

Annie Zhang

Poverty 423: A Research Seminar

Professor Harlan Beckley

“Prison has become the new poverty trap.”

- Bruce Western

Released But Not Freed: The Impact of Incarceration on Post-Release Employment

As the nation waits for a long-term solution to poverty, there is a consensus for expediency as 46.2 million, or 15%, of Americans are below the poverty threshold according to the most recent official statistics released in 2011.¹ For a portion of the 15%, permanent and persistent poverty is a consequence of incarceration. Drs. Defina and Hannon estimate that “if the mass incarceration trend had not occurred in recent decades, the poverty rate would be 20 percent lower today, and that five million fewer people would have fallen below the poverty line.”² More than 30 years ago, the shift to tougher policies on crime was originally argued to directly benefit to people in poor neighborhoods because of the forecasted reduction in crime. Since then, research has shown that the “social benefits to be far outweighed by the costs to those communities.”³ This is especially evident amongst African-Americans, as incarceration has become so prevalent that Bruce Western, prominent Harvard sociologist in the study of social inequality and the penal system, labeled it as “a routine event” that creates “an enduring disadvantage at the very bottom of American society.”⁴ The extraordinary increase in

¹ Figure 4. Number in Poverty and Poverty Rate: 1959 to 2011, United States Census Bureau, <http://www.census.gov/hhes/www/poverty/data/incpovhlth/2011/figure4.pdf>

² John Tierney, “Prison and the Poverty Trap”, *The New York Times*, 18 February 2013, http://www.nytimes.com/2013/02/19/science/long-prison-terms-eyed-as-contributing-to-poverty.html?pagewanted=all&_r=0.

³ Tierney, “Prison and the Poverty Trap”.

⁴ Tierney, “Prison and the Poverty Trap”.

incarceration rates, sentence lengths, and lack of sufficient institutional resources to stimulate positive reentry compounds the prevalence of poverty in the United States.

The effects of incarceration diffuse into every element of life, including education, income, housing, health, and relationships. Along with decreased access to the labor market, there is denied access to welfare, public housing, educational funding, and the right to vote. A prison sentence binds more than just the inmate. It also places shackles around the limbs of his wife, his parent, his sister, and his children.⁵ The disruptions to the life course can either become permanent or dissipate during the reentry process. While an inmate is physically released with only the belongings that he was incarcerated with, he also carries the burden of many new setbacks. The transition back into the public environment can be more challenging than rewarding because, among other issues, the inmate has lower stock in marriage, troubles reconnecting with his families and friends, finding a support system, adapting to the evolution of society, and receiving medical attention to treat health problems that were exacerbated by the penal system. These facets of reentry can all be appeased by employment. However, employment is one avenue that is extremely vulnerable to an individual's legal history and legal status. Unemployment is a threat to a person's livelihood, his relationships, marriage prospects, health, and all other parts of human life. Unfortunately, release from jail is often times seen as the beginning to a multitude of hardships, some new and some even more intensive than pre-incarceration. This paper focuses on the disparate access to the labor market for incarcerated males of low socioeconomic status, as this is the overwhelming majority of the prison population. The very presence of incarceration, compounded by the length of time away, during

⁵ Tierney, "Prison and the Poverty Trap".

a person's life has significant private, social, and economic costs attributable to the lack of employment that greatly constrains any successful reentry efforts.

People like Carl Harris and his wife Charlene Hamilton may well be considered fortunate because, now in their late 40s, they can finally begin to entertain the idea of home ownership. They must start their lives decades after many of their peers because incarceration held them back for 20 years. Carl Harris began his working life at a carwash wiping down the expensive imports of drug dealers. After years of observing the luxurious lifestyles of criminals, he began to deal crack, which he acknowledges was his most successful job. His "career" ended at age 24 when he was convicted on two accounts of assault and a charge of armed burglary. In prison and faced with a minimum sentence of 20 years to be "treated like a dog or a parrot," Harris began to use hard drugs for the first time.⁶ Even at his constant urging, his wife refused to divorce him and continued to facilitate contact between him and their two young daughters. She sacrificed steady employment and went on welfare so that she could visit him in Tennessee, Texas, Arizona, and New Mexico. She and her daughters moved from relative to relative (sometimes separately), experienced bouts of homelessness, and scrimped on the necessities. After six years in jail, Harris gave up drugs, converted to Islam, and began to work on his high school equivalency degree. He maintained a relationship with his family as best he could under the circumstances, a lack of resources, and his \$1.15 per hour prison wages. Upon his release in 2009, he felt "like a man coming out of a cave after 20 years."⁷ The only job he could find was sorting soiled linens for \$8.25 an hour. This "returning citizen" made less than half the wage that others make at an equivalent point of the lifecycle.

⁶ Tierney, "Prison and the Poverty Trap".

⁷ Tierney, "Prison and the Poverty Trap".

During his multiple stints in prison, Harris had to make a conscious effort not to become so institutionalized to the point that he could not function once outside the prison system. There is an obvious lack of reference to programs such as job training, parenting classes, and support groups that could have helped Harris as he aged in prisons and as he made the transition back into society. There were no buffers to counteract “employers’ well-documented reluctance to hire anyone with a record...partly because of their difficulties adapting to life after prison.”⁸ Harris had what many others do not, a supportive family.

Vance Webster’s plight began when he witnessed his mother beaten to a coma by an abusive partner. At the age of 12, he slept on the roof of a local McDonalds and ate leftovers that the restaurant staff gave him. He spent the next few years in and out of juvenile detention until at age 16, he received a sentence of 25 years to life for his part as an “accessory to a gang-related murder and robbery.”⁹ After a 29-year prison term, his release seemed to be only physical in nature as the faults from his teenage years continued to restrict his ability to support himself. He struggled to overcome the hurdles shared by many released inmates. In his approach to employment alone, Webster submitted hundreds of applications and completed over 80 interviews before he “miraculously” gained employment in a warehouse. Seven months later he was fired, not because he was incompetent but because he had allegedly lied on his application. Webster did not check the box that he had been convicted of a felony in the past seven years because from his actual conviction had been almost 30 years prior. After he was fired from the first job he ever had, Webster floundered for a time before he found Homeboy Industries started by Father Greg Boyle, which provides the economically disadvantaged with services and jobs in

⁸ Tierney, “Prison and the Poverty Trap”.

⁹ Walshe, Sadhbh, “Served your time in prison and looking for a job? You’re out of luck”, *The Guardian*, 25 July 2012, <http://www.guardian.co.uk/commentisfree/2012/jul/25/prisons-job-homeboy-industries>.

its bakery, café, tattoo removal parlor, and other enterprises. With this opportunity, Webster quickly advanced through the ranks to his current position on the Leadership Committee where he helps others like the person he was 29 years ago. Until his acceptance into Homeboy Industries, there was a clear void in Webster's attempts. He could not speak to any programs that were accessible during his 29 years in prison. Similar to Carl Harris' experience, he did not have job training, job-placement aid, or legal support, all of which would have expedited his ability to assimilate into society.

Every weekday, Melissa commuted to the welfare-to-work program in downtown Brooklyn where she spent the next 7 hours trying to find a job. With her résumé polished and well prepared with interview experience, she still could not achieve her goal of finding gainful employment. She never progressed past the application process because each time she checked the box to admit past convictions. In the span of four years, from the age 15 to 19 years old, Melissa pled guilty three separate times to loitering for prostitution. This poor habit began when first associated with a manipulative older man who later became her pimp. Six years later, Melissa was finally hired as a ticket seller at a tourist attraction. A day before orientation, she received an email saying she can no longer be employed because of the results of her background check. “‘That had me upset also,’ she says. ‘Like, wow, I can’t even get a job doing cashiering. What kind of work can I do?’”¹⁰

I. In The Numbers: Prevalence and Characteristics of the Incarcerated

The United States basks in the spotlight as a fierce and unrelenting protector of individual freedoms, rights, liberties, and justice. Despite the massive amounts of resources committed to

¹⁰ NPR Radio, “‘Check Yes Or No’: The Hurdles of Job Hunting With a Criminal Past”, 31 January 2013.

protecting justice, the United States has the highest incarceration rate in the world. Since the 1980s, a tougher stance on crime has translated to tougher sentencing rules and release policies. For example, in the federal system, there are mandatory minimum sentences, sentencing guidelines and worksheets, and abolition of parole. These policies impose more stringent punishments and increase the length of incarceration time for a broad set of crimes, especially for repeat offenders.¹¹ From 1984 to 1991, there was a 65% increase in the incarceration rate, but also a 17% increase in the crime rate. From 1991 to 1998, there was a 47% increase in the incarceration rate, but a 22% *decrease* in the crime rate.¹² This divergent trend clearly points to unsettling inefficiencies and the ineffectiveness of the criminal justice system. High incarceration and recidivism rates are supplemented by staggering data on the large disparity in racial and ethnic compositions, socioeconomic status, education level, and gender of the prison population.

