Guideposts for the Era of Smart Decarceration

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Executive Summary

Reducing the United States’ overreliance on incarceration requires deliberate action. Proponents of smart decarceration recognize the need for clearly articulated areas of targeted intervention—or guideposts—to inform the multifaceted nature of criminal justice reform. An important first step as we enter the era of decarceration is to merge the collective goals and strategies of diverse and highly invested stakeholders.

Despite the expansion of efforts to reduce jail and prison populations and reform criminal justice policy and practice, a comprehensive, inclusive, and actionable approach has been relatively absent from the conversation. Such an approach is only possible if criminal justice stakeholders agree upon the foundational objectives that can generate lasting decarceration. In this report, we offer guideposts and actionable strategies for the era of smart decarceration in America.

This document was written by leaders of the Smart Decarceration Initiative (SDI). SDI is a joint initiative of Washington University in St. Louis, the University of Chicago and the Institute for Justice Research and Development (IJRD) at Florida State University and is located at the Center for Social Development at Washington University’s Brown School of Social Work. SDI’s mission is to build social capacity to reduce incarceration rates in ways that are effective, sustainable, and socially just.

Smart decarceration will only be achieved when three simultaneous goals are accomplished:

1. Substantially reduce the incarcerated population in jails and prisons
2. Redress race, economic, and behavioral health disparities of those involved in the criminal justice system
3. Maximize public well-being and public safety
### SDI is grounded in four guiding concepts

1. **Changing the narrative on incarceration and the incarcerated.**
   A smart decarceration approach must soberly question the utility and function of incarceration and actively welcome currently and formerly incarcerated individuals as leaders in decarceration efforts.

2. **Making criminal justice systemwide innovations.**
   Criminal justice transformation that leads to smart decarceration will require advances in all sectors of the criminal justice system, including law enforcement, court systems, jails and prisons, and probation and parole.

3. **Implementing transdisciplinary policy and practice interventions.**
   Smart decarceration will be complex and comprehensive and will require integrating perspectives from multiple disciplines to produce substantive policy reforms and practice innovations.

4. **Employing evidence-driven strategies.**
   A smart decarceration approach must both generate new evidence for optimal reforms and use existing evidence to guide decision-making and program development. Methods must be integrated to continuously examine and assess the effects of policy and practice interventions, thus developing further evidence from which to act.
‘Guideposts for the Era of Smart Decarceration’ is a result of our efforts to build consensus and articulate priorities that stakeholders have identified as feasible and likely to produce meaningful impact in the era of decarceration. Integral to ensuring that smart decarceration is achieved is that the ideas and needs of multiple stakeholders are represented.

This report contains a set of guideposts and action steps for stakeholders identified over a three-stage process of soliciting input from 307 advocates, practitioners, reformers, and researchers. Stakeholders were engaged in this process between September 2014 and September 2016. The purpose of Phase 1 was to show where to focus decarceration efforts. Phase 2 was used to reveal the prioritization of specific action steps that could be taken to promote decarceration in ways that are consistent with smart decarceration goals and guiding concepts. Phase 3 articulated universal policy strategies to facilitate decarcerative change.

During Phase 1, we employed a multistaged and participatory research method known as Concept Mapping. We sought to identify and invite key experts from criminal justice fields, paying special attention to diverse sectors and actors whose voices are considered to be underrepresented in the decarceration movement, including substantial representation from individuals and families who have experienced incarceration.

Snowball sampling methods were then used to identify experts who represented areas of work that were not fully accounted for in our initial recruitment approaches. In total, we invited 197 expert stakeholders to participate in the concept mapping project. Prospective participants reflected higher education, healthcare, corrections, nonprofit advocacy, social and legal services, and public sectors, and included academic researchers, practitioners, ingredients policymakers, and advocates.
These stakeholders responded to the prompt “Based on your expertise, the key ingredients for successful decarceration of American prisons and jails is/are …”

Nearly 300 responses were generated.

Then, stakeholders evaluated each response based upon its:

1. importance for accomplishing long-term decarceration;
2. the degree of challenge it would be to accomplish; and
3. the level of impact it would have on decarceration.

Twelve priority areas for decarceration were generated during Phase 1.

