was sent to do time in the Juvenile Youth Authority.

"My aunts and uncles were meth heads, and my dad left when I was five. My mom was a heroin addict. She wasn't locked up all the time like I was, but her drugs took first place."

Her mother intermittently raised her and her siblings, during this time Shelly can recall taking the role of a mother as the most stable of the nine, preparing meals while her mother lay asleep on the couch. Ultimately her mother left them, and she along with her siblings were placed

<sup>44</sup> "Second Chance Act Improving Reentry for Adults with Co-Occurring Substance Abuse and Mental Illness Program." *csgjusticecenter.org*, The National Reentry Resource Center.

<sup>45</sup> "Criminal Justice: Drug Facts." *drugabuse.gov*, National Institute on Drug Abuse, June 2019.

<sup>46</sup> "Criminal Justice: Drug Facts." *drugabuse.gov*, National Institute on Drug Abuse, June 2019.

<sup>47</sup> Trump, Donald. "Remarks by President Trump on Combatting the Opioid Crisis." *whitehouse.gov*, 19 March, 2018.

<sup>48</sup> Ross, Dave. "The Inspiring Success Story of a Former Repeat Offender." *Ross Files with Dave Ross*. 23 September, 2019.

*Sentencing Reform and Drug Addiction*. Brave New Films, 2018.

into foster care until her other family members took them out. The children were split up between family and as the oldest she moved the most. Shelly said that her grandmother raised her, but because she was constantly traveling for her work and her aunts and uncles who took over her care during these lapses were also using drugs, she raised herself.

Shelly served two more prison sentences and has been to Pierce County Jail nineteen times, as well as jails in three other states. Only upon serving her final sentence was she ready to initiate change in her life.

“I was reading a book with my friend, my workout partner, not my roommate, a different workout partner, and I don’t actually recall what it was that triggered me to feel the way that I did. But it broke me down inside, whatever it was that we read. I don’t remember anymore. You’d think I would. It made me think of my childhood and it made me think of the memories that I had of my mom and different family members and it made me think of my kids. And I didn’t want them to have those same memories as me. I wanted them to have better memories and I wanted to give them a hope and show them that people are capable of change and I wanted to give them something better than what I had. And I was just determined.”

Despite the fact that two-thirds of her convictions were for drugs, she was never offered any form of treatment from anyone in the court. On her third case Shelly was almost not offered a plea sentence, but rather than accept her fate she contacted the judge and went around both her attorney and the prosecutor. She wrote a letter detailing her past and her experiences and asked for a second chance. Fortunately, she was granted one. Shelly only heard about the Post-Prison Education Program through her roommate and despite not being on the list she was persuaded to attend the meeting. In 2010, she joined the program, the only one in Washington State offering wrap-around services to released prisoners and their families with access to support and resources to attain a post-secondary education. She filled out the application and called them every day, she



was determined to get in, again she was granted a second chance. Upon her release she regained custody of her three children and pursued a career in welding while holding a job during the day and taking college classes at night. She has been working for the same welding company since 2011.

Shelly currently lives with her four of her five children and her niece who she is taking care of since both of her parents are incarcerated. Now she joins Ari Kohn, the managing director of the program, on his trips to prison to speak to inmates about the program and her experiences. When asked to reflect on her experiences with helping individuals who are incarcerated, she says:

“It’s enlightening to say at the very least. And it’s just, it feels good, and it gives me hope. Right, because sometimes in the drug world you lose hope, you lose hope of everything like you lose hope of humankind like the people are horrible people right. They’re not always horrible people, but a lot of them are. And a lot of people lose their morals and don’t have no self-integrity and things like that. And seeing people strive to do something different and become better and put themselves in a different place in life is a good feeling. It makes you hopeful.”

## Housing

For many of us home is a strong word. Oftentimes it means more than the place where you lie your head; however, for a parole officer or law enforcement member, that is the only definition of home. All a parole officer needs in a returning citizen's home is a verifiable address to monitor and conduct spot checks. However, upon release it is extremely difficult for returning citizens to obtain housing, not only due to the general stigma regarding those who have served time, but also governmental policies that allow individuals to enforce these personal stigmas. Even family can find it difficult to accept returning citizens back into their homes, due to prior behaviors leading up to incarceration, such as drug addiction. Identifying a stable house plan for those preparing for release is critical and the best practices are those that begin as the individual enters the system. A stable housing situation has a lot of influence on a returning citizen's reentry, not only does it allow for community interaction, but an address to obtain community services as well as to provide when applying for employment. One in five formerly incarcerated persons will become homeless, and more than 10% of those coming in and out of prisons are homeless in the months before and after their sentence.

Since housing is an intersection between poverty and race, it creates extremely limited housing options for low-income people of color. Racial minorities live in public housing more often than Whites and are more likely to earn a lower income.<sup>49</sup> Thus, one can observe the marked impact of poverty on these communities. An average Black family living in public housing resides in a project that is 85% Black and 8% White, and 80% of the tenants live below the poverty line.<sup>50</sup> Discrimination patterns also place low-income people of color into specific urban areas, while White-dominated public housing promises tenants safe and sanitary housing.<sup>51</sup>

With the United States Housing Act of 1937, Congress decided to implement public housing.<sup>52</sup> However, once the government found a way to actually build the housing it was 1949 and housing units were created separately for Blacks and Whites.<sup>53</sup> However, Congress failed to construct thousands of these units and by the time World War II ended, there was a migration of African Americans from the south to the north in pursuit of manufacturing jobs.<sup>54</sup> Now, public housing meant more than providing homes for America's middle-class citizens, it meant providing a home for low-income and Black citizens. Due to the decrease in residents' incomes, the public housing authorities rent increased and soon the tenants were unable to afford these homes and the properties themselves began to decay.<sup>55</sup> By the 1960s-1970s, public housing became a sign of shame and stigma began to cloud the public's view of tenants, seeing them as "the undeserving

<sup>49</sup> Thompson, p. 72.

<sup>50</sup> Thompson, p. 72.

<sup>51</sup> Thompson, p. 72.

<sup>52</sup> Thompson, p. 73.

<sup>53</sup> Thompson, p. 73.

<sup>54</sup> Thompson, p. 73.

