

*MODELING DECISION-
MAKING WITHININ THE
GEORGIA JUSTICE
PROJECT*

Demonstrating a Better Way to Support Individuals and
Promote Innovative Change

Heeth Varnedoe V '19

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I. Introduction: Background, Questions, and Motivation

The American criminal justice system is plagued with inequities. People of color and/or low socioeconomic status are at an extreme disadvantage when they are compelled to interact with the justice system. Over 90% of people involved in the justice system live below the poverty line (GJP 2018). In the face of this issue, many nonprofits and NGOs have been formed to help mitigate the problems associated with the criminal justice system and poverty. These organizations vary in their composition, mission, location, and services provided. This paper will focus on these types of organizations and the ways in which they allocate their resources to achieve their goals. The paper will focus primarily on one specific nonprofit — the Georgia Justice Project (GJP) in Atlanta, GA¹.

The Georgia Justice Project is a nonprofit law firm that serves the lowest wealth members of society who are involved in the criminal justice system. GJP's clients are predominately minority, with upwards of 95% of their clients belonging to the African American community.² The organization's mission statement reads:

Georgia Justice Project strengthens our community by demonstrating a better way to represent and support individuals in the criminal justice system and reduce barriers to reentry. GJP promotes innovative change through direct legal representation, policy advocacy, education, and coalition building. (GJP 2018)

GJP provides low income people accused of crimes with high quality representation and maintains their support for these individuals with a host of social services, including employment and housing support. In addition, the Project serves individuals with criminal records by helping them with such processes as applying for expungements, record sealing, pardons, or retroactive

¹ The author was an intern at this organization in the summer of 2017

² This statistic is anecdotal. This percentage was shared with the author during a casual conversation with GJP's executive director

First Offender.³ GJP also engages in public policy advocacy to rectify the inequities in the criminal justice system and reduce barriers to reentry for individuals with a criminal record.

The core questions that this paper will explore are: how can decision-making within the Georgia Justice Project be modeled economically and ethically and what insights does this model provide? Broadly speaking, GJP's services can be generalized into two categories: *direct legal services* and *public policy advocacy*. This paper will examine how GJP allocates its primary input, legal working hours, and how that allocation leads to certain outputs of legal representation and policy reform.

The question explored in this paper is of paramount importance, as GJP is not only improving outcomes for low income people involved in an unfair system but also is leading the way in resolving the endemic structural flaws within the criminal justice system. Modeling decision-making within a successful organization such as GJP will demonstrate how similar organizations can utilize scarce resources in a way that is both efficient and morally sound. This model provides a new lens through which to view decision-making in nonprofits. It will illustrate the interaction between decision-makers preferences, scarce resources, and crucial ethical considerations and how that interaction ultimately determines the allocation of those resources. Demonstrating this relationship in the context of the Georgia Justice Project results in a conclusion that GJP's resource allocation strategy is one that should be maintained by the Project and emulated by other entities that seek to improve outcomes for the poor.

The paper will be organized as follows: Section II will provide a brief overview of the issues surrounding the criminal justice system and its interaction with low income and minority

³ Individuals sentenced as First Offenders have the charge cleared from their record once they complete their sentence. People who were sentenced for their first offense prior to First Offender legislation can apply to have it applied retroactively.

communities. This section is not utilized for analysis but rather serves to illustrate why organizations like GJP exist and why it is important to study their decision-making. Section III will construct the model that captures decision-making within the Georgia Justice Project. Section IV will analyze how this model determines resource allocation within the Project. Section IV a. models decision-making independent of any ethical considerations, and Section IV b. will imbed two categories of moral reason as explained by Thomas Nagel into the model. Section V models the decision-making process currently utilized by GJP. Section VI concludes with an analysis of the insights that are provided by modeling GJP's decision-making behavior.

II. Why study GJP's decision-making process?

In her seminal work, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, former ACLU civil rights attorney Michelle Alexander observes that the United States has the highest incarceration rate in the world, far surpassing almost all developed nations and even repressive regimes like Russia, China, and Iran (Alexander 2011). While the U.S.'s incarceration rates are extraordinarily high, involvement with the criminal justice system is not spread evenly throughout racial or socioeconomic groups. A recent Obama Administration Report (2016) observes that interactions with the criminal justice system are disproportionately concentrated amongst poor and minority communities. While Blacks and Hispanics make up only 30 percent of the total population, they account for over 50 percent of the total incarcerated population (White House 2016).

The same report observes a stark class stratification in the context of incarceration. Sixty-five percent of incarcerated persons have not completed high school, and 14 percent have less than an eighth-grade education. Furthermore, a third of the prison population has received public assistance at some point in their life, and 10 percent had experienced homelessness in the

year prior to incarceration (White House 2016). It is also important to note that these statistics only capture individuals who were incarcerated at the time the report was published, leaving out the large group of poor and minority individuals who possess a criminal record, are currently under some form of court supervision (i.e. probation or parole), or owe fines and fees to court systems.

There is a wide volume of literature that surveys the poor's disproportionate interaction with the criminal justice system. For example, Holtfreter et al. examine the effects of poverty on recidivism for women offenders and find that poverty status substantially increases the odds of being arrested again and increases the odds of supervision violation (2004). Similarly, Pettit et al. study penal inequality by estimating lifetime risks of imprisonment for White and Black men at different education levels by studying a cohort of men born between 1965 and 1969 (2004). The authors find that 3 percent of Whites and 20 percent of Blacks had served time in prison by their early thirties. Among the Black men in their sample, 30 percent of those without a college education and nearly 60 percent of high school dropouts went to prison by 1999. The authors conclude that "the novel pervasiveness of imprisonment indicates the emergence of incarceration as a new stage in the life course of young low-skilled Black men" (Pettit et al. 2004).

Low income people are not only disproportionately involved with the criminal justice system but also are typically provided lower quality representation once they are arrested. According to the American Bar Association, 80 percent of defendants utilize some sort of indigent defense for representation. Most Americans charged with a crime are at risk of bad outcomes partly because of their limited access to quality representation (Laird, ABA 2017). This lack of quality representation stems largely from the severe resource imbalance that exists between the public defender and prosecutor. Under the current system, public defenders

frequently lack the resources to interview clients or witnesses or retain experts for testimony (Ogletree 1995).

