S. HRG. 110–299

MASS INCARCERATION IN THE UNITED STATES: AT WHAT COST?

HEARING

BEFORE THE

JOINT ECONOMIC COMMITTEE
CONGRESS OF THE UNITED STATES

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

OCTOBER 4, 2007

Printed for the use of the Joint Economic Committee

U.S. GOVERNMENT PRINTING OFFICE

39–645 PDF WASHINGTON : 2008

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

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MASS INCARCERATION IN THE UNITED STATES: AT WHAT COST?

THURSDAY, OCTOBER 4, 2007

CONGRESS OF THE UNITED STATES,
JOINT ECONOMIC COMMITTEE,
Washington, DC

The Committee met at 10:04 a.m. in room 216 of the Hart Senate Office Building, the Honorable Jim Webb and Vice Chair Carolyn B. Maloney, presiding.

Senators present: Webb, Casey, and Brownback.

Representatives present: Maloney, English, Scott, and Hinchey.

Staff present: Christina Baumgardner, Stephanie Dreyer, Chris Frenze, Nan Gibson, Gretta Goodwin, Rachel Greszler, Colleen Healy, Aaron Kabaker, Israel Klein, Michael Laskawy, Zachary Luck, Robert O'Quinn, Jeff Schlagenhauf, and Robert Weingart.

OPENING STATEMENT OF HON. JIM WEBB, A U.S. SENATOR FROM VIRGINIA

Senator Webb [presiding]. The Committee will come to order. I would like to thank Chairman Schumer for agreeing to hold this important hearing, and for allowing me the opportunity to chair it.

I would also like to thank our witnesses for appearing today and, following my remarks, I would ask Vice Chair Maloney and Senator Brownback to make some opening remarks. We also have Congressman Bobby Scott over from the House side who has worked long and hard on these issues and would like to say a few words. Then if Congressman English would like to say something, we will get an opening statement from him.

Then we will turn this over for up to 8-minute summaries of statements from the panel, and then we will go into questions.

Over the course of the period from the mid-1970s until today, the United States has embarked on one of the largest public policy experiments in our history.

Yet this experiment remains shockingly absent from the public debate. The United States now imprisons a higher percentage of its citizens than any other country in the world.

In the name of getting tough on crime, there are now 2.1 million Americans in Federal, State, and local prisons and jails, more people than the populations of New Mexico, West Virginia, or several other States.

Compared to our democratic advanced-market economy counterparts, the United States has more people in prison by several orders of magnitude. All told, more than 7 million Americans are

under some form of corrections supervision, including probation and parole.

America's incarceration rate raises several serious questions. These include: The correlation between mass imprisonment and crime rates; the impact of incarceration on minority communities and women; the economic costs of the prison system; criminal justice policy; and transitioning ex-offenders back into their communities and into productive employment.

Equally important, the prison system today calls into question the effects on our society at a broad level. Winston Churchill noted in 1910, "The mood and temper of the public in regard to the treatment of crime and criminals is one of the most unfailing tests of the civilization of any country."

With the world's largest prison population, our prisons test the limits of our democracy and push the boundaries of our moral identity.

The growth in the prison population is only nominally related to crime rates. Just last week, in The Washington Post, the Deputy Director of the Bureau of Justice Statistics stated, and I quote, "The growth in the incarceration rate wasn't really about increased crime but how we choose to respond to crime."

The steep increase in the number of people in prison, is driven, according to most experts, by changes in drug policy and tougher sentencing, and not necessarily an increase in crime.

Also, the composition of prison admissions has shifted towards less serious offenses—parole violations and drug offenses. Nearly 6 in 10 persons in State prisons for a drug offense have no history of violence or significant selling activity.

In 2005, four out of five drug arrests were for possession and only one out of five were for sales. Is incarcerating low-level drug offenders working, particularly given recidivism rates?

The racial composition of America's prisons is alarming. Although African Americans constitute 14 percent of regular drug users, they are 37 percent of those arrested for drug offenses and 56 percent of persons in State prisons for drug crimes.

African Americans serve nearly as much time in Federal prisons for drug offenses as Whites do for violent crimes.

A Black male who does not finish high school now has a 60-percent chance of going to jail. One who has finished high school has a 30-percent chance.

We have reached a point where the principal nexus between young African American men in our society is increasingly becoming the criminal justice system, and we are spending enormous amounts of money to maintain this system.

The combined expenditures of local, State, and Federal governments for law enforcement and corrections personnel now total over $200 billion.

Prison construction and operations has become a sought after, if uncertain, tool of economic growth for rural communities.

Are there ways to spend less money, enhance public safety, and make a fairer prison system?

Having such a large prison population also has significant employment and productivity implications. The economic output of

prisoners is mostly lost to society while they are in prison. These negative productivity effects continue in many cases after release.

As we have gotten tough on crime, we have given up on rehabilitating offenders. And we have created additional barriers to reentry with invisible punishments. These include: ineligibility for government benefits, such as housing, public assistance, or student loans. It is no longer simply possible to pay one's debt to society.

We all want to keep bad people off our streets. We want to break the back of gangs. We want to cut down on violent behavior. But there is something else going on when we are locking up such a high percentage of our people, marking them at an early age, and, in many cases, eliminating their chances for productive life as full citizens.

It will take years of energy to address these problems, but I am committed to working toward a solution that is both responsive to our needs for law and order and fairer to those ensnared by this system.

I welcome the thoughts of our witnesses today regarding these important topics, and also the beginning of a new national dialogue to address these enormous policy issues.

[The prepared statement of Senator Webb appears in the Submissions for the Record on page 41.]

With that, I would call on Vice Chair Maloney.

OPENING STATEMENT OF HON. CAROLYN B. MALONEY, VICE CHAIR, A U.S. REPRESENTATIVE FROM NEW YORK

Vice Chair Maloney. Thank you very much. First of all, I join you in thanking Chairman Schumer for holding this hearing to examine the economic, political, and social costs of incarceration. I also thank Senator Webb for chairing, and all of the panelists and all of my colleagues here today.

The United States has the highest incarceration rates in the world with more than 2 million Americans currently in jails or prisons.

Clearly, imprisonment benefits society and is an important public safety measure, but faced with an unprecedented increase in incarceration we must ask ourselves whether we are striking the right balance between the costs and benefits of imprisonment.

Putting more resources into creating economic opportunities that provide alternatives to crime would pay dividends in reducing crime and incarceration, while also strengthening families and communities.

We all know that, in the long run, crime does not pay, but it sure is costly. The average annual cost of incarceration for one Federal prisoner exceeds $20,000 a year, far more than the average annual cost of $3,700 for participating in a youth program for a year; or $6,000 for one of our young people to attend job training; or the $13,000 that we would pay for tuition at public universities.

There is absolutely no question that crime rates have dropped in the United States over the past decade. Researchers agree that the increase in incarceration rates have been driven by tougher sentences for repeat offenders and drug offenders, mandatory minimums, and a more punitive approach to post-release supervision, rather than an increase in crime.

The racial dimension of incarceration is inescapable. Half of our prison population is African American, yet they represent just 13 percent of the population of our country as a whole.

It has become a sad truth that a Black man in his late twenties without a high school diploma is more likely to be in jail than to be working. The effect on Black communities has been devastating.

As noted, Harvard sociologist Orlando Patterson wrote in the New York Times recently: one in three African American males in their thirties now has a prison record. He somberly noted, and I quote, "These numbers and rates are greater than anything achieved at the height of the Jim Crow era," end quote.

Women are typically convicted of nonviolent offenses. Most women who enter the criminal justice system have experienced physical or sexual abuse and many have physical or mental health problems.

These inmates may actually benefit from alternatives to imprisonment such as suspended sentences coupled with extensive counseling. When mothers are incarcerated their children may be placed in foster care or with other family members who then need financial assistance to provide for the children.

Moreover, the removal of a significant family member can affect the healthy development of children. The Catholic Charities Diocese in my district, located in Queens and in Brooklyn, operate a week-long summer camp that provides opportunities for incarcerated mothers to have quality time with their children.

Such programs serve as a means to maintain family bonds and possibly provide a smoother transition and resumption of parental responsibilities upon release.

If this program shows success, it could serve as a model for the Nation. Providing employment and training assistance for ex-offenders, is critical to reducing barriers to employment, and it benefits families and benefits society.

I support the Second Chance Act of 2007, which provides grants for re-entry programs that provide mentoring, academic, and vocational education, employment assistance, and substance abuse treatment for ex-offenders.

I look forward to hearing from our distinguished panelists on how best to protect public safety, while addressing the many costs of imprisonment. I might add, the way that we release men and women from prison, with absolutely no assistance, leads, in many cases, to them becoming second offenders, because they have no place to go, they have no money, and, in many cases, have no help.

So this is an important hearing. I congratulate the Senator for leading us to this moment today. Thank you.

[The prepared statement of Vice Chair Maloney appears in the Submissions for the Record on page 43.]

Senator Webb. I thank the Vice Chair. I have been asked to announce that there is a blue backpack in the back of the room. Has it been claimed? Whoever—OK, thank you. You have helped us move the hearing along without an evacuation of the room.

[Laughter.]

Senator Webb. Senator Brownback, we are very grateful for your coming today, and I know you have done a lot of work in this area. You now have the floor.

STATEMENT OF HON. SAM BROWNBACK, A U.S. SENATOR FROM KANSAS

Senator Brownback. Thank you very much, Mr. Chairman. I appreciate you holding this hearing and the comments by Vice Chair Maloney and her thoughts on this, as well.

I have worked on this a lot. I have spent time in prison. I may be the only one in here that has spent a night in Louisiana in a State prison there, and one in my State.

I did not have a record, but I went in and stayed, because I was interested in the programs that were taking place in these places, because the numbers are stark.

