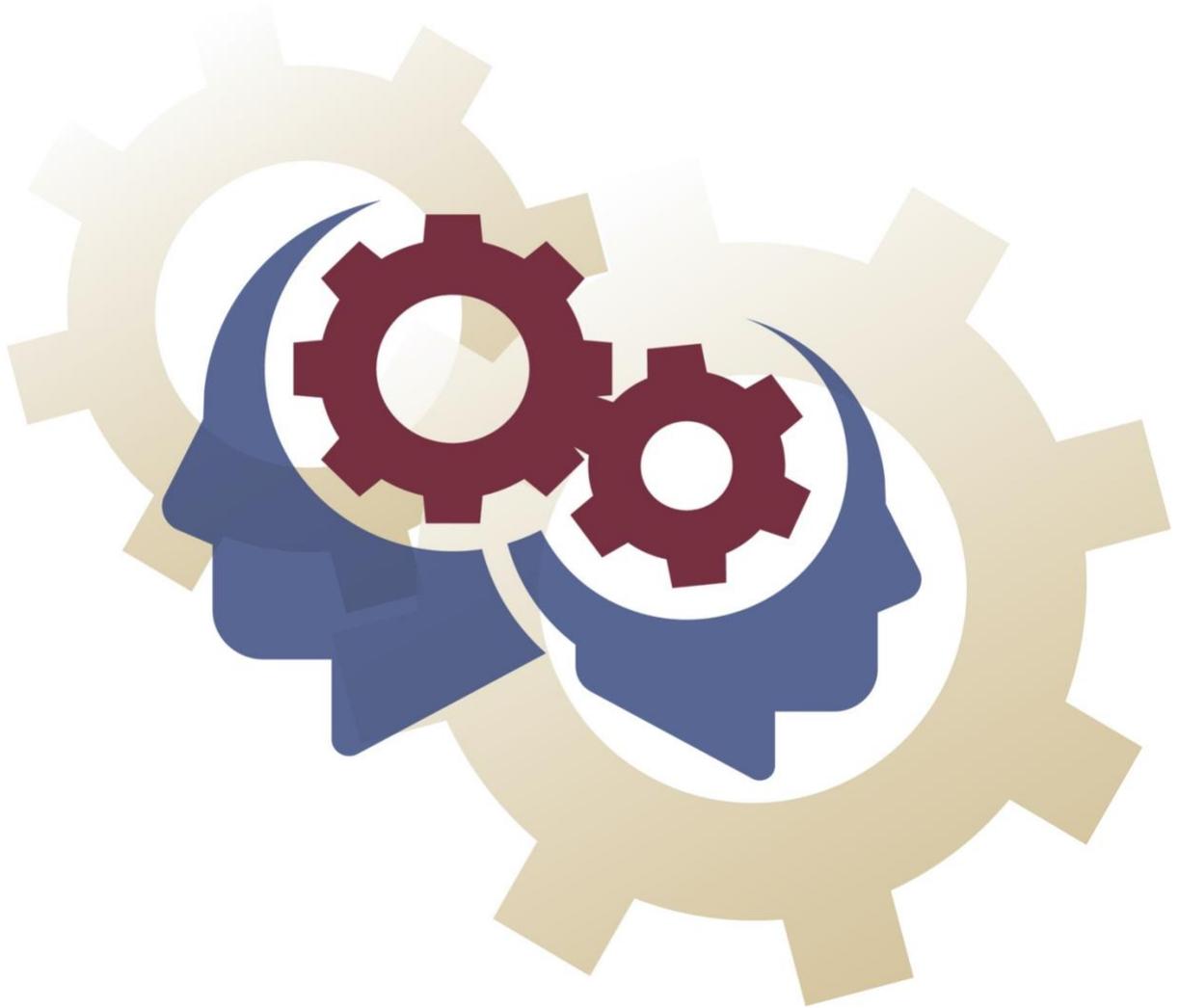




Smart Decarceration

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Abstract

After a period of mass incarceration that spanned the 1970s through the 2010s, the United States remains the leading incarcerator in the world. The incarceration rates in the U.S. outpace other countries by a rate of several hundred per 100,000. Incarceration rates began to slightly decline in 2009 during the same time in which there was a loss of fiscal, political, and moral will for mass incarceration policy and practices. This article describes the onset of smart decarceration approaches, the historical context from which smart decarceration stems, and the societal momentum that led to the conceptualization of smart decarceration. Smart decarceration is a social work lead strategy and is adopted by the American Academy of Social Work and Social Welfare as one of the 12 Grand Challenges for Social Work for the decade between 2015-2025. This article concludes with an overview of the current status of smart decarceration and details shifts and initiatives to pursue at the intersection of social work and smart decarceration.

Keywords: *decarceration; criminal justice reform; downsizing prisons; deinstitutionalization; social work grand challenge*

As of 2017, the United States is the world leader of incarceration. The U.S. out incarcerates every other nation by a rate of hundreds per 100,000 (*Jacobson, Heard, & Fair, 2017*) as a result of policies and practices that fueled mass incarceration between the early 1970s and 2009. Mass incarceration refers the period of time spanning those four decades in which incarceration rates increased exponentially. A multitude of societal factors allowed for and perpetuated the extreme growth of the criminal justice system in the U.S. However, as the country entered the 2010s, it was increasingly clear to experts and observers that the exiting rate of incarceration was not sustainable. Citing several indicators, social work professors Carrie Pettus and Matt Epperson wrote two seminal papers suggesting the tide of mass incarceration had turned toward an era of decarceration (*Pettus-Davis & Epperson, 2015; Epperson & Pettus-Davis, 2015*). Pettus-Davis and Epperson called for “smart” approaches to decarceration and coined the phrase “smart decarceration.” Smart decarceration refers to a comprehensive decarceration approach that is effective, sustainable, and socially just. Additionally, they posited that smart decarceration would be achieved when three simultaneous outcomes were evident: a) substantially reduced incarcerated population in jails and prisons; b) redressed racial, economic, and behavioral health disparities in the criminal justice system; and c) maximized public safety and well-being.