Public defender offices are also constrained by other factors aside from pure financial resource disparities. Casper identifies two of the most fundamental issues that handicap most public defender offices (1971). The first impediment directly relates to resources: case overloads. Casper explains that public defender caseloads are too massive for defenders to divert the necessary time and attention to each individual's case. The second issue stems from a mutual dependence between the offices of the public defender and prosecutor. Public defenders who practice regularly within a criminal court develop relationships with prosecutors with whom they have frequent contact, which may incentivize them to modify their role as an unequivocal advocate of their clients' interests (Casper 1971). The logic of Casper's argument is plainly intuitive. A public defender may be more willing to encourage a client to accept a plea deal on a case that would require a large resource allocation in exchange for a more favorable outcome in a future, more easily winnable case with a different client.

A 1990 *New York Times* article observed the severely inadequate public defense system within the city of Atlanta, where the Georgia Justice Project operates (Applebome 1990). Applebome cites a study by the Georgia Bar Association and an independent consultant that finds that suspects are held in jail as long as three or four months, often without seeing a lawyer, before they are arraigned. The same study found that public defender caseloads in Fulton County (Atlanta) were four times higher than the nationally recommended standard. The problems confronting the criminal justice system and indigent defense in Atlanta exceed all of the other 13 urban areas the study evaluated for comparison, including New York, Washington, Detroit, Boston, and Miami (Applebome 1990). To be fair, this study was released almost three decades

ago, and it is likely that improvements have been made within the City of Atlanta. However, observational evidence from the author's time at the Georgia Justice Project confirms that indigent clients remain in jail for months at a time before having access to their public defender.

Once an individual is released from prison, there exists seemingly insurmountable barriers to reentry, especially for low-income, African Americans. A criminal record has negative effects on health, debt, transportation, housing and food security for the poor (White House 2016). Furthermore, having a criminal record makes it extremely difficult for an individual to find employment and depresses earning (White House 2016). This is an extremely important observation given that whether or not a person is able to find gainful employment is one of the primary indicators of recidivism (Ammar 2017).

There is a large volume of empirical research to support these claims. Pager et al. (2009) find that ex-prisoners that can find steady work are less likely to return to prison and are better equipped to assume mainstream social roles. The same study finds a significantly negative effect of a criminal record on employment outcomes, and this effect is substantially larger for African Americans (Pager et al. 2009). Similarly, research that analyzes data on male-ex-prisoners in Florida finds that Black ex-prisoners released to areas with higher Black male unemployment rates have a greater likelihood of violent recidivism (Wang et al. 2010).

Overall, the effects of a criminal record make it extremely difficult for a formerly incarcerated individual to find employment and avoid reoffending. In a sense, society continues to punish people long after they have completed their sentence (Aukerman 2003). Ex-offenders are forced to face the barriers of social stigma surrounding a criminal conviction and tremendous legal obstacles. Furthermore, the magnitude of this problem is severe. The U.S. Department of

Labor estimates that one fourth of the total working population lives a substantial portion of their lives with a criminal record (Aukerman 2003).

When one takes into account the structural issues surrounding race and class within the criminal justice system as well as the barriers to reentry for formerly incarcerated individuals highlighted in this section, the need for effective organizations like the Georgia Justice Project becomes apparent. These issues are complex, large in magnitude, and structural. Thus, GJP must utilize its scarce resources in an extremely strategic way in order to have any success combatting these problems. Modeling GJP's allocation of scarce resources will provide crucial insights into how managers within nonprofit organizations can develop a strategy for decision-making that is best suited to mitigate seemingly insurmountable issues.

III. Methodology: Constructing an Economic Model for Resource Allocation within the Georgia Justice Project

This paper will construct an economic model to represent the resource allocation decisions of the Georgia Justice Project. There does not appear to be a study in the existing literature that focuses specifically on the resource allocation of nonprofit organizations working within the realm of criminal justice, and there is definitively no such study that has been conducted to model the Georgia Justice Project. But researchers have sought to apply models of decision-making processes in other types of nonprofits. For example, Newhouse develops an economic model of a Hospital to explain the behavior of nonprofit institutions (1970). Newhouse posits that, unlike private firms, nonprofit organizations do not use profit maximization to motivate decision-making. Instead, decision-makers are motivated by other factors such as producing a societal good or prestige for their organization (Newhouse 1970). This observation will be a fundamental assumption imbedded in the model of this paper.

The model will provide the Georgia Justice Project with one input, legal working hours, that can be devoted toward two activities: *public policy reform* or *direct legal case work*. The allocation of legal working hours toward these two activities can be represented by a simple production possibilities curve (PPC) where t_p represents the time allocated toward public policy advocacy and t_i represents the time allocated toward direct individual casework (See **Figure 1**). The maximum level of working hours can be represented by $\bar{T} = t_p + t_i$. At the vertical and horizontal intercepts, all of time, \bar{T} , is allocated to either t_i or t_p . Within this model, there are two possible outputs: q_p and q_i , which represent the quantity of public policy reform produced and the quantity of individual services produced, respectively. Each of these outputs are a function of time (t). For example, at point A in **Figure 1** there is an output set given by $A(t_i^A, t_p^A) \Rightarrow q_p^A(t_p^A), q_i^A(t_i^A)$.

**Production Possibilities Curve for
the Georgia Justice Project**

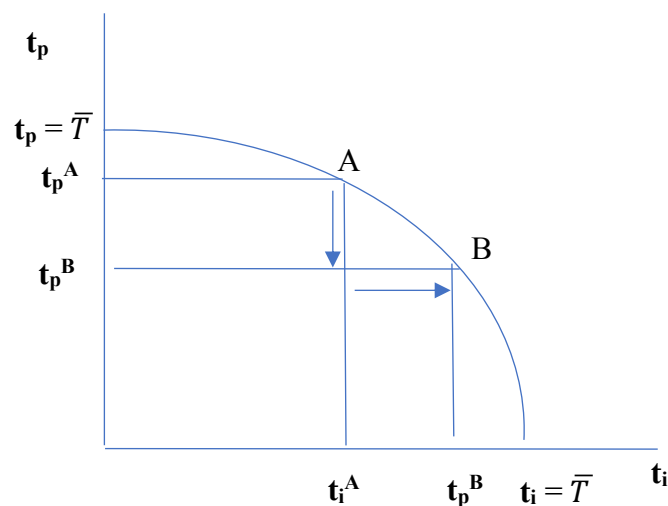


Figure 1

The slope of the PPC at any given point can be represented as the negative ratio of the marginal products of each input. Thus, at point **A** there is a slope: $\frac{-MP_{q_i A}}{MP_{q_p A}}$. These marginal products can best be illustrated by analyzing the movement from **A** to **B** in **Figure 1**. Say the decision-maker decides to increase t_i by one unit. The marginal product of t_i is thus the additional q_i that is produced from this decision: $\frac{\partial q_i}{\partial t_i}$. Conversely, the marginal product of t_p is analytically represented by the expression $\frac{\partial q_p}{\partial t_p}$. Moving from **A** to **B** gives a new output set: $\mathbf{B}(t_i^B, t_p^B) \Rightarrow q_p^B(t_p^B) < q_p^A(t_p^A), q_i^B(t_i^B) > q_i^A(t_i^A)$.