<sup>55</sup> Thompson, p. 73.

poor.”<sup>56</sup> In the mid-1980s public housing was primarily occupied by people of color, and as the end of the 1990s began to close in, approximately thirty-four million people lived in poverty concentrated in inner-cities. The same place where housing is in greatest demand, is where large numbers of returning citizens seek housing.<sup>57</sup>

Since most of the crimes committed in the now dangerous public housing units were drug related, Congress drew up legislation to target drug dealing and substance abuse. However, the implementation of the Anti-Drug Abuse Act required public housing projects to include a lease provision articulating that they would eliminate these issues.<sup>58</sup> The Cranston-Gonzalez Act of 1990 emphasized the fact that housing authorities would no longer tolerate drug or violent criminal activity as it threatened the health, welfare, and overall safety of the other tenants.<sup>59</sup> President Bill Clinton’s One Strike Policy of 1996 states that public housing agencies have the authority to deny or evict an entire household if there is “evidence” one member is engaging in illegal activities.<sup>60</sup> This did not only impact returning citizens due to the increased attention to past convictions, but also because family members were less likely to open their homes to anyone who may jeopardize their living situation. Even now, landlords are generally unwilling to rent to formerly incarcerated individuals, approximately four in five landlords employ background checks to screen out those with records.

Despite the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, which prohibits the government from discrimination in public and private housing, segregation in the country persists. The private market is largely ignored in discussions of reentry although most returning citizens will be denied public government housing and thus spiral into a process of discrimination based on race, ethnicity, and criminal history.<sup>61</sup> The intersection between poverty and housing is linked to the intersection between housing and discrimination, resulting in deepened poverty in communities of color allowing for crime to increase and general prejudices and inequalities to continue. This continuation is made in large part due to the lack of enforcement of the government’s anti-discrimination policies bolstering one of our nation’s many problems.

It is within the government’s interest to remove these barriers to housing and well within their power. Not only can the government provide incentives for private landlords to rent to returning citizens, but they can also take away the incentives allowing public housing authorities to evict those with a criminal record. The current system not only disallows returning citizens from obtaining stable housing and thus stable employment, but also separates families due to the fear of eviction. Our system needs intense reform, without access to stable housing, returning citizens lack a foundation to begin their reintegration and instead become more likely to return to the carceral system.

<sup>56</sup> Thompson, p. 74.

<sup>57</sup> Thompson, p. 74.

<sup>58</sup> Thompson, p. 76.

<sup>59</sup> Thompson, p. 76.

<sup>60</sup> Thompson, p. 77.

<sup>61</sup> Thompson, p. 83.

## Education

Approximately 50% of incarcerated individuals who are over eighteen years old, have not graduated from high school.<sup>62</sup> Several studies have shown that the higher the level of education an incarcerated individual receives, the less likely they are to be reincarcerated. For those who obtained a degree in prison there is a 13% increase in the likelihood that they will find employment, resulting in a \$45.3 million increase in combined earnings during the first year after being released.<sup>63</sup> Only 35% of prisons offer this type of education and access to resources, and unfortunately geography plays a huge part in whether or not these resources will be available to the individual entering the system.<sup>64</sup>

In 1994, Congress and the Clinton administration cut Pell Grant funding for prisoners, effectively barring them from receiving a college education with the Violent Crime Control and Law Enforcement Act. In 1995, New York made sure there was no funding from the state's Tuition Assistance Program and Governor Pataki dismantled the existing college programs as a part of his proposed tax cuts.<sup>65</sup> More recently Governor Cuomo has expressed that we are not rehabilitating as we should be, and that he wants to see recidivism rates cut by 40%.<sup>66</sup> Cuomo's plan was to offer a college education in ten of his state's seventy prisons which would cost approximately \$5 million every year, or \$60,000 per prisoner.<sup>67</sup> However, his plan was met with strong opposition as people stressed that New Yorkers already struggle to afford an education and this program would be giving it to the state's "crooks" for free. Republican Assemblyman James Tedisco said that it would essentially be rewarding criminals for their behavior and even make them better, smarter criminals.<sup>68</sup> In 2014, Congressmen Collins, Reed, and Gibson introduced the Kids Before Cons Act which prohibited the use of federal funds to give financial aid to incarcerated students.<sup>69</sup>

Despite the initial backlash, in 2017 New York determined that it would spend \$7.3 million from bank settlements to expand college education programs in prisons through a partnership with the District Attorney Cyrus Vance to quell public push back.<sup>70</sup> The College-in-Prison Re-Entry

62 Muhlhausen, David B. "An Overview of Offender Reentry." [nij.ojp.gov](http://nij.ojp.gov), National Institute of Justice.

63 Rivard, Ry. "New York's governor hopes a college education can help cut prison costs. Critics think the money is going to the wrong people." *insidehighered.com*. Inside Higher Ed. 28 February, 2014.

64 Bender, Kathleen. "Education Opportunities in Prison are Key to Reducing Crime." *americanprogress.org*. Center for American Justice, 2 March, 2018.

65 Papa, Anthony. "Support Gov. Cuomo's Attempt to Bring College to Prisons." *huffpost.com*. Huffpost. 16 August, 2017.

66 Rivard, Ry. "New York's governor hopes a college education can help cut prison costs. Critics think the money is going to the wrong people." *insidehighered.com*. Inside Higher Ed. 28 February, 2014.

67 Rivard, Ry. "New York's governor hopes a college education can help cut prison costs. Critics think the money is going to the wrong people." *insidehighered.com*. Inside Higher Ed. 28 February, 2014.

68 Rivard, Ry. "New York's governor hopes a college education can help cut prison costs. Critics think the money is going to the wrong people." *insidehighered.com*. Inside Higher Ed. 28 February, 2014.

69 Craft, Trevor et al., "A Second Chance: College-in-Prison Programs in New York State." *rockinst.gov*. Rockefeller Institute of Government. 3 June, 2019.

70 Craft, Trevor et al., "A Second Chance: College-in-Prison Programs in New York State." *rockinst.gov*. Rockefeller Institute of Government. 3 June, 2019.



