

Rethinking Prisoner Reentry: The Policy Implications of High Rates of Incarceration

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Sentencing policy in the United States has changed dramatically in the last 30 years. During this time, U.S. incarceration rates quadrupled (largely due to drug offenses) and corrections budgets have become the second fastest growing state expenditure. More offenders entering prison means that more prisoners will eventually leave and return to their families and communities. Yet returning prisoners face a number of challenges in their family relationships, work, health, and housing. Many have a low level of human capital; for example, the longest that half of them have held a job is two years. Two-thirds of released prisoners end up being rearrested for a new offense within three years and one-quarter are returned to prison for a new conviction. To turn these numbers around, new policy directions include a) reinventing supervision by front-loading services to ex-prisoners during the first six months after their release, the time they are most likely to commit a new crime, and b) establishing reentry courts to provide appropriate sanctions and incentives for successful reintegration.

In 2002, more than 630,000 people left federal and state prisons, compared to only 150,000 three decades ago. U.S. prisons now hold a million more people than they did a generation ago. Prisons have increasingly been used as a response to crime, without considering the iron law of incarceration—nearly all prisoners come back to their families, neighborhoods, and communities. Many have difficulty with the most basic requirements of life outside prison, such as finding a steady job, locating stable and affordable housing, and reestablishing positive relationships with families and friends. Many will remain plagued by substance use and health problems. Most will be rearrested and many will return to prison. This leads to one of the most important policy questions of our time—how can prisoners best be prepared for their inevitable return to society?

How Have States Changed Sentencing Policy in the Last 30 Years?

Legislators have dramatically transformed our justice system by enacting a series of reforms, large and small, in the last 30 years. In the early 1920s, nearly every state in the nation operated under an indeterminate sentencing model. Under this model, state legislatures set broad ranges of possible sentences for criminal offenses. Offenders who were sentenced to prison were eligible for parole by a parole board that reviewed the prisoner's progress toward rehabilitation and assessed his ability to safely return to society.

In the 1970s, people on both ends of the political spectrum raised concerns about indeterminate sentencing. Some criticized the discretion exercised by judges, corrections administrators, parole boards, and parole officers as arbitrary, racially

discriminatory, and unfair. They supported more uniform sentencing guidelines and rules. Others believed that the system coddled criminals rather than deterring them and argued that the severity of the sentence should be proportional to the severity of the crime.

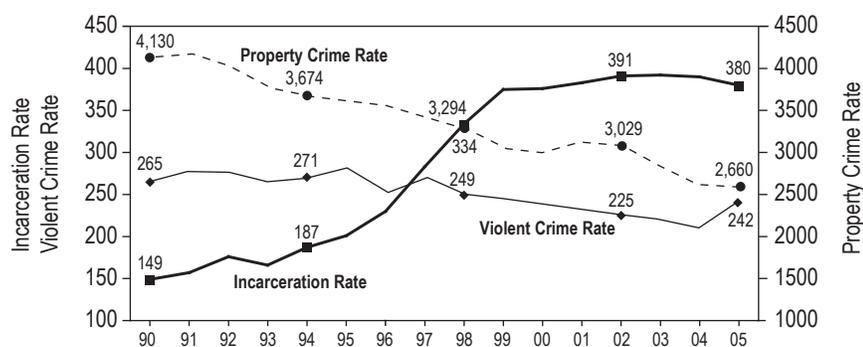
In 1976, Maine abolished parole, becoming the first state to abandon the indeterminate sentencing model. California and Indiana soon followed. Effective in 1980, Minnesota was the first state to create a sentencing commission, which limited judicial discretion in sentencing. In 1984, Washington became the first state to adopt “truth-in-sentencing,” which limited judicial *and* parole board discretion and effectively lengthened prison terms. In 1994, California voters passed a “three strikes and you’re out” referendum; Georgia, Washington, Florida, and the federal government have since enacted similar laws. Aided by federal funds, 29 states including Wisconsin now have a variation of truth-in-sentencing in place. The 1997 Wisconsin law required the court to impose a sentence consisting of a specified period of confinement in prison and a specified period of extended supervision; parole eligibility and good-time credits were eliminated.

How Many People are Incarcerated and What are the Costs?

Between 1920 and 1970, the U.S. incarceration rate remained stable at about 110 state and federal prisoners per 100,000 residents. This rate held steady over the Great Depression and periods of economic expansion. By 2002, the incarceration rate had quadrupled to 476 per 100,000 people. In 1973, about 200,000 people were in U.S. prisons; by 2003, 1.4 million people were behind bars. The U.S. is the global leader in the use of imprisonment, slightly ahead of Russia and far ahead of England, Canada, France, and Japan. Wisconsin’s incarceration rate more than doubled between 1990 and 2005 (see Figure 1).