The Bureau of Justice Statistics' most recent publication on the composition of the United States state and federal prison system, "Prisoners in 2011," shows the stunning reach of the penal system. The figures reported are as of 2011, unless otherwise noted.

Sentenced, Recidivism, Release

From the 1900s to 1970s, the prison incarceration rate remained relatively steady.¹³ Between 1970 and 2010, the general population increased by about 52% but the incarcerated population increased by more than 600%.^{14,15} From 1970 to 2011, the imprisonment rate (total number of prisoners with a sentence of at least a year) increased from 96 to 492 per 100,000 US

¹¹ Pager, Devah, "The Mark of a Criminal Record," *American Justice Studies* 108:5 (March 2003), 937-975.

¹² King, Ryan S., Marc Maurer, and Malcolm C. Young, *Incarceration and Crime: A Complex Relationship*, report prepared by The Sentencing Project, Washington D.C., 2005.

¹³ Western, Bruce, Jeffrey R. Kling, and David F. Weiman, *The Labor Market Consequences of Incarceration*, Paper prepared for the Urban Institute's Re-Entry Roundtable, 12-13- October 2003.

¹⁴ King et al., "Incarceration and Crime", 1.

¹⁵ History: Fast Facts, United States Census Bureau http://www.census.gov/history/www/through_the_decades/fast_facts/

residents.^{16,17} The imprisonment rate of males (932 per 100,000 US residents) is more than 14 times that of females (65 per 100,000 US residents). Males comprise 93.3% of the entire prison population with 1,433,741 inmates compared to 103,674 female inmates.¹⁸ The trend of mass incarceration is especially draining on low socioeconomic communities since the majority of the incarcerated are from similar environments. Dr. Braman at George Washington University Law School explains this phenomenon, “the social deprivation and draining of capital from these communities may well be the greatest contribution our state makes to income inequality.”¹⁹ This is synonymous with poverty as the threshold is a calculation of family income. Subsequent sections will examine the economic and social costs of incarceration on the inmates, family, communities, and society that Dr. Braham alludes to.

The greatest population of prisoners is under state jurisdiction, where the imprisonment rate is 53 per 100,000 US residents under federal jurisdiction (197,050 people). And 429 per 100,000 US residents are under state jurisdiction ((1,537,415 people)), which substantiates an individual state’s level of priority over policy dedicated to reforming prisons and lowering incarceration rates.²⁰ States with the highest incarceration rates face more pressure to balance the budget, alleviate overcrowding, and address the public fear that higher rates mean more crime. For example, California had the highest incarceration rate in the country in 2011, so the U.S. Supreme Court ruled that the state must reduce its prison population to 137.5% of its previous number, or about 110,000 prisoners, within two years because overcrowding undermined the treatment of inmates. In response, nonviolent, non-serious, and nonsexual offenders were placed

¹⁶ Western et al, “The Labor Market Consequences of Incarceration”, 1.

¹⁷ Carons, E. Ann and William J. Sabol, “Prisoners in 2011”, Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, December 2012.

¹⁸ Carons and Sabol, “Prisoner in 2011”, 6.

¹⁹ Tierney, “Prison and the Poverty Trap”.

²⁰ Carons and Sabol, “Prisoner in 2011”, 6.

in local jail facilities. Inmates released from jails were placed under a post-release community supervision program.²¹ The legal system only addressed the prison capacity without consideration for the influx of inmates that are released without reentry assistance. This undermines the effectiveness of efforts to reduce inmate population because the difficulties in the transition back into society frequently feed the cycle of crime.

The nation also battles a high recidivism rate that, in theory, should be decreasing if the tougher stance on crime is perfectly, or even nearly effective. The Bureau of Justice Statistics report in 2000 “of those recently released, nearly two-thirds will be charged with new crimes and over 40% will return to prison within three years.”²² Of the admitted prisoners, 68.0% are new court commitments, 30.8% are parole violators (for violations of condition of release or for new crimes), and 1.2% is undisclosed.²³ These high rates, personified by the stories of Carl Harris, Vance Webster, and Melissa showcase the cycle of crime and release, as well as grounds for an examination of not only the effectiveness of the criminal justice system, but also the availability and quality of reentry support.

In 2011, the number of inmates admitted (668,800) is slightly less than the number of inmates released (688,384).²⁴ Of released prisoners, 69.0% are conditionally released (released to probation, supervised mandatory releases, and other unspecified forms), 29.5% are unconditionally released (expirations of sentence, commutations, and other forms), and 1.6% is undisclosed.²⁵ The annual introduction of hundreds of thousands of newly released inmates contributes to the number of ex-felons in the United States, which in total represents about 8%,

²¹ Carons and Sabol, “Prisoner in 2011”, 4.

²² Pager, “The Marks of a Criminal Record”, 938.

²³ Carons and Sabol, “Prisoner in 2011”, 11.

²⁴ Carons and Sabol, “Prisoner in 2011”, 11-12.

²⁵ Carons and Sabol, “Prisoner in 2011”, 12.

12 million, of the working-age population.²⁶ Like Webster, many of them struggle to find employment that provides the stability to avoid committing new crimes. The majority is on conditional release, which is an additional burden on the country's allocation of monetary resources. For ex-felons, efforts to meet the requirements of conditional release will limit their job search process and job engagement, such as scheduled shifts.

Race, Ethnicity, Age

Amongst the incarcerated population, the racial and ethnic disparity between the prison and jail compared to the outside is stunning. This contributes to the high poverty rates among minority groups, most notably African Americans. White persons are sentenced at a rate of 478 per 100,000 US residents, Black persons at a rate of 3,023, and Hispanic persons at a rate of 1,238.²⁷ In the total prisoner population, 33.6% are white, 37.8% are black, 22.8% are Hispanic, and 5.8% are other. Of males, 32.4% are white, 38.7% are black, and 23.1% are Hispanic.²⁸ The share of whites continues to shrink as the penal population grows in absolute size.²⁹ The naïve inference from the data is that African Americans and Hispanics are more prone to commit crime. The reality is that a relatively substantial proportion of African Americans and Hispanics reside in at-risk, impoverished neighborhoods. If parents are in poverty, from birth the child is at a disadvantage compared to their wealthier counterparts. They absorb negative effects from their environments, under-resourced education system, harmful relationships, and a long list of other influences. Thus, incarceration further tethers the prisoner to poverty because a record erects even more barriers. As Carl Harris's experience shows, after emerging from jail 20 years later, the world that he once knew was no more. Among his first lessons on how to perform daily

²⁶ Pager, "The Marks of a Criminal Record", 938.

²⁷ Carons and Sabol, "Prisoners in 2011", 8.

²⁸ Carons and Sabol, "Prisoners in 2011", 9.

²⁹ Western et al, "The Labor Market Consequences of Incarceration", 1.

functions in this world is that a criminal record restricts his ability to provide for himself and his family because of the few job opportunities for ex-felons.