They are terrible, and they are quite an indictment of our society. But I was looking for something that worked, and what I found, are some very innovative programs around the country, that particularly target the recidivism rates, which, to me, that is one of the key things we can work on, is getting that recidivism rate down.

Right now, the recidivism rate in the country, is roughly about two-thirds; two-thirds of the people that go into State, local, or Federal prisons, in this country, will go back.

And their family members are five times more likely to go into prison, so it seems like—as somebody raised on a farm, you hoe where the weeds are. This is where our problem is, and let's go in and let's deal in those particular areas.

And that is the targeted focus of the Second Chance Act, a series of grants for innovative programs that will cut recidivism rates in half in 5 years.

And it is eclectic, it says, you know, whatever you have got that is working—great, but if it does not work, we are not going to continue it.

It is measurable, recidivism rates cut in half in 5 years, and I think that is not soft on crime; I think that is smart on crime.

And it is something that we need to do, and it is also humanitarian in recognizing that every person is a beautiful, unique soul, a child of a living god, regardless of whether they are in prison or not.

And it tries to treat the individual as a person. I have had a guy sometime back who said, we get into problems when we look at people as problems and not as people. That includes somebody that has committed a crime, even very difficult and bad crimes.

So I think we have got some things we need to change here, how we look at people in prison, what we do on bringing them out of prison.

I think we have got a good model in the Second Chance Act. It has passed the Judiciary Committee, it is a bipartisan bill. It is ready for floor action, and I know that Chairman Webb is a cosponsor of the bill, as well.

I would hope this would be something that this Congress could get done. I think we can get a signature on it from President Bush, and really target this particular area of this problem.

It does not fix the whole thing, but it does get at a particularly key area. It is something that can work and support these innovative programs.

I look forward to the panelists' presentations, and I particularly appreciate Pat Nolan coming here on short notice. They have worked on these topics a lot, and I hope we can move forward with this topic and get something actually accomplished. Thank you, Mr. Chairman.

[The prepared statement of Senator Brownback appears in the Submissions for the Record on page 44.]

Senator Webb. Thank you very much, Senator Brownback. Congressman Scott, who also has worked many, many years on this, we appreciate you coming over to be part of the hearing this morning, and you may feel free to make a statement.

STATEMENT OF HON. ROBERT C. "BOBBY" SCOTT, A U.S. REPRESENTATIVE FROM VIRGINIA

Representative Scott. Thank you, Senator Webb. I want to thank Senator Schumer and Vice Chair Maloney for the opportunity to be with you today as we discuss the very important subject of the costs of mass incarceration we have seen in the United States.

Today, the United States is the world's leading incarcerator, by far, with an average incarceration rate of over seven times the international average.

The average incarceration rate in the rest of the world, is somewhere around 100 per 100,000, and the rate in the United States is over 700 per 100,000. In some inner city communities, the rate goes above 4,000 per 100,000.

Russia has the next closest rate of incarceration, with 611 per hundred thousand, and everybody else is much lower. For example, in India, the world's largest democracy, the rate is 30 per 100,000. In China, the world's largest country, by population, the rate is 118 per 100,000.

We did not get here overnight. I have learned that when it comes to crime policy, we have a choice: You can reduce crime or you can play politics.

And the politics of crime is the get-tough approach, such as more life with parole, mandatory minimum sentences, treating more juveniles as adults. With this approach, no matter how tough we got last year, we get tougher this year.

We have been putting more and more people in jail, and in the last 30 years, we have gone from approximately 300,000 persons incarcerated in the United States in 1970 to over 2 million today. The annual costs have gone up to $65 billion a year.

And the United States has some of the world's most severe punishments for crime, including for juveniles. For more than 2,200 juveniles sentenced in the world to life without parole, all but 12 are in the United States.

Research and analysis, as well as common sense, tells us that no matter how tough you are on people who you prosecute for crimes today, unless you are addressing the reasons they got to the point to commit crimes in the first place, the next wave developing in the system will simply replace those that you take out. And the crime continues.

This is not to say that we should not prosecute crimes, or that imprisonment has no impact. The problem is that you reach a point of diminishing returns, with no appreciable benefit.

In fact, you run the risk of diminishing returns to actually being counterproductive. For example, when you have so many people in a community with criminal records, that the criminal record no longer has a stigma or deterrent effect, you have lost your deterrent effect of the criminal justice system, altogether.

The corollary cost of mass incarceration resulting from the tough-on-crime politics unfortunately falls, as we have heard, disproportionately among minorities, particularly Black and Hispanic youth.

The sad reality is that many children born in minority communities today are, from birth, without appropriate intervention, on what is called the cradle-to-prison pipeline.

When you see how simple it is to get them on a cradle-to-college pipeline, it is tragic and much more costly to society, economically and socially, if we do not do so.

There are other costs to consider when crime rates are high, such as the high medical costs associated with gun crimes. One study suggested that actuarial science estimated that the annual cost of gun violence in the United States is approximately $100 billion.

Fortunately, we have a choice. All credible research and evidence shows that a continuum of evidence-based programs for youth identified as being at risk of involvement in delinquent behavior, and those already involved, will not only put kids on an appropriate pipeline towards college, rather than prison, but it will also save more money than it costs.

Washington State did an extensive study that showed that evidence-based prevention and rehabilitation programs, such as drug treatment, reduce crime and save money, when compared to waiting for crimes to be committed and then sending offenders to prison.

Washington State adopted many of the initiatives in that study and, consequently, avoided having to build a new prison as a result. There are huge opportunity costs in not doing what the research and evidence tells us will reduce crime.

To illustrate, let's examine the impact in Virginia of the lost opportunities associated with the get-tough crime policy called abolish parole. Rather than invest in proven crime-reduction measures that work, Virginia chose to go down the costly and wasteful path of abolishing parole.

The proponents suggested that even if it worked perfectly, the reduction in violent crime would be a statistically insignificant 3 percent, and even that would be without considering the counterproductive effects of no parole, such as the fact that you cannot hold hardened criminals longer, and the loss of incentive for prisoners to get an education and job training while in prison.

They estimated that the cost of abolishing parole would be $2.2 billion to build new prisons, and about a billion-a-year operating costs.

Now, let's just do a little quick, back-of-the-envelope arithmetic of that kind of budget. There are 11 congressional districts in Virginia, so that is about $200 million for construction and $90 for operations in each congressional district of about 600,000.

So, for a city of 100,000, we are talking $30 million in construction and $15 million in operating. Let's see what you could have done with that.

For $30 million, you could have built ten $3 million Boys and Girls Clubs or family resource centers. With the operating expenses, you could have run those clubs and family resource centers at $600,000 a year, and that would be $6 million.

You could have a thousand summer jobs and that would be another million; a thousand summer camp scholarships at $1,000 and that would be another million; 4,000 after-school programs at $250, another million; 2,000 college scholarships at $2,000, and that is $4 million; services for 200 juveniles at $10,000 a year, $2 million. You could have done all of that, or you could codify a slogan without even knowing if you are reducing crime or even increasing crime.

Of course, we have so many people locked up that we are seeing, a large number returning to the communities, in most cases, no better than when they started out.

This year, we have 650,000 people being released from State and Federal prisons, along with 9 million leaving local jails. The recidivism rate of 67 percent has to be dealt with.

Over one-third of the jailed inmates have physical or mental disabilities, many had drug problems, and with no parole, no good conduct credits, and other self development initiatives being eliminated, we have limited vocational and other developmental programs while in prison.

All of that, along with the disqualifications that result from having a felony record, make it easy to see why the recidivism rate is so high.

One program that has been hugely successful is the Federal Prison Industries, but unfortunately, that program has just been undermined with the provision in the Senate Defense Authorization bill.

The Second Chance Act now pending before Congress will provide a host of evidence-based approaches designed to reduce the high rate of recidivism now occurring; and if we are going to continue to send more and more people to prison with longer and longer sentences, we should do as much as we reasonably can to ensure that when they return from prison, they do not turn around and go back to prison because of new crimes.

The primary reason for doing so is not to benefit the offenders, although it does; the primary reason for doing so is that it better assures that all of us and other members of the public will be less likely to be victims of crime due to recidivism, and we will also save the high costs of law enforcement and incarceration.

Now, Mr. Chairman, I thank you for holding this very important hearing and for inviting me to sit with you today.

[The prepared statement of Representative Robert C. "Bobby" Scott appears in the Submissions for the Record on page 45.]

Senator Webb. Thank you very much, Congressman Scott. Are there any other Committee members who wish to make an opening statement before we go to the witnesses? Senator Casey?

Senator Casey. Mr. Chairman, I want to thank you for calling this hearing, and I want the audience to know, as a first-year Senator, how thrilling it is to be able to call Jim Webb, Mr. Chairman.

[Laughter.]

Senator Webb. There is hope.

[Laughter.]

Senator Casey. And, Chairwoman Maloney, thank you for your work on this issue and so many others.

Vice Chair Maloney. Thank you.

Senator Casey. I do not have a long statement, but I do want to say that the problem that we are here to discuss today and the testimony we will hear from this distinguished panel, as we all know, is both a human tragedy and a fiscal nightmare, and we are well aware of that.

But I think it is important that we do our best today to listen and to learn, and I am honored to be in the presence of so many people who have labored in this vineyard for a long time. We are grateful for the work that is already been done.

But as you can see from this panel, from the Members of Congress who are here, as well as others, that this is a bipartisan challenge. Neither party has a corner on the market, so to speak, of knowledge and wisdom and insight and legislation.

Both parties, I think, are deeply concerned about this. I have to say that one of the reasons that we're in this demographic and fiscal challenge, and why so many lives have been ruined, is that we failed, I think, as a country, and both parties have failed to invest in children in the dawn of their lives.

That's not the whole reason, that is not the only reason we have this problem, but that is a big part of the problem.

I have a bill on pre-kindergarten education and Chairwoman Maloney has similar legislation in the House, and others have worked on this, but I think that today, it is not enough to curse the darkness of that failure to invest.