The surface of the PPC reflects the law of diminishing returns, where the quantity of each output produced per one extra unit of time diminishes as t increases. Imbedding the law of diminishing returns into the model reflects the specialization between these two services of the attorneys at the project. For example, if the decision-maker wanted to devote more time to individual services, he would likely direct a lawyer who is more skilled at individual casework than policy reform to increase his caseload. Thus, the opportunity cost of policy for individual work would be relatively small. However, as more and more legal hours are devoted to individual casework, the decision-maker would have to eventually direct lawyers that are experts in the policy field, and less skilled on the individual level, to direct more of their time toward individual services. At this point, the opportunity cost of policy for individual work would be greater, and the marginal product of each additional unit of time devoted to individual work would be smaller.

The decision-maker can be imbedded into this model with an indifference curve that reflects their utility level given a certain combination of output of policy reform and individual services. This indifference curve is depicted in **Figure 2**. On the indifference curve, the level of

utility the decision-maker receives per each level of output remains constant, such that $U(q_p, q_i) = \bar{K}$. For example, if the decision-maker is currently at point **A** on their indifference curve and decides to allocate more time to individual services by moving along their indifference curve from point **A** to point **B**, q_i will increase, causing utility (U) to increase. However, q_i cannot be increased without decreasing q_p , causing a decrease in utility equal to the increase in U caused by the increase in q_i . Thus, utility remains constant at $U(q_p, q_i) = \bar{K}$. The slope of this indifference curve at any given point is known as the marginal rate of substitution (**MRS**), which is equal to the negative ratios of the marginal utilities of each output, $MRS = -\frac{MU_{q_i}}{MU_{q_p}}$.

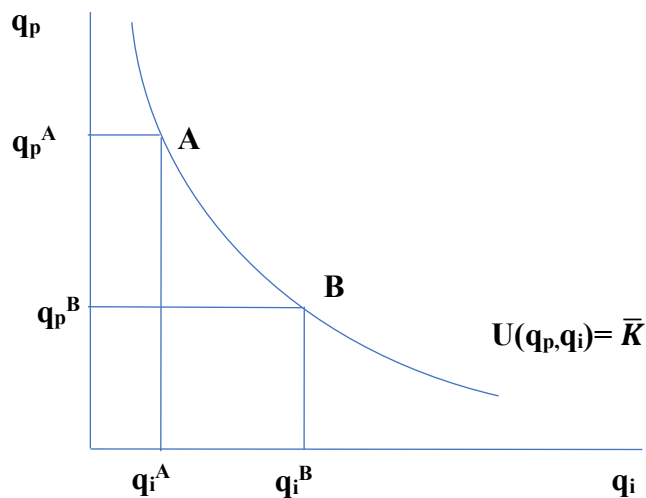


Figure 2

The decision-maker's tastes and preferences for each output are captured by the steepness of their indifference curve. Recall that if the decision-maker is at point **B** on **Figure 2** and gives up some quantity of individual casework (q_i) from q_i^B to q_i^A , he would only be willing to do this if his utility remained constant at \bar{K} . Thus, the move from q_i^B to q_i^A would necessitate an increase in q_p to $q_p^A > q_p^B$. Now consider if the decision-maker's tastes and preferences changed in a way that made individual services more desirable. This can be depicted on the model in that if they

Now that the production possibilities and decision-maker's preferences have both been captured in a model for the Georgia Justice Project, the optimal allocation of time to individual services and public policy advocacy and the optimal amount of output of individual services and public policy advocacy can be determined in the model. The optimal choice will be determined by the equimarginal principle of economics which states that different courses of action should be undertaken up to the point where all courses of action give equal marginal benefit per unit cost (Universal Teacher 2018). For this model, the allocation of legal hours between policy and casework will be at the point where the marginal utility of casework divided by the cost of a legal hour on case work is equal to the marginal utility of policy work divided by the cost of a legal hour on public policy efforts. For simplicity the model will assume that the cost of a unit of t_i and the cost of a unit of t_p are equal to the wage rate of attorneys at the project (w).

The allocation of legal hours where the marginal utility of individual services divided by the wage rate is equal to the marginal utility of policy work divided by wage rate is captured in the model as the point of tangency between the PPC and the highest feasible indifference curve, point **A** in **Figure 4**. At this point, the decision-maker is achieving the highest level of utility possible (**k**), given the resource constraint of the project. To see how this optimal point is found analytically, refer to the mathematical appendix.

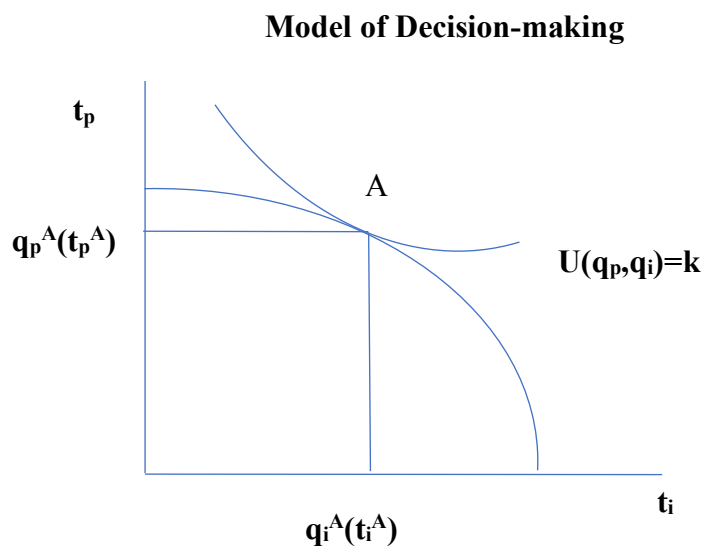


Figure 4

IV. Analysis:

a. Modeling the Purely Economic Decision

Unlike a private firm, profit maximization is not what drives decision-making within a nonprofit (Newhouse 1970). Therefore, the economically optimal choice of resource allocation at the Georgia Justice Project would be the one that maximizes the utility of the decision-maker, where this utility is derived from policy advocacy and individual casework (i.e. $U(q_p, q_i)$) rather than profit maximization. For example, the first half of the Georgia Justice Project's mission statement reads, "Georgia Justice Project strengthens our community by demonstrating a better way to represent and support individuals in the criminal justice system and reduce barriers to

reentry” (GJP). If the manager of the project derives the most utility from fulfilling this aspect of the mission statement, which stresses representing and supporting *individuals*, he would likely derive more utility from an output set where $q_i > q_p$. These types of preferences would be captured by the indifference curve labeled IC_1 in **Figure 5**.