The age group with the highest sentencing rate is between the ages of 30-34, at a total of 1,230 per 100,000 US residents. This may reveal that minorities commit the crimes that induce the greatest sentences or that they are sentenced to greater lengths of time. Prisoners under the age of 35 make up 46.7% of the total male incarcerated population. Among whites, 39.6% are under the age of 35. The proportion rises to 49.4% among blacks, and 53.0% among Hispanics. These numbers are consistent with the research that show that Black and Hispanic prisoners are generally younger and imprisoned more often than white prisoners.³⁰ Like Vance Webster's and Melissa's experiences indicate, the length of many sentences means that inmates spend most (or all) of their working years behind bars, which is "well beyond the peak age for crime."³¹ When they are released, they will accept unstable, low-advancement positions while most of their peers are established in careers with wage growth. In effect, time in prison undercuts the time that a person has to try and rise above the poverty threshold.

Crime Type

At the end of 2010, 53.2% of sentenced prisoners had been convicted of violent crimes,³² 19.3% of property crimes,³³ 17.4% of drug crimes,³⁴ 10.5% of public-order crimes,³⁵ and 0.6% of other/ unspecified crimes,³⁶. Of those incarcerated for property crimes, 44.4% are white, 30.6% are black, and 16.8% are Hispanic. The opposite trend of numbers appears for those

³⁰ Carons and Sabol, "Prisoners in 2011", 7.

³¹ Tierney, "Prison and the Poverty Trap".

³² Violent crimes include murder, manslaughter, rape, other sexual assault, robbery, assault, and other offenses

³³ Property crimes include burglary, larceny, motor vehicle theft, fraud, and other offenses

³⁴ Drug crimes include trafficking, possession, and other offenses

³⁵ Public-order crimes include weapons, drunk driving, court offenses, commercialized vice, morals and decency offenses, liquor law violations, and other offenses

³⁶ Other crimes include juvenile offenses and other offenses

incarcerated for drug crimes, 29.3% are white, 44.6% are black, and 20.2% are Hispanic. Of those incarcerated for public-order crimes, 37.3% are white, 33.5% are black, and 24.1% are Hispanic.³⁷ The most prevalent crimes among whites seem to be property offenses and among blacks seem to be drug offenses. Hispanics make up the lowest proportion for all types of offenses, which can be attributed to their being the lowest makeup of the total incarcerated population. There is a general sentiment that all criminals found guilty of the alleged illegal act should be punished. This is the purpose of the justice system. However, almost 50% of all incarcerated males are not a part of the critical, dangerous, sector of the population that has committed crimes beyond the human conscience. Those convicted of certain nonviolent crimes, property crimes, drug crimes, and even violent crimes can and should be rehabilitated.

The dedicated efforts of Carl Harris, Vance Webster, and Melissa show that they want to find employment upon release, but for those that continue to face rejections to no end, the pressures from themselves, their families, and their communities all feed the cycle of crime.

Prior to his 20-year sentence, Carl Harris was first convicted of illegal gun possession. After release, he continued to deal drugs in part to support the birth of his first daughter. This led to his final conviction. It is difficult to believe that if he had access to rehabilitation and programs to facilitate his reentry after his first arrest, that he would have continued his illicit activities at the risk of sacrificing his relationship with Mrs. Harris and his two infant daughters.

Education

An overwhelming proportion of inmates have low educational attainment, which is also characteristic of the impoverished subset of the general population. More than 70% of federal

³⁷ Carons and Sabol, "Prisoners in 2011", 9.

and almost 90% of state prisoners do not have more than a high school diploma or equivalent.³⁸ In the general population, 18% did not finish 12th grade.³⁹ Low education attainment already forces the worker into low-skilled jobs. The addition of incarceration further limits the opportunities, especially in customer-facing positions. The length of the incarceration will further deteriorate a person's knowledge base because the skills are not applicable in prison. Aggregate state, federal, and local inmate educational attainment shows that 39.7% of all incarcerated do not have a high school degree or equivalent, 23.3% of all incarcerated have their GED, 22.6% have a high school diploma, and 12.7% have a postsecondary degree. In 1999, among black male high school dropouts, the risk of imprisonment had increased to 60%.⁴⁰ The disruption to their life course and further limitations to human and social capital accumulation, as explained in the following sections, exacerbates their impoverished circumstances upon release.

II. Life Course: Why and How Imprisonment Affects It

The presence of imprisonment, length of the sentence, experience in prison and jail, and transition back into society each has a unique set of challenges that would exhaust anyone's mental and physical capacity. Together, these four factors compound to defer or even permanently eliminate the prospect of important life events that contribute to an individual's well being. A normal development trajectory includes infancy, childhood, adolescence, and adulthood. Social scientists define the life course as, "the passage to adulthood as a sequence of well-ordered stages that affect life trajectories long after the early transitions are completed."⁴¹ Within each stage is a systematic array of skills and cognitive functioning that are influenced by

³⁸ Pager, "The Mark of a Criminal Record", 949.

³⁹ Harlow, Caroline Wolf, "Education and Correctional Populations", Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, January 2003.

⁴⁰ Pettit, Becky and Bruce Western, "Mass Imprisonment and the Life Course: Race and Class Inequality in U.S. Incarceration", *American Sociological Review* vol. 69, (April 2004), 151-169.

⁴¹ Pettit and Western, "Mass Imprisonment", 154.

experiences and relationships. Unfavorable or abnormal experiences during these impressionable times have devastatingly immediate effects. Prolonged failure to navigate the unique challenges in the intimate interactions with the people and the environment induces lifelong consequences. The ability to consistently move from one milestone to another promotes employment, marriage, and other accomplishments. However, the presence of imprisonment in a person's life course disturbs the smooth trajectory.

The length of imprisonment may cause breaks and even permanent negative shifts in the life course. For example, a long sentence may completely eliminate access to specific events such as marriage and parenthood. Vance Webster entered prison at 16 years old and he exited at 45 years old. Like hundreds of thousands of felons released each year, he returned to society without a family, without a home, without belongings, and without a job. His experiences before, during, and after incarceration exemplify the permanent disruption of the life course. For example, he had an unstable upbringing and inconsistent schooling, which hindered the development of mature emotional and cognitive functioning important for decision-making. This is, at least, partially responsible for his criminal involvement and subsequent prison time. Carl Harris is more fortunate than many other inmates because Charlene Hamilton, his girlfriend and the mother of his children, dedicated her life to maintain a family unit as well as anyone could in this situation. With his \$1.15 per hour prison wage and her scrimping and saving, they were able to speak on the phone nearly everyday. Hamilton's visits to him took place in four different states as Harris moved to different prison facilities during his long sentence. Even with the extraordinary efforts of Charlene Hamilton, Carl Harris still missed many distinct life events because he was behind bars for 20 years. He could not marry, experience parenthood with his children, or establish a career, all pivotal developments throughout adulthood.

Experiences in prison or jail can also enhance or create substance abuse, mental and physical illnesses, and negative behavioral effects, as well as deteriorate human and social capital. For many reasons detailed in the next section on causal mechanisms, experiences in prison or jail are ill-suited to normal functioning beyond those doors. An inmate is incapable of returning to a normal life course trajectory because he does not have the skills that allows one to mature from one developmental stage to the next.

Some argue that imprisonment is the necessary shock that forces an inmate to reevaluate his current advancement through life and make the necessary changes after release.⁴² However, negative effects are clearly reflected in the struggles with reentry found in the majority of released criminals' experiences. Per the life course analysis, ex-prisoners have increased difficulty with the transition into employment, earn lower wages, and are less likely to create a household. These missed opportunities may also place ex-prisoners on a path that leads back into crime. Employment prospects and the poor outcomes associated in part with employment transpire through three main mechanisms associated with incarceration and a criminal record: human capital, social capital, and stigma.

III. First Causal Mechanism: Human Capital

When young males face incarceration, they do so in the critical period of their life course when they can reach the first meaningful education attainment: the high school degree or equivalent. This degree is complemented by hard and soft skills with job relevant experiences, attaining physical and mental maturation, and making decisions that can have lifelong rewards and consequences. The time spent barred inside a federal prison, state prison, or local jail undercuts the ability to accumulate factors of human capital. Many inmates forget how to take

⁴² Pettit et al, "Mass Imprisonment", 155.

care of or think for themselves as a result of long periods of incarceration. Entering into the system at an early age, significantly encourages the “institutional mentality,” which includes the muting of self-initiative and consequently, a heavy dependence on institutional decision makers such as guards or inmate leaders.⁴³ When they are released, they are “crippled” and no longer know how to survive in the community. These inmates do not understand how to restart life as a middle-aged man when they began their sentence still in adolescence or early adulthood. The limited ability to improve human capital and the deterioration of any possessed qualifications occur through pathways such as mental illness, substance abuse, lack of education, and lack of job experience and relevant experiences.