Early adopters of the phrase smart decarceration included government groups such as the National Institute of Justice; advocacy groups like the Legal Aid Society and the Decarceration Collective; and academic institutions including Washington University in St Louis, University of Chicago, the Berkley Institute for the Study of Societal Issues, and the University of Texas. Other common phrases were used to refer to similar concepts as those proposed by Pettus and Epperson. These phrases included criminal justice transformation, prison downsizing, right on crime, smart on crime, smart justice, and criminal justice reform. A network referring to themselves as prison abolitionists, although small in number, simultaneously gained more

attention within professional organizations and the general public. Prison abolitionists differ from other groups seeking decarceration in that abolitionists want to end the use of incarceration altogether. The smart decarceration movement seeks to challenge us to rethink who, how, and when people are incarcerated and to move the U.S. criminal justice system toward only using incarceration in the most dangerous of circumstances. The Smart Decarceration Initiative is a leading entity in the smart decarceration movement and was founded by leaders in two schools of social work. The Smart Decarceration Initiative is the organizing entity for social work's Promote Smart Decarceration Grand Challenge – one of the 12 Grand Challenge networks. Before describing in more detail modern day smart decarceration approaches, it is important to understand the historical context that prompted smart decarceration.

Historical Context of Smart Decarceration

Much has been written about the rise of, and contributors to mass incarceration in the United States, including a comprehensive analysis commissioned by the National Academy of Sciences (*National Research Council, 2014*). Prior to the birth of mass incarceration, which originated in the mid-1970s, the rate of incarceration in the U.S. was approximately 160 per 100,000 residents (*Glaze & Herberman, 2013; Maguire, n.d.*). By 2007, the rate of incarceration had increased nearly five-fold to 770 per 100,000 residents (*Glaze & Herberman, 2013; Maguire, n.d.*). When incarceration trends declined in 2009, scholars asked if the beginning of the end of mass incarceration was nearing. Thus, the foundation for the need for smart decarceration approaches was cemented. Because the era of smart decarceration came on the heels of the plateauing of mass incarceration, it is important to understand the societal and policy drivers of mass incarceration.

Societal Factors that Contributed to Mass Incarceration

During the infancy of mass incarceration, the U.S. was reeling from the social unrest attributed to involvement in the Vietnam War. There was a general sense of distrust of government actors and law enforcement. Public distrust, combined with two decades of legal research that pointed toward the unintended consequences of judicial discretion (*Bushway & Piehl, 2001*) led to a push toward determinant sentencing and mandatory minimum sentencing for criminal convictions (*Lowenthal, 1993*). Determinant sentences are definite sentences not subject to the discretion of a judge, parole board, or other authority. Mandatory minimum sentencing require a predetermined sentence length for certain criminal convictions. Determinate and mandatory sentencing substantially weakened the ability of the courts to consider individual contextual factors when enacting the type and length of a sentence. Removal of discretion was supported by those who felt discretion fueled racial bias throughout the criminal justice system as well as by those who advocated for swift and severe punishments for offenses.

The bipartisan public support for determinate and mandatory sentencing collided with a spike in violent crime in the 1970s and 1980s as well as the public health crisis stemming from crack cocaine use devastated communities of color around the country. Political rhetoric for so-called tough on crime approaches that began during the presidencies of Lyndon B. Johnson and Richard Nixon heightened as aggravated assault rates rose and gun violence infiltrated inner city streets. The War on Drugs, implemented by President Ronald Reagan, abandoned treatment for

substance use disorders and the notion of rehabilitation as goals for individuals using illegal substances. The infamous Martinson report written by sociologist Robert Martinson (1974) entitled “What Works” criticized prison programming, and its publication ultimately solidified the rejection of the rehabilitative ideal of the correctional system.

Yet, the need for rehabilitation and psychiatric support for individuals involved in the criminal justice system rose as a result of the failed deinstitutionalization of psychiatric hospitals. The deinstitutionalization of psychiatric hospitals was a result of bipartisan support for the least restrictive care of persons with mental illnesses. A movement for outpatient, community-based care for the treatment of psychiatric disorders led to the Community Mental Health Centers Act of 1963 which was paired with the stated goal of decreasing the number of people in psychiatric hospitals by 50% within a decade. Between 1965 and 1975, the population in psychiatric hospitals dropped by 60% but there were not enough community based outpatient supports to meet the needs of people residing in the community when an individual was in a state of psychiatric crisis (*Lamb & Bachrach, 2001*). In the three and a half decades to follow deinstitutionalization, rates of homelessness and emergency room visits skyrocketed (*Dear & Wolch, 2014*) because criminal justice professionals could not identify where and how to keep people safe during psychiatric crises. With no other options, jails became the de facto safety net for these individuals. As a result, individuals with serious mental illness ended up in jails sometimes with no charges (*e.g., awaiting a psychiatric evaluation or for a psychiatric hospital bed to open*) or for minor charges such as trespassing or disorderly conduct associated with the symptoms of their mental illness (*Wallace, Mullen & Burgess, 2004*). Tragically, entry into jails prompts a pernicious cycle in which having a serious mental illness increases the likelihood of incarceration, incarceration exacerbates psychiatric symptoms and can lead to aggression during custody and re-incarceration after release, which in turn, increases the likelihood a person will ultimately end up in prison (*Epperson et al., 2014*).

Racial disparities in the criminal justice system were exacerbated by disproportionate law enforcement contact in which African-American/Black and Hispanic/Latinx individuals became engulfed in the criminal justice system more frequently and for increasing lengths of time. There was a sharp rise in racial profiling in the 1990s that concentrated in predominantly poor and ethnic minority neighborhoods – law enforcement contact was tied directly to socioeconomic and demographic characteristics rather than disorder and crime (*LCHCR, 2011*). By 2008, 30 states had passed laws to try to curb racial profiling, but research studies found that racial profiling continued and people of color were more frequently stopped by law enforcement officers on the street as well as during traffic stops when compared to their White counterparts (*del Carmen, 2008*). In a study of 1.6 million pedestrian stops in New York City between 2010-2012, 84% of stops were of African-American/Black (52%) or Hispanic/Latinx (32%) individuals (*Fagan, 2013*). A 2015 report of racial profiling in Missouri found that Black drivers were 68% more likely to be pulled over than White drivers (*State of Missouri, 2015*). A striking investigation in Los Angeles underscored the consequences of racial profiling and how there was no difference in rates of criminal behavior between White and non-White groups (*Ayres & Borowski, 2008*). The study found that in addition to African-American/Black and Hispanic/Latinx individuals were significantly more likely to be stopped by police, once a person was stopped, African-American/Black individuals were 127 times more likely and Hispanic/Latinx individuals were 43

times more likely to be frisked than Whites. Compared to Whites, African-American/Black individuals were 29 times and Hispanic/Latinx individuals were 32 times more likely to be arrested. This was despite the fact that even when searched, African-American/Black and Hispanic/Latinx individuals were 24% and 34 % less likely, respectively to have drugs or illegal contraband when compared to their White counterparts.