We could do that all day long, and that is not enough. We have to be concerned about the children and the young adults who did not get the benefit of those investments. We have to deal with them.

We cannot just talk about what should have happened to them; we have got to deal with the challenges in their lives. So, I know that this hearing today will bring light to that darkness, and will further amplify and develop solutions to this problem, so I thank the Chairman, and I am happy to be here today.

Senator Webb. Thank you very much, Senator Casey. Any others? Congressman Hinchey?

Representative Hinchey. Senator Webb, I just want to briefly express my appreciation to you for drawing our attention to this very important issue.

And it really is something that needs to be dealt with. It is another example, I think, of kind of a self-inflicted wound that we have put on our society.

And we have done so until fairly recently. Up until the mid-1970s, the incarceration rate in the United States, was fairly even with the rest of the world and we were not putting ourselves up front in any way.

But policies changed back then, and over the course of the last 35 years, the number of people that we have locked up in prisons and jails across the country has gone up by more than 700 percent.

So this is an issue that really needs to be dealt with, and it is an issue that we can deal with. This Congress must address it.

It is, in part, I think, an example of how capitalism can be used badly to deal with issues in ways that just make those issues even worse to confront.

So Senator, I deeply appreciate your attention to this, and the opportunity you have given us to learn more about it from this distinguished panel.

And the incentive that, hopefully, this will provide for us to make appropriate corrections.

Senator Webb. Thank you very much. Congressman English, did you wish to make a statement?

Representative English. Let me just say, Mr. Chairman, that I am delighted we are doing this hearing. It is immensely timely.

I will submit my remarks for the record, with the idea that we can hopefully proceed now to our much-awaited testimony from this excellent panel.

Senator Webb. Thank you very much. We do have a very distinguished panel. We appreciate all of you taking your time to come here today. I know that our staff worked really hard to get the right group of people who can help illuminate this issue.

We are starting from our left to the right with Professor Glenn Loury, who is the Merton P. Stoltz Professor of Social Sciences at the department of economics at Brown University. He has taught previously at Boston, Harvard, and Northwestern Universities and the University of Michigan.

He is a distinguished academic economist who has contributed to a wide variety of areas in applied microeconomic theory, and has written extensively on racial inequality.

Professor Bruce Western, is the director of multidisciplinary programs in inequality and social policy at the Kennedy School of Government. He taught at Princeton from 1993 to 2007. His work has focused on the role of incarceration in social and economic inequality in American society. He is the author of "Punishment and Inequality in America: A Study of the Growth and Social Impact of the American Penal System."

Alphonso Albert is the director of Second Chances in Norfolk, Virginia, a program designed to provide comprehensive support services that lead to full-time employment and social stability for those individuals impacted by the stigma of being labeled as ex-offenders.

Prior to working with Second Chances, Mr. Albert served as the assistant director of business liaison for the city of Norfolk's enterprise community initiative, Norfolk Works, Incorporated.

Dr. Michael Jacobson is the director of the Vera Institute of Justice. He is the author of "Downsizing Prisons: How to Reduce Crime and End Mass Incarceration."

Prior to joining Vera, he was a professor at the City University of New York Graduate Center and the John Jay College of Criminal Justice. He served as New York City's correction commissioner, probation commissioner, and deputy budget director.

Pat Nolan is vice president of Prison Fellowship, where he focuses on efforts to ensure that offenders are better prepared to live healthy, productive, law-abiding lives on their release. He served 15 years in the California State Assembly, four of them as the Assembly Republican Leader.

Mr. Nolan has appeared before Congress to testify on matters such as prison work programs, juvenile justice, and religious freedom.

We welcome all of the witnesses. Normally, this is a 5-minute round. I think, with the depth of knowledge of the witnesses, I am prepared to go to 8 minutes, if any witness wants to go to 8 minutes.

Dr. Loury, welcome. You can begin.

STATEMENT OF DR. GLENN C. LOURY, PROFESSOR OF ECONOMICS AND SOCIAL SCIENCES, BROWN UNIVERSITY

Dr. Loury. Thank you. Mr. Chairman, Madam Vice Chairwoman, and distinguished Members, I thank you for the opportunity to address this vital issue before your Committee.

There are six main points that I wish to make with this testimony about the advent of mass incarceration as a crime control policy in the United States:

First, let me reiterate what has already been said, which is that over the past four decades, we have witnessed an historic expansion of coercive State power deployed internally on a massive scale.

As a result of this policy, the American prison system has grown into a leviathan, unmatched in human history. Never has a supposedly free country denied basic liberty to so many of its citizens.

We imprison, as has been said, at a far higher rate than any other industrial democracy in the world; we imprison at a higher rate than Russia, China, and vastly more than any of the countries in Europe.

Second, it is my considered opinion that this high level of imprisonment, is not any longer, if ever it was, a rational response to high levels of crime, rather, our mass incarceration policy is an historical inheritance bequeathed to us by wave after wave of crime fighting at the State and Federal levels over the past 35 years.

This policy response, I firmly believe, has now become counterproductive. The so-called War on Drugs, about which I will have a little bit more to say at the end of this testimony, is a leading example of one such misconceived policy initiative that now has us in its grip.

Thirdly, I wish to point out that institutional arrangements for dealing with criminal offenders in the United States, evolved to serve expressive as well as instrumental ends. This is perhaps not surprising, but it is also not an entirely healthy development.

We have wanted to send message to the criminals and to the law-abiding public alike, and we have done so with a vengeance.

In the process, we have, in effect, answered the question of who is to blame for the maladies which beset our troubled civilization? That is, we have, in effect, constructed a national narrative; we have created scapegoats; we have indulged our need to feel virtuous.

We have assuaged our fears. We have met the enemy, and the enemy is them, the violent, predatory, immoral, irredeemable thugs.

I believe that this narrative, which supports and encourages our embrace of the policy of mass incarceration, is, itself, a sociologically naive and morally superficial view about how to deal with social problems at the bottom rungs of American society.

Fourth, I feel constrained to observe that these people who have offended, as Senator Brownback said in his opening remarks, these people who have offended against our laws, are, nevertheless, human beings, and while they may deserve punishment, imprisoning them is something that we, the people of the United States of America, are doing.

Indeed, punishment is one of the most politically salient things that you can do in a democracy. The State is forcibly depriving citizens of their liberty.

Precisely how we do such a thing is a measure of our national character. And while this practice is necessary for the maintenance of order in society, it should always be undertaken humanely and in a spirit of hope, in a manner that comports with our deepest political and spiritual values.

We ought never to lose sight of the essential humanity of those whom we punish and of the humanity of those to whom offenders are connected via the intimate ties of social and psychic affiliation.

Unfortunately, we have not always lived up to this high standard.

Fifth, I must call attention to, again, as has been noted, a huge gap between the race in the incidence of punishment which exists in our country.

Black Americans and Hispanics, together, account for about one-quarter of the overall national population, but constitute about two-thirds of the State and Federal prison populations.

The extent of racial disparity in imprisonment rates, is greater than in any other area of American life. The scandalous fact of the matter is that the primary contact between poorly educated Black American men of a certain age, and the American state, is via the police and the penal apparatus.

The coercive aspect of government is the most salient feature of their experience of the public sector. My colleague sitting here, Bruce Western, has estimated, as he will say, I suppose, in greater detail, that some 59 percent of Black male high school dropouts born in the late 1960s, had been sent to prison on a felony offense at least once before they reached the age of 35.

For these men and the families and communities with which they are associated, the adverse effects of incarceration will extend well beyond their stay behind bars.

A fundamental point to bear in mind is that the experience of prison feeds back to affect the life course of those incarcerated, in an adverse manner. The vast majority of inmates do return eventually to society.

The evidence that prison has adversely affected their subsequent life chances is considerable and impressive.

Now, I invite you to consider the nearly 60 percent of Black male high school dropouts born in the late 1960s, who will have been in

prison before their 40th year. For these men, their links to family have been disrupted.

Their subsequent work lives will be diminished. Their voting rights may be curtailed or even revoked. They will suffer, quite literally, civic excommunication from American democracy.

It is no exaggeration to say that, given our zeal for social discipline, these men will be consigned to a permanent, non-White male nether caste. Yet, since these men, whatever their shortcomings, have emotional and sexual and family needs, including the need to be fathers and husbands, we will have created a biopolitical situation where the children of this nether caste are likely, themselves, to join a new generation of untouchables. I understand that this is harsh language, but I think it is a very harsh reality that I am describing.

In the interest of time, let me curtail reading my formal remarks here, and just say, finally, that I want to make a few observations about the War on Drugs.

This policy has not been successful, in my view, and it has a hugely disparate, adverse impact on the African American community. Consider the table, which is in your handout. It is actually taken from Professor Western's book, giving a chart showing drug offenses and arrest ratios over the period from 1970 to 2000.

What the chart shows is that in the 1970s, Blacks were arrested for drug offenses at twice the rate of Whites, and by the late 1980s, that ratio had grown to four times as great.

[The referenced chart appears in the Submissions for the Record on page 51.]

However, as another chart in your handout, the figure labeled "High School Seniors Reporting Drug Use," also drawn from Professor Western's work, shows Blacks do not use drugs at any higher rate than Whites. Black high school seniors reported using drugs at a slightly lower rate than did Whites.

[The referenced chart appears in the Submissions for the Record on page 51.]

So we have a situation where, to deal with the problem, we are punishing people, but the problem has been generated by faults and failures in our society that are very broad in terms of class and race, that do not fall with any one group.

It can be no surprise to us that if there is going to be an open-air drug market in a city, it is going to take place by the tracks, near the docks, in the dark corner, in places where people can be anonymous.

And it is going to be manned and womanned by people whose alternative opportunities are very scant, who do not have education and who do not have another way of making money. That can come as no surprise to us.