Mental Illness

A prison sentence may induce or exacerbate mental and physical illnesses due to lack of quality rehabilitation, treatment, and re-entry preparation programs. In the prison environment, rates of mental illness are between two and four times greater than in the general population. For example, approximately 17% of inmates have a mental illness such as depression and schizophrenia.⁴⁴ If treatment is not provided for these conditions, the prison environment will intensify the symptoms as well as threaten the very survival of an inmate, as they are easy targets for violence and other forms of abuse. Fortunately, presence of treatment programs and participation rates in such programs are greater than drug programs, with about 70% of state facilities screening incoming prisoners and 60% receiving treatment during their sentence with

⁴³ Margand, Nancy, Father and incarceration PSYCH 235 lecture slides, Washington and Lee University, 2013.

⁴⁴ McKean, Lise and Charles Ransford, “Current Strategies For Reducing Recidivism”, Center For Impact Research, August 2004.

medication and counseling services.⁴⁵ However, these programs lack quality because they do not prepare inmates for release with resources such as referrals to continued care.

Substance Abuse

The rate of substance abuse among prisoners is much higher than in the general population, with nearly 75% of prisoners having a history of substance abuse.⁴⁶ If left untreated, the addictive nature of drugs will force some to make illicit connections and put themselves at risk in order to satisfy their uncontrollable urges and to offset the painful symptoms of withdrawal. Substance abuse treatment improves the effectiveness of the prison system, however, a low percentage of jails offer programs and amongst those that do, the quality and effectiveness of these efforts are low. In 2000, Health and Human Services conducted the first national survey of treatment programs in adult correctional facilities. They found that 45% of state prisons and 68% of jails do not have any form of treatment. Programs that do exist provide minimal resources; nearly 75% consists of self-help groups, such as Alcoholics Anonymous and Narcotics Anonymous.⁴⁷ The wide berth between the 70 to 80% of inmates that need treatment and the 10% participation rate, recorded in 1997, showcase the shortage of resources in an area that is directly linked to recidivism.

Education

Poorly educated criminals have a much smaller chance of improving their educational attainment given the shortage of resources in prisons and jails. Some, such as the self-reported 11% that have a learning disability, may never gain the most basic qualifications for even the

⁴⁵ McKean and Ransford, "Current Strategies", 17.

⁴⁶ McKean and Ransford, "Current Strategies", 16.

⁴⁷ Petersilia, Joan, *When Prisoner Come Home: Parole and Prisoner Reentry*, New York: Oxford University Press, 2003.

most low-skilled jobs.⁴⁸ Advocates of the prison frequently mention the high statistics of prisons that offer education and job training programs. In 2000 education programs are reported to exist in 91.2% of state prisons, 100% of federal prisons, 87.6% of private prisons, and 60.3% of local jails (1999).⁴⁹ These high numbers are a veil for the low quality of these programs, low supplies of educational resources, and also the accessibility to these programs. Disciplinary measures, such as confinement to a small room for long periods of time, also keep inmates from participating in any education and rehabilitation programs.

Despite these significant problems, reentry programs have been reduced or eliminated at a time when inmates need it the most. The budgets of prisoner treatment programs only comprise 1-5% of state prison budgets and yet this number is still decreasing. In 1994, Congress eliminated Pell grants, tuition for college courses, for prisoners. At least 25 states have made cuts to vocational and technical training, which severs another avenue for future jobs. The classes that are available have long waiting lists, but prison overcrowding successfully denies many motivated inmates from ever gaining access to educational opportunities.⁵⁰ Outside the prisons, low-skilled workers already face a diminishing job market but they have greater opportunities to seek educational assistance. For low-skilled prisoners, the poorly resourced prisons and jails suppress their ability to change their situation once released.

Accumulation of Job Experience and Relevant Skills

In addition to lack of educational opportunities, the length of incarceration is detrimental to the accumulation of job experience that would make a job seeker more competitive in the

⁴⁸ Petersilia, *When Prisoner Come Home*, 4.

⁴⁹ Harlow, "Education and Correctional Populations", 4.

⁵⁰ Petersilia, *When Prisoner Come Home*, 6.

labor market. On-the-job training can account for as much as half of a worker's human capital.⁵¹ By this calculation, the effect of incarceration and the length of time in prison or jail can undercut a person's human capital by 50% compared to someone of the same background and same qualification, who has not served a prison sentence. As the statistic represents the upper bound of human capital loss, the lower bound estimate will at least include the erosion of possessed job skills from absence of employment and general lack of use.

These health and behavioral problems contract the human capital of released inmates because they are inconsistent with work routines and normal interactions within society.⁵² Prison sentences require behavioral adaptations that are necessary for survival but otherwise detrimental outside the environment. For example, inmates exercise hypervigilance in order to detect signs of threat or personal risk. They must maintain a tough exterior as any signs of weakness may trigger victimization. This mindset induces social withdrawal and isolation because invisibility is so important for survival. However, in the workplace, hypervigilance will project as aggression, unfriendliness, withdrawal, uncommunicatively, and an inability to accept authority.⁵³ In effect, the length of a sentence makes an inmate absorb the experiences of imprisonment that will hinder normal development of capability for the labor market.

IV. Second Causal Mechanism: Social Capital

Social contacts and a strong social network are exceedingly important as more people rely on these resources to learn about job opportunities and for referrals. This is especially true in trade and the public sectors. Prisons can be criminogenic because they are governed by rules that

⁵¹ Western et al, "The Labor Market Consequences of Incarceration", 4.

⁵² Western, Bruce, "The Impact of Incarceration on Wage Mobility and Inequality", *American Sociological Review* vol. 67, (August 2002), 526-546.

⁵³ Western et al, "The Labor Market Consequences of Incarceration", 4.

are nonconventional in the outside world. The hierarchical structures of a prison, populated with criminals from drug dealers to murderers, create an incentive to associate with a group, if only for protection. The constant exposure to this social network further distances the inmate's "attachment to the legitimate labor market."⁵⁴ Once released, the ex-inmate may rely on the connections formed within prison to create a social network to aid in reentry efforts, such as sustainability. With few professional connections and faced with difficulties in finding employment, an ex-inmate may be limited to or tempted by illicit methods to gain access to an income.

V. Third Causal Mechanism: Stigma

The third mechanism is made up of perception and legal allowances for exclusion of former incarcerated persons from certain job positions. Stigma limits the types of jobs that ex-inmates are eligible for and at which point of the application process that they are eliminated from consideration.

Perception

The "deviant label" distinctively separates young males from other applicants that may have the same human and social capital deficiencies. Social stigma theorizes how, "criminal offenders are unattractive employees because their criminal records signal that they cannot be trusted."⁵⁵ Additional perceptions include the "increased propensity to break rules, steal, or harm customers."⁵⁶ Audit studies are invaluable to determine the independent effect of incarceration

⁵⁴ Western et al, "The Labor Market Consequences of Incarceration", 7.

⁵⁵ Pettit, Becky and Christopher J. Lyons, "Status and the Stigma of Incarceration: The Labor-Market Effects of Incarceration, by Race, Class, and Criminal Involvement", *Barriers to Reentry?*, ed. Shawn Bushway, Michael A. Stoll, and David F. Weiman, New York: Russell Sage Foundation, 2007, 203-226.