Nationally, the persistence of racial disparities in the criminal justice system is empirically supported. After an arrest, African-American/Black individuals are more likely to be sentenced to prison and less likely to receive an alternative to incarceration (e.g., probation) than White individuals (*Hartney & Vuyong, 2009*). As a result, African-American/Black individuals are admitted to prison at a rate 6 times higher and Hispanic/Latinx individuals are admitted at a rate 2 times higher when compared to White individuals (*Hartney & Vuyong, 2009*). African-American/Black individuals are also sentenced more severely than any other racial group; for example, African-American/Black individuals are sentenced to death row at a rate 5 times that of White individuals (*Hartney & Vuyong, 2009*).

Mass incarceration rates were fueled by, and perpetuated economic disparities throughout the criminal justice system. As courts, public defender, and prosecutors' caseloads grew exponentially, the time individuals spent in jail prior to going to trial also grew exponentially. Further, economic disparities led to the length of pretrial incarceration being predicted by a person's ability to afford cash bail or a private attorney. As a result of a U.S. Supreme Court ruling in 1951, state and federal courts were allowed to set bail at amounts higher than is necessary to ensure a defendant's presence at trial (*Hegreness, 2010*). For example, in New York City, a city with lower bail amount rates than most the country, only 1 in 10 defendants are able to pay bail at arraignment (*Pinto, 2015*). Since the 1951 ruling, there was a significant movement among courts away from pretrial release that was determined by any other factors than ability to pay (*Hegreness, 2010*). Due to an increase in the number of people flowing into the criminal justice system, individuals who could not afford bail sat in jail for weeks, months, or years awaiting a trial related to their charge. By 2017, more than 90% of defendants accepted a plea deal, because they could not afford bail and wanted to leave incarceration as quickly as possible, even if they maintained their innocence (*Walsh, 2017*).

Incarceration has significant economic consequences for individuals and families impacted by incarceration. Racial disparities in the criminal justice system paired with the economic burden of incarceration creates a unique form of disadvantage for African-American/Black and Hispanic/Latinx families in the U.S. (Miller, 2013). For many affected families, regardless of racial identity, the incarcerated individual was the primary or sole financially contributing member of the family prior to incarceration (*deVuono-powell, Schweidler, Walters, & Zohrabi, 2015*). Therefore, family incomes decline by an average of 22% during an individual's incarceration (*Travis, McBride, & Solomon, 2003; Wildeman, 2009, 2014*). Families also incur additional financial burdens related to the incarceration event itself including transportation costs to visit their loved one, collect-call fees, prison canteen costs (for supplies like toothpaste, toothbrush, and soap), and other prison-related costs and fees (*Saneta deVuono-powell, Schweidler, Walters, & Zohrabi, 2015*). Financial disadvantage persists long after individuals are released from incarceration; at one-year post-release, a formerly incarcerated individual's family income remains an average of 15% lower than pre-incarceration

levels (Travis, McBride, & Solomon, 2003; Wildeman, 2009, 2014). The steep and persistent drop in family income has been attributed to the collateral consequences of incarceration and the tremendous difficulty that formerly incarcerated individuals have securing sustainable employment (Western, 2002). Compared to individuals who have not been incarcerated, those with an incarceration history have a 21% lower odds of obtaining employment and a 40% reduction in annual income (Western, 2002). Due to the reduction in annual income and the debts, fines, and legal fees that accrue during incarceration, a single incarceration event can push a family into a lifetime of poverty (Anderson, 2009; Wright & Logan, 2006).

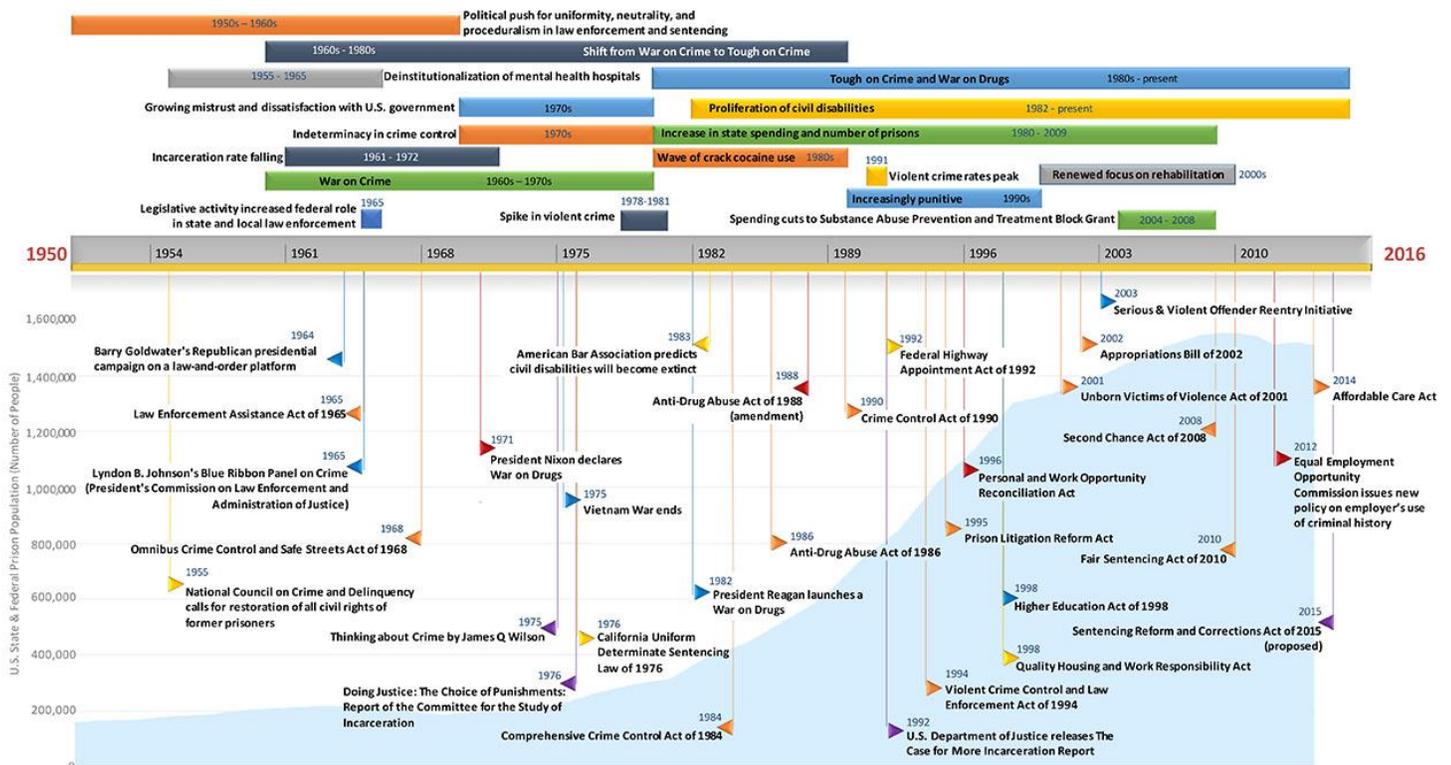
Policy Contributors to Mass Incarceration

