Criminology and Crime Policy – Final Project

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Reentry of Formerly Incarcerated People

Overview

Piecemeal reform measures and the deployment of insulated new programs are ineffective vehicles for meaningful change. Addressing high recidivism rates among formerly incarcerated people requires a complete reformation in American thinking about how we support each other, how we criminalize and punish behavior, and how we treat those whom we have punished. I propose three areas most in need of reform are 1) ***Deficient social services***, which create unstable and unsupportive environments into which formerly incarcerated people often fail to reintegrate; 2) ***mass incarceration, isolation, and retributive punishment***, which is a wholly ineffective way to rehabilitate and prepare prisoners to reintegrate into society successfully; and 3) ***post-conviction supervision***, which often causes significant financial hardship and imposes unnecessarily harsh and arbitrary rules and regulations leading to high rates of recidivism. All three issues and recommendations presented here necessitate special considerations for those ***challenges unique to formerly incarcerated females***. Triage and treatment must be trauma-informed, and programs developed to support women should be relational and promote healthy familial and social connections.

Deficient social services

American economic systems are innately racist, sexist, and ableist. Economic inequity is maintained through concerted efforts to stoke public racial resentments and shift focus from failing social structures to the poor and working class's personal and cultural 'failings.' The Janus face of the Darwinian concept of competition and survival manifests in what Elliot Currie

described as a “sink or swim” market society (Cullen et al., 2018). Trickledown economics, Reaganomics, and subsequent detrimental economic policies maintain the wealth gap by cutting taxes for the rich and slashing funding for vital social services like education and healthcare. Inequality is recast as virtuous, and any attempt to limit competition is treated as a hostile act incompatible with liberty and the Capitalist American Dream mentality. Unjust economic policies widen the wealth gap, and the breaking of workers’ unions and rollbacks of hard-won workers’ rights and protections in the name of economic progress left America’s poor and working classes unsupported and susceptible to extreme poverty. Violent crime rates rise with the destruction of livelihood, where labor is seen only for its associated costs and not for its inherent societal value (2018). Thus, criminology is inseparable from social economics.

In the American system, individual responsibility and learned self-sufficiency power the engine of extreme competition, placing intense pressure on individual citizens to achieve economic gains at all costs with little support. Formerly incarcerated people reenter this antagonistic society significantly disadvantaged by stigmatizing labels like ‘criminal,’ ‘ex-con,’ or ‘convict,’ complicating job searches and limiting available opportunities. Chronic unemployment carries other stigmatizing labels like ‘unenterprising,’ and ‘lazy,’ and the few social safety nets that remain in place are withheld from this particularly vulnerable group

In contrast, the German system of abundant social benefits includes statutorily guaranteed public health insurance, childcare, nursing, and pension programs. Education is free from age three through college and includes vocational education and trade apprenticeships. Wage gaps between blue- and white-collar workers are purposefully narrow, and the government regulates cost of living expenses, ensuring they do not outpace income. Below a certain income threshold, housing subsidies and incentivized savings programs support those most at risk of falling into

poverty, and as of 2019, $330 per month is provided indefinitely to the unemployed (Bendix, 2019). Consistent with Francis T. Cullin's Social Support Theory, crime rates and incarceration rates are low in Germany, where social supports strengthen families and their social network (Cullen et al., 2018). Braithwaite's "communitarianism," observed as interdependency "manifested as mutual help and trust" in German society, is deficient in overly individualistic American culture (Cullen et al., 2018).

Overhauling social services to better support communal and familial wellbeing will insulate those most vulnerable communities from slipping into poverty, ameliorating acute economic needs that motivate people to commit crimes. Formerly incarcerated people must be recognized as particularly vulnerable and afforded equal access these social services. Privileges like driving and voting should be restored and hereto retained after periods of punishments by adopting a clean slate approach as the turning point in the life of repeat offenders.