⁵⁶ Holzer, Harry J., Steven Raphael, and Michael A. Stoll, "Will Employers Hire Former Offenders?: Employer Preferences, Background Checks, and Their Determinants", *Imprisoning America: The Social Effects of Mass*

on access to employment opportunities. The basic design is to send matched pairs of individuals, one with a criminal record and the other without, to apply for real jobs. Careful data and observations are collected on how employers respond to the applicants just on the basis of certain characteristics.⁵⁷ Results consistently show that the applicants with a criminal record have a much smaller rate of success in advancing past the initial application stage. The methodology is limited because the sample size is small and the experiment is costly. Another telling method is through surveys of employers on their responsiveness to applicants with a criminal record.

Through the use of the Multi-City Study of Urban Inequality data collected between June 1992 and May 1994 from more than three thousand establishments in Atlanta, Boston, Detroit, and Los Angeles, Harry Holzer, Steven Raphael, and Michael A. Stoll were able to analyze the stigma effect in hiring decisions. Participants were asked two critical questions regarding the most recently filled position in the exact wording as follows:

1. Would you accept for this position an applicant who had a criminal record? Definitely will, probably will, probably not, absolutely not?
2. For the last position hired into, how often do you check the applicant's criminal record? Always, sometimes, or never?

Employer responses reflect a relatively widespread aversion to applicant with a criminal record, even when compared to applicants from various disadvantaged groups such as welfare recipient, GED or no high school diploma, spotty work history, and unemployed for more than a year. Out of the entire sample, only 12.5% will definitely accept an applicant with a criminal record, 25.9% probably will, 42.1% probably will not, and 19.5% definitely will not. Even

Incarceration, ed. Mary Pattillo, David Weiman, and Bruce Western, New York: Russell Sage Foundation, 2004, 205-246.

⁵⁷ Pager, "The Mark of a Criminal Record", 945.

before any contact with the applicant, 61.6% of employers will disregard him. In comparison with other disadvantaged groups, 51.8% of employers will definitely accept an application from welfare recipients, 57.2% from GED/ no high school diploma, 19.1% from spotty work history, and 29% from unemployed for more than a year. The availability of information concerning criminal backgrounds binds an ex-offender to his past, regardless of the length of time that has passed or the various steps that he has taken to evolve through job training, education, and rehabilitation.

In the same sample of employers, 31.8% always conduct a criminal background check on applicants, 16.8% sometimes do, and 51.4% never do. A total of 48.6% of employers will at least entertain the idea of a check, which are still less than the 61.6% of employers that probably will not or definitely will not accept an ex-offender. These data show that a proportion of rejections are due to the admission or inference of a criminal record as communicated through a job application and résumé.⁵⁸

Formal Legal Restrictions

In many jurisdictions, “a felony record can temporarily disqualify employment in licensed or professional occupations” and permanently bar public sector employment.⁵⁹ Disqualified occupations include those requiring contact with children, some health services, security services, and some legal occupations.⁶⁰ This not only restricts the types of positions that are available to ex-inmates, but also restricts their mobility within the labor market. Inmates are characterized as “takers” rather than “setters” because they are forced to apply to and accept any job, even those that have low wages and no future growth. In many ways, these restrictions deter

⁵⁸ Holzer et al., “Will Employers Hire Former Offenders?”, 213.

⁵⁹ Western et al, “The Labor Market Consequences”, 4.

⁶⁰ Holzer et al., “Will Employers Hire Former Offenders?”, 207.

ex-inmates from pursuing vocational courses and higher education because there is no opportunity for success in those relevant careers. For example, parolees in California are legally barred from working in professions of law, real estate, medicine, nursing, physical therapy, and education. In Colorado, convicted felons cannot become dentists, engineers, nurses, pharmacists, physicians, and real estate agents. All states ban ex-offenders from taking employment as barbers, beauticians, and nurses.⁶¹

Additionally, employers can avoid hiring ex-inmates by citing fear of negligence, which is an umbrella term “that employers have a duty of care to others in their organization and to the public and are legally liable for any damages that result from breach of that duty.”⁶² A specific application of negligence is in an employer’s requirements of bonding against theft, most common in service businesses. As defined, “bonding is a type of insurance that protects an employer against negligent or criminal activities committed by its employees.”⁶³ *Hawker v. New York* (1968) established that “employers may take the record of a conviction conclusive evidence of the fact of the violation of the criminal law and the absence of the requisite good character.”⁶⁴ Laws that aim to protect the public from exposure to expected deviant traits of ex-offenders reinforce the negative stigma. Employers have the incentive to be as careful as they can at the risk of greater costs in the future because “employers have lost 72 percent of negligent hiring cases, with an average settlement of more than \$1.6 million.”⁶⁵ Consequently, many companies public and private, big and small, consistently exploit the broad allowances of formal restrictions. These practices are assisted by greater expansion of the criminal background check industry and publicly available records.

⁶¹ Petersilia, *When Prisoners Come Home*, 113.

⁶² Holzer et al., “Will Employers Hire Former Offenders?”, 207.

⁶³ Petersilia, *When Prisoner Come Home*, 114.

⁶⁴ Petersilia, *When Prisoner Come Home*, 114.

⁶⁵ Holzer et al., “Will Employers Hire Former Offenders?”, 207.

Availability of Criminal History Records

Criminal background checks are supposed to help employers comply with legal restrictions on the characters that are appropriate for certain types of jobs in order to promote safety and security, especially in client facing positions. However, more and more employers are using them in ways beyond the intended purpose of screening tools. Employers are supposed to consider the type of crime committed, duration if sentence, and age at which the violation occurred, to determine whether or not the criminal record is qualified to influence the hiring decision. However, in a survey of online job ads on Craigslist, warnings such as the following are in violation of employment and discrimination laws;⁶⁶

“No arrests or convictions of any kind for the past seven years * No Felony arrests or convictions of any kind for life”⁶⁷

“We are looking for people with...spotless background/ criminal history”⁶⁸

“***DO NOT APPLY WITH ANY MISDEAMEANORS/ FELONIES***”⁶⁹

These ads are in violation of the Equal Employment Opportunity Commission’s statement that “an absolute bar to employment based on the mere fact that an individual has a conviction record is unlawful under Title VII.”⁷⁰ Title VII also specifies that consideration of criminal record in the hiring decision must take into account:⁷¹

1. “The nature and gravity of the offense or offenses;

⁶⁶ Rodriguez, Michelle Natividad and Maurice Emsellem, “65 Million ‘Need Not Apply’: The Case for Reforming Criminal Background Checks for Employment”, The National Employment Law Project, March 2011.

⁶⁷ Job ad for Electrician Contractor, Sept. 29, 2010, OMNI Energy Services Corp

⁶⁸ Job ad for Warehouse worker or Delivery Drivers, Sept.2, 2010, CORT Furniture Rental

⁶⁹ Job ad for Sewer Selling Technician, Feb.10, 2010, Luskin-Clark Service Company

⁷⁰ Rodriguez and Emsellem, “65 Million ‘Need Not Apply’”, 6.

⁷¹ Rodriguez and Emsellem, “65 Million ‘Need Not Apply’”, 6.

2. The time that has passed since the conviction and/or completion of the sentence; and
3. The nature of the job held or sought.”

Further compounding the problem, a criminal record may contain misleading information including but not limited to arrests that were dropped due to innocence and expungement of records. Commercially prepared reports contain many inaccuracies. Even FBI background checks “are shockingly out of date 50 percent of the time.”⁷²

The Fair Credit Report Act should correct for inaccuracies, as it requires that, “if an employer rejects an applicant based on the background report, a copy of it must be provided to the applicant prior to the refusal to hire, which allows the applicant to correct any misinformation.”⁷³ As the experiences of Carl Harris, Vance Webster and Melissa show, their hundreds of accumulated rejections were all in violation of the Fair Credit Report Act. Throughout their job search process, the only reason they received for the employers’ decision was that they have a criminal record.

VI. Economic Effects of Mass Incarceration

Mass incarceration forecasts mass release aggregated over time. Only 7% of all sentences are for life or death, so 93% of all inmates are eventually released.⁷⁴ There is no official, publicly available record that tracks how many ex-offenders are in the general population at any one time. However, researchers can calculate the number through the use of age expectancy, administrative data, high and low estimates of recidivism rates, and a variety of other techniques and data. Schmitt and Warner estimate that in 2008, there were 12 to 14 million ex-offenders of working

⁷² Rodriguez and Emsellem, “65 Million ‘Need Not Apply’”, 7.