The policy environment conducive to mass incarceration has its foundation in political rhetoric that began in the 1960s (see figure 1). In 1964, Barry Goldwater ran his presidential campaign on a platform of “law and order.” As noted above, in 1971, President Richard Nixon declared a “War on Drugs” and President Ronald Regan officially launched the War on Drugs in 1982. However, it was the Comprehensive Crime Control Act of 1984 that solidified the national movement toward mass incarceration. This Act removed discretion from courts by enacting guidelines for judicial sentencing and eliminating indeterminate sentencing. The Act also eliminated federal policies allowing the early release of individuals due to good behavior or engaging in in-prison rehabilitation programs, phased out parole, and re-instituted the federal death penalty.



FIGURE 1

A Timeline to Inform Smart Decarceration: 1950 - 2016



As a precursor to subsequent War on Drugs-era legislation, the Comprehensive Crime Control Act increased penalties for both marijuana and gun related offenses. Then, Anti-Drug Abuse Acts were passed in 1986 and 1988 and were the first of several legislative initiatives used to implement the War on Drugs. Both of these Acts established mandatory minimums for drug offenses and were the first to require a mandatory minimum of 5 years for possession of crack-cocaine for an individual's first offense. The Anti-Drug Abuse Acts also mandated minimum sentences of five years without parole for possession of 5 grams of crack, yet mandated the same sentence for possession of 500 grams of cocaine – a 100:1 disparity. These Acts infused racial biases into the enforcement of the War on Drugs. Crack-cocaine was more commonly used in African-American/Black urban communities while powder cocaine was more commonly used in White communities. Because possession of illicit substances alone warranted incarceration, the criminalization of substance use disorders began.

The decade of 1990 was the most punitive decade of policymaking in criminal justice history in the U.S. In 1990, the federal government created a block-grant mechanism providing over \$900 million for drug law enforcement, criminal justice practice, and crime prevention. In 1994, the Violent Crime Control and Law Enforcement Act (or, Crime Control Act for short) appropriated over \$30 billion to issues of criminal justice. The Crime Control Act allocated over \$10 billion to enhancing law enforcement and \$1.6 billion to develop violence against women programs. The Crime Control Act also provided over \$1 billion in financial incentives to states to incarcerate people for longer amounts of time. The states that adopted so-called Truth in Sentencing laws received federal financial support in order to build more prisons. Truth in Sentencing laws required individuals with some types of convictions (e.g., violent offenses) to serve a minimum of 85% of their sentence behind bars without the opportunity for parole. The Crime Control Act also allowed juveniles as young as 13 years old charged with federal offenses to be prosecuted as adults and incarcerated in adult prisons and increased the number of federal offenses that were punishable by death. The Act instituted automatic “three strikes” life sentence for those who received three violent offense convictions; those states that did not enforce sex offender registration laws lost 10% of federal funding for criminal justice operations.

During the same period leading up to mass incarceration, there was a proliferation of civil disability policies. Civil disability policies are those policies that limit an individuals' access to full community participation without constitutional protections related to criminal law as a result of a criminal conviction (*Pettus-Davis, Epperson, & Grier, 2017*). Examples of civil disability policies include loss of driver's license, housing restrictions, professional licensure restriction, denial of certain forms of employment, and loss of voting and parental rights. Because of the pernicious long-term consequences of these policies on individuals with criminal justice, in 1983, the American Bar Association predicted that such civil disability policies would become extinct (*Pinard, 2009*). However, the Federal Highway Appointment Act of 1992 passed, spawning the proliferation of civil disability policies at the federal, state, and local level well into the 2010s. The Federal Highway Act withheld a portion of funding from states that did not revoke or suspend driver's license of drug offenders. Other federal civil disability legislation of 1990s included: a) Prison Litigation Reform Act of 1995 which constricted prisoners' access to courts to challenge conditions of confinement; b) Personal and Work Opportunity Reconciliation Act of 1996 which denied cash assistance and food stamps to individuals convicted of state or

federal drug offenses; c) Higher Education Act of 1998 which indicated that students with felony convictions could not apply for federal grants, loans, or assistantships; and the d) Quality Housing and Work Responsibility Act of 1998 banned public housing availability for individuals with certain types of criminal convictions.

The turn of the 21st century was the first-time federal policy making hinted at moving away from extremely punitive legislation. The Appropriations Bill of 2002 allocated \$120 million of the nearly \$1.7 billion to residential substance use disorder treatment for the incarcerated and to drug courts. The remaining \$1.5 billion were appropriations earmarked for law enforcement and corrections. In 2003, the Serious and Violent Offender Reentry Initiative (SVORI) was passed and \$110 million were distributed to states to deliver supportive programming during and after incarceration with the aim of reducing recidivism rates (i.e., violations of conditions of supervision, re-arrest for new charges, new convictions, return to incarceration). Building on the work of SVORI, the Second Chance Act of 2008 allocated \$150 million to supportive transitional services for those leaving incarceration and returning to communities. The Fair Sentencing Act of 2010 increased the amount of controlled substances that would trigger mandatory sentencing guidelines and reduced the crack-cocaine/powder cocaine disparity from 100:1 to 18:1. The shift in policymaking may have been a response to the strikingly high recidivism rates around the country; as of 2014, 77% of all individuals released from incarceration were re-arrested for a new crime within 3 years. These statistics suggest that existing practices and policy approaches were not working to promote public safety. Thus, the first decade of the 2000s seemed to tip the momentum of criminal justice policy making towards rehabilitation and reform.