Mass incarceration, isolation, and retributive punishment

As Ronald Reagan took the office of President of the United States in 1980, state and federal prisons held 329,000 people (Renshaw, 1981). Following the passage of the Anti-Drug Abuse Act (HR 5484) of 1986 and a revitalized war on drugs, including unprecedented funding for drug enforcement, mandatory minimum sentences for low-level crack offenses, and the arbitrary 100:1 disparity between sentencing for crack and powder cocaine (Vagins & McCurdy, 2006) the prison pollution nearly doubled by 1988 to 627,000 (1981). The prevalence of crack cocaine in economically disenfranchised, predominantly African American communities compounded by the excessive prosecutions of African American defendants and widespread

dismissals of similar charges for white defendants amplified racial disparities, which persist in jails and prisons today.

By 2019, the total number of persons in US jails and prisons would reach 1,430,800 (Minton et al., 2021), a 500% increase over forty years. Mass incarceration gave rise to the modern Supermax prisons and Secure Housing Units (SHUs), where inmates routinely spend 23 hours of each day in solitary confinement, often for years or even decades. These conditions are inhumane, immoral, and endure in practice despite the well-documented psychiatric side effects, including panic attacks, paranoia, hallucinations, hypersensitivity, and difficulty remembering, concentrating, and thinking (Grassian, 2006). Social bonds are strained or even broken when incarceration occurs, and social networks suffer. Prisoners serving sentences in isolation are marginalized from any existing prison community and only permitted no-contact visits, devoid of any semblance of nurturing human connection. These prisoners endure unnecessary and cruel mental and physical suffering, and the trauma of long-term isolation negatively impacts their ability to successfully reintegrate into society and become healthily enmeshed in the social fabric of their communities, leading many to reoffend.

As early as 1790, American prisons were experimenting with solitary confinement. The ‘penitentiary house’ developed by Philadelphia Quakers (based on a British model) housed prisoners in small individual cells sparsely furnished, with small louvered windows set high near the nine-foot ceiling preventing prisoners from seeing out. Corridors connected the cells in a manner designed to prevent prisoners from communicating with each other, and inmates were confined to their cells twenty-four hours a day. The only human contact came in a brief and silent daily visit from a corrections officer. Despite its widespread adoption in the United States and European countries, this Quaker isolation model was quickly jettisoned in Germany after doctors

expressed alarm at the near-universal cases of psychosis observed in inmates serving sentences in long-term total isolation (Biggs, 2009). As a result, German law prohibits solitary confinement for any longer than four weeks out of each year. In practice, one German prison used isolation only twice over five years, for mere hours each time (Shames & Subramanian, 2013). The American system, by contrast, uses isolation with shocking regularity and for exorbitantly long periods.

The rehabilitative nature of the modern German prison system incarcerates only 6% of those people convicted of a crime, 92% of whom spend two years or less incarcerated. Comparatively, 70% of those convicted of a crime in the United States in 2010 served a sentence that included prison time (Shames & Subramanian, 2013). Physical prisons in Germany resemble residential settings built to create environments most conducive to rehabilitation and reintegration. Extra attention went into providing natural lighting, moderate temperatures, and wide hallways. Prisoners carry keys to their cells, and guards knock before entering, respecting the human need for privacy. Communal kitchens encourage socialization and a healthy routine setting where prisoners prepare their meals in small groups. German corrections officers undergo extensive training not dissimilar to a degree in social work and treat prisoners with dignity, respect and afforded personal agency.

Following the German rehabilitative model, incarceration can become an active social service, lifting prisoners, and engaging their minds and wills in learning those fundamental skills they may have lacked and will benefit from when they reenter society. Mandatory and salaried work and education help prisoners develop functional skills aid their reintegration into society. Social connections are encouraged both within and without the prison walls. Prisoners maintain connections to their communities by ‘checking out’ on weekends, spending time with families

and friends, and reporting back to prison for their next workweek. Less than 1% fail to report back to prison (Shames & Subramanian, 2013).