⁷³ Rodriguez and Emsellem, “65 Million ‘Need Not Apply’”, 12.

⁷⁴ Petersilia, *When Prisoner Come Home*, 3.

age.⁷⁵ Similarly, Pager estimates that with over 2 million incarcerated and over half a million released each year, there are about 12 million ex-offenders. This subgroup accounts for 8% of the working age population.⁷⁶ The barriers to employment that face a significant proportion of the ex-felon population at any one time has detrimental effects on economic factors, such as unemployment rate and output growth, that influence the health of the economy.

Unemployment Rate

The current unemployment rate does not account for working-age inmates nor does it provide any indication that it can be lower if the barriers to post-release unemployment are alleviated. Many try to estimate the independent effect of incarceration on employment with varying estimates of time out of work. Western and Beckett estimate that the loss is an average of five annual weeks, with full employment defined by 42 weeks. Raphael's estimates are even higher with six to eleven weeks lost. Pew Charitable Trusts' analysis of the National Longitudinal Survey of Youth Data saw a reduction of nine weeks employment among 45-year old males. Essentially, there is a 12 to 19% decline in employment due to incarceration. Although these numbers contribute to the calculation of the official unemployment rate, the real negative impact of incarceration is still depressed.

The failure of the unemployment calculation to consider those that are of working age and in prison or jail only veils the true current rate as the future unemployment rate will be negatively impacted by those that are released and cannot find employment. Western and Beckett recalculate the conventional unemployment measure because they argue that it "conceals

⁷⁵ Schmitt, John and Kris Warner, "Ex-Offenders and the Labor Market", Washington, DC: Center for Economic and Policy Research, November 2010.

⁷⁶ Pager, "The Mark of a Criminal Record", 937-938.

joblessness among able-bodied, working-age men.”⁷⁷ Currently, the unemployed are defined as those who are actively seeking employment in the month prior to taking the national labor force surveys. In 1995, the unemployment rate was reported as 5.6%. Western and Beckett calculate the causal effect of incarceration to be 6.2%, “unemployment rate that would be obtained if the incarceration rate was zero.” That is, the proportion of the unemployed to include inmates who were also unemployed prior to conviction and sentence. Due to their current residence in prison or jail, the official measure does not include them in calculation of the official rate. Western and Beckett’s calculation is under the assumption that inmates that were unemployed would still be unemployed if they were not incarcerated.

To account for measurement error with a broader unemployment concept, Western and Beckett calculate the accounting effect of incarceration to be 7.5%, “the unemployment rate that would be obtained if the definition of unemployed were extended to include those incarcerated.”⁷⁸ An increase of 1.9% unemployment from the official measure means that for every four unemployed persons, one is incarcerated. The exclusion of the inmate population from the unemployment measure conceals the additional 25% of the total unemployed population in the country. To ignore the reality of high unemployment has long-term consequences on the economy since the appropriate resources are not utilized to buffer the country from future economic shocks.

Productivity

The additional unemployment of able-bodied men who are forced out of the labor market because of their prior conviction and incarceration produces an output loss that is not the result

⁷⁷ Western, Bruce and Katherine Beckett, “How Unregulated is the U.S. Labor Market? The Penal System as a Labor Market Institution”, *American Justice Studies* vol. 104 no. 4 (January 1999), 1030-1060.

⁷⁸ Western and Beckett, “How Unregulated is the U.S. Labor Market?”, 1037-1039.

of uncontrollable economic forces. Arguably, some of the incarceration effect and subsequent unemployment is due to lower human capital and social capital. Even so, the resulting loss of output from low-skilled labor in 2008 is estimated to be between \$57 and \$65 billion.⁷⁹ On a rather conservative assumption that ex-offenders produce half the output of the average worker and that there is a 0.8% to .9% reduction in total employment rate, the loss of production is about 0.4% to 0.5% of gross domestic product.⁸⁰ By keeping released inmates out of the labor market, companies artificially decrease their pools of qualified candidates. The economy suffers because it is underperforming below its potential if 0.8% to 0.9% of the population is unemployed simply because they have a record. Consider that the United States can perform 0.4% to 0.5% economically better if hiring decisions were based on qualifications and not on a criminal history that is irrelevant to the position and does not meet the standards set forth by the Equal

Employment Opportunity Commission.

Over \$53 billion per year is spent on state prisons and the additional costs of jails, parole, and probation further increase total expenditure.⁸¹ Despite the high expenditures towards maintaining the criminal justice system, recidivism rate is high and reentry successes are minimal. The high unemployment rate and output loss of the post-release population is a great detriment to the efficient allocation of resources. The former acting chair of the Equal Employment Opportunity Commission explained it best:

Fears, myths and such stereotypes and biases against those with criminal records continue to be part of the...decision making for many employers. Business and industry suffers as

⁷⁹ Schmitt and Warner, "Ex-Offenders and the Labor Market", 88.

⁸⁰ Schmitt and Warner, "Ex-Offenders and the Labor Market", 99.

⁸¹ Kyckelhahn, Tracey, "State Corrections Expenditures, FY 1082-2010", Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, December 2012.

a result because it is not able to benefit fully from the skills of every potential worker. For our economy to be successful, we cannot afford to waste any available talent.⁸²

Yet, there is nothing to ensure that we can transform the costs into returns upon release. Instead, the general population must continue to internalize the costs of million of ex-offenders that are excluded from the labor market.

VII. Social Costs and Obligation to Fairness and Capability

No one doubts that boundaries for right and wrong must be established in a society for there to be order and evolution. It is difficult, if not impossible, to argue that the incarceration of murderers, kidnappers, and other perpetrators of unspeakable crimes produce a greater social cost than a social benefit. It is more bearable to try and understand that the mass majority of inmates in modern times are charged with drug, nonviolent, property, and parole violations. Many of them enter the criminal justice system at a young age when they are more vulnerable to deviant influences. The United States sentence prisoners to significantly more time than in most industrialized countries so that young offenders “remain inmates into middle age and old age, well beyond the peak age for crime.”⁸³ Incarceration affects everyone and everything, in particular in low-income neighborhoods. The lack of stable employment and the constant rejections continues the negative affect of incarceration on education, income, housing, and health etc. Society has an obligation to alleviate the unfathomable amounts of stress on the individual, family, friends, and other potential support systems.

⁸² Rodriguez and Emsellem, “65 Million ‘Need Not Apply’”, 7.

⁸³ Tierney, “Prison and the Poverty Trap”.

Mental and Physical Health Issues

Mental health and substance abuse issues are more prevalent among the incarcerated population than in the general population. As explained in Section III: First Causal Mechanism: Human Capital, there is a shortage of rehabilitation services in prisons and jails. There are even fewer programs that are of high quality and effective. The prison environment only exacerbates these health problems. Consequently, upon release, inmates will enter back into society with unaddressed, and perhaps even more severe, problems that threaten their livelihood and those around them. The severity of the problems depends on the length of sentence and the individual-specific experiences in prison. Both mental illness and substance abuses place inmates “at extremely high risk of relapse, and are likely to commit crimes again and again until they are caught and put back into prison, where the cycle begins all over again”⁸⁴ Failure to address these problems continue high incarceration rates, growth in prevalence of crime, and societal costs.