Momentum for Smart Decarceration

After decades of soaring incarceration rates, in 2009 the incarcerated population among prisons began to decline and continued to decline for four consecutive years (*Carson & Golineli, 2012*). Declines were no doubt influenced by the Great Recession wherein because of budget crises states had to reduce expenditures and corrections is a disproportionate cost in most states (*Gottschalk, 2009; Kykelhahn, 2014, Spelman, 2009*). However, financial factors were not the only contributor to the decline in the incarcerated population. Conservative politicians began to see mass incarceration as big government and that giving people second chances was a moral imperative. As liberal politicians became more aware of the social injustices that mass incarceration fueled, they began to organize for reforms. Media attention heightened and a string of stories began to shift the American consciousness on incarceration and criminal justice. In 2014, the Marshall Project formed which is a nonprofit media outlet with the stated purpose of creating and sustaining a national sense of urgency about criminal justice reform. General public opinion polls had long supported rehabilitation over more punitive alternatives, but as more information came out about who was being incarcerated and why, public curiosity peaked around what appeared to be the injustice of American criminal justice approaches. The shifting narrative on crime and punishment in the U.S. was perhaps most evident by the sheer volume of books that were written on the topic between 2010 and 2017. Writing soared about the iatrogenic effects of mass incarceration and the need for reform. Table 1 provides titles and authors of 14 of

those books written by diverse authors representing advocates, politicians, researchers, practitioners, and formerly incarcerated individuals.

Table 1: Exemplar Books that Built the Momentum for Smart Decarceration

Year	Author	Title
2010	Angela Y. Davis	Are Prisons Obsolete?
2010	Michelle Alexander	The New Jim Crow: Mass Incarceration in the Age of Color Blindness
2011	William J. Stuntz	The Collapse of American Criminal Justice
2014	Marvin Zalman & Julia Carrano	Wrongful Conviction and Criminal Justice Reform
2015	Joe Biden, Cory Booker, Chris Christie, & Hillary Rodham Clinton	Solutions: American Leaders Speak out on Criminal Justice
2015	William R. Kelly	Criminal Justice at the Crossroads: Transforming Crime and Punishment
2015	Bryan Stevenson	Just Mercy: A Story of Justice and Redemption
2016	David Dagan & Steven M. Teles	Prison Break: Why Conservatives Turned Against Mass Incarceration
2016	Marie Gottschalk	Caught: Prison State and the Lockdown of American Politics
2016	William G. Martin & Joshua M. Price	After Prisons? Freedom, Decarceration, and Justice Disinvestment
2016	Greg Berman & Aubrey Fox	Trial & Error in Criminal Justice Reform: Learning from Failure
2017	John Pfaff	Locked In: The True Causes of Mass Incarceration and How to Achieve Real Reform
2017	Sharon Dolovich & Alexandra Natapoff	The New Criminal Justice Thinking
2017	Matthew W. Epperson & Carrie Pettus-Davis	Smart Decarceration: Achieving Criminal Justice Transformation in the 21 st Century

Documentaries and journalistic investigations such as Frontline’s Prison State (2014), Solitary Nation (2014), and Locked up in America (2015); Making a Murderer (2015) by Laura Ricciardi & Moira Demos; and Ava Duverney’s 13th (2016) helped issues of mass incarceration and decarceration reach deeper into the American public. Traditional media outlets were capturing the attention of everyday citizens, at the same time, scholars, think tanks and advocates were seeking to conceptualize what decarceration might look like in the U.S. In 2012, the Sentencing Project commissioned experts to write about Building a Better Criminal Justice System and to explore what the next 25 years of reform might entail (*see Mauer & Epstein, 2012*).

Guiding Concepts of Smart Decarceration

With the goal of articulating foundational principles of smart decarceration that align with social work ethics and values, Epperson and Pettus-Davis (2015) initiated four guiding

concepts that represented the spirit of smart decarceration. During the same time period, others scholars proposed concepts for prison downsizing, reversing mass incarceration, and other variations of criminal justice reform, but not specifically smart decarceration (e.g., Petersilia & Cullen, 2014; Travis, Western, & Redburn, 2014). The smart decarceration guiding concepts were premised on the notion that achieving smart decarceration requires major shifts in criminal justice approaches. The guiding concepts, described in Table 2, identify how major shifts in criminal justice policies and practices could be achieved.

Table 2: Four Guiding Concepts of Smart Decarceration

1. <i>Changing the narrative on incarceration and the incarcerated.</i> The smart decarceration approach must examine the utility and function of incarceration, challenge the existing view of currently and formerly incarcerated individuals, and actively welcome those individuals as leaders in decarceration efforts.
2. <i>Making criminal justice system-wide innovations.</i> 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 community supervision.
3. <i>Implementing transdisciplinary policy and practice interventions.</i> Smart decarceration will be complex and comprehensive and will require integrating perspectives from multiple disciplines to produce substantive policy reforms and practice innovations.
4. <i>Employing evidence-driven strategies.</i> The 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.

Other examples of principles and goals of criminal justice reform proposed in the early 2010s are provided in Table 3.

Table 3: Examples of Other Proposed Principles and Goals for Criminal Justice Reform by Organization