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Figure 1. Wisconsin Incarceration and Crime Rates, 1990-2005
Per 100,000 population



Source: Figure compiled by Wisconsin Family Impact Seminar staff using data from the U.S. Department of Justice, Bureau of Justice Statistics. Crime rates: State-level crime trends database, *Reported Crime in Wisconsin*. Incarceration rates: *Prisoners in (Year)* bulletin. 1990-1993 data from Wisconsin Taxpayers Alliance.

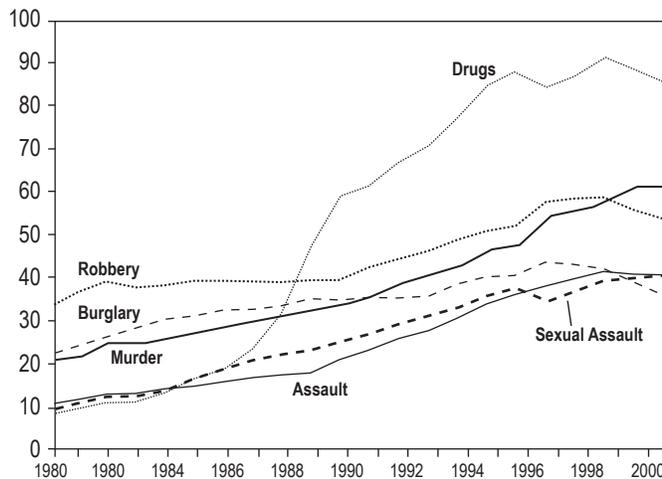
The financial consequences of incarceration are substantial. Between 1973 and 2000, the number of state prisons nearly doubled—from 592 to 1,023. Except for Medicaid, corrections expenditures have been the fastest-growing portion of state budgets. Between 1977 and 1999, state and local expenditures for corrections rose

by 946%, outpacing spending growth for education (370%), hospitals and health care (411%), and public welfare (510%).¹

What Crimes are Driving the Incarceration Rate?

Drug enforcement policies are driving much of the prison growth. Between 1980 and 2001, the incarceration rate rose for all the major crime categories. Five of those categories grew steadily but not as dramatically as the sixth type—crimes for drug offenses. Between 1980 and 1996, the incarceration rate for drug offenses grew by more than 930% compared to the two next largest increases of 361% for sexual assault and 306% for assault (see Figure 2). The increase in the incarceration rate for drug offenses is due to significant increases in the arrest rate for drug offenses, a greater likelihood that arrests will result in a prison sentence, and longer sentences for drug offenses.

Figure 2. U.S. Incarceration Rates by Crime Type, 1980-2001



Source: Travis, J. (2005). *But they all come back: Facing the challenges of prisoner reentry* (p. 27). Washington, DC: The Urban Institute Press.

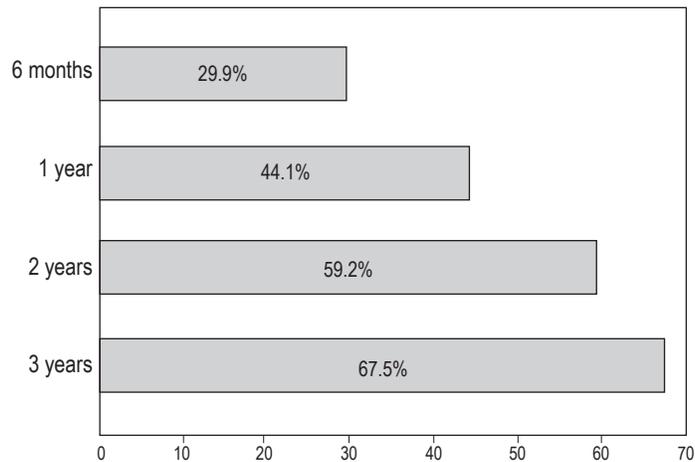
Drug enforcement policies account, in large part, for the racial disparities in the prison population. From 1980 to 1987, the number of admissions for drug offenses for whites, blacks, and Hispanics were remarkably similar. Beginning in 1987, all drug admissions increased, but the rate for blacks skyrocketed, largely due to the explosion of crack cocaine in inner-city, predominantly minority, communities. The drug admissions for blacks in 2000 were 26 times the level in 1983; for Hispanics, they were 22 times higher, compared to an eight-fold increase for whites. Assuming no changes in incarceration rates, nearly one in three African-American men and one in six Hispanic men will be sentenced to state or federal prison at some point in their lives.