Family

Much like the experiences of Carl Harris and Vance Webster, the first moment of freedom is the beginning of a rollercoaster that consumes their emotional and physical beings. Harris still had a trying time even with a supportive wife but as his experience shows, his time in jail had negative externality effects on his wife and children. For many others who are even less fortunate, incarceration has intensified consequences on the family structure and development of the child. Researchers have proposed that one of the causes of child poverty and juvenile delinquency is linked to the problems initiated by the incarceration of a parent and the subsequent economic and emotional strains on the family unit. Children are more likely to suffer

⁸⁴Petersilia, *When Prisoner Come Home*, 97.

academically and socially. Boys become more physically aggressive. Spouses become more prone to depression, social isolation, low self-esteem, and other mental and physical problems.⁸⁵

Community

The social costs are most felt by low-income neighborhoods to further deepen the plight of poverty. This is because returning prisoners are from a relatively small number of communities. In California, for example, all released prisoners return to “core counties” especially those that incorporate central metropolitan areas. At a neighborhood level, 11 blocks in Brooklyn, New York accounts for 20 percent of the population but is home to 50 percent of all parolees. The high concentration of unemployed ex-inmates has large aggregate effects on the life cycle of everyone in the vicinity of the neighborhood.⁸⁶ When incarceration rate rises in a community, there is a subsequent increase in the rates of sexually transmitted infections and teenage pregnancy. There is greater gender inequality because women suffer from a shortage of potential mates. They can remain single and try to support themselves and their children, choose to be in disadvantaged relationship, or engage in criminal activities, like prostitution, to earn an income.

These historically disadvantaged communities are further hindered from development and recovery due to high populations of ex-inmates with low human capital and low legitimate social capital. Economic conditions remain weak because businesses are further deterred from investments due to mechanism such as stigma.

⁸⁵ Tierney, “Prison and the Poverty Trap”.

⁸⁶ Travis, Jeremy, “Reentry and Reintegration: New Perspectives on the Challenges of Mass Incarceration”, *Imprisoning America: The Social Effects of Mass Incarceration*, ed. Mary Pattillo, David Weiman, and Bruce Western, New York: Russell Sage Foundation, 2004, 247-267.

Obligation

It is understood that a conviction and a guilty plea does not remove the subject from the considerations of society. This caution can be seen in the protection against cruel and unusual punishment that, for example, does not allow for an extraordinary sentence for a minor offense. Even inmates on death row, assumed to never able to return to society, are somewhat still under the care of the state. If they suffer any medical condition that cannot be treated in a prison facility, they must be transported to a medical unit that does have the resources to do so. Although not explicitly stated, the purpose of these measures is clear: society maintains a moral responsibility to all of its people, including prisoners. The tougher policies passed over the course of the last 30 years are to ensure that criminals pay their debt to their victims and to society. The lack of rehabilitation and reentry efforts hinders their ability to reform themselves from an economic and societal cost to a productive member. The prison conditions, the level of heinousness of the crime, the sentencing guidelines, are among the many issues that challenge society's approach to crime. However, the following argument for obligation is intended solely for the purpose of this paper's topic on the employment aspect of reentry.

It is undeniable that criminals have an obligation to pay for their illicit acts. However, the incarceration period is supposed to reform the inmate and deter any future temptations to commit crimes. Just as the legal system must remove dangerous persons from the community, it must also fulfill its obligation to rehabilitate and reform. The persistent poverty amongst released inmates, their poor mental health, and the high recidivism rate all relate to the ineffectiveness of the justice system. Society must ensure that inmates have the capability to recover and succeed in the reentry process. Drug addictions, mental health issues, learning disabilities, and low educational attainment are all detrimental to a person's capabilities. Prison should be seen as an

opportunity to correct for those disabilities so that criminals have the ability to function as normal, law-abiding citizens post-release. A criminal status conveys past repercussions for wrongdoings but it should not be grounds for a lifetime of discrimination. Harris, Webster, and Melissa all hoped for a new start to their lives. The essential step towards that goal is to gain employment in order to establish some form of stability. However, none of them received sufficient assistance to help them learn the skills necessary for successful reentry. Harris acquired a drug addiction in prison and Webster dealt with mental health problems. Once released, the costs of their past continues when employers seem to punish them for the harm they caused more than 20 years ago. Rawl's theory of the fair equality of opportunity, such as that the progression and outcome of an individual's life is wholly dependent upon, is possible only from the combined efforts of society and individuals. The limited accessibility to rehabilitation and reentry programs denies inmates the ability to reform. Instead, the human and social capital acquired in prison is not conducive to normal functioning beyond the criminogenic environment.

It is an obligation to every single member of society to ensure fair equality, and this must include rehabilitation and reentry policies.

V. Recommendation

While the government increases its tough stance on crime it undermines its own efforts by ignoring the other half of the process: reentry and rehabilitation. Since 93% of inmates returns to society, it is essential to address the root of criminal activity so that they can regain the momentum needed to progress along the life course. Relevant policy and programs are essential to help inmates address family issues, social challenges, and many other shortcomings that existed prior to incarceration and that will be reinforced during their time and experience in prison. As this paper focuses on the effect of unemployment to the reentry process, the policy

recommendation and formal programs will directly contribute to the alleviation of restricted access to the labor market.

Policy

Government oversight needs to address the discrimination against ex-convicts by employers, especially for positions that do not require tasks that are relevant to the convict's criminal background. The first recommendation is to adopt "ban the box" policies in order to prevent employers from eliminating candidates in the very beginning of the application process. Many standard job applications ask candidates whether or not they have ever, or within a certain period of time, been convicted of a crime. For many ex-inmates, this is the question that guarantees their rejection. As of 2011, at least six states and 30 local jurisdictions have implemented a form of relevant policy.⁸⁷ Massachusetts' reform is the most comprehensive as it applies to both private and public employers. It sets limits on the information available on criminal records and ensures that a denied applicant will receive a copy of his record, as specified by the Fair Credit Reporting Act.⁸⁸ This allows ex-inmates to correct any mistakes that are on their criminal records.

The second recommendation is to restore eligibility for certain professions that are currently denied over the course of an inmate's lifespan. With fewer restrictions, inmates will have an incentive to continue rehabilitation efforts once released and avoid criminal activity. North Carolina and Ohio have passed laws to award ex-inmates with certificates to acknowledge their successful rehabilitation completion to help with the employment process and overcome other disqualifications. New York's Certificate of Relief from Disabilities and Certificate of

⁸⁷ Rodriguez, Michelle Natividad, Elizabeth Farid, and Nicole Porter, "State Reforms Promoting Employment of People with Criminal Records: 2010-11 Legislative Round-Up", collaboration of National Employment Law Project, National H.I.R.E. Network, and Sentencing Project, December 2011.

⁸⁸ Rodriguez et al., "State Reforms Promoting Employment of People with Criminal Records", 4.

Good Conduct lift occupational bans and establish a “presumption of rehabilitation” for public agencies and private employers.⁸⁹

The third recommendation, and most accepted effort, is to allow for the expungement and sealing of criminal records of charges that did not result in convictions and old or minor convictions.⁹⁰ This will also ease lifetime restrictions on employment opportunities. As of 2011, thirteen states⁹¹ have already reformed the process because the stigma of criminal activity can really undermine the progress that someone undertakes to reform.⁹²

The fourth recommendation is for greater efforts by government on all levels to “aggressively enforce civil rights and consumer protections that apply to criminal background checks for employment in the public and private sectors.”⁹³ It is absolutely necessary that employers abide by already existing federal laws and regulations that should be passed, such as the aforementioned policy recommendations. Efforts to change public sentiments (such as the strong association between the criminals that commit the most horrendous crimes to any efforts to facilitate the reentry process), employer perceptions, and legal barriers for employment are essential for long-term improvements to the justice system. Unfortunately, these changes take time and will induce copious amounts of debate and research.

Treatment Programs

Mental illness and substance abuse are barriers to employment because they limit a person’s capability of functioning at a normal level, rather than tethered to their deficiency.

⁸⁹ Rodriguez et al., “State Reforms Promoting Employment of People with Criminal Records”, 7.

⁹⁰ Rodriguez et al., “State Reforms Promoting Employment of People with Criminal Records”, 8.

⁹¹ Arkansas, California, Colorado, Delaware, Indiana, Louisiana, Mississippi, North Carolina, Oregon, Rhode Island, South Dakota, Texas, and Utah

⁹² Rodriguez et al., “State Reforms Promoting Employment of People with Criminal Records”, 8.

⁹³ Rodriguez and Emsellem, “65 Million ‘Need Not Apply’”, 19.