But that market would not be there in the first place if it were not for ordinary Americans, your constituents, my relatives, people like you and I, who want to engage in the consumption of these substances.

When we punish the suppliers, we weight the cost of this social malady wholly on one segment of a transaction that takes two to tango. And the racial inequality of that is really quite stark.

Let me close by giving one concrete illustration of what I am talking about. I believe there is a floor chart that gives statistics on marijuana arrests in New York City over the three decades of 1977 through 2006.

If you could display it, please, what it shows is that—this is just one city. It is an important city, of course, and we have good data for New York City, so it is possible to examine this empirically, but it is not uncharacteristic of what is going on around the country.

[The referenced chart appears in the Submissions to the Record on page 55.]

We changed our policy in the late 1980s and early 1990s, and in New York City, the crackdown on marijuana possession, was very severe. As you can see, in that decade from 1997 to 2006, 10 times as many people are being arrested for marijuana possession in the city as had been in the decade prior.

If you could show the next chart, it gives a breakdown of those arrests by race in New York City. What you will see for the city there is just what I had been saying about the national scene, which is that while the intensity of marijuana arrests increases dramatically, the burden of those arrests is borne vastly disproportionately by Black and Latino residents of the city, relative to Whites.

[The referenced chart appears in the Submissions to the Record on page 56.]

There is no reason to suppose that Blacks in New York City are consuming marijuana or any other drug at any higher a rate relative to Whites than is the national population, and we know that there is really no racial disparity, or if anything, Whites are consuming at a slightly higher rate in the national population.

This result is a consequence of policing behavior and the decisions that police are making about whom to arrest when they see them smoking marijuana in public, but I merely want to give it as a concrete illustration of the main point that I am trying to make, which is that the weight of this institutional transformation is being borne vastly disproportionately by some of the most disadvantaged people in our society, and a fundamental question of fairness is raised by that, in my mind, and I want to call it to your attention.

Finally, let me just say this about the War on Drugs: I am a economist and I cannot help take note of the fact—again, it is in your handout—that while the War on Drugs—I have a chart that says "Winning the War: Drug Prices, Emergency Treatment, and Incarceration Rates, 1980–2000."

[The referenced chart appears in the Submissions to the Record on page 52.]

I just cannot help but take note of the fact that the solid line in that chart that is moving upward over the course of those 20 years, is a measure of the number of inmates in prison for drug offenses, that has increased steadily.

The dashed line in that chart, which also moves upward over the course of those 20 years is a measure of the number of emergency room admissions of people who have gone with drug maladies to emergency rooms, and so that gives some measure of the intensity of abuse of drugs.

All the other lines in that chart are measures of the quality-adjusted price on the street, of heroin, cocaine, and methamphetamine. As you can see, with the exception of methamphetamine, which has a price spike in the late 1980s and early 1990s, all of those lines are headed straight down, which is to say that over the 20-year period from 1980 to 2000, while we have severely ratcheted up the intensity of the punishment of drug offenders, the problems from drug use have not abated—witness the emergency room admissions—and the ease of obtaining the substances on the street has not been diminished. The best measure of that is the price of the substance on the street, which has been going down, in quality-adjusted terms.

Senator Webb. Dr. Loury, we are going to have to ask you to wrap this up pretty fast.

Dr. Loury. Thank you very much for the opportunity.

[The prepared statement of Dr. Loury appears in the Submissions for the Record on page 47.]

Senator Webb. There will be further opportunities to get to those points, and we thank you very much for the eloquent testimony. Dr. Western?

STATEMENT OF DR. BRUCE WESTERN, DIRECTOR, INEQUALITY AND SOCIAL POLICY PROGRAM, KENNEDY SCHOOL OF GOVERNMENT, HARVARD UNIVERSITY

Dr. Western. Mr. Chairman and members of the Committee, thank you for the opportunity of testifying today about the causes and economic effects of the growth in the incarceration rate.

The fraction of the population in State and Federal prison has increased in every single year for the last 34 years. The rate of imprisonment today is now five times higher than in 1972. The U.S. rate of imprisonment is 5 to 10 times higher than in the long-standing democracies of Western Europe.

Internationally, our incarceration rate is only rivaled but not exceeded by the incarceration rates of South Africa and Russia.

Today's novel rates of incarceration are most remarkable for their concentration among young African American men with little schooling. To understand the prevalence of the penal system in the lives of these young men, I calculated the percentage of men who have ever been to prison by their mid-thirties.

Most prisoners will be admitted for the first time, before age 35, so this is an estimate of the lifetime chances of going to prison.

Now we are talking about prison incarceration, not jail incarceration. This is at least 12 months of time served in a State or Federal facility, for a felony conviction. It is an average of 34 months of time served.

For men born in the late 1940s, who reached their mid-thirties in 1979, Blacks were 9 percent likely to go to prison—about 1 in 10 Black men would go to prison, if they were born in the late 1940s.

For Black men born in the late 1960s, the lifetime chances of imprisonment had grown to 22.8 percent. Among Black men without a college education, now in their early forties, nearly a third have prison records, and for young Black male dropouts, prison time has become a normal life event.

A number of people have quoted this statistic today, and I estimate that about 60 percent of young Black male high school dropouts born since the late 1960s will go to prison at some point in their lives.

Young Black men are now more likely to go to prison than to graduate college with a 4-year degree, and they are more likely to go to prison today than to serve in the military.

These extraordinary rates of incarceration are new. We need only go back 20 years to find a time when the penal system was not pervasive in the lives of young African American men.

In the period of mass incarceration, Blacks have remained seven to eight times more likely to be incarcerated than Whites. This large racial disparity is unmatched by most other social indicators.

Racial disparities in unemployment, non-marital child-bearing, infant mortality, and wealth, for example, were all significantly lower than the racial disparity in imprisonment.

These high rates of incarceration have significant economic consequences. My analysis of the National Longitudinal Survey of Youth indicates that incarceration reduces hourly wages by between 10 and 15 percent, and this is in a population that has very poor economic opportunities to begin with.

Annual employment is reduced by 10 to 15 percent. Because of the combined effects on wages and annual employment, the effects on annual incomes are very large, and I find that the annual incomes of formerly incarcerated men are about 35 percent to 40 percent lower than for similar men who have not been incarcerated.

These effects of incarceration on individual economic status are not new. We can find research going back to the 1960s, providing similar results.

What is new is the scale on which these effects are now being played out. Because returning prisoners are highly concentrated in poor urban neighborhoods, the economic penalties of incarceration now permeate the most economically vulnerable families and communities.

Because incarceration rates are now so historically high, assistance for reintegration and rehabilitation will also be felt, not just by those coming out of prison, but by the poor and minority communities from which they originate.

What can we do? I suggest three types of policies would help alleviate the social and economic effects of mass incarceration: Congress should reexamine the large number of collateral consequences limiting the access of ex-felons to Federal benefits and employment.

Many restrictions, such as limitations on educational, welfare, and housing benefits, do not serve public safety, impede the reintegration of the formerly incarcerated, and penalize family members.

While restrictions on benefits or employment might be justified, if they are closely linked to particular crimes, such restrictions should be strictly time-limited, because of the strong pattern of criminal desistance with age.

Two, Congress should support prisoner re-entry programs that provide transitional employment and other services. Well-designed

programs have been found to improve employment and reduce recidivism.

Research suggests that community-based re-entry programs should ideally be integrated with education and other programs in prison. Post-prison employment would be encouraged by passage of the Second Chance Act.

I am very encouraged by the remarks of the Committee on the Second Chance Act of 2007 today. Employer incentives can be promoted through expansions of the Work Opportunity Tax Credit and the Federal bonding program.

Three, Congress should support the establishment of criminal justice social impact panels in local jurisdictions, that can evaluate unwarranted disparities in juvenile and adult incarceration.

By assessing the link between socioeconomic disparities in offending and disparities in incarceration, local social impact panels could identify and take steps to eliminate disproportionate incarceration in poor and minority communities, or indeed, in any community.

My research indicates that the penal system now places a very heavy burden on poor and fragile families. But this story is largely unknown outside the communities most affected.

Robust action by Congress can change our national conversation about criminal punishment, help ensure that the great benefits of our economy are passed on to the poorest, and by doing so, will promote public safety. Thanks very much for the opportunity.

[The prepared statement of Dr. Western appears in the Submissions for the Record on page 57.]

Senator Webb. Thanks very much, Dr. Western. Alphonso Albert, who has a hands-on career, I am very interested in hearing your views, sir.

STATEMENT OF ALPHONSO ALBERT, EXECUTIVE DIRECTOR, SECOND CHANCES

Mr. Albert. Thank you. Chairman Webb, Vice Chair Maloney, Senators, Congressman Scott, thank you for having me here today.

I work in this area every day. I work with the offender every day and I see a lot of the issues and problems firsthand.

Over the past 8 years, Second Chances has served more than 1200 offenders; provided more than 900 jobs at an average wage of $9.00 an hour; maintained more than a 73-percent retention rate for employment over 2 years, and something I neglected to include in my written statement, but after listening to Senator Brownback, I was reminded to include that we have maintained less than a 10-percent recidivism rate over the 8-year period, and that is for the entire 1200 that we have served.

We have initiated or implemented programs that work with children of incarcerated parents in providing tutoring, cultural outings, exposing them to alternative kinds of things.

We have instituted a housing initiative for offenders that are returning, that are homeless. It is a permanent supportive housing initiative.

We jointly collaborated with one of our late local State funders and the city of Norfolk, and implemented a housing program.

We have implemented three business enterprises where we hire offenders at a minimum wage of $8 an hour, and if they are able to get their license—and we help them get that, because that is a major challenge. A drivers license and ID when they leave prison is a major challenge and a major obstacle.

When they get a drivers license, we are able to pay them $12 an hour with benefits. It is a moving company, a landscaping company, and a building maintenance company that we have initiated to employ the offenders ourselves, aside from working with local employers.