Program will have seven colleges start, expand, or continue offering college education to prisoners at seventeen facilities with about four hundred to five hundred new seats each year. In 2019, the REAL Act (Restoring Education and Learning) was passed with bipartisan support and restored incarcerated individual's right to obtain Pell Grants for their education. There were also two New York Assembly Bills passed in the same year. A02177 established a general improvement in education within the carceral system and A04011 established a commission on post-secondary education more specifically.

Former Chief Justice Warren Burger said, "To confine offenders without trying to rehabilitate them is expensive folly."<sup>71</sup> Prison education programs have been shown to be very cost effective since every dollar spent on prison education equals \$4-\$5 in saving on future imprisonment costs.<sup>72</sup> Prison education programs also result in fewer violent incidents, and it also makes it more likely that their children will break the cycle of incarceration by completing college themselves. New York state already has a few privately funded programs such as Bard Prison Initiative (BPI), Cornell's Prison Education Program, and the Consortium of the Niagara Frontier.<sup>73</sup> However, all of these programs are fragile due to the lack of public funding. While the lack of public funding provides the program with the ability to spend as they see fit with a "no strings attached" mentality, it requires less people to do more work. While the idea of lowering costs has sparked bipartisan support of improving reentry and accessibility to higher education in prisons, there is still a lot of work that elected officials have to do.

## Sebastian Yoon<sup>74</sup>

Sebastian Yoon has looked up to his father reverently since he was a young boy. When his father initially migrated to the United States his wife left him, and he quickly realized he did not have enough to support his children and sent them to live in Korea with his parents while he slept in his car and friend's basements. Even when Sebastian was reunited with his father four years later, he recalls him working extremely hard, leaving the house at 9:00 am and returning at 11:00 pm each day.

Sebastian says that he faced discrimination and racism when they moved to Long Island, quickly realizing that people only responded to force he began to hang out on the streets. One day while his dad was at work, a few friends called sixteen-year-old Sebastian to hang out at a karaoke bar and soon enough a fight erupted. Sebastian spoke about the constant fights in his neighborhood and that he and his friends soon became "winners." However, this day ended differently.

<sup>71</sup> Papa, Anthony. "Support Gov. Cuomo's Attempt to Bring College to Prisons." *huffpost.com*. Huffpost. 16 August, 2017.

<sup>72</sup> The Editorial Board. "Let Prisoners Learn While They Serve." *nytimes.com*. The New York Times. 16 August, 2017.

<sup>73</sup> The Editorial Board. "Let Prisoners Learn While They Serve." *nytimes.com*. The New York Times. 16 August, 2017.

<sup>74</sup> *College Behind Bars*. Directed by Lynn Novick. PBS, 2019.

“I just remember it was chaos, just bodies flying all over the place. About an hour after we left, we found out that somebody died. And my heart just dropped. It was the first time I realized a fight can be a huge deal, it can destroy someone’s life. It destroyed both the victims’ life in a senseless death. And it destroyed my life.”

After being charged with a 15-year sentence for manslaughter at such a young age and essentially growing up in prison, Sebastian began to feel intensely hopeless and attempted suicide. While recounting this story among his BPI peers he pauses and his eyes water, his voice falters, and as the camera pans around all of his colleagues nod in empathy, one reaching out to touch his shoulder.

“And after about 20 minutes I just removed the bedsheets from my neck and I just sobbed. And I said I have to find a reason to live in prison. When I speak to my father, I don’t tell him I have two and a half years left, I tell my dad, “Dad I got 5 months left.” Two and a half years to my release, yeah, but 5 months to my graduation. Because it’s such a huge stepping stone that in itself it’s a goal. A huge goal. And right now, all I see is that line, right. That two years I’m not even thinking about it. Right now, I need to make graduation without getting in trouble.”



Sebastian was admitted to the Bard Prison Initiative when he was 21 years old and he pursued a BA in social studies. He, like most students, would begin his work when the rest of the prison went to sleep, often staying up until 3:00 am for the quietest hours. He wrote his senior paper on the way Koreans and Korean Americans look at Japanese colonialism and how 20th century Korean history was used to define their identities. After presenting his senior project to the three men and women in the room they consulted deciding this was amazing “A” work. When they call him back into the room to congratulate him, Sebastian laughs

and bows, holding the pose as he shakes the professor’s hands. He starts to tear up, his face full of relief and pride as he snuffles, a wide smile emerges on his face as he exits the room.

“I wanna go home and I wanna look back on prison and say prison was terrible I never wanna go back, but I learned something. *That* is where transformation happens, *that* is what stops people from coming back to prison. The criminal justice system is about punishment and rehabilitation, but I feel like the system lacks the moral foundation that it should have in a country that believes in second chances. I’m just so happy. Thank you. Thank you.”

## Rodney Spivey-Jones<sup>75</sup>

Rodney Spivey-Jones grew up in Syracuse, New York with his grandmother since his mother lost custody of him and his two siblings. She dealt with depression and schizophrenia for years and when Rodney was 12 and she was 32 years old, she committed suicide. Two years after his mother’s death, his grandmother passed away from cancer and his non-biological grandfather took them in, but a few months later he also passed away from cancer. In such a short timespan Rodney

<sup>75</sup> *College Behind Bars*. Directed by Lynn Novick. PBS, 2019.



and his siblings experienced great pain and this influenced the remainder of their lives. Rodney recalls feeling that he was on his own, and not ready for it. He was able to graduate from high school and at 19 years old he enrolled in Onondaga Community College and worked at a hospital delivering trays to pay his bills. However, once he enrolled in college his employer cut most of his hours and he became desperate for money, so he started to rob people. As he begins to recall the details of a specific robbery that went “terribly wrong” he pauses to take a breath and he shakes his head.

“I really don’t want to get into the details of it because I know that maybe the family is, might be watching this and I don’t want to make

them feel any worse than they do. I killed someone. Over the years, I had never forgotten that this man was a father. I never forgot that. And that he had a young daughter. And she is a young woman now, she’s a teenager now. So, there’s a lot going on inside about this, with me, right. On one hand, I know exactly what this feels like to lose someone, I really know. I really know what it feels like. On the other hand, it’s not fair to the family for me to equate their loss with my loss. And there’s nothing I can say, an apology, that doesn’t address... that doesn’t address any of their pain. I’m responsible for all of this. How do you... I ... I don’t ... I don’t even know how you go about even convincing people that that one action is not who I am, that one act is not who I am.”