These priorities included:
1. sharing data and resource allocation;
2. incorporating assessments of risks and needs;
3. implementing evidence-driven innovations;
4. reorienting responses to severity of the crime;
5. resetting norms and narratives;
6. incorporating multiple and new perspectives;
7. responding to behavioral and physical health needs;
8. improving reentry;
9. reducing collateral consequences;
10. building diversionary systems;
11. curtailing sentencing; and
12. narrowing the funnel to incarceration.

Phase 2 occurred in conjunction with the Smart Decarceration Initiative Inaugural Conference at Washington University in St. Louis in September of 2015. Conference attendees were organized into working groups, divided by the 12 priority areas, and spent several hours developing guideposts and strategies for decarceration.
Each of the 12 working groups were comprised of a representative mix of 93 conference attendees. Each group included diverse stakeholders to limit the possibility that one sector was overly influencing the strategies produced from each working group. Two group facilitators were paired with each working group to guide the members through an applied activity to create guideposts and strategies for smart decarceration. Participants were instructed by facilitators to create strategies from their assigned priority area and convert the strategies into actionable interventions that considered the three outcomes of smart decarceration and the four guiding concepts of the Smart Decarceration Initiative.

Working groups chose strategies based on their perceived feasibility and potential impact that would serve as their top priorities for their group’s activity. Then, the group brainstormed actionable steps to address the strategies. At the activity’s conclusion, the groups proposed new strategies in line with their assigned priority area and proposed strategies to address decarceration in the adult criminal justice system outside of their assigned priority area.

Phase 3 was achieved at the conference on Social Innovation for America’s Renewal in September 2016 at Washington University. Seventeen attendees worked to generate policy recommendations that could be applied at local, state, and federal levels and were in line with the actionable strategies produced during phases 1 and 2.

Quantitative survey data and qualitative data (i.e., transcription from audio recordings, pictures of white board notes, notes from a notetaker, and individual workbooks) were compiled across the three phases. These data were analyzed and synthesized by the SDI research team. The research team did not create new strategies. All guideposts and strategies described next represent the collective ideas obtained from the collective phases of this national consensus effort. A more detailed version of this report is in production with Oxford University Press and will be published in as a chapter in the book ‘Smart Decarceration: Achieving Criminal Justice Transformation in the 21st Century’.
Social innovation has made what we think of as human development, progress, and civilization possible. Social innovation has made possible all of the social systems and institutions that we take for granted. Unfortunately not all human social innovations are successful. Arguably, mass incarceration in the United States today is one of those wayward innovations. Humans Created mass incarceration, and we have the ability to uncreate it.”

—MICHAEL SHERRADEN, PHD, DIRECTOR, CENTER FOR SOCIAL DEVELOPMENT
Leadership by formerly incarcerated individuals reduces the imbalance between the decision makers and those who are being decided upon. Leadership not only empowers the individual who has become marginalized by incarceration, but also it brings presence and voice to those the public are currently taught to fear.

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CHANGING THE NARRATIVE ON INCARCERATION AND THE INCARCERATED

GUIDEPOST 1: People with incarceration histories in leadership positions

- Organize individuals with incarceration histories to engage in political action.
- Develop and disseminate a toolkit for individuals with incarceration histories on how to engage in policy change, including testifying to legislators.
- Permit individuals with incarceration histories to serve in positions throughout the criminal justice system from law enforcement officers to members of parole boards.
- Use individuals with incarceration histories as peer mentors for those with criminal records and as trainers for those who work in the criminal justice system.

The purpose of the public awareness campaign is to establish a shared narrative, raise awareness, change practices of decision-makers, and open avenues to increase understanding and explore advocacy. Particular attention must be placed on how current criminal justice practices are both affected by and drive racial and economic disparities in the United States.

GUIDEPOST 2: Public awareness campaign

- Provide formal education to employees of the criminal justice system (e.g., law enforcement, judges, prosecutors, probation officers) of the barriers caused by incarceration and the counterproductive impacts.
- Give TED talks and other presentations on how current practices are affected by and drive racial and economic disparities.
- Launch media campaigns targeting the general public using the following content area: personal narratives that counteract popular media stigma; direct and indirect costs of current practices to taxpayers; bail reform and its connections to economic disparities; collateral consequences (i.e., civil disability policymaking); and the role of trauma.
- Create media guides for reporting stories of crime and matters related to the criminal justice system that curb sensationalism and misinformation; rather, provide critical background and context to audiences.
- Develop database of successful points/arguments/ rhetoric. Test messages to see if they work/influence
For true reform to occur, Americans must rethink, reimagine, and redesign the criminal justice system. Forums allow for assumptions to be uncovered, beliefs to be challenged, goals to be articulated, and transfers power over narrative to the public.