There is a collateral cost, I think, to incarceration that largely goes unspoken. And let me just say, before I get fully into my presentation, that I wholeheartedly agree with the recommendations of Dr. Western.

He really touched on some significant points that I think we do not often think about when we talk about providing services to offenders, supporting re-entry initiatives, and the kinds of recommendations that he made earlier.

But the cost is one to the families, and most offenders that we see, actually, I believe, all come from a family, but most have families. One of the reasons that the stats that Senator Brownback quoted about a family member is five times more likely to be incarcerated themselves, is because the same conditions that existed for that offender will exist for that family member unless there is some intervening factor that we try to disrupt, if you will.

It is not because those people are predisposed to incarceration, but they are going to come up in the same conditions. The children are going to come up in the same conditions, they are going to be under-educated, have limited employment opportunities, with the same influences around them, and so they are subject to the same outcome and same results.

The greatest challenge that we face on a daily basis in working with the offenders is lack of pre-release planning and post-release services; pre-release planning, because the expectation of the offender is often quite different when they seek to get out, and the expectations of probation and parole, if they have a probation officer, if they happen to have any parole, which is getting less and less likely, the expectation of how helpful that parole officer will be, what family members will be.

We have instituted housing laws that are discriminatory, which makes it difficult for an offender to even go back and connect with his family.

I know, locally, in the city of Norfolk, with our local housing authority, if an offender were to try to use his family as a stabilizing source or force, whereas most people that get in life crisis or life challenge or difficulty can go to family, he cannot. He cannot be seen connected with the family.

He cannot go into that community again. Private-sector housing persons are able to discriminate, based on him having a record, so it is less and less likely that he can even get an apartment or place of his own, even if he has resources.

Recently, the State of Virginia became one of seven States around the country to participate in the National Governors Association Re-entry Policy Academy. Virginia subsequently initiated

five pilot programs around the State, but they have done so with no funding.

And with no funding, there are no counselors to initiate pre-release planning, there is no funding to support post-releases services to help people with case management, to help people with job placement, job referrals, life skills training, any kind of skills training that creates a situation where the person is better off coming out than they were going in.

Those are some of the challenges that we face. I would venture to say, at the legislative level, both locally, statewide, and federally, we have had an approach that sort of advocates revenge as opposed to exacting public justice.

It seems that we advocate for revenge, and so we get systems—and when we work with offenders, like local circuit court systems, collection agencies that seem content on exacting greater levels of punishment, they feel compelled to perpetuate the punishment, like, I want to be a part of this that makes it more difficult for you to make a transition, so that the offender gets no support.

If he is trying to get a collection on how many court costs and fines he has, child support enforcement, that locks him up when he is not working and says it is voluntary unemployment, so he cannot earn money to pay off child support that he is already amassed.

And so it seems that at every level, somebody else is exacting more punishment. I will say this one last thing, Senator Webb: A young lady came into my office. She was a part of our program for a long time, and she has become a part of a group we call the Advocates for Second Chances, and she advocates for other people that are going through life transition in the peer support group.

And she had been recently turned down for a license to get her nursing license. She had gone to school, she had gone through all the hoops, she had lost two jobs the year before, and she came in my office and she sat down and she started crying.

She asked me, she said, it has been 18 years and I would like to know, when is the debt paid? At what point is this debt going to be paid?

And I think a lot of our offenders face that daily, where there seems to be no end to the punishment. Thank you.

[The prepared statement of Mr. Albert appears in the Submissions for the Record on page 65.]

Senator Webb. Thank you very much, Mr. Albert. I couldn't agree more with what you just said.

Dr. Jacobson, welcome.

STATEMENT OF DR. MICHAEL P. JACOBSON, DIRECTOR, VERA INSTITUTE OF JUSTICE

Dr. Jacobson. Thank you, and good morning Senator Webb, Vice Chair Maloney, and to the rest of the Committee members for inviting me here today.

The United States now spends over $60 billion annually to maintain its Corrections System, reflecting the fact that we imprison—as we have heard many times today—a greater percentage of our population than any other nation on earth.

In the last 30 years we have seen our jail and prison population rise from almost 250,000 to almost 2.3 million currently, nearly a

tenfold increase. The strain that this geometric increase in those incarcerated puts on our States and cities is cumulative and continues to grow.

Over the last decade and a half, the only function of State governments that has grown as a percentage of overall State budgets is, with the exception of Medicaid, corrections. The rate of growth of spending on corrections in State budgets exceeds that for education, health care, social services, transportation, and environmental protection.

There is a very clear relationship between the amount of money we spend on prisons and the amount that is available, or not available, for all these other essential areas of government. In many States—and California is one that specifically comes to mind—one can literally see money move in the budget from primary and secondary education to prisons.

State budgets tend to be largely zero-sum games, and increases in corrections spending have absolutely held down spending in these other areas of government, many of which are also directly related to public safety.

Of course the obvious question this raises is: What do we get for that money? Certainly there should be some significant connection between our tremendous use of prison and public safety.

As most people know, the United States experienced a large crime decline from the early 1990s to the early 2000s, and it would seem to make intuitive sense that our significantly increasing prison systems played a major role in that decline.

In fact, it is a far more mixed story than it appears. There is consensus among criminologists and social scientists that over the last decade our increased use of prison was responsible for only some—maybe one-fifth, but by no means most—of the national crime decline.

Additionally, there is also agreement that going forward putting even more people in prison will have declining effectiveness as we put more and more people in prison who present less and less of a threat to public safety.

At this point, putting greater numbers of people into prison as a way to achieve more public safety is one of the least effective ways we know of to decrease crime.

We know, for instance, that even after spending tens of billions of dollars on incarceration, more than half of those leaving prison are back in prison within 3 years, not a result that anyone should be proud of.

We know that targeted spending for effective in-prison and post-prison re-entry programs will reduce crime, and thus the number of victims, more substantially than any prison expansion. We know that diverting people who are not threats to public safety from prison into serious and structured community-based alternatives to prison is more effective than simply continuing to incarcerate these same people at huge expense.

In the same vein, research shows that increasing high school graduation rates, certain neighborhood-based law enforcement initiatives, and increases in employment and wages will also more effectively reduce crime than a greater use of prison.

We also know that incarcerating so much of our population, and especially the disproportionate incarceration of people of color, comes with other costs as well. We have heard many of them already.

Hundreds of thousands of people leave prison annually with no right to vote, no access to public housing, hugely limited ability to find employment, and high levels of drug use and mental illness.

These unintended consequences of incarceration ripple through families and communities as those returning home are overwhelmed by seemingly intractable obstacles. Not surprisingly, astounding numbers wind up returning to prison, further draining scarce resources that could be made available to deal with some of these obstacles themselves.

As someone who used to run the largest city jail system in the country, I know that most people who leave jail and prison do not want to go back. It is a miserable and degrading experience, and my colleagues who run these systems and I always marvel about the number of people who, once they leave prison, want to make good and do good.

Once they leave, however, they are confronted by such overwhelming barriers on which we currently spend almost no money or attention that no one should be surprised when these same people return to prison so soon.

We know that States can continue to decrease crime and simultaneously decrease prison populations. New York State, for example, for the last 7 years has seen the largest decrease in its prison population of any State in the country—a decline of 14 percent.

The rest of the States increased their prison populations by an average of 12 percent over the same time period, and many States increased far more than that.

At that same time, violent crime decreased in New York State by 20 percent compared to just over 1 percent for the rest of the country.

Prison populations can drop, along with crime and victimization. If we were serious about using our limited resources most effectively to reduce crime and victimization and increase public safety, then we would begin to responsibly and systematically transfer to community-based prevention, re-entry, and capacity building some of the resources now used to imprison people.

It is important to stress here that this is an issue of public safety. Even putting aside all arguments about efficiency and effectiveness, talking only in terms of public safety, we will all be safer if we begin to re-invest into other programmatic initiatives both inside and outside the criminal justice system some of the money that now goes to incarcerate people who do not pose a threat to public safety and who, in fact, become more of a threat to public safety once they have been imprisoned.

The fact is that almost all the extant research points out that our prison system is too big, too expensive, drains funds away from other essential areas that can more effectively increase public safety, and is harmful to our poorest communities.

Despite all this research, however, we continue to imprison more and more people. There are a host of reasons for this ongoing trend, including the attraction of prisons as engines of economic de-

velopment for rural communities, the financial incentives for public employee unions as well as for the private prison industry in spending more on prisons, the realities of the budget process and constrained budgets that limit opportunities to make substantial investments in new initiatives, and the omnipresent hyper-politics that surround issues of crime and punishment in the United States.

These are all formidable obstacles, but none should be sufficient to keep us from educating policymakers and the public that there is a better way to be safe and have less crime. Thank you.

[The prepared statement of Dr. Jacobson appears in the Submissions for the Record on page 66.]

Senator Webb. Thank you very much.

Mr. Nolan, welcome.

STATEMENT OF PAT NOLAN, VICE PRESIDENT, PRISON FELLOWSHIP

Mr. Nolan. Thank you.

Mr. Chairman and Members, I appreciate very much this opportunity to share my thoughts with you on the costs of the massive increase in incarceration in the United States. As Mr. Chairman mentioned, I am vice president of Prison Fellowship and served in the California Legislature for 15 years, 4 of those as Republican leader. I was reliably tough on crime legislator.

I was one of the original sponsors of the Victims Bill of Rights and was awarded the Victims Advocate Award by Parents of Murdered Children.

Then I was prosecuted for a campaign contribution I accepted which turned out to be part of an F.B.I. sting, and I served 29 months in Federal custody.

Now God has placed me in a position of Prison Fellowship that allows me to share my observation with government officials like you to use my experience as a lawyer, a legislator, and a prisoner to improve our system.