Laub and Sampson found persistent offenders' lives marked by marginality and lack of structure, especially concerning nurturing relationships, social supports, and informal social controls (Cullen et al., 2018). Social bonds are strained or even broken when incarceration occurs in the United States, and social networks are weakened, which exacerbates the successful reintegration of a formerly incarcerated person into society. Exorbitantly long sentences served in isolation are antithetic to rehabilitation. I propose: replacing incarceration as the primary response to crime; reframing the focus of punishment away from assaultive retributivism and toward rehabilitation; developing settings that maintain a sense of normalcy and are conducive to successful reintegration; training corrections officers adequately to support prisoners' dignity, individual autonomy, and human agency; and encouraging and maintaining a connection to social networks during periods of incarceration. Consistent with the basic tenet of Differential Association Theory, Attorney Bryan Stevenson so aptly encapsulated this idea that human beings are neither good nor bad when he said, "each of us is more than the worst thing we have ever done" (Stevenson, 2020). Investments made in prisons and prisoners while incarcerated will pay off in lower recidivism rates when they reenter society.

Post-conviction supervision

Each year over 600,000 people navigate reentry into society. This population is incredibly vulnerable and faces tremendous obstacles to their successful reintegration into society. Among those challenges are shaky connections to peer and family social networks and stigmatizing

labels like ‘criminal,’ ‘ex-con,’ and ‘convict,’ which prevent greater than half from finding stable employment within the first year of their release (Goger et al., 2021). Untreated or undertreated substance use and mental health disorders compound these challenges.

Gate money is one aspect of institutional support offered upon release. While amounts vary from state to state ($200 in California on the high end and bus fare in New Hampshire on the low end), most prisoners receive $50 or less. Prisons use prepaid debit cards serviced by private companies like JPay to distribute gate money, and in Colorado, for example, $100 in gate money is provided, but JPay takes a $0.70 fee for every POS transaction, a $2 ATM withdrawal fee, a $0.50 fee charged every month that the card carries a balance, and a $1 charge to speak with customer service. Additionally, Colorado charges probationers a $50 monthly probation fee. In North Carolina, $45 gate money barely covers the $40 monthly probation fee, due within a week of release. Many parolees and probationers must also pay restitution to their victims, and failure to meet these financial obligations can result in additional incarceration. Within three years, three-quarters of formerly incarcerated people will be rearrested (Goger et al., 2021), and nearly one-third of people under post-conviction supervision fail to complete their court-prescribed supervision successfully. Technical violations of post-conviction community supervision send 350,000 (or 22% of the national recidivism rate) back to prison or jail every year. (Gelb et al., 2018). Although meant as an alternative to incarceration, post-conviction supervision is among the most significant drivers of future incarceration, especially in people convicted of low-level misdemeanors (2018).

Gate money systems are highly flawed and wholly insufficient to support basic human needs of food, clothing, and long-term shelter. Penalizing every possible use of gate money, including saving it, is counterproductive to successful reentry into society. Investing in individual

case management would help identify those people with un- or undertreated substance use and mental health disorders in need of treatment, assess financial need, and connect people with available social services. All formerly incarcerated people should be considered unemployed upon release, and individual case management should connect them with a basic income immediately consistent with the German model discussed above.

Research suggests that goal-oriented measures are more successful than arbitrary term lengths for people under post-conviction supervision. Community-based organizations would be better suited than punitive legal structures to support the healthy development of social networks, essential to successful reintegration. The overall purpose of supervision should be to reduce recidivism. Promoting goal setting and community-held accountability rather than punishing failure would help formerly incarcerated people successfully reintegrate into society. These reforms will necessitate a complete culture shift among those hired and trained to work with parolees and probationers.

Challenges unique to formerly incarcerated females

As researchers and policymakers, we stand on the backs of those who came before us, wrestling with theories developed from often outdated ideologies. We must normalize acknowledging the voices, ideas, and perspectives that did not historically have a place at the table in academia, the legislature, and most (if not all) positions of power. American criminological theory and law is often written from the mono-perspective of the patriarchy. White male supremacist chauvinism has always played a prominent role in developing and enforcing laws and methods of punishment that disproportionately affect minorities.