How Many Released Prisoners are Re-Incarcerated?

For many prisoners, being sent to prison is not a new experience. In a study of 15 states that included Illinois, Michigan, and Minnesota, two-thirds of prisoners released in 1994 were rearrested for a new offense within three years (see Figure 3), and one-quarter were returned to prison for a new conviction.

Between 1980 and 1996, the U.S. incarceration rate for drug offenses grew by 930%.

Figure 3. Rearrest Rates of Prisoners Released from Prisons in 15 States, 1994



Source: Langan, P.A. & Levin, D. (2002). *Recidivism of prisoners released in 1994* (NCJ 193427). Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics.

A growing number of these returning prisoners, called “churners,” were incarcerated because they violated their parole conditions. In 1980, 17% of all prison admissions were parole violators; that is, they were arrested for a new crime, or violated a “technical” condition of their supervision such as a missed appointment with a parole officer. Twenty years later, the percent of parole violations doubled to 35% of all prison admissions. About as many people were returned to prison for parole violations in 2000 as were admitted in 1980 for all reasons.

What Challenges Do Prisoners Face When They Return Home and How Can Policymakers Respond?

Imprisonment ripples through a prisoner’s life. When a convicted offender is sentenced to prison, he or she leaves a life behind. That life might include children, intimate partners, peer groups, coworkers, employers, partners in crime, or classmates. These dimensions of community life may benefit or suffer from the prisoner’s absence and will be affected upon his or her return. Returning prisoners face a number of challenges in their family relationships, work, health, and housing. Policymakers across the country have been developing policies to improve outcomes for people coming back so they are more likely to be reintegrated and less likely to be rearrested.

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Families and Children

Most prisoners are parents. More than half (55%) of the men and nearly two-thirds of the women in state prisons report having minor children. About one-quarter of the parents in state prison are married and one in five are divorced. When a parent is incarcerated, it has profound consequences on the emotional, psychological, social, and financial well-being of the children left behind. The financial stress and, in some cases, separation from a partner places a strain on the remaining parent or caregiver as well.

Continuing contact with family members during and following incarceration can reduce recidivism and foster reintegration. When prisoners return home, they face multiple hurdles, many of which a supportive family can help overcome. For example, marriage helps prevent reoffending and married prisoners are less likely to associate with peers involved in crime. Families can provide other important supports that returning prisoners need to reintegrate into society such as help with housing, employment, and health concerns. However, not all families are in a position to help and some may not want to help.

Prisoners expect their families to be supportive and these expectations are generally realized once they get out of prison. For example, in one study, 90% of former prisoners “*agreed*” or “*strongly agreed*” that their family had been supportive in the first few months after their release.² Former prisoners who felt that their family was a source of support had more success finding a job and staying off drugs. However, as critical as this support is, it often comes at a price to families.

This is one lesson that emerged from a successful program in New York City, La Bodega de la Familia that used a case management approach to strengthen and support the families of reentering prisoners. This demonstration program resulted in decreased substance use and improved physical health for ex-prisoners. Despite the program’s effectiveness, supporting returning prisoners is hard work for families. Even with a dedicated case manager, 24-hour crisis intervention services, and improved connections with medical and social services, the families in this 1996 study reported more stress and emotional problems than the comparison group. If families are to be a cornerstone of successful prisoner reentry, policies must take families’ emotional needs into account.

Policy options. The family is central to the reentry process. There are several policy options that can support families and give them the tools they need to ease the reentry of their loved one.

Corrections agencies could, with additional financial resources and under the leadership of state policymakers, do several simple things to strengthen families:

- improve visitation policies,
- bring families to their prisons,
- expand the definition of family members to allow visitation by girlfriends or boyfriends who are sometimes raising the prisoner’s children,
- encourage phone calls,
- provide video links between prisons and community centers,
- find secure means for Internet communications between prisoners and families,
- create family advocate positions within their organizations,
- eliminate the imposition of child support payments during the incarceration period,
- offer classes in parenting skills, and
- assist prisoners in asserting their rights in custody proceedings.

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The effort of corrections agencies needs to be coupled with community involvement. Schools could offer counseling to children of incarcerated parents. Youth-serving organizations need to help children find mentors and work through their feelings of shame, anger, and confusion. Government could fund a network of nonprofit agencies to support children and help them connect over the Internet with their incarcerated parents. All agencies that serve families need to recognize the special challenges family members face when their parent or partner goes to prison.