The figures on incarceration are staggering. One in every 32 adult Americans is in prison or on supervised release—1 in every 32.

Prisons have become the fastest growing item in State budgets, siphoning off dollars that could otherwise be available for schools, roads, and hospitals. Offenders serve their sentences in overcrowded prisons where they are exposed to the horrors of violence, including rape; isolation from family and friends; and despair.

The best way I can describe to you how it feels to be in prison is: I was an amputee. I was cut off from my family, from my home, from my community, from my job, and from my church. Then, with my stumps still bleeding, I was tossed into a roiling cauldron of anger, bitterness, despair, and often violence.

Most inmates are idle in prison, warehoused with little preparation to make better choices when they return to the free world. Just one-third of all released prisoners will receive vocational or educational training in prison.

While about 3 of every 4 prisoners has a substance abuse problem, less than 20 percent will receive any drug-abuse treatment while they are incarcerated.

The number of returning inmates is now four times what it was just 20 years ago, yet there are fewer programs to prepare them for a successful return to our communities.

On leaving prisons they will have difficulty finding employment. The odds are great that they will return to prison. More than 700,000 inmates will be released next year from our prisons. To put that in context: That is three times the size of the United States Marine Corps. Over 1900 felons a day will be released from prisons and returned home.

What has been done to prepare them to live healthy, productive lives? What kind of neighbors will they be? Our large investment in prisons might be justified if inmates were reformed in their hearts and their habits, but most inmates do not leave prisons transformed into law-abiding citizens.

In fact, the very skills they learn inside to survive make them anti-social when they come home. The fact of the matter is that if things continue as they are, most of the inmates released will commit more crimes.

Over the last 30 years, the rate of recidivism has remained steadily at about two-thirds. If two-thirds of the patients leaving a hospital went home sick, we would find a better way to treat them.

We have to find a better way to help inmates change their lives so they can live safely in the community.

One important step would be to pass the Second Chance Act. I am delighted that so many members on the dais are co-sponsors of it. We are very close to passing it. It will help our States and communities develop ways to prepare inmates for their safe and successful transition home.

But in addition to prison preparation, we must also examine the sentencing statutes that put so many nonviolent offenders in prison. Certainly we need prisons to separate the dangerous offenders from our society. But given the over-crowding and violence in our prisons, why on earth would we send a nonviolent person to prison?

Prisons are for people we are afraid of. Yet our sentencing laws have filled them with people we are just mad at.

Changing our sentences so that low-risk offenders are punished in the community under strict supervision would reduce overcrowding in prisons and help control the violence. It would hold low-risk offenders accountable without exposing them to violence and the great difficulties of transitioning back to employment in the community after their sentence.

The moment after offenders step off the bus, they face several critical decisions:

Where will they live?

Where can they get a meal?

Where should they look for a job?

How do they get to the job interview?

And where can they earn enough money just to pay for the necessities of life?

Returning inmates are also confronted with many details that are just personal business, for example, obtaining ID cards. Why on earth would we send inmates home from prison without an ID or a license? We know who they are.

Some States—Alabama, for instance, gives them a check for $5, but no ID. Now how do you cash that check when you get home?

Making medical appointments is extremely difficult for them, as is working through the many bureaucratic problems of everyday life. Individually they are difficult. Taken together, they can be overwhelming.

The difficulties that inmates face prompt intense stress, and they worry about the logistics of just getting by. To someone who has had no control over their lives for a period of years, it floods them with too much, too many decisions to make.

My own experience is a good example. The day I came to the halfway house, a bunch of my buddies from the capitol took me to the 8th Street Deli. They all ordered. The waiter stood there. I knew what I was supposed to do, but my eyes raced over the menu and I was paralyzed. I couldn't decide what to order.

For 2 years I had not had a choice over what to eat. So finally, out of embarrassment, I just ordered what my eyes lit upon just to get that humiliation over with.

Now, think about the person that leaves prison that did not come from a good family, that did not have my education, that did not have the strong faith I had. How do they deal with all these issues? Issues of life and death in many cases. That's what confronts them. And we do so little to prepare them.

I realize I am running out of time. I would just like to make a couple of extra points. One is the importance of mentors and the Second Chance Act as a grant program to help community and faith-based groups establish mentoring programs.

What at-risk people need are loving people to help them with all these decisions I just discussed. Dr. King said: "To change someone, you must first love them and they must know that they are loved."

The government and its programs cannot love a person; only people can do that. So we really need to encourage volunteers, most of which come from churches, synagogues, and mosques, to come along beside these people and invest in them.

Prison Fellowship for 31 years has served prisoners, ex-prisoners, and their families. We have found six things that are essential.

One is: Community. Put men and women in facilities, in dorms, housing units, where those that want to change their lives can have a community free from the usual prison atmosphere.

Second: Consistency. Being able to work with them on a consistent and frequent basis—daily if possible.

Third: Character. A focus on moral and personal issues that led to criminal behavior. The inmates need a moral compass to help them make the decision when they get out. They say "character" is doing what is right when no one is looking. We have to help them understand why that is important.

Fourth: It is comprehensive. It should focus on transformation of every aspect of their lives: Spiritual formation, education, vocational training, substance abuse treatment, life skill training, and parental skills.

Fifth: It should be continuous. It should start in prison——

Senator Webb. Mr. Nolan, we are going to have to ask you to summarize your remarks.

Mr. Nolan. As a State legislator I made the mistake of thinking that locking up more people would automatically make us safer. Only when I was in prison did I realize that imprisoning so many of our people while doing little to prepare them to come home actually makes us less safe.

When two out of three inmates are arrested within 3 years of release, our criminal justice system is failing us. Prisons do not exist as an end in themselves. They exist to make our communities safer. We must hold them accountable to do that.

I am grateful to God that I live in the United States so that Inmate 06833097 can come and testify before Congress and express my opinions without fear of arrest. And I am so grateful to all of you for caring enough to hold this hearing and try to start a public discussion of this serious problem that confronts us.

Thank you.

[The prepared statement of Mr. Nolan appears in the Submissions for the Record on page 68.]

Senator Webb. Thank you very much, Mr. Nolan, for your testimony. I appreciate all of the testimony today. It has been very eloquent, and I appreciate the patience of our colleagues here. We all have to run according to the clock, but there is so much valuable information that we need to be listening to, so I did extend the clock quite a bit.

I will begin our question period. We will go down the line and have more than one round, if people want to ask further questions.

I would like to just quickly start off by saying I became interested in this on a policy level about 25 years ago when I was, to my knowledge, the first American journalist who was able to get inside the Japanese jail system. I did a story for Parade Magazine about Americans in Japanese Jails.

At that time, even though I had been a committee counsel here, and I had a law degree, it was the first time that I really sat down and read—I read all of the Bureau of Justice Statistics about crime in the United States to try to make a comparison, and there were a couple of things that jumped out at me at that point.

One was that Japan had a population half the United States, one-half exactly at that time, and they only had 40,000 people in jail. They had 50,000 people under government control, 10,000 awaiting resolution of their cases. But at that time we had 780,000 people in jail, and we were probably second in the world in terms of the incarceration rate. Now we have got more than 2 million people in jail.

I have followed this over the years, and I am grateful that I have had the opportunity to be able to start to work on this process, and I am committed to trying to do something about this not just today in this hearing but in the future.

One of the things that needs to happen in my opinion, whenever you start trying to turn policies around, is that the American public needs to understand the dimensions of the problem, the cultural dimensions of the problem rather than simply going to one bill or another bill.

In the testimony today there were a couple of things that had come up. And Dr. Loury you were very specific about this in your writings, which I have found to be incredibly perceptive.

Karl Zinsmeister, who works in the White House now.

Vice Chair Maloney. Chairman Webb, we have a series of votes in the House, so we——

Senator Webb. Would you like to say something before you go, then?

Vice Chair Maloney. I just would like to——

Senator Webb. I will interrupt my questions and——

Vice Chair Maloney. Just 2 seconds to welcome very strongly Dr. Jacobson, who has served with great distinction in the city in which I live, and I know him from my city council days. Congratulations on your service. I thought all of your testimony was very moving, and we want to do something about it. But right now we have got to go vote and we will try to get back, but thank you.

Senator Webb. Well thank you very much for coming over, and I hope we can work on this more in the future.

Two pieces come together, and I would like to get your reactions on this: One is that Karl Zinsmeister was saying at a panel—he works for President Bush now, he used to be the editor of American Enterprise Magazine and had worked for Senator Moynihan at one point—he was talking about the fact that family stability is a key indicator to success in America.

And what we see here when you are discussing the adverse effects of the avalanche that continues down when we go into incarceration is the incredible impact on and the destruction of the family, particularly in the Black community right now.

A second piece that I find very persuasive—and I would like to get your reactions to—is this notion, and Dr. Loury you mentioned it specifically with your charts up here—that particularly in drug cases, the point of arrest seems to identify who the criminal is, rather than the conduct itself. You go into these neighborhoods where drugs are being sold, and the abnormality of, or the skewing of, the statistics becomes a function of where the arrests are made. The arrests are made in a specific spot because that is where the drugs are sold, which tends to skew the prison population—I would like to get your further thoughts on both of those points.

We could just start down the panel, any way you want to discuss them. I think the American public needs to understand both of those.

Dr. Loury. Well, let me just take this opportunity, in response to the question to call attention to some charts that I wanted to show during my testimony but did not have an opportunity to, which is a geographical map of New York City, "Changes In Spatial Concentration of Incarceration In New York City."

[The referenced chart appears in the Submissions for the Record on page 53.]

So there is the chart. This is drawn from the work of the sociologists at Columbia University, the criminologist Jeffrey Fagan and his colleagues.

Basically what is shown there are the areas (in red) with the highest concentration of persons incarcerated in New York State, who lived in New York City prior to their incarceration.