Over-sentimentalized mythologies of America's freedom from tyranny, individual liberty, and justice for all overshadow true American stories of enslavement, subjugation, oppression, exploitation, impoverishment, and marginalization. Historically, criminologists and the policymakers they inform are males focused on male crime. This patriarchal system has omitted the unique character of feminine pathways into crime and barriers to the successful reentry of formerly incarcerated women.

Women make up 70% of abuse survivors. Child sexual abuse, including abuse by a family member, is much more prevalent in girls, who experience longer sustained periods of abuse at higher rates than boys. The lasting effects of such severe trauma manifest in both mental health disorders and behaviors like running away from home, truancy, and early marriage, making women especially susceptible to criminogenic conditions of economic scarcity and homelessness. Wage gaps are widest between women and men, and when social services are deficient or unavailable due to prior convictions, extreme economic need can lead women to commit crimes of economic motivation. Many young girls fall into prostitution due to extreme need. Limited education and a lack of marketable job skills significantly inhibit traditional employment opportunities. PTSD among incarcerated women is twice as high as women in public, and nearly 80% of female offenders have substance abuse problems (50% were using at the time of the offense) (Cullen et al., 2018).

Overhauling social services to better support communal and familial wellbeing and recognizing formerly incarcerated women as particularly vulnerable, providing them equal access these social services would help prevent many from slipping into back into poverty and recidivism upon release. Triage and treatment for substance use problems must be trauma-informed, addressing substance addiction and underlying trauma. Interventions should

promote safety, predictability, structure, and repetition, emphasizing relatedness, and a sense of communal connection (Rousseau, 2021) and belonging. Grace Lee Boggs fittingly said, "[b]uilding community is to the collective as spiritual practice is the individual" (Brown, 2021), and this notion is particularly true of the need to develop female-centric carceral and post-release institutional support system reform.

The rate of incarceration of women has risen at a rate 50% greater than men since 1990 (Nellis, 2020), and women face unique challenges when arrested and incarcerated. Women who are pregnant at the time of arrest and incarceration and those who recently gave birth suffer postpartum depression at higher rates due to the trauma of separation from their baby (Lutkiewicz et al., 2020). Women are often the primary caregivers for young children at home, who are left behind during incarceration. These vital social bonds are strained or even broken, and the mother's social networks weaken, exacerbating challenges facing her upon release and reentry.

German prison facilities confronted these problems by developing mother-baby units in their prisons for women and their children up to the age of three. These special housing units include access to mother and child health care, parenting classes, and babysitting services to allow for maternal and child bonding during the significant period of infant development (Shames & Subramanian, 2013). The formation of this maternal-child bond is one of the most critical psychological processes for a mother, and many studies suggest that this bonding can decrease the likelihood and effects of postpartum depression during the first year of a child's life (Lutkiewicz et al., 2020). Following the German model, the American system could alleviate the unnecessary harm to infant development and the mother's mental health through development of mother-baby housing.

The share of women under post-conviction supervision has risen from 520,000 in 1990 to more than 1 million at the end of 2016 (Gelb et al., 2015). Women are among the most vulnerable to parole and probation violations related to an inability to meet financial obligations like associated fees and victim restitution. Untreated or undertreated substance use and mental health disorders compound financial challenges for many women. As mentioned in the ***post-conviction supervision*** section above, post-conviction supervision programs that focus on goal-oriented measures led by community-based organizations would be better suited to support the healthy development of social networks, essential to successful reintegration. Specifically for women under post-conviction supervision, relational programs promoting healthy connections to children, family, significant others, and community (Rousseau, 2021) are critical to breaking cycles of abusive relationships and building healthy and healing social bonds with family and community.

Conclusion

Effective reform will depend on bold and sweeping changes to the American system and a complete reframing of crime and criminality among the American populace. Middle- and upper-class white exurbanites especially have been conditioned to blindly accept assaultive retributivism – ideas that hatred of criminals is morally sound and societal retaliation is necessary to keep communities safe. These ideas and outdated theories behind them are deeply flawed and obsolete, to put it lightly. Any meaningful and lasting study and reform must begin here at the root, therein the rot, in those unpleasant spaces of objective and transparent historical understanding achieved only through a thorough public reeducation.