Work

Incarceration affects work in several ways, three that I mention here. First, incarceration interrupts a pattern of work for some prisoners and results in lost productivity, lost income for their family, and reduced lifetime earnings of 10% to 30%.³ In 1997, over half (56%) of prisoners were employed full-time at their arrest and another 12.5% were employed part-time.⁴ Second, some people work while imprisoned. However, those without the opportunity or interest lose a chance to develop a work ethic, learn job skills, and build a work record.

Finally, prisons can prepare people for work after release, but little has been done in this regard. The challenge is that prisoners have a low level of human capital. In 1997, nearly half (41%) of returning prisoners did not have a high school diploma or GED and 17% had an eighth grade education or less. For almost half (46%), the longest job they held was 2 years or less and 45% had been fired from a job at least once.⁵

Prison can be a promising point of intervention for enhancing the future employment levels of returning prisoners. Studies in the 1970s concluded that prison programs do little to improve released prisoners' employment status; however, recent research finds that well-designed and well-implemented programs work when prisoners are motivated to improve their job prospects.

Policy options. In a study of 49 prisoners leaving prison in New York, their top concern was landing a job. Those who find a stable job are less likely to commit another crime. In response, states have used a variety of approaches to (a) address work within the confines of the prison, and (b) prepare prisoners for employment outside prison walls.

In 1994, Oregon voters required all able-bodied inmates to work or engage in work-related activities 40 hours a week.

In 1994, **Oregon** voters amended their constitution to require that all able-bodied inmates work or engage in work-related activities 40 hours a week. All entering prisoners undergo a battery of tests to identify barriers to employment which are then addressed with targeted programs. Private companies are invited to create jobs for inmates. Prisoners are awarded points, which are translated into cash and awards. Because the more desirable jobs require a high school education, more prisoners are completing their GED. A prisoner who leaves an Oregon prison now leaves with work experience, recommendations from his supervisors, and a modest nest egg. In June 2002, 78% of the prisoners were eligible for work and 78% of those were fully compliant with the 40-hour work week requirement.

States could also create “justice intermediaries,” organizations charged with and accountable for improving the employment profile of returning prisoners. They could build on the successful efforts of post-release work programs such as **Texas’**

Project RIO (“Reintegration of Offenders”), **New York’s** Center for Employment Opportunities (CEO), or the multi-site Opportunity to Succeed Program. The justice intermediary would work with the prisoner before his release date, provide case management services to help ex-prisoners navigate available resources, and provide work opportunities after release if none is available. To provide a work incentive for prisoners, states also could extend their Earned Income Tax Credit to childless adults.

In recent surveys, the public supports prison work programs and a “prison to work” strategy. The Oregon referendum, for example, passed with 72% favoring a mandatory prison work program. In a Philadelphia study, nearly all of the respondents—from high-income suburbs, low-income urban neighborhoods, and a suburban community—thought that helping ex-prisoners find stable work was the most important step in helping them integrate into their communities.⁶

Health

The health of prisoners is poor. About 80% of state prisoners report significant alcohol or drug abuse, 18% have Hepatitis C, 16% have a mental illness, 7% are infected with tuberculosis, and almost 3% carry the HIV virus. The prevalence rates for these diseases are significantly higher in the prison population than in society as a whole.⁷ Health professionals inside and outside prison have an obligation to reduce the transmission rate of these diseases to the family and community.

Policy options. Prisons provide a low-cost opportunity to detect and treat diseases that pose a serious public health risk and to deal with addictions and mental illness that, left untreated, may increase recidivism and drug use. Several changes can be made to shift the focus from simply providing prison health care to viewing prisons as a public health opportunity.

- Prisons should provide immunizations, screening, treatment, and prevention programs for communicable diseases. Diagnostic tests are low cost, and infected individuals could receive treatment and education while they are in prison to reduce transmission to their family and society.
- Screening can reveal which prisoners need medication or treatment for addiction and mental illness. Prisoners should then be linked to drug treatment and mental health programs in the community when they are released.
- Prisons should create a health-related discharge plan for every released prisoner that includes links to local clinics, doctors, and hospitals. A key component of these plans is establishing immediate eligibility for Medicaid and other benefits upon release.

Housing

Of the many challenges facing prisoners, none is as immediate as finding shelter. Housing has been characterized as the “lynchpin that holds the reintegration process together.”⁸ Most prisoners return to live with their families, some live with friends and relatives, and others end up in homeless shelters.