Prison is an opportunity for these issues to be identified and treated so that the experience of prison is more effective as a form of punishment rather than an exacerbation of characteristics that lead back to crime. The first recommendation is conduct screening and assessment of all inmates for mental illness and substance abuse for the purpose of treatment.

The second recommendation is to increase the accessibility to treatment programs and the quality of these services. Trained professionals should oversee the planning and running of treatment programs because many of the services that are currently offered are inmate-run and essentially ineffective.

The third recommendation is to incorporate linkages to additional rehabilitation programs to the responsibilities of parole case managers so that mental illnesses remain treated and that substance abuse does not reappear.

Washington and Lee University

Educational Programs

A defining characteristic of many low-skill criminals is their low education attainment. Incarceration, length of sentence, and experience in prison or jail delays their ability to accumulate additional knowledge. Thus, in the reentry process, they do not have the human capital to counteract the stigma of incarceration. If they can have access to educational resources while they are institutionalized, they can broaden the number of employment opportunities they are eligible for and be more competitive with other applicants.

The first recommendation is to offer academic courses and vocational courses, so that an inmate can gain the equivalence of a high school degree, hard skills for future career aspirations, and other essential skills such as reading, writing, and basic arithmetic.

The second recommendation is to offer cognitive programs and destructive behavior intervention, so that an inmate can develop the soft skills such as motivation, goal-setting, and self-control, to succeed in the legitimate labor market and avoid criminal activities.

Employment Programs

The last of the program recommendations directly address the rift between incarceration and employment. Work programs in prison allow inmates to acquire the experience and skills that would help them build a record for employability and provide additional benefits such as self-sufficiency. Job training and placement programs will help inmates utilize their experiences and build a smoother transition back into the community.

The Illinois Department of Correction's Chicago Say Reporting Center incorporates all three recommended programs, and more. It is specifically for high-risk parolees on the Southside of Chicago. Eligibility is determined by a qualification such as two or more prior incarcerations, a sentence of 10 years or more, under 25 years old and serving time for a violent crime. Upon acceptance into the program, the released inmate completes the Level of Service Inventory-Revise, assigned to a case manager, and follows a supervised and treatment plan that is specific to their needs and circumstances. The numerous programs that are offered include anger management, family reintegration, employment training, cognitive skills, GED and educational courses, job development, substance abuse education and treatment. The typical length of time to complete the three phases is six months under curfew restrictions, drug testing and electronic monitoring. In order to graduate, parolees must have successfully gained employment. The program provides six months of aftercare services to maintain each member's progress and provide a branch of support. A study of the program's effectiveness, found a "40.6% reduction in new criminal convictions over the comparison group that translates into an estimated savings of

\$3.6 million over 3 years to the Illinois taxpayer.” The social returns, as well as the progress towards fulfillment of fair equality of opportunity, are significant especially in the decrease in recidivism, and additional changes in behavior through the rehabilitation programs. In an economic sense, the benefits outweigh the costs when it costs about \$6,600 per participant and the benefits are in the millions just in direct savings and not accounting for production.

VI. Conclusion

Incarceration is especially damaging to an inmate’s post-release employment opportunities. The inability to fulfill a pertinent adult responsibility undermines reentry efforts because of the additional strains on factors such as family relations, support networks, personal psychological and physical well-being, and commitment to a legitimate future. The length of a sentence and the experiences of prison lead to deterioration of human capital and social capital that contributes to the shift away from a normal life course. The economic, social, and moral costs that transpire from the current trend of mass incarceration justify the need to reassess the current criminal justice system.

Rehabilitation programs should begin in the prison to prepare inmates for reentry. Upon release, inmates need to leave with knowledge of resources that are available to facilitate their reentry process. Treatment, education, and employment programs make up for some of the human capital and social capital loss experienced in prison. As these programs continue to produce successes, the results will help the necessary long-term changes while ex-convicts start to produce social benefits.

References

Carons, E. Ann and William J. Sabol, "Prisoners in 2011", Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, December 2012.

Harlow, Caroline Wolf, "Education and Correctional Populations", Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, January 2003.

Figure 4. Number in Poverty and Poverty Rate: 1959 to 2011, United States Census Bureau, <http://www.census.gov/hhes/www/poverty/data/incpovhlth/2011/figure4.pdf>

History: Fast Facts, United States Census Bureau http://www.census.gov/history/www/through_the_decades/fast_facts/

Holzer, Harry J., Steven Raphael, and Michael A. Stoll, "Will Employers Hire Former Offenders? : Employer Preferences, Background Checks, and Their Determinants", *Imprisoning America: The Social Effects of Mass Incarceration*, ed. Mary Pattillo, David Weiman, and Bruce Western, New York: Russell Sage Foundation, 2004, 205-246.

King, Ryan S., Marc Maurer, and Malcolm C. Young, "Incarceration and Crime: A Complex Relationship", report prepared by The Sentencing Project, Washington D.C., 2005.

Kyckelhahn, Tracey, "State Corrections Expenditures, FY 1082-2010", Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, December 2012.

McKean, Lise and Charles Ransford, "Current Strategies For Reducing Recidivism", Center For Impact Research, August 2004.

Margand, Nancy, Father and incarceration PSYCH 235 lecture slides, Washington and Lee University, 2013.

NPR Radio, "'Check Yes Or No': The Hurdles of Job Hunting With a Criminal Past", 31 January 2013.

Pager, Devah, "The Mark of a Criminal Record", *American Justice Studies* vol. 108 no.5 (March 2003), 937-975.

Petersilia, Joan, *When Prisoner Come Home: Parole and Prisoner Reentry*, New York: Oxford University Press, 2003.

Pettit, Becky and Christopher J. Lyons, "Status and the Stigma of Incarceration: The Labor-Market Effects of Incarceration, by Race, Class, and Criminal Involvement", *Barriers to Reentry?*, ed. Shawn Bushway, Michael A. Stoll, and David F. Weiman, New York: Russell Sage Foundation, 2007, 203-226.

Pettit, Becky and Bruce Western, "Mass Imprisonment and the Life Course: Race and Class Inequality in U.S. Incarceration", *American Sociological Review* vol. 69 (April 2004), 151-169.

Rodriguez, Michelle Natividad and Maurice Emsellem, "65 Million 'Need Not Apply': The Case for Reforming Criminal Background Checks for Employment", The National Employment Law Project, March 2011.

Rodriguez, Michelle Natividad, Elizabeth Farid, and Nicole Porter, "State Reforms Promoting Employment of People with Criminal Records: 2010-11 Legislative Round-Up", collaboration of National Employment Law Project, National H.I.R.E. Network, and Sentencing Project, December 2011.

Schmitt, John and Kris Warner, "Ex-Offenders and the Labor Market", Washington, DC: Center for Economic and Policy Research, November 2010.

Tierney, John, "Prison and the Poverty Trap", *The New York Times*, 18 February 2013, http://www.nytimes.com/2013/02/19/science/long-prison-terms-eyed-as-contributing-to-poverty.html?pagewanted=all&_r=0.

Travis, Jeremy, "Reentry and Reintegration: New Perspectives on the Challenges of Mass Incarceration", *Imprisoning America: The Social Effects of Mass Incarceration*, ed. Mary Pattillo, David Weiman, and Bruce Western, New York: Russell Sage Foundation, 2004, 247-267.

Walshe, Sadhbh, "Served your time in prison and looking for a job? You're out of luck", *The Guardian*, 25 July 2012, <http://www.guardian.co.uk/commentisfree/2012/jul/25/prisons-job-homeboy-industries>.

Western, Bruce, "The Impact of Incarceration on Wage Mobility and Inequality", *American Sociological Review* vol. 67 (August 2002), 526-546.

Western, Bruce and Katherine Beckett, "How Unregulated is the U.S. Labor Market? The Penal System as a Labor Market Institution", *American Justice Studies* vol. 104 no. 4 (January 1999), 1030-1060.

Western, Bruce, Jeffrey R. Kling, and David F. Weiman, *The Labor Market Consequences of Incarceration*, Paper prepared for the Urban Institute's Re-Entry Roundtable, 12-13- October.

Washington and Lee University