References:

Armstrong, M., & Lewis, N. (2019, September 10). *What gate money can (and cannot) buy for people leaving prison*. The Marshall Project. Retrieved October 21, 2021, from https://www.themarshallproject.org/2019/09/10/what-gate-money-can-and-cannot-buy.

Bendix, A. (2019, December 26). *Germany just guaranteed unemployed citizens around $330 per month indefinitely. the policy looks a lot like basic income.* Business Insider. Retrieved October 21, 2021, from https://www.businessinsider.com/german-supreme-court-adopts-basic-income-policy-2019-12.

Biggs, B. S. (2009, March 3). *Solitary confinement: A brief history*. Retrieved October 21, 2021, from https://www.motherjones.com/politics/2009/03/solitary-confinement-brief-natural-history/.

Brown, A. M. (2021). *Emergent strategy: Shaping change, changing worlds*. AK Press.

Cullen, F. T., Agnew, R., & Wilcox, P. (2018). *Criminological theory: Past to present essential readings* (6th ed.). Oxford University Press.

Gelb, A., Elderbroom, B., Solomon, A., & James, J. (2018, September 25). *Probation and Parole Systems marked by High Stakes, missed opportunities*. The Pew Charitable Trusts. Retrieved October 21, 2021, from https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2018/09/probation-and-parole-systems-marked-by-high-stakes-missed-opportunities.

Goger, A., Harding, D. J., & Henderson, H. (2021, April 30). *A better path forward for criminal justice: Prisoner reentry*. Brookings. Retrieved October 21, 2021, from https://www.brookings.edu/research/a-better-path-forward-for-criminal-justice-prisoner-reentry/.

Grassian, S. (2006, January). *Psychiatric effects of solitary confinement*. Prison Reform: Commission on Safety and Abuse in America's Prisons. Retrieved October 22, 2021, from https://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=1362&context=law_journal_law_policy.

James, N. (2015, January 11). *Offender reentry: Correctional statistics, reintegration into the community, and recidivism*. Retrieved October 21, 2021, from https://sgp.fas.org/crs/misc/RL34287.pdf.

Kang-Brown, J., Henrichson, C., & Hinds, O. (2019, April 23). *People in prison in 2019*. Vera Institute of Justice. Retrieved October 21, 2021, from https://www.vera.org/publications/people-in-prison-in-2019. 2

Lutkiewicz, K., Bieleninik, L., Cieślak, M., & Bidzan, M. (2020, July 28). *Maternal-infant bonding and its relationships with maternal depressive symptoms, stress and anxiety in the early postpartum period in a Polish sample*. International journal of environmental research and public health. Retrieved October 24, 2021, from https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7432717/.

Minton, T. D., Beatty, L. G., & Zeng, Z. (2021, July). *Correctional populations in the United States 2019*. Bureau of Justice Statistics. Retrieved October 22, 2021, from https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/cpus19st.pdf.

Nellis, A. (2020, December 9). *Incarcerated women and girls*. The Sentencing Project. Retrieved October 23, 2021, from https://www.sentencingproject.org/publications/incarcerated-women-and-girls/.

Rousseau, D. (2021). *Module 6: Critical race theory and CJ; and Module 6: Feminist Criminology* [study guides]. Retrieved from https://onlinecampus.bu.edu/ultra/courses/_77120_1/cl/outline

Shames, A., & Subramanian, R. (2013, October). *Sentencing and Prison Practices in Germany and the Netherlands: Implications for the United States*. Retrieved October 21, 2021, from https://www.vera.org/downloads/Publications/sentencing-and-prison-practices-in-germany-and-the-netherlands-implications-for-the-united-states/legacy_downloads/european-american-prison-report-v3.pdf.

Stevenson, B. (2020). *Just mercy: A story of justice and redemption*. Scribe.

Vagins, D. J., & McCurdy, J. (2006, October). *Cracks in the system: Twenty years of the unjust federal crack cocaine law*. Retrieved October 22, 2021, from https://www.aclu.org/sites/default/files/field_document/ACLURM011175.pdf.