Rodney speaks to the idea of labels and wording. By labeling him and so many others “violent criminals,” the language surrounding it deeming these people undeserving of redemption informs people’s views of these individuals. It is no longer an act you committed years ago, you become the violent criminal and suddenly all of society must be protected from you because it is hard to see that this person deserves a chance to change, that they are not inherently a “bad person” because of a terrible act they committed in their past.

Rodney began his career as a BPI student in 2011, and his curiosity and passion for language and social justice developed. He started as a shy student and through intensive instruction became a member of the Debate Union and served as a writing fellow. While pursuing a BA in social studies he wrote his senior paper on “Messianic Black Bodies,” thinking deeply about the killings of black people in America such as Trayvon Martin, Michael Brown, Eric Garner, and so many more, as well as the uprisings and protests staged in response. He is still in prison, tutoring, taking classes, and volunteering as a hospice aid as he awaits his parole eligibility date in 2022. He aspires to go to law school to continue striving towards working with his passion for social justice.

Below is the inspiring afterword to Rodney’s senior paper:

“During the course of my research, I developed a hyper-awareness of the many often insidious ways in which society disfigures the personhood of marginalized people. I noticed the attempt of so many to lump disparate elements into the category of blackness or some other category meant to house the unworthy. Categories such as offender or inmate. It is difficult to live, to function in one of these categories. It begins to feel like scurf that cannot scrub clean from the body. I am a “irredeemable” trapped in one of these crippling categories for the undeserving. I’m reluctant to use the word anger. In America, anger and blackness and offender is considered a volatile mixture, but everyone, every single one of us, should seethe when injustice is rampant, and bodies are falling and a nation is divided about whether or not the losses of Eric Garner, of Laquan MacDonald, of Mike Brown, of Trayvon Martin, (insert here) are worth mourning. Mourning is not a question of race and bodies. It is a question of humanity. Let me say it plainly. The black body is a

prison of flesh and the truth is unforgiving. African Americans can no more relinquish their signifying black bodies than they can change their history of this nation, but they must continue to demand.”

## Employment

Like most individuals, employment is a means through which one provides for themselves and their loved ones as well allows them to pursue their life goals. For returning citizens employment serves as a prosocial routine and creates a sense of self-worth allowing the person to contribute to and develop relationships within their community. However, a 2002 Urban Institute study found that employers were less likely to hire a returning citizen than any other disadvantaged group.<sup>76</sup> Another 2002 study found that employers in five major American cities said they would not knowingly hire an individual with a criminal record and that about one-third of them checked the criminal histories of their most recent hires.<sup>77</sup> As of 2018, the rate of incarceration among returning citizens was over 27%, five times higher than the United States unemployment rate, and higher than the unemployment rate during the Great Depression.<sup>78</sup> When returning citizens do obtain employment, they are the most insecure and lowest-paying positions, in fact most of those employed after being recently released receive incomes below the poverty line.<sup>79</sup> It is not that these people do not want to work, in fact they are more active on the labor market than the general public, but the creation of these barriers for those who have to check “formerly incarcerated” on their applications, feed into the system of recidivism and poverty.

Among the general public, people of color and women face higher unemployment rates than Whites and men. Of course, this is an intersectional topic, as previously incarcerated Black women experience the highest levels of unemployment and previously incarcerated White men experience the lowest.<sup>80</sup> Almost all formerly incarcerated White men find full-time positions, while Black women are most likely to find part time or occasional jobs.<sup>81</sup> However, high unemployment among formerly incarcerated individuals is not only explained by the overrepresentation of people of color in the carceral system, but the label of “convict” sets them apart. Not only does this label make it difficult for individuals to obtain jobs, but the reduction and elimination of many of the prisons’ vocational training, job preparatory courses, and post-secondary education programs limits the skills people can gain during their sentence. Thus, when reentering society not only does the individual face difficulties in finding housing and community

<sup>76</sup> Thompson, p. 108.

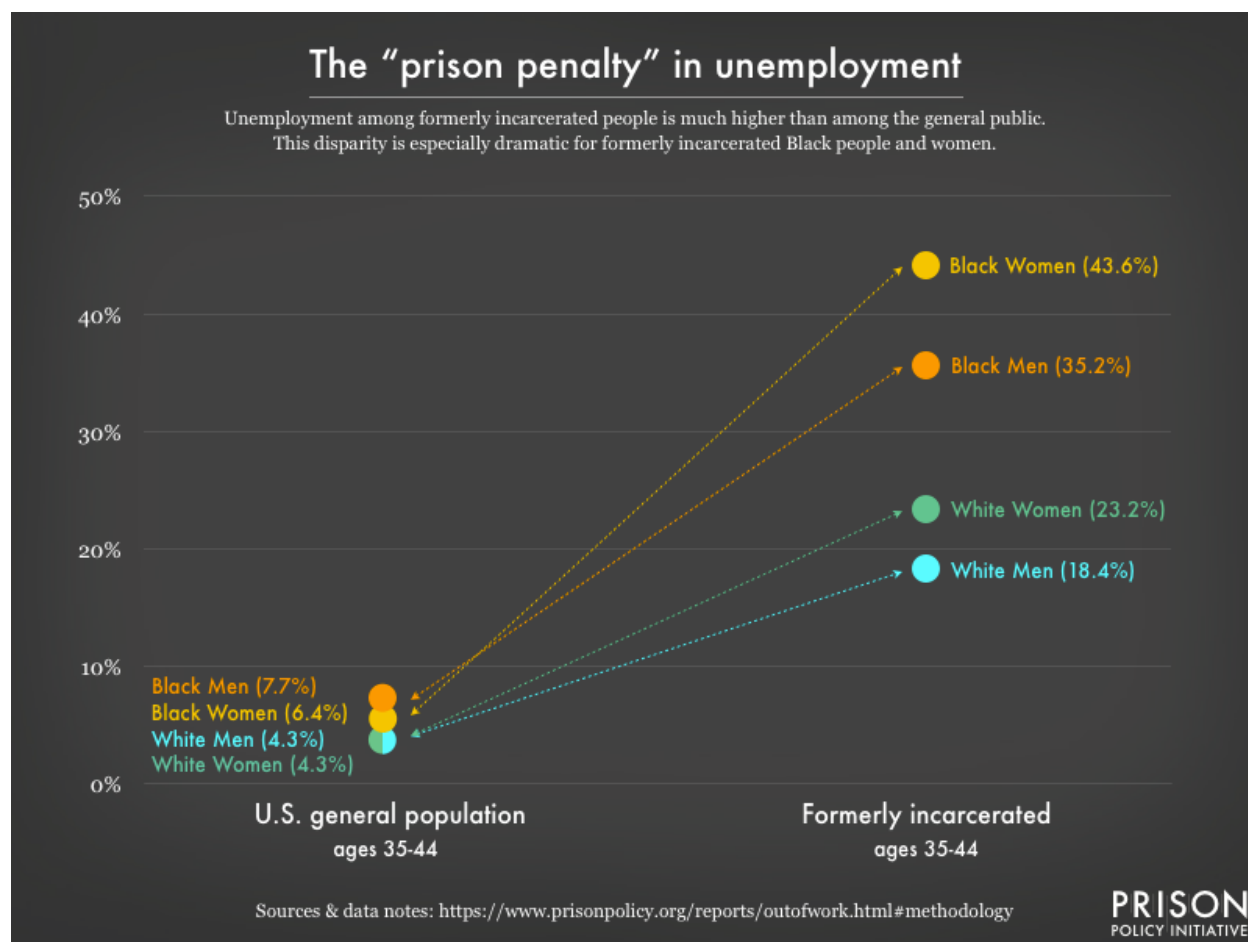
<sup>77</sup> Thompson, p. 109.