Right on Crime, 2010	<p><i>Statement of Principles:</i></p> <ol style="list-style-type: none"> 1. As with any government program, the criminal justice system must be transparent and include performance measures that hold it accountable for its results in protecting the public, lowering crime rates, reducing re-offending, collecting victim restitution and conserving taxpayers’ money. 2. Crime victims, along with the public and taxpayers, are among the key “consumers” of the criminal justice system; the victim’s conception of justice, public safety, and the offender’s risk for future criminal conduct should be prioritized when determining an appropriate punishment. 3. The corrections system should emphasize public safety, personal responsibility, work, restitution, community service, and treatment—both in probation and parole, which supervise most offenders, and in prisons.
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	<p>4. An ideal criminal justice system works to reform amenable offenders who will return to society through harnessing the power of families, charities, faith-based groups, and communities.</p> <p>5. Because incentives affect human behavior, policies for both offenders and the corrections system must align incentives with our goals of public safety, victim restitution and satisfaction, and cost-effectiveness, thereby moving from a system that grows when it fails to one that rewards results.</p> <p>6. Criminal law should be reserved for conduct that is either blameworthy or threatens public safety, not wielded to grow government and undermine economic freedom.</p> <p>7. These principles are grounded in time-tested conservative truths—constitutionally limited government, transparency, individual liberty, personal responsibility, free enterprise, and the centrality of the family and community. All of these are critical to addressing today’s criminal justice challenges. It is time to apply these principles to the task of delivering a better return on taxpayers’ investments in public safety. Our security, prosperity, and freedom depend on it.</p>
<p>U.S. Attorney General Smart on Crime Initiative, 2013</p>	<p><i>Goals:</i></p> <ol style="list-style-type: none"> 1. To ensure finite resources are devoted to the most important law enforcement priorities. 2. To promote fairer enforcement of the laws and alleviate disparate impacts of the criminal justice system. 3. To ensure just punishments for low-level, nonviolent convictions. 4. To bolster prevention and reentry efforts to deter crime and reduce recidivism. 5. To strengthen protections for vulnerable populations.
<p>Ad Hoc Committee of the National Research Council, 2014</p>	<p><i>Guiding Principles:</i></p> <ol style="list-style-type: none"> 1. <i>Proportionality:</i> Criminal offenses should be sentenced in proportion to their seriousness. 2. <i>Parsimony:</i> The period of confinement should be sufficient but not greater than necessary to achieve the goals of sentencing policy. 3. <i>Citizenship:</i> The conditions and consequences of imprisonment should not be so severe or lasting as to violate one’s fundamental status as a member of society. 4. <i>Social justice:</i> Prisons should be instruments of justice, and as such their collective effect should be to promote and not undermine society’s aspirations for a fair distribution of rights, resources, and opportunities.
<p>American Civil Liberties Union (ACLU) Campaign for Smart Justice, 2015</p>	<p><i>Smart Justice Reforms:</i></p> <ol style="list-style-type: none"> 1. <i>Sentencing Reform:</i> We must reduce both the number of people entering jails and prisons and the extreme laws and policies that drive extraordinarily long prison terms. 2. <i>Bail Reform:</i> Unjust and for-profit bail systems needlessly lock up millions of people who haven’t been convicted of a crime just because they can’t afford to pay bail. We’re overhauling this harmful system that strips people of their rights, targets poor people and people of color, and hurts families and communities. 3. <i>Prosecutorial Reform:</i> Prosecutors across the country work towards convictions, not justice. These mostly elected officials bear great responsibility for driving mass incarceration. We’re changing that by challenging prosecutorial abuse in the courts and legislatures and through voter education.

	<p>4. <i>Parole Reform</i>: Hundreds of thousands of people—including those convicted of violent and non-violent crimes—stay in prison for too long because of broken parole and release systems. By expanding evidence-based opportunities for release, we are working to ensure systems are fair, respect people’s rights, and promote safety and success for those returning to their communities.</p> <p>5. <i>Reentry</i>. Each year, 600,000 men and women nationwide return from prison to their communities. Yet the challenges do not end once the prison bars are lifted. They face nearly 50,000 federal, state and local legal restrictions that make it difficult to reintegrate back into society. We are working to end the collateral consequences that are imposed on people living with a criminal record.</p>
<p>John Jay College, Smart on Crime, 2017</p>	<p><i>Principles:</i></p> <ol style="list-style-type: none"> 1. Promote FAIR laws, and fair enforcement of the laws, that uphold and protect constitutional rights. 2. Pursue JUST AND PROPORTIONAL responses to crime that eliminate disparate impacts of the criminal justice system. 3. Bolster COMPREHENSIVE prevention and reentry investments to reduce recidivism and close opportunity gaps. 4. Ensure that criminal justice strategies are EFFECTIVE and driven by evidence and data.

Early Events of Smart Decarceration

Smart decarceration as a construct was developed as a product of the social work-led initiative, Smart Decarceration Initiative (SDI). SDI was established in 2014 at two schools: Washington University in St. Louis, Brown School of Social Work and the University of Chicago, Social Service Administration. The original home of SDI was the Center for Social Development at the Brown School of Social Work. The co-founding directors, Carrie Pettus-Davis and Matthew Epperson were assistant professors at the respective institutions. The mission of SDI is to build social capacity to reduce incarceration rates in ways that are effective, sustainable, and socially just. The first national event highlighting the work of smart decarceration was held in St. Louis, Missouri in September, 2015. The conference entitled *From Mass Incarceration to Effective and Sustainable Decarceration*, brought together an interdisciplinary group of advocates, think tank representatives, researchers, criminal justice professionals, practitioners, and formerly incarcerated individuals with goal of establishing a framework for a smart decarceration movement in the U.S (Pettus-Davis, Epperson, & Grier, 2016).

The conference culminated in two important products for the smart decarceration movement. First, conference participants built on results of a national survey seeking tactics for achieving smart decarceration by gathering in working groups to prioritize feasible smart decarceration guideposts and strategies. The work of conference participants was synthesized into a report entitled *Guideposts for the Smart Decarceration Era* (Pettus-Davis, Epperson, & Grier, 2017). The report provides a menu of actions from which vested groups can select to push toward achieving smart decarceration. The other seminal product was an edited book entitled *Smart Decarceration: Achieving Criminal Justice Transformation in the 21st Century* in which conference panelists turned their presentations at the conference into book chapters to offer the

first collection of scholarship on smart decarceration (*Epperson & Pettus-Davis, 2017*). Smart Decarceration Initiative hosted the second national conference on smart decarceration in November 2017. The conference, *Tools & Tactics: Promising Solutions to Advance the Era of Smart Decarceration*, again gathered a multi-sector and multi-disciplinary audience to push towards strategies for achieving the goals of smart decarceration.

Further solidifying the pursuit of smart decarceration as a driving goal of social work, Promote Smart Decarceration was adopted as one of the 12 Grand Challenges by the American Academy of Social Work and Social Welfare in 2015. Co-led by Pettus-Davis and Epperson, the Promote Smart Decarceration Network is guided by the social work profession's social justice orientation and commitment to working with vulnerable populations. Promote Smart Decarceration network members see social work scholars and practitioners as optimal leaders in efforts to reform the adult criminal justice system in the era of decarceration. Promote Smart Decarceration views adult criminal justice decarceration efforts as more than simply not incarcerating – it involves developing an array of more effective and socially just alternatives to replace incarceration. The Promote Smart Decarceration grand challenge network seeks to provide an opportunity to engage and mobilize social work scholars and practitioners in developing and executing an actionable agenda for smart decarceration.