The steep indifference curves in this model represent the managers preferences toward individual services, as they provide him with more utility by being consistent with the aspect of the mission statement he most identifies with. This indifference curve intersects GJP’s production frontier at point **A**, producing an optimal output set of $(q_i^A(t_i^A) > q_p^A(t_p^A))$.

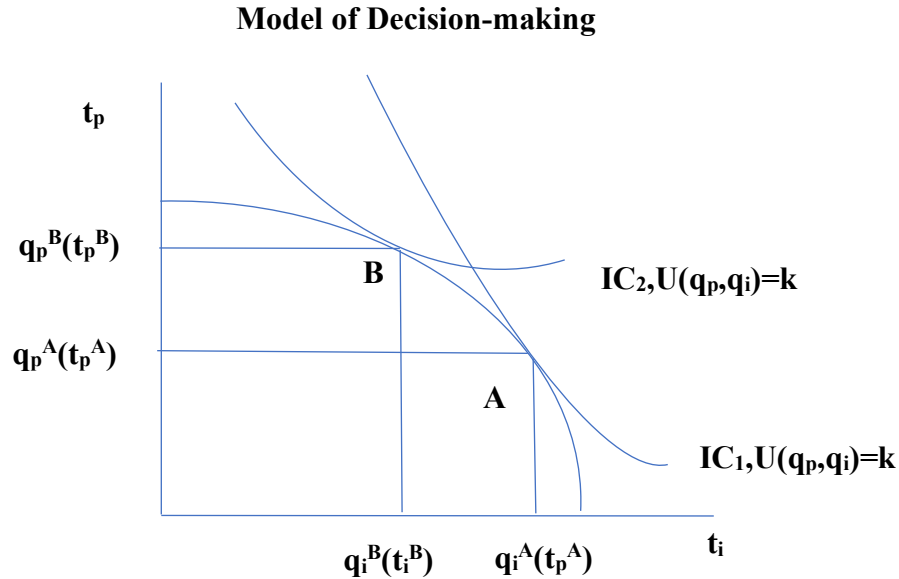


Figure 5

The second half of the mission statement is, “GJP promotes innovative change through direct legal representation, policy advocacy, education, and coalition building.” If the manager of GJP is motivated by this half of the statement, he may derive more utility from public policy reform as this phrase stresses “innovative change” and includes a list of four channels for bringing about that change where three of the four are focused on policy reform. In this scenario, the manager’s preferences could be modeled by the curve **IC₂** in **Figure 5**. The flatter indifference curves represent the higher level of utility the manager receives from the output of public policy reform, since he is motivated by the phrase of the mission statement that most closely relates to policy advocacy. This indifference curve intersects GJP’s production frontier at point **B**, producing an optimal output set of $(q_i^B(t_i^B) < q_p^B(t_p^B))$.

These two examples illustrate how decision-making in a nonprofit is solely driven by the goals and motivations of the manager under a purely economic interpretation of the model. The optimal allocation of time decision is made independently of any ethical considerations, but rather is determined by some exogenous level of utility the decision-maker receives from the outputs.

b. Adding Ethical Considerations to the Model

The model that has been constructed to capture decision-making raises an important question: What can change the relative value a decision-maker attributes to the quantity of public policy reform produced or individual services provided? In other words, what alters MU_{qp} and MU_{qi} and hence the slope of the decision-maker’s indifference curve? This section will put forth two disparate categories of moral reason that will be applied to the economic model of decision-making within the Georgia Justice Project: utilitarianism and absolutism. Thomas Nagel lays out these two schools of moral reason in the context of war and massacre (1972); however, his paper

can be used as a mechanism to establish the ethical framework that will be applied to GJP.

Adding ethical frameworks into our model, introduces a new variable that will serve as multiple on the slope of the decision-maker's indifference curve, call it e . Deriving the marginal utility from each output largely remains the same, except the inclusion of this multiple, which now gives us three possible optimal choices:

1.

$$\frac{\partial U}{\partial q_p} * \frac{\partial q_p}{\partial t_p} = \left[\frac{\partial U}{\partial q_i} * \frac{\partial q_i}{\partial t_i} \right] * e$$

2.

$$\frac{\partial U}{\partial q_p} * \frac{\partial q_p}{\partial t_p} < \left[\frac{\partial U}{\partial q_i} * \frac{\partial q_i}{\partial t_i} \right] * e$$

3.

$$\frac{\partial U}{\partial q_p} * \frac{\partial q_p}{\partial t_p} > \left[\frac{\partial U}{\partial q_i} * \frac{\partial q_i}{\partial t_i} \right] * e$$

The indifference curve of the decision-maker will therefore have a slope of:

$$\frac{-MU_i}{MU_p} * e$$

If e equal 1, ethics has no effect on the model, as with the previous analysis. If $0 < e < 1$, the applied ethical framework will push the decision-maker toward an output set that contains a high quantity of public policy reform. Finally, if $1 < e < 2$, then the applied ethical framework pushes the decision-maker toward more individual casework.

i. Giving Utilitarianism Primacy

While making decisions on which category of reason to give primacy is complex and difficult, the two schools are not conceptually difficult to define. Utilitarianism mandates that ethical decision-making should try to maximize good and minimize evil, and if faced with the

possibility of preventing a great evil by producing a lesser one, the decision-maker should choose the lesser evil (Nagel 1972). Under a utilitarian framework, any means can be justified if it leads to a sufficiently worthy end (Nagel 1972). In the context of the Georgia Justice Project and most nonprofits, committing actions that most would characterize as “evil” is likely very uncommon. Therefore, for the purpose of this paper “evil” will be considered to mean an action that denies people of the services they need or desire.

A manager operating under a purely utilitarian framework would likely derive more utility from a higher output of public policy reform, as policy has the ability to affect larger numbers of people therefore maximizing good. For example, in 2017, the Georgia Justice Project assisted 562 people with direct legal services (GJP 2017). In that same year, the Governor of Georgia signed three GJP bills into law. The three laws passed included a law that provides people who complete probation successfully a certificate to document their completion for employers, a law that allows for probation for first felony offenses to be terminated early, and a law that makes First Offender available retroactively to all eligible cases (GJP 2017). While exact figures on the number of people affected by these three laws are unavailable, the amount is undoubtedly larger than 562. In 2015, it was reported that Georgia has the highest rate of probation in the nation with 6,161 probationers (Teegardin 2015). While this number comes from two years prior, it is reasonable to assume that the number of probationers in Georgia remains well above 562. Furthermore, this statistic does not even capture many of the people who would be positively affected by the law that made retroactive First Offender possible, which would allow people to have their first offenses removed from their record even if they were not originally sentenced as First Offenders.