GUIDEPOST 3: Forums for genuine and critical dialogue

- Hold town hall forums (inclusive of community members with incarceration histories) on defining public safety, examining the assumptions behind “tough on crime,” dismantling racial assumptions and perceptions of crime, and challenging the purpose of sentencing.

- Broker agreements between political candidates to not use support of legislation as points of attack in campaigns.

- Organize law enforcement and community meetings that explore police department culture, “who” truly needs to be incarcerated, how race and class impacts the way “crime” is assessed, root causes of crime, trauma, and the role of restorative justice.

- Arrange truth and reconciliation panels for community healing. Panels occur around the country to bring together victims of crime, offenders, those who are both victims and offenders, criminal justice employees, and other community members to share their stories about how they have been affected by incarceration and to look toward a different future.

- Build interdisciplinary decarceration coalitions in two areas: within direct policymaking stakeholder groups where law and practices are negotiated, and with external entities including advocacy groups, think tanks, and practitioners. Create bridges across the coalitions.

A critical aspect of changing the narrative is shifts in policymaking that are consistent with the “new” narrative. Positive changes in policy help to counteract stigma and redress maladaptive assumptions.

GUIDEPOST 4: Decarceration driven policymaking

- Include legislative provisions with the input of individuals and families involved with the criminal justice system and community members with high rates of incarceration in decision making of the reinvestment of money saved from reduced incarceration.

- Reclassify criminal statutes and dramatically reform sentencing guidelines.

- Propose stringent regulations and oversight of private/for-profit correctional industries, including private prisons and private probation.

- Require jurisdictions that receive federal funding to reduce mandatory and permanent restrictions on housing, education, employment, public assistance, and other civic participation to those that directly threaten public safety.

- Restore voting rights to all with histories of felony convictions and improve opportunities for expungement.
Many systemic factors beyond criminal behavior drive incarceration rates. Reforms are needed regarding what warrants justice system involvement, accountability and oversight of the system’s processes, and how a person experiences the system.

**MAKE CRIMINAL JUSTICE SYSTEM-WIDE INNOVATIONS**

**GUIDEPOST 1: Reform contributors to incarceration**

- Revise and reduce financial penalties (e.g., fines and fees) associated with criminal justice system.
- Revise sentencing structures and reduce sentence length for most offense types.
- Make changes in statutes and sentencing applicable retroactively (e.g., recently changed laws that address disparities between crack and powder cocaine).
- Increase accountability and oversight at early stages of the system, including arrest discretion, prosecution, conditions of confinement, and collateral consequences of pretrial detention.
- Create police oversight committee that reviews data and makes recommendations to legislative budget committee as to whether or not money should be allocated to police departments based on demonstrated changes in disparities from year to year.
- Individualize parole to better respond to needs, obligations, strengths, and goals of parolees to promote successful reintegration. Individualized parole provides more opportunities to review/revise conditions, shorten supervision length, and alter constituent parole violations to match individual risks and needs.
- Use cost savings from decarceration to increase capacity of multiple sectors of the criminal justice system to more sufficiently support, supervise, and service those involved in the system (e.g., adequately resource public defender offices, social workers in public defender/prosecutor offices, build capacity of strengths-focused community corrections).
Changing the use of incarceration involves reducing who is funneled to incarceration and why. Also, it involves changing what happens when a person becomes incarcerated. This does not require abandonment of punishment and deterrence, but when a person is incarcerated, the experience would model and foster positive societal participation.

GUIDEPOST 2: Change use of incarceration

- Reduce use of pretrial detention through alternative forms of bail payment; expedite processes for lowered bail applications; increase use of release-on-own-recognizance for those who do not pose immediate harm to others; decrease racial and economic bias in who is detained; process individuals more quickly via increased capacity of courts, prosecution, and public defense.

- Generate a wider range of sanctions for nonviolent crimes (including technical violations) that use incarceration only as a last resort and when the crime threatens others’ personal safety.