At its' conception, the Promote Smart Decarceration network was comprised of four working groups –practice, research, policy, and education. The goal of these working groups was to create and implement action plans related to their respective focus areas to move the profession closer to achieving the goal of smart decarceration. For example, the research working group will set key priority areas of research focus for social work researchers to consider as they pursue their individual research agendas. The Promote Smart Decarceration Network produced policy recommendations for meeting the Grand Challenge and policy action statements (*Epperson & Pettus-Davis, 2016*). The 2016 policy recommendations included: 1) Use incarceration primarily for incapacitation of the most dangerous; 2) Make reductions in disparities a key outcome of decarceration efforts; 3) Remove civic and legal exclusions (i.e., civil disability policies); and 4) Re-allocate resources to community-based supports. The first policy action statement of Promote Smart Decarceration network focused on reversing civic and legal exclusions for persons with criminal charges and convictions (*see Pettus-Davis, Epperson, & Grier, 2017*).

As early as 2017, tremendous change was underway propelling the U.S. further into an era of smart decarceration. For example, some of the states with the highest incarceration rates passed sweeping criminal justice reforms such as: Georgia, Kentucky, Louisiana, Texas, Oklahoma and many other states with lower incarceration rates such as California and Connecticut. Between 2010 and 2017, 174 civil disability reforms were adopted by state legislation or executive order from governors (*Pettus-Davis, Veeh, & Hickman, 2017*). As of 2017, only three states had not pursued reforms (*Pettus-Davis, Veeh, & Hickman, 2017*). The reforms occurred across 13 categories provided in Table 4.

Table 4: Civil Disability Reform Categories

<ul style="list-style-type: none">• Employment barriers• Access to identification documents• Expungement of offense record• Notice of collateral consequences prior to plea bargain• Sealing of criminal records• Voting rights• Status of offense	<ul style="list-style-type: none">• Housing restrictions• Certificate of relief from collateral consequences/civil disability policies• Education restrictions• Food stamp restrictions• Guardianship and custody restrictions• Access to Medicaid/disability insurance
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In the 2010s, politicians increasingly campaigned on criminal justice reform issues. More than a dozen smart decarceration oriented prosecutors were elected across the country in 2017 elections. Attorney General Jeff Sessions pushed to reverse War on Drugs-era policies and practices and tough on crime mentalities (wherein prosecutors seek the maximum charges and severest sentences) received public backlash and resistance among government sectors. Remarkably, simultaneous to Session’s rhetoric, the U.S. Department of Justice provided grant funding to support states in rehabilitation efforts and to provide technical assistance to states pursuing smart decarceration oriented reforms. Growing numbers of practice and policy briefs on promising smart decarceration solutions were written by organizations such as the Sentencing Project, National Legal Aid & Defender Association, Pretrial Justice Institute, Vera Institute, the Ella Baker Human Rights Center, and the Smart Decarceration Initiative. Social work education experienced a significant increase in student interest in smart decarceration work as well as curricular, practicum, and employment options. Training institutes and continuing education opportunities proliferated for social work practicing professionals. The field saw increased research agendas exploring alternatives to incarceration. Requiring social work assistance, the therapeutic correctional environments of Scandinavian countries gained traction in the U.S. as evidenced by increasing numbers of corrections administrators and politicians visiting places like Norway and the Netherlands to observe their prison models focused on human dignity and rights.

Conclusion

Smart decarceration represents a specific orientation and strategies to criminal justice reform as the U.S. enters the era of decarceration. Smart decarceration seeks evidence driven, sustainable, and socially just approaches for reform. Smart decarceration concepts point researchers and reformers toward a comprehensive examination of the criminal justice system, a continual evaluative process, and intentional narrative shifting on for whom, how, and why incarceration is used. Smart decarceration was introduced at a time when there was growing fiscal, political, and moral will for transforming the criminal justice system. Social work is a leader in smart decarceration and, through the grand challenge initiative, is preparing a smart decarceration-oriented workforce. The futurescape of corrections and punishment is yet to be determined, but, given the changes that have occurred in a few short years – the futurescape is likely to look very different from the era of mass incarceration.

Related Articles

References

- Anderson, H. A. (2009). Penalizing poverty: Making criminal defendants pay for their court-appointed counsel through recoupment and contribution. *University of Michigan Journal of Law Reform*, 42, 323-370.
- Ayres, I. & Borowsky, J. (2008). *A study of racially disparate outcomes in the Los Angeles Police Department*. Prepared for the American Civil Liberties Union of Southern California. Retrieved from: <https://www.aclusocal.org/sites/default/files/wp-content/uploads/2015/09/11837125-LAPD-Racial-Profiling-Report-ACLU.pdf>.
- Bushway, S.D. & Piehl, A.M. (2001). Judging judicial discretion: Legal factors and racial discrimination in sentencing. *Law & Society Review*, 35, 733-764.
- Carson, E. A., & Golinelli, D. (2012). *Prisoners in 2012. Trends in admissions and releases, 1991-2012*. Washington DC: Department of Justice. Retrieved from <http://www.bjs.gov/content/pub/pdf/p12tar9112.pdf>.
- Dear, M.J. & Wolch, J.R. (2014). *Landscapes of despair: From deinstitutionalization to homelessness*. Princeton, New Jersey: Princeton University Press.
- del Carmen, A. (2008). *Racial Profiling in America, 2008*. Upper Saddle River, NJ. Pearson Prentice Hall.
- deVuono-powell, S., Schweidler, C., Walters, A. & Zohrabi, A. (2015). *Who pays? The true cost of incarceration on families*. Oakland, CA: Ella Baker Center, Forward Together, Research Action Design.
- Epperson, M.W., Wolff, N.W., Morgan, R.D., Fisher, W.H., Frueh, B.C., & Huening, J. (2014). Envisioning the next generation of behavioral health and criminal justice interventions. *International Journal of Law and Psychiatry*, 37, 427-438.
- Epperson, M.W. & Pettus-Davis, C. (2015). *Smart decarceration: Guiding concepts for an era of criminal justice transformation*. (CSD Working Paper No. 15-53). St Louis, MO: Washington University in St. Louis, Center for Social Development.
- Epperson, M.W., & Pettus-Davis, C. (Eds). (2017). *Smart Decarceration: Achieving criminal justice transformation in the 21st Century*. NY: Oxford University Press.
- Fagan, J. (2013). *Report on the NYPD's Stop-and-Frisk policy*. Retrieved from: <http://www2.nycbar.org/pdf/report/uploads/20072495-StopFriskReport.pdf>.
- Glaze, L.E., & Herberman, E.J. (2013). *Correctional Populations in the United States, 2012*. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics.
- Gottschalk, M. (2009). Money and mass incarceration: The bad, the mad, and penal reform. *Criminology and Public Policy*, 8, 97–109. doi: 10.1111/j.1745-9133.2009.00547.x