The Black area is the next-highest level of concentration. And you can see there is a very geographically specific pattern to where people live in the city who end up going to prison from the city:

certain neighborhoods in the north of Manhattan, in the south of Bronx, in Brooklyn, and in Queens. That was 1985 on the left panel. The right panel is 1996.

What you see is that the areas of high concentration in 1985 are also areas of high concentration in 1996, but they have grown bigger; this shows that the epidemiology—the spatial pattern—of incarceration has a very clear structure in these particular areas of the city.

The authors of the study from which that figure is drawn go on to observe that one consequence of this is that people who live in those neighborhoods who are incarcerated, once they are released from prison, come back to those neighborhoods; that police officers in pursuit of criminals are disproportionately——

Senator Webb. Excuse me, Dr. Loury, may I interrupt you one second?

Dr. Loury. Yes. Am I taking too much time?

Senator Webb. Congressman Hinchey has to leave for votes, and I wanted to give him an opportunity to make any statements——

Dr. Loury. Yes, of course.

Senator Webb [continuing]. Or ask any questions before he leaves.

Representative Hinchey. Well, Senator Webb, I thank you very much once again. And, Dr. Loury, please excuse the interruption.

Dr. Loury. Not at all.

Representative Hinchey. Sorry we're having this series of votes, but they are going to take another 40 minutes before they are over. We have six votes coming up, unfortunately.

I just want to express my appreciation to you for bringing our attention to this issue, and for all of you and the testimonies that you have given.

The focus of that testimony has largely been on the impacts that these circumstances and this structure has on the individuals, their families, and to a large extent also on our society.

I would like to focus attention on one other aspect of this. That is, the causes. The causes of these high rates of incarceration, and the solutions that we should be addressing ourselves to try to reduce these high rates of incarcerations.

I think one of the problems that we confront is the definition of crime, which was altered dramatically, as you pointed out, all of you, in the mid-1970s and from there on, the so-called War on Drugs, for example, is a creation that was put into place largely for political purposes, I believe, and I think that that really needs to be addressed.

So many of the people—the largest percentage, I believe, of the people that we have in prison across the country both State and Federal are based upon offenses dealing with the drug issue. And the "War on Drugs" reminds me of the establishment of Prohibition back in the 1920s, and that created a huge influx of various sorts of crime and disruption within our entire society.

So I think that these are some of the things that we need to address, and I would like very much to be able to work with you, Sen-

ator, or both of you—I know you are both strongly committed to this issue—and I hope that we can come up with some solutions.

So once again, thank you.

Senator Webb. We appreciate your support. Hopefully we can get the House interested in the Second Chances Act as a starting point on this.

Representative Hinchey. Yes, indeed.

Senator Webb. Thank you very much, Congressman.

I did not mean to interrupt you.

Dr. Loury. Not at all, and I think I may have been going on. I want to give others the chance. May I just comment briefly on your reference to Mr. Zinsmeister and the issue of the family.

What I want to say about that is: Yes, of course strong families are a very good thing, and where families are strong criminal offending can be expected to be less. But the other thing that I want to add is that association is not causation.

One point that I think we need to be clear about here is that sometimes common factors can be both undermining the strength of the family and promoting criminal participation in the population.

So, you know, it would be wonderful if the family were stronger, particularly within the African American community, but it may be a mistake to say: Oh, if we could only strengthen the family, then everything would be all right. Because, as I have said, the fact that common factors of disadvantage, and stress, and economic marginality may be both undermining family relations and promoting criminality.

Senator Webb. Thank you very much.

Dr. Western, do you have any thoughts on this?

Dr. Western. Three quick thoughts on the family, Senator:

The men in prison are much more likely to have low levels of education, poor work histories, and to be economically disadvantaged in a whole variety of ways, but they are not any less likely to have children than the rest of the population. So they are as connected to children in that sense as the rest of the population.

The implication of this is that these very high rates of incarceration are creating very high rates of paternal incarceration. So there are very large numbers of children now who are experiencing a parent being sent to prison, and they parallel the figures that we have seen for incarceration rates for adults.

Incarceration is very stigmatic. The stigma of incarceration, the loss in social status, ethnographic evidence shows is passed on to children.

As well, incarceration is associated—the third point with increased risk of divorce and separation. So this run-up in the incarceration rate has been tremendously corrosive of family structure in the poor communities most affected.

On drug arrests, very quickly, drug regulation is a very different category of crime from all others. We do not have good figures on the level of drug use in the population. There are surveys, but the main figures we rely on are arrest rates. And arrest rates are produced largely through policy decisions about policing and not underlying patterns of offending.

Where drugs are traded in public space, as they are in urban areas, rather than in private spaces, they are in suburban homes, we are going to see patterns of policing, I think, that are going to generate these very large racial disparities that we saw in the statistics that Professor Loury presented.

So I think these trends in drug arrests we see do not reflect trends in underlying behavior, but they are very much produced by decisions about policing. And because of the nature of the drug trade, that significantly explains the racial disparities we have observed.

Senator Webb. I think it is important for the American public to understand that. That is one reason I wanted to flag it. As you reach for a solution, this is not a pattern of behavior so much as it is a pattern of arrest, quite frankly.

Dr. Western. I think that is absolutely correct.

Senator Webb. Mr. Albert, would you like to add anything on this?

Mr. Albert. Just the fact, Senator Webb, that I think a lot does happen at arrest. I happen to sit on a local committee that is grant-funded to look at something called "Disproportionate Minority Contact." And one of the challenges, I think, to this Committee is assigning blame without assigning blame: Looking at every point in the process where there is a decision to be made about how to charge someone. What type of offense to charge a person with, if there is indeed an offense that has been committed? And this is affecting juveniles, but I think the same holds true for adults.

At the decision-making point, at every point in the system, the decision consistently is made in the extreme for minorities, and I think that gets the results that we see today.

Now at some point something drives that. And I think a lot of it has to do with perception. I think a lot of it has to do with living patterns. I think a lot of it has to do with our decisions about where to allocate resources; the quality-of-life kinds of calls for service, and all of a sudden that becomes a problem neighborhood.

It is easier to see certain things that cost more resources to investigate when people are able to do things inside their home, in closed communities, and so it is an easy issue to address.

So it is one of those things for me that is both simple and complicated at the same time. I think it is simple to see and understand, but very complicated to address.

Senator Webb. Dr. Jacobson? Mr. Nolan?

Dr. Jacobson. Yes, two quick points. One is on the relatively low-level drug arrests issue, in addition to all the issues that have been raised here.

Compared to having almost no one in State prisons for drug offenses 20 years ago, there are probably something like 300,000 people there now. Again, if you look at the extant research, drug sale and possession cases are crimes for which criminologists tend to feel that incarceration provides absolutely no public safety benefit.

It is very different from incarcerating someone who commits violent crimes or someone who is a rapist. There you are obviously deterring that behavior. The person is in prison. There is hopefully some general deterrence.

When you imprison what is usually some young kid dealing drugs on the street corner, you get what criminologists tend to call a one-for-one replacement. With that person in prison, there is an economic opportunity. It is a job. Someone else takes up that activity.

So you wind up spending incredible sums of money making people worse when they come out and getting essentially nothing from it except harm.

The other point that I would like to make related to all of this is: If you look at Professor Loury's charts up there, which happen to represent New York City but that could represent any city in this country, they all have the same patterns. There are incredibly concentrated geographic areas of mostly cities' poorest residents, and primarily communities of color that have huge numbers of people go up and back to State prison.

If you look at where those residents come from, how many there are, and the percentage they make up of the State prison population, New York State spends—and this is true in every State—hundreds of millions of dollars on the residents of those poorest communities. We just do not spend any of that money in those communities. We take people out of those communities, and we spend that money to hold them upstate.

And as long as we continue spending money on prisons instead of spending it on strengthening those communities and building them up, this cycle will continue.

This gets back to my point about using the money we now spend differently. We spend huge amounts of money on people who live in the poorest areas in any city. It's just that the money does not go to those areas, it goes to different areas.

Senator Webb. Thank you. I apologize for going over, Senator Casey, but we had those interruptions.

Senator Casey. That is OK.

Senator Webb [continuing]. One more thought, and then I'll turn it over to you.

Mr. Nolan. I will be quick. Two things.

One thing is: It should be the focus of our prison system to maintain and strengthen family ties. Sadly, it is the opposite. We place prisoners far from their families; oftentimes make it impossible, especially for the poor families, to visit.

We treat families very disrespectfully when they come to visit. The visitation facilities are terrible. Hours are short. We have astronomical phone costs which make it hard to stay in touch that way.

While I was in prison, I tried to read to my children over the phone. I would go over their report cards. I would read books they were reading in school. Now the Federal system limits the number of calls, and limits the number of phone numbers on inmates' call lists.

Prison Fellowship has a program called Angel Tree that reaches out to children with a gift from their incarcerated parent. It is important that we keep those family bonds strong. We should do more to knit those bonds together.

Another program in New York City La Bodega de la Familia, which aims at healing the whole family. They deal with the incar-

cerated parent, the spouse, girlfriend, or whatever, and children on the outside to reconcile them—there are oftentimes anger issues and frustration with the crime. They deal with codependency and actual dependency to try to ensure there is a welcoming home for them to come to.

The last thing is Mr. Hinchey brought up the definition of "crime." When our Nation was founded there were four crimes: piracy—Federal crimes—piracy, counterfeiting, treason, I'm missing one. Anyway, there are now over 4,000 statutory crimes, and tens of thousands of regulations that are de facto crimes that there doesn't have to be criminal intent, you are just convicted of them.

There is a group left and right called "Over-Criminalized.org," which includes the National Association of Criminal Defense Council, Heritage Foundation, ACLU, and Prison Fellowship. The group is looking at why do we have all these laws that make criminals of what are essentially normal relations between people? And why do we have so many laws that put people in prison for things that are just decisions of society that "we don't like this," as opposed to being inherently evil or bad.