- Adopt evidence-driven alternatives to conviction (e.g., arrest diversion, pre-charge diversion, deferred prosecution) with expanded eligibility beyond low level crimes.

- Institute practices that coordinate release from institutions and prepare individuals for transition such as (1) increase number of staff who conduct prerelease planning and make such planning mandatory; (2) innovate programmatic-based furloughs; (3) reform confinement conditions to make them more similar to community-based living; and (4) shift correctional staff roles to include responsibilities focused on post-release success.

The siloed nature of criminal justice system sectors is a driving factor in mass incarceration. Actors in each sector need to have a shared understanding of individuals moving through the system, processes individuals experience, and circumstances they face before and after a given stage. Cross-sector training provides a bridge for such shared knowledge.

GUIDEPOST 3: Cross-sector training

- Identify common elements and provide standardized training to all sectors of the criminal justice system within a jurisdiction. Such content includes trauma-informed care, risks and needs, behavioral health, de-escalation skills, impact of power differentials, fairness and safety, resources, and racial and economic disparities.

- Reform formal judicial education to include decarceration practices.

- Share trainings between community members and law-enforcement, including development of specialized units/tasks forces within law enforcement.

- Create social work positions at every stage of the criminal justice system, from booking to parole.
To foster social justice-driven reforms, community members within local jurisdictions must be involved in the decision-making process. Community members include families of people involved in the criminal justice system as well as victims of crime.

**GUIDEPOST 4: Integrate justice and community**

- Improve law enforcement relationships with people who are black, brown, or native using mechanisms that establish mutual trust, respect, and partnership. For example, engage in shared development of policing reforms.

- Establish different mechanisms for addressing police abuse other than local prosecutors being responsible for prosecuting police and holding them accountable.

- Change parole board development and composition (e.g., adding criteria of who can serve such as education requirements, professional experience with the criminal justice system).

- Incorporate and increase community member/group involvement at each stage of the system, including decision making around arrest, detention and sentencing decisions, and reentry/parole support.

- Encourage community members at the local level to help bridge multiple sectors of the system by (1) pooling local public and private funding to support innovations in the system; (2) engaging local actors in redesigning their own jobs to support justice reform; and (3) launching public awareness campaigns about how sectors in that jurisdiction’s system interact and influence incarceration.

- Hold system-wide workshops for criminal justice employees on societal, cultural, and individual factors that influence whether a person engages in crime and how a person might respond to interventions. Training would be conducted by local service providers who will work with trainees to develop ways awareness of these factors could be incorporated into daily practice.
Current professionals and advocates came of age during the era of mass incarceration. During this time, educational and cultural narratives were framed within the context of using incarceration as the default response to not only crime but also public health crises (e.g., the crack-cocaine epidemic, gun violence). As the era of smart decarceration begins, professional and advocacy training must be redesigned.

IMPLEMENTING TRANSDISCIPLINARY PRACTICE AND POLICY INTERVENTIONS

GUIDEPOST 1: Develop decarceration talent

- Develop decarceration-based educational and professional products within the fields of social work, law, criminal justice, psychology, criminology, public policy, public health, medicine, and education. Products include textbooks, internships/practicum/fellowships/rotations, coursework, continuing education opportunities, and modified licensure requirements.

- Develop talent specifically of those who have had criminal justice involvement by increasing postsecondary education opportunities for people with felony convictions, training in policy advocacy, leadership training, and creating more opportunities to guide research.

- Integrate research and evidence into decarceration-based policy and practice work through new forms of university/community partnerships and educational offerings.

Since the turn of the 21st century, more attention has been given to the need for transitional support for people released from prison and jails. Despite increased funding and attention, access to effective reentry/transitional programs remains limited.

GUIDEPOST 2: Create universal reentry/transitional programs

- Require all states that receive federal funding for correctional facilities to complete standardized and valid disability, mental health, and substance use disorders assessments on entering and releasing prisoners.

- Require all states that receive federal funding for correctional facilities to provide evidence-driven transitional services in the following categories: education, employment, disability assistance, housing, mental health, substance use disorders, transportation, and other areas of formal and informal support.

- Require local and state jurisdictions that receive any criminal justice-based federal funding to connect inmates incarcerated for 45 days or more to community-based social and health services and health and disability insurance.