- Hartney, C. & Vuyong, L. (2009). *Created Equal: Racial and Ethnic Disparities in the United States Criminal Justice System*. Washington D.C.:National Council on Crime and Delinquency.
- Hegreness, M.J. (2013). America's fundamental and vanishing right to bail. *Arizona Law Review*, 55, 909-996.
- Jacobson, J., Heard, C., & Fair, J. (2017). *Prison: Evidence of its use and overuse from around the world*. London, England: Institute for Criminal Justice Policy Research.
- Kyckelhahn, T. (2014). *State corrections expenditures FY 1982-2010*. Washington, DC: Department of Justice.
- Lamb, R. & Bachrach, L.L. (2001). Some perspectives of deinstitutionalization. *Psychiatric Services*, 52, 1039-1045.
- Leadership Conference on Civil and Human Rights. (2011). *Restoring a national consensus: The need to end racial profiling in America*. Washington D.C.: Leadership Conference on Civil and Human Rights.
- Lowenthal, G.T. (1993). Mandatory sentencing laws: Undermining the effectiveness of determinate sentencing reform.
- Maguire, K. (Ed.). (n.d.). *Sourcebook of Criminal Justice Statistics Online*. Albany, NY: University at Albany, Hindelang Criminal Justice Research Center.
- Martinson, R. (1974). What works? Questions and answers about prison reform. *The Public Interest*, 22-55.
- Mauer, M. & Epstein, K. (2012). *To build a better criminal justice system: 25 Experts envision the next 25 years of reform*. New York City: The Sentencing Project.
- Miller, R. J. (2013). Race, hyper-incarceration, and U.S. poverty policy in historic perspective. *Sociology Compass*, 7, 573-589.
- National Research Council. (2014). *The growth of incarceration in the United States: Exploring causes and consequences*. Washington, DC: The National Academies Press.
<https://doi.org/10.17226/18613>.
- Petersilia, J., & Cullen, F. T. (2014, June). Liberal but not stupid: Meeting the promise of downsizing prisons. In Cullen, Francis and Petersilia, Joan. (2015). Liberal But Not Stupid: Meeting the Promise of Downsizing Prisons. *Stanford Journal of Criminal Law and Policy* (Vol. 2).
- Pettus-Davis, C. & Epperson, M.W. (2015). *From mass incarceration to smart decarceration* (Grand Challenges for Social Work Initiative Concept Paper No. 4). Cleveland, OH: American Academy of Social Work and Social Welfare.
- Pettus-Davis, C., Epperson, M.W, Taylor, S., & Grier, A. (2017). Guideposts for the American era of smart decarceration: Recommendations from a national collection of researchers, practitioners, and formerly incarcerated leaders. In M.W. Epperson & C. Pettus-Davis

- (Eds.), *Smart Decarceration: Achieving criminal justice transformation in the 21st century*. NY: Oxford University Press.
- Pettus-Davis, C., Epperson, M.W., & Grier, A. (2017). Reforming civil disability policy to facilitate effective and sustainable decarceration. In M.W. Epperson & C. Pettus-Davis (Eds.), *Smart Decarceration: Achieving criminal justice transformation in the 21st century*. NY: Oxford University Press.
- Pettus-Davis, C., Epperson, M., & Grier, A. (2017). *Reverse Civil and Legal Exclusions for Persons with Criminal Charges and Convictions: A Policy Action to Promote Smart Decarceration*. American Academy of Social Work and Social Welfare.
<https://aaswsw.org/wp-content/uploads/2017/03/PAS.9.1.pdf>.
- Pettus-Davis, C. & Epperson, M. (2017). *Policy Recommendations for Grand Challenge to Promote Smart Decarceration*. American Academy of Social Work and Social Welfare.
- Pettus-Davis, C., Veeh, C., Hickman, S. (2017). *Reforms of policy barriers to positive and productive community engagement of individuals with felony histories: Preliminary Report*. St. Louis, MO: Institute for Advancing Justice Research & Innovation, Washington University in St. Louis.
- Pinard, M. (2009). Collateral consequences of criminal convictions: Confronting issues of race and dignity. *New York University Law Review*, 85, 457-534.
- Pinto, N. (2015). *The Bail Trap*. August 13, 2015. New York Times. Retrieved from: <https://www.nytimes.com/2015/08/16/magazine/the-bail-trap.html>.
- Spelman, W. (2009). Crime, cash, and limited options: Explaining the prison boom. *Criminology and Public Policy*, 8, 29–77. doi: 10.1111/j.1745-9133.2009.00546.x
- State of Missouri. (2015). *Racial profiling report*. Retrieved from: <https://ago.mo.gov/home/vehicle-stops-report/2015-executive-summary#findings>.
- Travis, J., McBride, E.C., & Solomon, A.L. (2003). *Families left behind: the hidden costs of incarceration and reentry*." New York City. Urban Institute. Retrieved from: <https://www.urban.org/sites/default/files/publication/50461/310882-Families-Left-Behind.PDF>.
- Travis, J., Western, B., & Redburn, F. S. (2014). The growth of incarceration in the United States: Exploring causes and consequences. *Federal Probation*, 78(2), 71-74.
- Wallace, C., Mullen, P.E., & Burgess, P. (2004). Criminal offending in schizophrenia over a 25-year period marked by deinstitutionalization and increasing prevalence of comorbid substance use disorders. *The American Journal of Psychiatry*, 161, 716-727.
- Walsh, D. (2017) *Why U.S. Criminal Courts Are So Dependent on Plea Bargaining*. May 2, 2017. The Atlantic. Retrieved from: <https://www.theatlantic.com/politics/archive/2017/05/plea-bargaining-courts-prosecutors/524112/>.
- Western, B. (2002). The impact of incarceration on wage mobility and inequality. *American Sociological Review*, 67, 526- 536.

- Wildeman, C. (2009). Parental imprisonment, the prison boom, and the concentration of childhood disadvantage. *Demography*, 46, 265–280.
- Wildeman, C. (2014). Parental incarceration, child homelessness, and the invisible consequences of mass imprisonment.” *The ANNALS of the American Academy of Political and Social Science* 651, 74–96.
- Wright, R.F. & Logan, W.A. (2006). The political economy of application fees for indigent criminal defense. *William and Mary Law Review*, 47, 2045-2087.