The potential impact of public policy reform in terms of the number of people that could be positively affected is substantially larger than the potential impact of direct legal casework. This fact is perhaps best illustrated by one of GJP's greatest policy successes, the 2012 Record Restriction Law- Ga. Code Ann. § 35-3-37. This law expanded people's access to expungements from their official criminal history for non-convictions and allowed for restriction of certain misdemeanor convictions for Youthful Offenders (GJP 2018). The bill also improved the expungement process by restricting costs to applicants and allowing expunged charges to be sealed to prevent them from being reported by private background check companies (GJP 2018). According to the Executive Director of the Project, Doug Ammar, when the law was implemented in 2013, 1.8 million people's records were changed overnight (Ammar 2018). These 1.8 million people had arrests on their record where there was no disposition for the case, and the case fell off their record as soon as the computer program implementing the law was applied to the Georgia Crime Information Center (GCIC) system (Ammar 2018).

Because criminal justice public policy reform produces the most good for the most people, a manager operating under strict utilitarianism will derive far more utility from an output set that contains a large amount of public policy reform. This means that the manager should turn away potential clients if their cases would require diverting legal working hours away from policy work. If utilitarianism is applied to GJP, the manager should turn away a person accused of murder that he knows to be innocent if the potential client's case would impede the manager's policy agenda. Therefore, utilitarianism would result in an $0 < e < 1$, with the decision-maker receiving more utility from public policy. A manager who adopts a more utilitarian framework will experience an increase in the relative marginal utility of public policy.

Assume that the manger's current allocation of legal working hours is at point **A** in **Figure 6**.

Recall, that the slope of the manger's indifference curve is $-\frac{MU_{qi}}{MU_{qp}}$ so this development will

reduce the absolute value of the slope of their indifference curve, causing it to flatten. This new indifference curve is represented in **Figure 6** as **IC_u**. Point **A** is no longer their optimal allocation of time. With a flatter indifference curve, due to a utilitarian perspective, their optimal allocation of time to public policy advocacy and individual services is now at point **U**. Notice that the manager now allocates fewer of the firm's legal hours to individual casework, $t_i^U < t_i^A$, and more to public policy advocacy, $t_p^U > t_p^A$.

ii. Applying Absolutist Limitations to the Utilitarian Framework

The absolutist framework adds a layer of complexity to the utilitarian way of thinking. Where utilitarianism gives primacy to a concern of what will happen, absolutism gives primacy to a concern about what one is currently doing (Nagel 1972). Therefore, it can be wrong to solely consider the overall effect of actions on the general welfare if individuals are being used as a means to an end. This absolutist view can be understood in the context of the decision-makers relationship to other people. Nagel explains that, if there are certain principles that govern interactions with people and how the decision-maker should treat them, those principles require special attention to the particular person toward whom the act is directed, rather than just the action's total effect (Nagel 1972).

It is important to note that absolutism operates as a limit on utilitarianism rather than a complete substitute. An absolutist can reasonably aim to maximize good and minimize evils, as long as this does not require him to transgress an absolutist limitation, such as a prohibition against murder (Nagel 1972). Nagel best summarizes the tension between these two schools when he writes:

If absolutism is to defend its claim to priority over considerations of utility, it must hold that the maintenance of a direct interpersonal response to the people one deals with is a requirement which no advantages can justify one abandoning (1972).

The hypothetical scenario in which a person accused of murder who the decision-maker knows to be innocent is denied services in order to maintain resources allocated toward public policy reform would be unacceptable under the absolutist limitation.

Given this explanation, a decision-maker that suddenly adopts the absolutist framework would essentially prefer an output set that contains a large amount of individual casework. Thus, absolutism would produce a multiple of $e > 1$. This results in an increase in the marginal utility of individual services. Thus, the slope of their indifference curve would rise (become more negative) since $-\frac{MU_{qi}}{MU_{qp}}$, producing a much steeper indifference curve, IC_A . Now, their optimal allocation of time would occur at point **A** in **Figure 6**. At point **A**, time allocated to individual services is greater, $t_i^A > t_i^U$, leading to the production of more individual services, while less time is devoted to public policy, and thus the amount of policy reform generated by the firm would be lower.

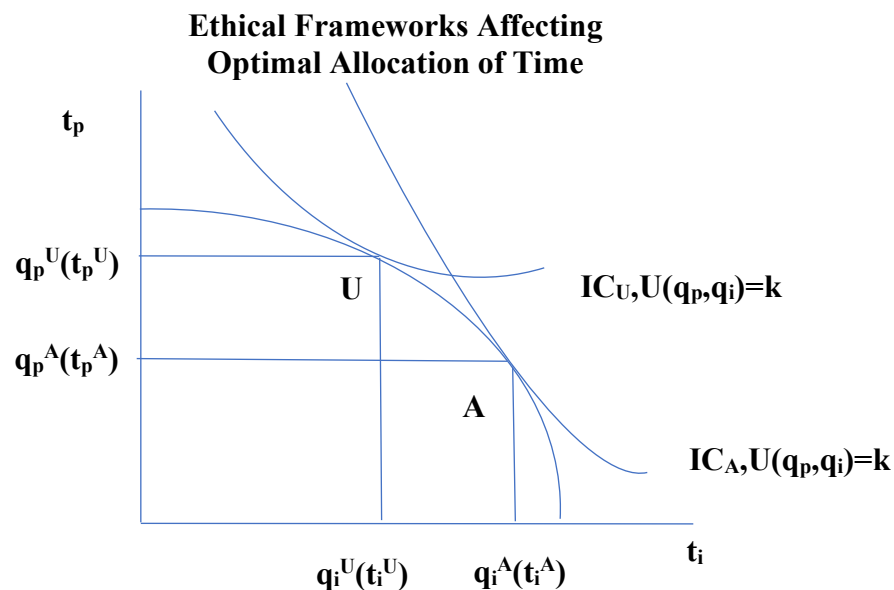


Figure 6

Due to the fact that the absolutist is compelled to give primacy to the human beings that are requesting aid, there is never a situation in which the decision-maker operating under this framework could allocate hours away from an individual's need in order to allocate more hours toward public policy reform. On the other hand, a utilitarian would be compelled to turn away any person in need of direct services if their case would take legal working hours away from public policy reform. Thus, these two categories of moral reason appear to mandate a tradeoff between public policy reform and direct legal services, dependent upon which ethical framework is prescribed to by the decision-maker.