<sup>78</sup> Couloute, Lucius, and Daniel Kopf. “Out of Prison & Out of Work: Unemployment among formerly incarcerated people.” *prisonpolicy.org*, Prison Policy Initiative, July 2018.

<sup>79</sup> Couloute, Lucius, and Daniel Kopf. “Out of Prison & Out of Work: Unemployment among formerly incarcerated people.” *prisonpolicy.org*, Prison Policy Initiative, July 2018.

<sup>80</sup> Couloute, Lucius, and Daniel Kopf. “Out of Prison & Out of Work: Unemployment among formerly incarcerated people.” *prisonpolicy.org*, Prison Policy Initiative, July 2018.

<sup>81</sup> Couloute, Lucius, and Daniel Kopf. “Out of Prison & Out of Work: Unemployment among formerly incarcerated people.” *prisonpolicy.org*, Prison Policy Initiative, July 2018.



*Couloute, Lucius, and Daniel Kopf. “Out of Prison & Out of Work: Unemployment among formerly incarcerated people.” prisonpolicy.org, Prison Policy Initiative, July 2018*

services, they also arrive on the job market, less prepared and skilled than they could be. The rates of recidivism within the first three years of release are extremely high, without connections to post-release employment services the likelihood of being reincarcerated becomes more prominent. Of those who were released from prison two years prior, the unemployment rate was over 30%, and for those released two to three years prior the unemployment rate was 21%.<sup>82</sup>

In certain states returning citizens are excluded from certain occupations since states have the power to issue regulatory licenses meant to protect the public.<sup>83</sup> The state defends its exclusionary actions on the basis of character or the moral of an individual convicted of a felony.<sup>84</sup> For example, in California parolees are not allowed to work in real estate, nursing, or physical therapy and in Colorado individuals convicted of a felony cannot become dentists, engineers, nurses, pharmacists, physicians, or real estate agents.<sup>85</sup> Although, the state’s power does not extend

<sup>82</sup> Couloute, Lucius, and Daniel Kopf. “Out of Prison & Out of Work: Unemployment among formerly incarcerated people.” *prisonpolicy.org*, Prison Policy Initiative, July 2018.

<sup>83</sup> Thompson, p. 111.

<sup>84</sup> Thompson, p. 112.

<sup>85</sup> Thompson, pp. 110-111.

to occupations or businesses that do not involve a public interest, as of 2008 state and federal restrictions barred approximately 350 occupations or 10 million people from being employed.<sup>86</sup>

Although some states such as New York, Connecticut, Wisconsin, and Hawaii have attempted to aid returning citizens with their process of reintegration, it is not enough. New York has some of the strongest protections for returning citizens as New York Correction Law Article 23-A restricts the employers' use of criminal records in denying employment, unless there is a direct relationship between the past conviction and the employment or granting employment would present the employer with reasonable risk to property or safety.<sup>87</sup> However, there were also instances in which New York state was willing to deny licensing and employment of individuals with past convictions when the job's responsibilities or access to "vulnerable" individuals are involved.<sup>88</sup> For example, if one had been convicted of selling illegal substances, they may not be granted the license allowing them to teach. All of these barriers feed into the stigma of being formerly incarcerated, the idea that the individual has not been rehabilitated enough and must continue to be punished for the sake of the community. However, the supposedly increased safety of the community allows for the continued cycle of recidivism and allows for the perpetuation of a stigma.

### **Keep Your Head Up**

Pennsylvania's Clean Slate Law, passed with a near unanimous vote by Governor Tom Wolf, will expunge 30 million records as a way to fill jobs with qualified people. The first phase of this law began in December 2018 as people with old misdemeanors could apply for their records to be sealed as long as they have not had any new offenses for the past 10 years. The second phase was due to begin in July 2019, making Pennsylvania the first state to automatically seal records for people who were arrested, but not convicted along with those in the prior stage. Other states are looking to follow Pennsylvania, which is an amazing move towards helping those who have criminal records obtain employment.

## **Jule Hall<sup>89</sup>**

Jule Hall was born in 1975 and grew up in Brownsville, Brooklyn in a single-parent household. He recalls always loving school but realized at a young age that he should not broadcast this enthusiasm in his environment. His neighborhood at the time was violent and filled with tension. Jule says that he walked around with the mentality that you do not think, you just act due to the positive peer response he received. Despite his love for learning, he cannot remember any extensive writing assignments from high school, he did not learn the correct grammar structures

<sup>86</sup> Thompson, p 113.

<sup>87</sup> Thompson, p. 116.

<sup>88</sup> Thompson, p. 117.