- Periodically assess incarcerated individuals’ progress and needs throughout an incarceration experience to adequately plan for post-incarceration needs.

- Create opportunities for persons guilty of crime to repair harm, at the individual or community level.
Civil disability policies are commonly referred to as collateral consequences. Civil disability policies are those public policies that permanently or temporarily deny those with histories of criminal justice involvement access to typical civil resources such as access to certain types of employment, professional licensure, education and permits, housing, voting rights, and a range of other civic participation.

**GUIDEPOST 3: Reevaluate and repeal policy driven collateral consequences**

- Inform all defendants, pre-plea, of potential collateral consequences through pre-plea legal consultation and mandatory inclusion of potential collateral consequences in pre-sentencing reports.
- Reduce public access to criminal records to mitigate discriminatory decisions related to social structures such as education, employment, and housing.
- Eliminate automatic collateral consequences, such as revocation of voting rights or professional licensure restrictions for persons convicted of a felony.
- Review collateral consequences by jurisdiction and eliminate those deemed unnecessary for public and personal safety.

Enhancing community capacity promotes both prevention and intervention efforts related to criminal justice involvement. The capacity of communities to adequately support its residents must be increased.

**GUIDEPOST 4: Build community capacity for social innovation**

- Generate a range of housing opportunities for those with incarceration histories through (a) Local partnerships for housing those with incarceration histories and high health needs (b) Correctional housing choice vouchers (c) Partnerships between criminal justice system stakeholders and housing developers to design and build affordable housing that fosters a successful post-release environment for people reentering society and their loved ones.
- Create corporate and government partnerships to increase employment in living wage jobs for formerly incarcerated individuals, strengthen incentives for employers to hire formerly incarcerated individuals by making the hiring part of their corporate social responsibility program, and educate the business community in economic and workforce development strategies.
- Reinvest savings from decarceration efforts into building community capacity for high quality education, stable housing, family-oriented supports, behavioral health services, healthcare, and asset development as determined by community members.
- Develop neighborhood crisis centers that are equipped to provide emergency short-term care for those who have law enforcement contact and are struggling with a behavioral health crises, traumatic events, or urgent financial/housing needs that may lead to low-level criminal involvement (e.g., panhandling, trespassing, loitering charges).
Though enormous resources have been needed to support mass incarceration, few have been funneled to research on drivers and costs of incarceration.

**EMPLOYING EVIDENCE-DRIVEN STRATEGIES**

**GUIDEPOST 1: Address gaps in knowledge through research**

- Research drivers of incarceration, including social determinants (e.g., community factors, concentrated poverty, access to employment) and individual determinants (e.g., criminal thinking, trauma). This includes further research on decarceration innovations’ impact on social and individual drivers of crime.

- Conduct cost-benefit analyses on jurisdiction-specific decarceration innovations compared to current incarceration practices on financial and public safety outcomes, drivers and use of incarceration from the local level up to the federal level, and costs of race and economic disproportionality.

- Close gaps in intervention research by development and widespread use of fidelity tools.

- Examine racial bias in existing risk–need assessment tools.

- Develop research to better understand resilience and protective factors of criminal justice-involved adults. This research is prevalent among juveniles but lacking among adults.

Research–practice–policy partnerships will be required. Effective partnerships will generate feedback loops in which research evidence is informing practice delivery and policy innovations; in turn, practitioners and policymakers will affect future research agendas.

**GUIDEPOST 2: Refine research-practice-policy partnerships**

- Work with diverse stakeholders, including formerly incarcerated individuals and their loved ones, to create a range of intermediate outcomes that identify “success” beyond recidivism that is meaningful to researchers, clients, and practitioners.

- Form research–practice–policy partnerships that use community- and action-based participatory research to develop a broader array of policy and practice interventions.

- Facilitate and incentivize research–practice–policy partnerships to enhance the dissemination and implementation of evidence-driven programs into practice—and the continual examination of such practices.

- Generate evidence-driven, model legislation for decarceration reforms through active collaboration between research, practice, and policy entities.
Lack of uniform data measurement and collection limits the ability to fill gaps in knowledge about current and future approaches.

**GUIDEPOST 3: Maximize measurement and data collection**

- Develop standardized measures of recidivism and other key criminal justice and behavioral outcomes as well as race and economic disparities. Create standardized ways of recording and reporting outcomes.