V. Modeling the Project itself

In deciding which clients to take on, the decision-makers within the Georgia Justice Project ask themselves the following questions: “Can we make a difference legally, can we make a difference personally, will the potential client take advantage of our help and our opportunities, will the legal outcome make a difference in their personal life?” (Ammar 2018). Each of these questions reflects a strong consideration toward the person that is being affected, and none of them deal with the opportunity cost associated with taking on one more client in terms of public policy work foregone. These questions suggest that the decision-makers at the Georgia Justice Project give primacy to their direct interpersonal response to the people with whom they interact on daily basis. Thus, this paper posits that GJP's decision-makers prescribe to the absolutist ethical framework. This claim is further supported by the organization's internal data. Ammar explains, that since the organization's founding, the amount budgeted for public policy advocacy has never exceeded 16% (2018). GJP's current decision-making therefore could be illustrated by point **A** in **Figure 6**.

However, the model in **Figure 6** fails to account for a fundamental aspect of the decision-maker's time allocation decision: direct services inform and bolster public policy advocacy. In her book, *Social Enterprise: A Global Comparison*, Janelle Kerlin documents the best social enterprises around the world (2009). In her and Kristen Gagnaire's chapter on United States, the Georgia Justice Project is noted as having one of the best models for achieving its stated goals (106). Ammar believes that one of the primary reasons the Project was featured in the book is due to GJP's model of conducting both individual casework and policy advocacy. He explains that the organization's intermarriage of individual services with public policy reform enhances its ability to identify the necessary solutions to the issues their clients face while also making them more effective advocates for reform (2018).

Ammar argues that direct services keep his lawyers grounded and that the best way to stay connected to policy work is being with the people that the issues are affecting every day (2018). Furthermore, he claims that the solutions GJP brings to lawmakers are more respected, because GJP's staff members are viewed by policy makers as experts rather than self-interested lobbyists (2018). Ammar explains, "The two-dimensionality is incredibly powerful. When you tell people that you have an idea that will change the lives of millions of people, and you have the evidence to prove it, it gives you a credibility that lawmakers really value." Thus, direct legal services not only grant GJP information that is crucial for developing effective policy but also provide the organization with a more effective platform to execute reform.

It now appears that giving primacy to absolutism not only increases the output of individual casework but also make attorney's more effective at their policy work, producing a *ceteris paribus* violation in our model, as seen in **Figure 7**. The activity of individual casework has a positively reinforcing effect on the production possibilities of the firm. As has been previously

established, the Project's attitude toward individuals produces an indifference curve that is reflective of the absolutist ethical framework, IC_{GJP}^1 . This indifference curve and the production possibilities of the firm, produce an optimal level of output of policy reform and individual services that is captured by point **A**. At point **A**, $t_i > t_p$ and $q_i > q_p$. However, the relatively large amount of time dedicated to individual casework (t_i), produces a highly beneficial effect. As lawyers spend more time working on individual cases, their knowledge and expertise of criminal defense and direct services will increase, producing a higher marginal product associated with t_i . Thus, a higher output of individual services (q_i) can be produced in the same amount of time. Simultaneously, the higher level of t_i also makes attorneys more effective advocates for reform, for the previously mentioned reasons.

The GJP Way

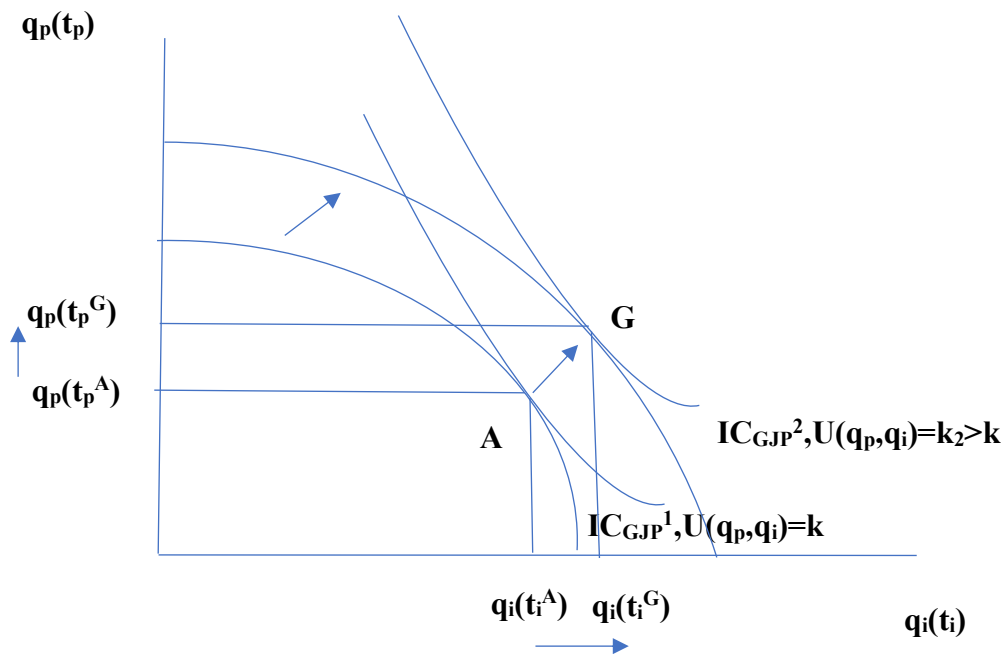


Figure 7

Thus, increased t_i actually has the effect of increasing the marginal product of t_p , a concept that had not been embedded in previous iterations of the model. The increased marginal products of both t_i and t_p shift the production possibilities frontier of the Project outward, producing a higher level of q_p and q_i for all time allocation decisions. Now, GJP's optimal allocation is at point G , where both the amount of individual services provided, and the level of public policy reform exceed the outputs at point A , $q_p^G(t_p^G) > q_p^A(t_p^A)$ and $q_i^G(t_i^G) > q_i^A(t_i^A)$. At point G , the decision-maker is now on a higher lying indifference curve, IC_{GJP}^2 , and is therefore experiencing a higher level of utility, $k_2 > k$.

VI. Conclusions

The Georgia Justice Project's resource allocation strategy is an extremely effective model for achieving the goals of the organization. The decision-makers choose to allocate their resources in a manner that not only gives primacy to the dignity and immediate need of the people it seeks to aid but also increases the production possibilities of the Project. Furthermore, GJP's model offers some important ethical insights for decision-making within similar types of organizations. For one, the tradeoff between public policy and individual services that is mandated by the tension between absolutism and utilitarianism is overstated.