<sup>89</sup> *College Behind Bars*. Directed by Lynn Novick. PBS, 2019.

to express himself and he was able to get through his classes without fully reading the assigned books. After serving 21.5 years, Jule is being considered for parole.

Even though I have devoted much prayer and awareness to why I have been in jail. The parole process brought it to a



real strong head for me. I'm gonna tell you I never wanted anything as bad in my life though, you know. I wanted the parole board to understand that when I was younger, I made a lot of irrational decisions. My whole way of thinking was "Ok. People gonna fight you and rob you unless you fight back." I became very reckless and it just so happened on one night a guy came to the area in which I lived and drew a weapon, and I was totally not even in the line of fire or around it. But when I saw that he did that, I ran towards where my friends were and got a gun that I knew my friend had and engaged into this gunfight with him. And the result was a lady that I had grew up with, a lady I looked up to, lost her life. I really don't think there's any justification for getting a gun and partaking in what I partook in. I didn't know the guy. It was just the whole idea that this has happened before, and the only way its gonna stop is if you take a stand to it, which was a way of looking at things wrong that caused so much destruction. A person lost their life though you know, a person who I considered a friend. I don't

know if I can forgive myself for that. Sometimes, I do ask "Do I deserve to leave?"

He was denied parole and was asked to come back in 6 months. As Jule struggled to make sense of the denial, he had accepted that he had done wrong, but also believed he had done his time and done so productively. During his time in prison he was accepted to BPI and majored in German studies in 2011, after earning his degree he tutored other students and continued to take additional classes. During his second parole hearing, he was approved and transferred to a minimum-security prison in Queens, New York. Considering his release Jule says,

"It feels very scary, I spent more time in prison than I did in the free world. I came to jail when I was 17 years old. So, it's like freedom, it's hard to visualize for me. I got to prove that I'm worthy of this. I think there's a lot still at stake. There's one statistic that I read that 47% of the people released return back to jail within one year. It is something that sits over my head and makes me critical and say, "oh, make sure your reentry's a success for yourself, but also for society and the people who are saying that you should stay in prison." So, I carry all that."

After being released Jule started living with his aunt, he has his own room and he comments happily on the much better view he has from his window. However, now he has to start to look for employment and despite his degree, his record is what draws employer's attention the most. While applying for other jobs Jule was working as a telemarketer.

"I applied for public health positions, and my incarceration came up. I noticed that the interview became, the tone and the feel, became quite different. You have this apparent suspicion in this conversation, and it was really discouraging."

Then after six months where he is constantly confronted with his past in prison, whether it is Sam Cooke's "A Change is Gonna Come" being sung on the subway or random invading thoughts, "I have to get out of prison" pushing him, he found an entry level position at a small marketing company. The woman who hired him commented:

“You can almost understand why people are hesitant to hire people who have been in prison. I run a company of 20-something-year-old women, and so I am responsible for bringing this person on paper who might look scary into our office because he’s been in prison for 22 years. He went to prison for illegal possession of a weapon, and I think accessory to a murder, and he is a very tall human. And then you meet Jule, so after the first interview, we’re like, “This guy is obviously great.” He’s got more degrees than my partner and I combined. He speaks more languages than our office combined, and so we called around, and every reference we called confirmed what we thought about him, so we offered him the job.”

Even after getting this amazing opportunity Jule still struggles with catching up on twenty years of computer history he missed during his sentence.

“I’ve learned that when it comes to whether it’s the technology, it’s the iPad, or the iPhone, it’s a challenge for regular people who’ve been out here all this time. One of the most problematic things for me is the username and the password, because it’s like I never had to use a password. Only number I had to remember was my state number.”

Currently, Jule is a Program Associate at the Ford Foundation, where he does quantitative analysis on the impact of social justice grants.

## Voting

The Constitution declares that a United States citizen has the right to vote. Of course, when the country was originally founded this only extended to white property-owning men. Even when this was expanded to include other populations there were often strings attached. This came in the form of poll taxes, literacy tests, and as it continues to affect individuals today, felony disenfranchisement.

Felony disenfranchisement is determined state by state.<sup>90</sup> The only way one can get their voting rights restored is through a pardon from the governor. The outcome of this process depends heavily on your geographic location and the governor, and regardless is known to often be futile. In Florida, after eight years in office Governor Rick Scott has re-enfranchised 3,000 people, only 1% of the work his predecessor did.<sup>91</sup> There are no rules concerning who can be re-enfranchised, questions included: “How many children do you have?” and “By how many women?”<sup>92</sup> For Rick Scott, his decision is often based upon the individual’s political affiliations. There have been multiple examples in which someone asking for their right to vote, expressed their political position as a conservative and Scott re-awarded them their civic right.

Currently, there are approximately 6.1 million disenfranchised people across this nation, unable to vote due to a prior conviction.<sup>93</sup> As the timeline illustrates, the United States has been discriminating against the voting ability of criminals for decades, which of course also heavily correlates to our history of racial discrimination.

<sup>90</sup> There is a table on the following page detailing the state policies on felony disenfranchisement as of 2019.

<sup>91</sup> Rice, Josie Duffy, Clint Smith. “Excluded From Democracy.” *Justice in America*, The Appeal. 22 August, 2018.

<sup>92</sup> Rice, Josie Duffy, Clint Smith. “Excluded From Democracy.” *Justice in America*, The Appeal. 22 August, 2018.

<sup>93</sup> Rice, Josie Duffy, Clint Smith. “Excluded From Democracy.” *Justice in America*, The Appeal. 22 August, 2018.