- Integrate local, state, and national data sources related to criminal justice, human services, and health care through centralized data repositories overseen by transdisciplinary leadership.

- Require collection of disaggregated data at the law enforcement level and develop racial profiling policies for law enforcement.

- Create mechanisms to expedite the availability of local, state, and national data to researchers.

- Collect data on criminal justice-involved individuals’ experiences as they move through and interact with various aspects of the criminal justice system.

- Create standards and disclosure requirements for entities that report research.

Despite the increased attention to the problems of mass incarceration and the need for reform, those not directly working with or experiencing the criminal justice system still have little information on its functions and processes. Information needs to be disseminated more frequently and in more consumable formats to various stakeholder groups to support decarceration efforts.

**GUIDEPOST 4: Package and disseminate information to targeted**

- Develop targeted policy and practice briefs, sample model legislation, and information packets for practitioners and policy stakeholders that highlight decarceration innovations and their successes.

- Create press packets and media alerts for journalists on decarceration related research findings and innovations.

- Disseminate research findings and decarceration innovations to the general public through new avenues (e.g., public service announcements, social media, phone apps, commercials).
CONCLUSION

Many of those reading this report already know the facts: The United States is the world’s leader in incarceration, spending $52 billion a year on correctional supervision, and another $948 billion in related social costs.

And growing numbers of people have accepted this reality: Prison does not improve people, and the American society no longer can afford the costs of mass incarceration. Those costs, of course, reach far beyond how much money is spent on imprisonment.

Research shows that incarceration has rippling effects that are harmful to formerly incarcerated individuals, to children and families of the incarcerated, to neighborhoods and communities with high incarceration rates, and to overall public safety and public well-being. Now we must address another reality: The evidence base for alternative criminal justice-related policy and practice interventions is feeble. As mass incarceration soared while devouring resources, too few resources were applied to creating effective social innovations to staunch the flow of people into this nation’s jails and prisons.

This report, Guideposts for the Era of Smart Decarceration, is part of SDI’s commitment to transformation. Research and social innovation will be the tools that lead to policies and practices to substantially reduce America’s overreliance on incarceration—and to ameliorate the racial, economic, and health disparities within the American criminal justice system.

This report catalyzes America’s commitment to working collectively to usher in an era of sustainable and effective decarceration—smart decarceration. We know this will only be achieved by bringing together inspiring thinkers and leaders to solidify an actionable, thoughtful, and paradigm-shifting action plan for reform.

This report represents consensus of more than 300 experts in criminal justice reform across disciplines and sectors. We organized the guideposts and strategies under the four guiding concepts of smart decarceration. We did so to demonstrate the importance of incorporating the guiding concepts into targeted action. Without a grounding in these concepts, individual strategies can become fragmented, lose intended focus, or result in unintended consequences. Imposing the guiding concepts on existing strategies also generates intervention modifications and improvements to meet simultaneous outcomes of reduced incarceration use, reversal of disparities, and fostering public safety and well-being.
Though only representative of the range of actions steps generated through our phased participatory work, the guideposts and strategies presented in this report highlight the breadth, complexity, and challenge of ushering in an era of smart decarceration. What is needed to advance these and other strategies in a coordinated and cohesive nature is the development of comprehensive and integrated implementation efforts to facilitate decarceration-focused policies and practices at the local, state, and national level. For example, the potential impact of advancing leadership among formerly incarcerated individuals will only be fully realized when simultaneous effort is aimed at removing unnecessary civic and legal restrictions from people with criminal convictions. Evidence garnered from social innovations must be disseminated to a broad range of stakeholders so that evidence-driven decarceration efforts can be properly implemented.

The content of this report demonstrates that smart decarceration will not be successful if reforms are grounded in revising current approaches—entire paradigms will need to be rejected and reconstructed with collective examination. This report compiles the current thinking of leaders at a time in which the United States is on the cusp of smart decarceration. Who will do the work to further guide and sustain an era of smart decarceration? Implementing components of these guideposts into meaningful action will require the commitment and engagement of state and local officials, community-based providers and organizations, scholars committed to applied research, and advocates and formerly incarcerated leaders. We hope that this report underscores the kinds of synergies that can come about from collective action.