Though the decision-makers do not explicitly recognize that they are operating under a specific category of moral reason, the Project's resource allocation model is entirely consistent with the moral theory that Nagel supports. By engaging in public policy advocacy that seeks to change the lives of millions of individuals, the organization operates in a manner consistent with a utilitarian desire to undertake the activity that produces the most good for the most people. However, this utilitarian motivation never compels the decision-makers to utilize people as a means to an end or commit a lesser evil to produce a greater good, as the Project staff always

prioritizes the individual agency, dignity, and life trajectory of each of its individual clients.

Thus, the ethical framework under which decisions concerning resource allocation within the Project are produced can be characterized as utilitarianism with an applied absolutist limitation.

The importance of the conclusions about the Project's model for decision-making cannot be overstated. NGOs, nonprofits, and governments that seek to improve outcomes for the poor through social reform all possess their own criteria for decision-making. However, according to Lynn and Wisely, these entities often make decisions "on behalf of" the communities they wish to serve without much involvement with the people those decisions will affect (2006). Georgia Justice Project's emphasis on individual services informing their public policy efforts is an incredibly compelling example of social reform conducted in a way that prioritizes the knowledge of the needs of those the reform wishes to support. Furthermore, the organization operates in a manner that recognizes the salience of their clients' dignity by always giving priority to the individuals they are currently serving, never sacrificing their interests for the sake of some perceived sense of a higher common good.

In light of the severity of the issue that the Project seeks to address highlighted in section II of this paper, the insights provided by modeling the Project's decision-making are crucial. GJP cannot surmount the national issues of mass incarceration and the criminalization of poverty alone, and organizations working toward similar goals as GJP exist across the country. GJP's model should serve as an example for their peer institutions, as it is not only ethically sound but also economically efficient in its utilization of scarce resources. As the model illustrates, decision-making that is utilitarian in orientation but limited by absolutist considerations not only maintains the dignity of the population that is served but also increases the production possibilities of the firm.

This conclusion is affirmed by GJP's success as an organization. The lawyers at GJP are incredible successful in producing beneficial outcomes for the clients they represent through direct services. Fewer than 5% of GJP's clients receive further time in jail or prison, compared to the national average for public defender clients of around 70% (GJP 2018). This high level of quality legal services has, in turn, enhanced the Project's ability to achieve an impressive amount of policy success. The Project has successfully worked with the state legislature of Georgia to rectify inequities in the criminal justice system and reduce barriers to reentry for individuals with a criminal record. This success has positively affected millions of people. A complete list of the organization's policy achievements in the last six years is included in the policy success appendix.

The existence of a possibility for GJP's model of decision-making to be applied to organizations seeking to improve outcomes for the poor but operating outside of the realm of criminal justice is the final observation that will be offered by this paper. While GJP has the unique characteristic that allocation of resources toward one particular effort (individual services) increases the effectiveness of the other effort (policy reform), organizations that seek to improve outcomes for the poor should develop a decision-making strategy that has the same starting point as GJP: prioritizing each individual as a valuable life that deserves respect and dignity. From this starting point, nonprofits, NGOs, governments, and other charitable organizations can then determine a way to allocate their resources that produces the most good for the most people. And perhaps, these organizations will also find themselves in a position where giving primacy to the individual has the ultimate benefit of being ethically sound and economically efficient.

Appendix

a. Mathematical:

Analytically the maximum level of utility that the decision-maker can achieve can be represented by;

$$(1) \mathcal{L} = \max U(q_p(t_p), q_i(t_i)) + \lambda(I - wt_i - wt_p)$$

where I represents the budget constraint.

Taking the partial derivative of \mathcal{L} with respect to t_i :

$$(1.a) \frac{\partial \mathcal{L}}{\partial t_i} = \frac{\partial U}{\partial q_i} * \frac{\partial q_i}{\partial t_i} - \lambda w = 0$$

$$(1.a.1) \frac{\partial U}{\partial q_i} * \frac{\partial q_i}{\partial t_i} = \lambda w$$

The left-hand side of **1.a.1** shows that a one unit increase in the production of individual services increases the firms utility by $\frac{\partial U}{\partial q_i}$. This is called the marginal utility of individual services. An additional unit of time allocated to individual services increases the production of individual services by $\frac{\partial q_i}{\partial t_i}$, the marginal product of time for individual services. Therefore, the left-hand side of **1.a.1** is the change in utility to the organization from an additional unit of time to individual services.

Taking the partial derivative of \mathcal{L} with respect to t_p :

$$(1.b) \frac{\partial \mathcal{L}}{\partial t_p} = \frac{\partial U}{\partial q_p} * \frac{\partial q_p}{\partial t_p} - \lambda w = 0$$

$$(1.b.1) \frac{\partial U}{\partial q_p} * \frac{\partial q_p}{\partial t_p} = \lambda w$$

The left-hand side of **1.b.1** shows that a one unit increase in the production of public policy advocacy increases the firms utility by $\frac{\partial U}{\partial q_p}$. This is called the marginal utility of public policy advocacy. An additional unit of time allocated to policy advocacy increases the production of policy reform by $\frac{\partial q_p}{\partial t_p}$, the marginal product of time for policy advocacy. Therefore, the left-hand side of **1.b.1** is the change in utility to the organization from an additional unit of time to public policy advocacy.

The decision-maker would therefore allocate resources in a way such that:

$$\frac{\frac{\partial U_{qi}}{\partial q_i} * \frac{\partial q_i}{\partial t_i}}{\frac{\partial U_{qp}}{\partial q_p} * \frac{\partial q_p}{\partial t_p}} = \text{slope of the indifference curve} = - \frac{MU_{qi}}{MU_{qp}}$$

b. Policy Success

Source: Recent Changes in Georgia Law <http://www.gjp.org/advocacy/recent-changes-in-georgia-law/>

2017

Program and Treatment Completion Certificates – Ga. Code Ann. § 42-3-2

The Department of Community Supervision may now issue Program and Treatment Completion Certificates to people on probation, which create a presumption of due care in hiring or leasing for the certificate holder. In 2014, the certificates were made available to people coming out of prison who had completed certain programs (O.C.G.A. § 42-2-5.2), and now will be available to people on probation as well.

Behavioral Incentive Date for Probation Termination – Ga. Code Ann. § 17-10-1.19(a)

Allows individuals convicted of their first felony offense to have their probation terminated after three years if all conditions are met.