# HISTORY OF CRIMINAL DISPARITY LEADING TO VOTER DISENFRANCHISEMENT

13th Amendment is passed

**1865**

**1866**

Civil Rights Act

**1890S-1966**

Poll Tax

**1965**

Voting Rights Act

**1990'S**

3 Strikes Law and Mandatory Minimums

**2007**

Florida's governor enacts automatic restoration of rights for people convicted of certain crimes after completing their sentence

**2015**

Kentucky enacted the automatic restoration of rights, but was overturned a month later. This same year it was overturned in Florida

**1857**

Dred Scott Case

**1865-66**

Black Codes

**1890-1965**

Jim Crow

**1960S**

Law and Order

**1980'S**

War on Drugs

**2005**

Iowa issues order granting the right to vote after completing sentence

**2011**

Iowa overturns the automatic restoration of rights

**2018**

Florida voters approved constitutional amendment restoring right to vote to 14 million with past felony convictions

*The Dred Scott v. Sandford* (1857) case was brought about by Scott whose owners had brought him from Missouri, a slave-holding state, to Missouri Territory, “free” territory. Scott asserted that because he was brought to “free” territory he was automatically freed, and he sued the court for his freedom. However, the court ruled that as a slave Dred Scott was not a citizen and was thus unable to sue in federal court. Thus, Black people, whether enslaved or free, were deemed not American citizens and not allowed basic rights and privileges, including the right to vote.

## Voter Disenfranchisement Restrictions in 2019

No Restriction	Prison	Prison and Parole	Prison, Parole, and Probation	Prison, Parole, Probation, and post sentence - some or all
Maine	Colorado	California	Alaska	Alabama
Vermont	District of Columbia	Connecticut	Arkansas	Arizona
	Hawaii		Georgia	Delaware
	Illinois		Idaho	Florida
	Indiana		Kansas	Iowa
	Maryland		Louisiana	Kentucky
	Massachusetts		Minnesota	Mississippi
	Michigan		Missouri	Nebraska
	Montana		New Mexico	Tennessee
	Nevada		North Carolina	Virginia
	New Hampshire		Oklahoma	Wyoming
	New Jersey		South Carolina	
	North Dakota		Texas	
	Ohio		Washington	
	Pennsylvania		West Virginia	
	Rhode Island		Wisconsin	
	Utah			

*“Criminal Disenfranchisement Laws Across the United States.” brennancenter.org. Brennan Center for Justice. 30 May, 2019.*

Starting in 1865, Black Codes were enacted in the South. These state laws severely limited African American’s freedoms using their labor for free as they had been prior to the passage of the 13<sup>th</sup> amendment. They acted as a legal way for the South to place Black citizens into indentured servitude and take away their rights. Black people were not allowed to vote, serve on juries, travel

freely, or work at the occupation of their choice.<sup>94</sup> As time went on the southern governments and President Johnson made efforts to restrict Black citizen's efforts towards true freedom. The Ku Klux Klan, a hate group formed to suppress the rights of Black people, was founded in 1865 and terrorized Black communities through torture and murder for years. However, in 1866, despite President Andrew Johnson's veto, the Civil Rights Act was passed and declared that any person born in the United States was a citizen regardless of their race, color, or previous condition. Thus, they could as other citizens were allowed, make contracts, sue and be sued, etc.<sup>95</sup>

Despite this step forward, Jim Crow laws, born from the Black Codes, began to spread and segregated American society. African Americans were not allowed to live in White

### Keep Your Head Up

VOTE is a grassroots organization founded and run by formerly incarcerated individuals, their families, and allies. They are dedicated to restoring civil rights to those impacted by the "criminal (in)justice system." Through civic engagement and policy reform, they have mobilized a group of leaders to transform the movement for the ultimate end of the carceral system. The founder and executive director, Norris Henderson said this, "They say felons, you've probably said felons. We use the word returning citizens because we know that individuals who've made mistakes are still somebody's son or daughter and father and mother, that they're human first. And so rather than give them a scarlet letter of shame to carry on for the rest of their lives, we've decided to change things and start calling them returning citizens."

neighborhoods, enroll in White public schools, use White photo booths or hospitals or jails. Around the same time, poll taxes and literacy tests were put in place to keep Black people from voting in southern states. There was even a "grandfather clause" that allowed poor White people to be excused from payment if they had an ancestor who voted before the Civil War. This was only abolished from federal elections in 1964 by the 24<sup>th</sup> amendment, and five states enforced poll taxes until 1966 when it was declared unconstitutional by the U.S. Supreme Court.<sup>96</sup>

There are two states in America in which prisoners can vote while serving their sentence, these are also the nation's two whitest states: Maine and Vermont. Of the top ten places with the highest black population in America, nine do not allow people to vote if

they are serving any type of sentence.<sup>97</sup> Half of these places restrict the right to vote even after one has served their full sentence. The locations with the highest likelihood to incarcerate individuals are also the places with the harshest consequences for incarceration, it has also been shown that places with the highest minority populations are more likely to incarcerate individuals and most likely to also have the strictest disenfranchisement laws.<sup>98</sup> The disenfranchised population in the twelve states with the harshest disenfranchisement laws, only allowed to vote after serving their full sentence, make up half of the total disenfranchised population in the United States.<sup>99</sup> Losing the right to vote should not be thought of as a debt to society. By using this language, "once you

<sup>94</sup> "Black Codes." *History.com*. A&E Television Networks, 10 October, 2019.

<sup>95</sup> Simkin, John. "1866 Civil Rights Act." *spartacus-education.com*, Spartacus Educational, January 2020.

<sup>96</sup> "Poll Taxes." *americanhistory.si.edu*, National Museum of American History.

<sup>97</sup> Rice, Josie Duffy, Clint Smith. "Excluded From Democracy." *Justice in America*, The Appeal. 22 August, 2018.

<sup>98</sup> Rice, Josie Duffy, Clint Smith. "Excluded From Democracy." *Justice in America*, The Appeal. 22 August, 2018.

<sup>99</sup> Rice, Josie Duffy, Clint Smith. "Excluded From Democracy." *Justice in America*, The Appeal. 22 August, 2018.

have paid your debt to society,” we evoke the idea of short-term reform. Our past took the right to vote as a way to exclude populations from contributing to our society, ultimately taking away the voices of a large portion of the American population. Our history of voter disenfranchisement owes us enfranchisement. We have repeatedly taken away the ability to vote from marginalized groups, and we continue to do so through legislation shrouded in discrete language, the word “criminal” masks the identities the majority of those imprisoned and/or convicted have. This is not the democratic process we preach to the world, once again those in power are silencing others by weaponizing and restricting voting. We owe these communities their restored personhood by restoring the civic right to vote not only to those who have served their sentences, but to those serving time in prisons and jails across the country.