Some families simply do not want the prisoner to live in their household, whereas those in public housing fear losing their apartment if they accept a released

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prisoner. Public housing landlords and providers of Section 8 housing have been given increasing power to prevent anyone with a criminal record from living in their properties. In fact, an entire household can be evicted when a family member, guest, or someone “under the tenant’s control” is engaged in criminal activity.⁹

The populations of homeless individuals and released prisoners overlap to a great extent. According to recent studies, 10% to 25% of released prisoners will be homeless within a year. Moreover, of those who entered homeless shelters, 42% returned to prison within two years. A sizeable subpopulation experiences two revolving doors, one in and out of prison and another in and out of homeless shelters.

One study found that placing ex-prisoners in supportive housing netted savings of \$2.5 million in incarceration costs each year.

Policy options. Studies suggest that supportive housing for former prisoners could curb crime and save money. The Fortune Academy in New York City is a residential facility that provides a range of supportive services using funding from city, state, and federal governments. One evaluation found that placing ex-prisoners in supportive housing resulted in nearly 8 fewer days of prison and about 4 fewer days in jail per person, which generated estimated savings of \$2.5 million in incarceration costs each year.¹⁰

The Council of State Government’s Reentry Policy Council concluded that no prisoner should be released homeless. When former prisoners were asked what could help prevent homelessness, 69% stated that what would be most helpful is not money for rent or a deposit, but rather a counselor to help them understand their housing options. New York City’s successful La Bodega de la Familia program helps prisoners understand the rules of public housing and works with administrators to be more flexible so that drug offenders can live with their families.

Project Greenlight provides such a counselor who interviews prisoners and takes inventory of their criminal history, job skills, family ties, and substance abuse issues. The coordinator does not pay for housing, but instead matches prisoners to appropriate housing upon their release.

Some corrections agencies provide a “halfway house,” which serves as a buffer between prison life and life on the outside. Initially, prisoners are allowed to work, visit with family members, and engage in a limited range of activities, but they must observe strict curfews and return to the halfway house each night.

Invisible Punishment

Some punishments prisoners face are nearly invisible to the public. Depending on the circumstances, some felons are ineligible for public assistance, education loans, driving privileges, public housing, and food stamps. Some can no longer vote, are more likely to have their parental rights terminated, must register with the police for the remainder of their lives, and may even be deported. This unique set of criminal sanctions, which I call “*invisible punishment*,” is hidden from public view, unmentioned in debates about punishment policy, and excluded from research on the costs and benefits of criminal sanctions.

As of 1996, 33 states restricted rights to own firearms, 29 established a felony conviction as grounds for divorce, 25 restricted the right to hold public office, 19

allowed termination of parental rights, and 14 permanently denied felons the right to vote. Prisoners in 48 states, including Wisconsin, and the District of Columbia are not allowed to vote while they are incarcerated. The federal government also restricts ex-prisoners' access to assistance such as food stamps, public housing, and student loans.

Taken together, these laws prohibit prisoners from participating in society and receiving public benefits. It appears that one's debt to society is never repaid. The public might support scaling back some of these invisible punishments. In a 2002 Harris poll, 80% of Americans believe that ex-felons who complete their sentences should have the right to vote; 60% thought probationers or parolees should be allowed to vote.¹¹

Policy options. A first step is to make invisible punishments visible. States could codify the hidden sanctions scattered throughout their statutes. This would allow criminal defendants and their counsel to find, in one place, all of the potential consequences of a criminal conviction. Similarly, legislative committees with jurisdiction over sentencing policy and the state's sentencing commission could review all of the hidden sanctions.

A second step is to match the severity of the invisible punishment to the severity of the crime. All felons, whether guilty of the lowest felony or murder, are denied the right to vote in some states. Sentencing judges could be given latitude to apply individualized sanctions to fit a defendant's unique circumstances. Third, we need clear avenues for judicial or administrative redress for sanctions that cause undue hardships on ex-prisoners.

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What Policy Options Can Policymakers Consider to Keep the Public Safe?

The debate over public safety typically focuses on three options: keeping prisoners in prison longer; providing them with more in-prison programs to reduce their rate of reoffending after they leave, and providing more supervision. Each of these strategies has limitations.