Retroactive First Offender Clarification – Ga. Code Ann. § 42-8-66

Clarifies that the retroactive first offender statute, which went into effect in 2015, applies to all eligible cases since 1968.

2016

Removal of Food Stamp Ban Ga. Code Ann. § 49-4-22

Lifts Georgia's lifetime ban on food stamps for individuals with felony drug convictions.

Sealing of First Offender Records Ga. Code Ann. § 42-8-62.1

Grants judges the authority to restrict first offender records at the time of sentencing instead of waiting until the sentence is complete and to seal court and jail records for successful first offenders, ensuring that Georgia's First Offender Act provides a real second chance in the digital age.

Occupational Licensing Reform Ga. Code Ann. § 43-1-19

Improves the way applicants are considered for state occupational licenses by applying Ban the Box principles. Licensing boards are required to consider a conviction's relevance to the license sought, the time elapsed since the conviction, and the nature of the conviction.

Retroactive Reinstatement of Driver's Licenses Revoked for a Drug Offense Ga. Code Ann. § 40-5-75(g) and § 40-5-9

Individuals convicted of non-vehicle related drug offenses prior to 2014, in addition to those convicted after 2014, no longer face automatic driver's license suspension. Additionally, indigent individuals will qualify for waived or reduced reinstatement fees.

Tax Incentive for Parolee Hiring – Ga.Code Ann. § 48-7-40.31

Encourages hiring of individuals on parole by providing employers a \$2,500 income tax credit for each parolee hired.

2015

Ban the Box – Executive Order signed February 23, 2015

This fair hiring initiative removes questions about criminal history from the original employment application for state employment and postpones the background check until the interview stage. Employers may only screen for relevant criminal records.

First Offender Eligibility – Ga. Code Ann. § 42-8-61

Eligible individuals must be informed about their first offender eligibility either by their attorney, if represented, or the court if not represented.

Retroactive Remedy for First Offender Eligibility – Ga. Code Ann. § 42-8-66

With the consent of the prosecutor, individuals who would have been eligible for First Offender at the time of their sentencing, but were not aware of their eligibility may be retroactively sentenced as a First Offender.

Georgia Fair Business Practices Act – Ga. Code Ann. § 10-1-393.14

Requires individuals be informed if their criminal history is going to be used to deny them employment. Also allows individuals to dispute incorrect information reported by a Consumer Reporting Agency and creates a state cause of action against agencies that fail to comply.

2014

License Suspension – Ga. Code Ann. § 40-5-76(b)

Gives judges the discretion to reinstate driver's licenses for certain individuals charged with drug offenses not related to the direct operation of a motor vehicle.

Mugshots Online – Ga. Code Ann. § 35-1-18

Prohibits law enforcement from publishing mugshots online.

Employer Liability – Ga. Code Ann. § 51-1-54

Provides some protection from negligent hiring liability claims for employers who hire people who have been pardoned or issued a certificate of rehabilitation by the Department of Corrections.

2013

Mugshot Removal – Ga. Code Ann. §10-1-393.5

Requires mugshot companies to remove photos when the charge(s) is eligible for restriction. Photos must be removed within 30 days of a request, free of charge.

2012

Record Restriction Law – Ga. Code Ann. § 35-3-37

Expands access to restriction (expungement from official criminal history) for non-convictions and allows restriction of certain misdemeanor convictions for Youthful Offenders. Improves the process, reducing the costs to applicants, and allows restricted charges to be sealed so they cannot be reported by private background check companies

References

- Alexander, Michelle. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. Samuel DeWitt Proctor Conference, 2011.
- Applebome, Peter. "Study Faults Atlanta's System of Defending Poor." *The New York Times*, The New York Times, 29 Nov. 1990, www.nytimes.com/1990/11/30/news/study-faults-atlanta-s-system-of-defending-poor.html?pagewanted=all.
- Ammar, Doug. "Written Statement to the United States House Committee on Oversight and Government Reform." Georgia Justice Project. 28 Jun 2017.
- Ammar, Doug. Interview conducted over the phone with Doug Ammar. 9 Nov. 2018.
- "About." *Georgia Justice Project*, www.gjp.org/about/. Information cited as "GJP 2018" in the text all comes from the organizations website
- Casper, Jonathan D. "Did You Have a Lawyer When You Went to Court-No, I Had a Public Defender." *Yale Rev. L. & Soc. Action* 1 (1970): 4.
- Equimarginal Principle in Economics*, Universal Teacher, universalteacher.com/1/equimarginal-principle-in-economics/.
- "FY 2017 Annual Report." *Georgia Justice Project*. <http://www.gjp.org/wp-content/uploads/GJP-2017-Annual-Report.pdf>. 2017.
- Holtfreter, Kristy, Michael D. Reisig, and Merry Morash. "Poverty, state capital, and recidivism among women offenders." *Criminology & Public Policy* 3.2 (2004): 185-208.
- Kerlin, Janelle A., ed. *Social enterprise: A global comparison*. UPNE, 2009.
- Laird, Lorelei. "Starved of money for too long, public defender offices are suing-and starting to win." *ABA Journal*, American Bar Association, Jan. 2017, www.abajournal.com/magazine/article/the_gideon_revolution.
- Lynn, Elizabeth, and Susan Wisely. "Four traditions of philanthropy." *The civically engaged reader: A diverse collection of short provocative readings on civic activity* (2006): 210-217
- Nagel, Thomas. "War and massacre." *Philosophy & Public Affairs* (1972): 123-144.
- Newhouse, Joseph P. "Toward a theory of nonprofit institutions: An economic model of a hospital." *The American Economic Review* 60.1 (1970): 64-74.
- Obama Administration. "Economic Perspectives on Incarceration and the Criminal Justice System." White House Report, April 2016.

Ogletree, Charles J. "An essay on the new public defender for the 21st century." *Law and Contemporary Problems* 58.1 (1995): 81-93.

Pager, Devah, Bruce Western, and Naomi Sugie. "Sequencing disadvantage: Barriers to Employment Facing Young Black and White Men with Criminal Records." *The ANNALS of the American Academy of Political and Social Science* 623.1 (2009): 195-213.

Pettit, Becky, and Bruce Western. "Mass imprisonment and the life course: Race and class inequality in US incarceration." *American sociological review* 69.2 (2004): 151-169.

Teegardin, Carrie. "Georgia Leads Nation in Probation." *Atlanta Journal Constitution* , 19 Nov. 2015, 12:45 pm, www.ajc.com/news/crime--law/georgia-leads-nation-probation/4DgAXu3UHx5716BmSfYLVP/.