## Parole

Parole is seen as a privilege, not a right. There are two types of prison sentences: indeterminate and determinate. For an indeterminate sentence there is a range between a minimum and maximum sentence whereas a determinate sentence has fixed terms. Once an individual either serves their minimum sentence or one-third of their sentence they are eligible for parole. They are placed before a parole board, composed mostly of judges, criminal experts, and psychiatrists, where they question whether the individual will pose a threat to public safety if released early or if it is best for the individual to be released early at all. The board looks at the individual’s criminal history, behavior and accomplishments during time served, details of their crime, and plans upon release. If released on parole the individual must abide by certain guidelines including curfews, rehabilitation, monthly or more frequent drug testing, paying fines, court costs, restitution, and other attorney fees. Fourth Amendment rights do not extend to those on parole or probation as they can be subject to random searches with no warrant.

The role of a parole officer has changed since its inception. Before the 1980s, the parole officer worked with the individual to determine housing and employment through case-management.<sup>100</sup> Often times the officer was even tasked with providing counseling in order to relieve the tensions the individual may be experiencing with their family, or in finding housing or jobs, etc. Despite the offered services, the role of the parole officer was under scrutiny, often judged as ineffective. While this cannot be blamed only on the officers since the general lack of employment, especially for returning citizens, was high, the rehabilitative service was still lacking. As incarceration rates significantly increased, parole officers were taking more and more cases and soon their role became one of law enforcement.<sup>101</sup> After the 1980s, parolees were subject to surveillance and drug testing, and parole officers were less inclined to look at their clients as individuals in need of specific services.<sup>102</sup> At the same time there was a huge push towards law and order and tough on crime politics that heavily influenced parole officers resulting in a

<sup>100</sup> Thompson, p. 142.

<sup>101</sup> Thompson, p. 142.

<sup>102</sup> Thompson, p. 143.

significant lack of rehabilitative services that in the public's eye was seen as "soft on crime."<sup>103</sup> Parole officers were now acting for the community rather than for their client, allowing them to look for reasons to place these individuals back into the system rather than keep them out.

This led to another increase in the stigma associated with individuals who were formerly incarcerated. Despite being free citizens, parolees were still under the control of the legal system and any violation of their conditions of release would result in reincarceration. By the late 1990s, parole revocations accounted for a large proportion of the new prison admissions, more than three-fourths of these violations were technical violations.<sup>104</sup> These technicalities included: positive drug tests, curfew violations, as well as other prohibited activities.<sup>105</sup> The case *Morrissey v. Brewer* (1972), classified parolees as different than prisoners for due process purposes, and if accused of violating a condition they were entitled to both preliminary and final hearings before parole was revoked. However, certain states such as Illinois mostly did away with the preliminary revocation hearings and delayed the final hearings.<sup>106</sup> This meant that parolees would be imprisoned for months before having a hearing or being found eligible for bail. Even when they did receive a hearing they were often not represented and as a result were often reincarcerated without their full trial rights.<sup>107</sup>

## Trudging Forward

The criminal justice system is not broken. Contrary to popular belief, the system has been working the way it was designed to since its inception. Despite the recent bipartisan effort towards reforming our country's reentry services, people fail to see the humanity within our returning citizens. System reform begins here, with people. Throughout our nation's history we have continued to marginalize groups and brand them with a title devaluing the time they served and affecting their future opportunities. Even after an individual has served their time in prison or jail, our society believes it is still our responsibility and our right to continue to punish. In doing so we strip away these people's humanity, dignity, and citizenship as we have done since slavery. In doing so we affect these individual's families as well, severing ties with close relatives and isolating them from their communities. The future of reform lies within restoring personhood to those who have had it taken for too long.

Reentry services have to be started the moment an individual enters the system and needs to see them through their reintegration into society. There also needs to be an expansion of reentry services both in prisons and jails and within the community. With either federal funding support or expanded private funding for educational programming in prisons and jails there will be a definitive decrease in recidivism rates. Substance abuse has to be treated as the health issue that it

<sup>103</sup> Thompson, p. 144.

<sup>104</sup> Thompson, p. 145.

<sup>105</sup> Thompson, p. 145.

<sup>106</sup> Thompson, p. 145.

<sup>107</sup> Thompson, p. 145.

is, and rather than arresting and imprisoning those suffering from drug addictions, the system needs to provide them with real treatment. Voting rights should no longer be weaponized and suppressed by having all citizens allowed the civic right to vote. The original role of parole officer needs to be reconfigured back into its original purpose. By having parole officers act as law enforcement officials, we continue to promote the “tough on crime” and “law and order” way of thinking that proved to be ineffective, and biased. We must address the stigma attached to having been formerly incarcerated. As a society we have to find a way to address our past and publicly acknowledge its connection to the present. The “The Ban the Box” campaign made to help returning citizens obtain jobs without the difficult conversation concerning their criminal record can actually do more harm than good. Since employers still do not want to hire individuals with records, instead they will use other information, such as race and gender, to assume whether the candidate has a criminal record or not. Without a change in public perception and understanding, the reforms enacted will have no real power to do the work that needs to be done.

Reentry is supposed to be the “final stage” in the system; however, it often feeds back into the beginning as individuals march back to cages chained in heavy metal. If this is your first in-depth look at the criminal justice system, you need to take a step back to view the system as a whole. Only once you see the vast array of interconnections within and diverging from the system, can you begin to break it down and focus on particular slices. Just enacting reform in reentry services would not be enough, the system’s cogs would continue to churn out similar outcomes. By confronting our past as a country, we can begin to acknowledge the pain inflicted and being inflicted on our own citizens, and recognize our shared identity, and shared humanity. Bryan Stevenson says, “Our humanity depends on everyone’s humanity.”<sup>108</sup> By closely examining not just the ways in which we treat the affluent and powerful, but the marginalized and condemned we can truly see this link of dignity, and start doing the work that needs to be done.

<sup>108</sup> Stevenson, Bryan. (March 2012). *We Need to Talk About Injustice*. Retrieved from [https://www.ted.com/talks/bryan\\_stevenson\\_we\\_need\\_to\\_talk\\_about\\_an\\_injustice?language=en#t-1013433](https://www.ted.com/talks/bryan_stevenson_we_need_to_talk_about_an_injustice?language=en#t-1013433)