Keep Prisoners in Prison Longer

Clearly, there is some truth that keeping prisoners behind bars longer will reduce crime. But prison expansion is an expensive and blunt crime control instrument. At some point, the high financial and social costs of incarceration reach a point of diminishing returns in keeping the public safe. We should not assume that crimes committed soon after release would have been avoided by a longer prison stay; rather, it only might have postponed the crime. We could take steps such as lengthening the stay of only high-risk prisoners, but this would require more discretion at the sentencing and release stages. However, this is unlikely, given the current movement away from indeterminate sentencing.

Offer More Programs in Prison

There are solid reasons for providing in-prison programs that help prisoners get a high school diploma, teach them job skills, and provide treatment for their

addictions. Research clearly shows that some programs, alone or in combination, work for certain offenders. Yet in an era of state fiscal constraints, political support for these programs is weak. Furthermore, the potential of these programs to produce *significant* reductions in crime is limited. This will be particularly true if programs are expanded on a large scale because interventions would then likely draw in prisoners less motivated to change. In short, investing in more programs is a necessary, but not sufficient, ingredient in a comprehensive crime-reduction strategy.

Provide More Intensive Supervision

Supervision has been the dominant strategy used with returning prisoners. However, research shows that supervision has had modest effects on rearrest rates. A large RAND study concluded that supervision alone (1) does not reduce rearrest rates (and may increase them), (2) significantly increases rates for violation of supervision conditions and returns to prisons, and (3) is effective at increasing participation in programs designed to promote reintegration.¹²

These three policy options do not hold much promise for making a significant impact in the rearrest rate of returning prisoners. Keeping prisoners longer would prevent some crimes, but at a high cost. Providing more programs in prisons is a low-cost way to prevent crimes, but would only make a small dent in recidivism. More intensive supervision alone does not reduce recidivism, but would improve access to services and at the same time significantly increase the number of individuals who are caught violating their parole. To move beyond these typical responses, I suggest reinventing supervision and establishing reentry courts.

Reentry resources should be front-loaded to the first six months, the time of greatest risk.

Reinvent Supervision

A new model of supervision would reflect the reality that rearrest rates are highest in the months immediately following release. Resources for supervision, support, and transitional services should be front-loaded, with an investment of money during the time of greatest need and risk. Reentry resources are generally not allocated this way. Rather, resources are generally spread equally over the supervision period. If allocated according to risk, nearly one-third of the funds would be spent in the first six months on supports designed to reduce the risks of failure.

If this strategy were fully realized, there would be drug testing and treatment for prisoners with addiction, transitional housing for those without housing, continuity of care for the mentally ill, electronic monitoring to keep prisoners away from people and places where crime risks are high, and transient jobs for those able to work. Implementing this plan would involve families, community organizations, service providers, support networks of former prisoners, and religious organizations. Responsibility for coordinating resources and services could be vested in a new entity such as a “justice intermediary.”

Establish Reentry Courts

Reentry courts, an idea I proposed in 1999, offer a number of advantages over our current system. These courts would carry out the functions currently performed by parole agents. The judges in these courts could keep track of a prisoner’s progress in meeting the goals in their reentry plan and possibly grant early release to a prisoner making significant progress.

Reentry courts could build on the experiences of drug courts, which use incentives and sanctions to support drug-addicted defendants. Reentry courts would support and celebrate reintegration milestones such as a job offer, reunification with a family, or connection with transitional housing. On the other hand, the reentry court judge could order curfews, electronic monitoring, inpatient treatment, or short stays in local jails. The reentry court should be empowered to make appropriate judicial decisions, such as shortening supervision after a period of compliance or modifying invisible sanctions such as driver's license suspension when circumstances have changed. Perhaps most importantly, reentry courts could provide a public forum in which the legal, family, and community systems intersect to recognize the key ingredient in stopping crime—redemption for the prisoner.

Conclusion

The landscape of punishment in America has changed profoundly in the last three decades. Incarceration rates have increased fourfold. Parole release rates have dropped dramatically. Parole supervision has increased significantly and parole revocation sends hundreds of thousands of people back to prison each year. These changes have had far-reaching consequences because the number of prisoners returning to their communities is significant and growing.

When the country was debating sentencing policy—how tough sentences should be and whether to have mandatory minimums—we were forgetting the iron law of imprisonment, which is that everybody we put in prison comes back. Except for those who die of natural causes or by execution, they all come back. The bottom line for policymakers should be: How do we improve the outcomes for people coming back so that they are more likely to be integrated and less likely to be rearrested?

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The reentry court should be empowered to make appropriate judicial decisions, such as shortening supervision or modifying sanctions.

This chapter is based on the following book and policy brief.

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