Senator Webb. Thank you.

I would like to note at this point that a statement from Congresswoman Sheila Jackson-Lee will be entered into the hearing record. I neglected to say that earlier.

[The prepared statement of Representative Sheila Jackson-Lee appears in the Submissions for the Record on page 73.]

Senator Webb. Senator Casey, thank you for your patience, sir.

Senator Casey. Thank you, Senator Webb. I appreciate you calling this hearing.

I guess we will continue the left to right movement here.

Dr. Loury, I wanted to ask you about something you testified to. I took a quick note, and I am not sure I got it all, but part of your testimony talked about the increase in the number of arrests—and I know you spoke to that a couple of times—but also the dramatic rise in emergency room admissions.

Can you go back to that and just reiterate what you said about that, because it is a pretty dramatic fact.

Dr. Loury. Yes, I can. I had the chart called "Winning The War? Drug Prices, Emergency Treatment, and Incarceration Rates." It is not a floor chart; it was just on the handout.

[The referenced chart appears in the Submissions to the Record on page 52.]

Senator Casey. Oh, that is what it was. I think when you referred to it I did not have the handouts. I do not know if there is a——

Dr. Loury. Yes, sir. There is a handout, and there is a chart here that is taken from the research of John Caulkins and his colleagues at Carnegie Mellon University, and it basically tries to measure over the 20-year period of 1980 to 2000 both the extent of incarceration and emergency room admissions for drug-related maladies.

That is the dashed line in the chart there. The solid line is imprisonment, numbers of persons in prison for drug offenses. And then it juxtaposes with those trends the trend in the same time period of the quality-adjusted price of drugs on the streets of Amer-

ican cities, as best one could estimate it, and my point was simply to say that the solid line for imprisonment goes up. The dashed line for emergency room admissions goes up. But the lines for the prices are going down.

What that is telling me is that we are incarcerating more people, but as has just been noted here, you lock up someone who is selling drugs, but you don't get rid of the market, you just create an opportunity for someone else to sell drugs.

So we have not been effective at raising the price of drugs on the street; nor have we been effective at keeping people from getting and abusing the drugs in the sense that at least one indicator of that—emergency room admissions shows itself to be trending upward over this period.

So that is what I was trying to say.

Senator Casey. No, I appreciate that. And this is a great chart to have—of course it is always better if there is color, but we can work on a chart—but it really is a dramatic presentation, that even though arrests are up, ER admissions are up as well, and the price question is significant as well.

I guess I want to play devil's advocate. I guess for the whole panel. Look, if someone is watching this hearing and they see the charts we have had, and they see the testimony just on the possession issue, or arrests for possession, they may be watching. And I am not sure I fully understand some of the points that we are trying to make here.

They may be watching or listening, and they say: Well, look, if a law enforcement official encounters someone on the street and there is a law in place that you are supposed to arrest someone who has a controlled substance on them, and they arrest them, and that number keeps getting bigger, what are we arguing about here? Why is that a problem?

And I think most people can differentiate and place a greater weight on, or understand the reason we penalize those who sell drugs maybe at a higher intensity than we penalize those who are, quote, "only" in possession, but (a) how do you deal with the devil's advocate question about: Look, they were possessing a substance, and they are arrested for it, and the numbers are going up. That is one question.

But then how also do you deal with the other question, which is: Where is the problem there? Is the problem with the policy of arrest? Or is the problem with what happens after they are arrested? Or that we are locking too many of them up for, quote, "only" possession as opposed to selling?

I guess there are two big questions there. One is the devil's advocate question. And the other is where is the problem with the policy.

I don't know if I'm throwing it out to all of you, but each of you I know has some experience with these questions. Anybody.

Mr. Albert. I can speak——

Senator Casey. Mr. Albert.

Mr. Albert. Thank you. I can speak very briefly to something we see with some low-level kinds of things. I will use as an example a marijuana arrest.

The police officer has the discretion to, say, take a person to jail, in which case they have to post bail. And they risk some other kinds of factors like staying in jail a long time. If he's employed, risk losing employment. Being separated from his family if he can't post bail. Or, to give him a summons to appear in court, and then have the judge, once he appears in court with the summons, give him some kind of community alternative as opposed to incarceration.

If the decision is made to arrest him and he cannot post bail, then his life is more complicated. He is in jail obviously longer. It costs the system more, obviously, to incarcerate him. He risks losing a job if he has one, and disrupting his family.

The judge is more likely to sentence him to incarceration if he comes in front of the judge—and I am not an academician; I have not studied this, but I can tell you from my personal experiences from what I see in dealing with the people, if a person comes before the judge already incarcerated, he is more likely to be incarcerated by the judge if he is found guilty.

If he comes in from the street as a result of a summons, or having posted bail, then there is a greater likelihood—and this is purely anecdotal—that he will be given an alternative, and not be incarcerated.

So that is one example of how the decision at the point of contact is made that really starts the ball rolling. Once in jail, then there is a whole other set of factors that kicks in I think that sort of continues to exacerbate the issue.

Senator Casey. Well that example helps me a lot to understand this better. How do we change that? Not that we can enact laws to impact every decision a police officer makes, but is that because there is a uniformity in how to treat that particular offender at the street level? Or is it really that we have to focus on what police officers are told about their discretion when it comes to a first-time possession situation? Or what do you think it is?

Mr. Albert. I think police—and again I am purely speaking from my understanding of it—I think the police tend to——

Senator Casey. Well you have had a lot of experience. You have dealt with a lot of these programs, and this is valuable.

Mr. Albert. Sure. I think police tend to, in their decision making, reflect the sentiment of their community. And I think if a police officer sees a community going toward, or in the direction of an alternative to sentencing and an understanding of these kinds of things, if they see funding directed toward a program that sort of supports alternatives to incarceration and not sort of being quite as aggressive at the point of incarceration, they tend to make decisions that affect that.

I am just starting an office for the city of Norfolk called the Office of Public and Criminal Justice for the city. The idea that the city manager wanted to move forward with the entire city is that communities need justice. The kids deserve the same right to an opportunity for education and not live under the threat of gunfire. But in the context of that, we see police officers who are adjusting the way they police, interacting with the community a different way because they tend to reflect, I think, the sentiment of their community.

If they feel the community wants them to get extremely aggressive and tough at the point of contact, then I think they tend to do that. So I think as we support alternative programs, alternative to incarceration, as we support sort of these tactics that are not as aggressive with nonviolent offenses that tend to help people be more productive on the outside as opposed to incarceration, I think their mindsets tend to reflect that in their policing tactics and discretion.

Senator Casey. Thank you.

Dr. Jacobson. I think one other——

Senator Casey. Mr. Jacobson.

Dr. Jacobson [continuing]. Piece of that response to a person who asks, "What's wrong with it" , even absent the initial look at what police are making arrests for and how they use their discretion, addressing the assumption that once arrests have been made that it is perfectly appropriate to use jails and prisons for a variety of behaviors and crimes.

It is just not appropriate to use prison or jail for almost every behavior in crime. But we tend to use prison and jail as our default punishment. That is what we do. It happens to be an exceedingly expensive, punitive, and potentially harmful punishment. So you have to be really careful how you use it.

So part of the answer to, "What is wrong with putting people in jail or prison once you arrest them", is that the safety of the very person asking that question is affected if we put too many people in jail and prison. Because we are not dealing with their sobriety issues or their drug issues or their employment issues. And we know if we put people in jail or prison for relatively short periods of time, they are just going to be worse when they come out.

The person raising these issues is going to be more at risk of being victimized, but we cannot afford to spend money on the programs we know would work better because we are putting everyone in jail and prison.

So, it is a difficult decision to make. Governments should be very careful and parsimonious about how they make it. We tend to make the decision too easily for everyone because it works at some political level. It just does not work at a substantive level.

Senator Casey. Mr. Nolan?

Mr. Nolan. As a conservative I was suspicious of every branch of government—OSHA, DMV, CalTrans——

[Laughter.]

Mr. Nolan. But I turned a blind eye to law enforcement and prosecutors. I guess, thinking about it now, I guess it was because I felt their motives were right.

The reality is: They are just government employees like everyone else. In fact, I have said that to understand prisons, take a DMV office and string barbed wire around it and give the clerks guns. That is the mentality of prisons.

With prosecutors, it is the same way. I think police activity is often driven by the prosecutors, and prosecutors often want to drive up numbers. I will give you two examples of guys I did time with.

One was a fellow named Jerry that had a private plane. And he was offered a quick opportunity to make a lot of money flying drugs

into the United States from Mexico. He made one run, made a lot of money, decided he did not want to take that risk any more, he had too much at stake, and he and his wife went into a business making lunches and muffins and then going around to businesses in office buildings and selling them.

Seven years after that one plane flight, one of the guys that was in the drug deal was caught doing something else and the prosecutor said: Can you give us anybody else?

So they gave him Jerry. Jerry was prosecuted and got a 5-year sentence. Now that 5-year sentence did not stop one ounce of drugs from coming into the country. He was out of the business already. But that ran up the score.

The second thing was a fellow named Gordon, a family farmer from, I think he was from Montana, or Idaho. He was from Idaho, and his family farm was in trouble. So he began to grow a little pot and sell it on the side.

A girl that he knew, wasn't dating, but was beaten up by her boyfriend, and he gave her his gun to help protect herself. She was caught doing drugs, and of course the same thing, the prosecutor said: Can you give us anybody else? Oh, yeah, yeah, Gordon.

So she came, set up a deal to buy marijuana from him. At the buy she gave him the gun back. His sentence without the gun would have been a few months in prison. With the gun, it was a mandatory 5-year minimum.

Gordon didn't bring the gun to the buy. The prosecutors instructed the girl to bring it, which then set up the 5-year sentence. Setting up the gun charge did not prevent any more drugs from getting on the street, but it destroyed Gordon and his family.

Those prosecutors were looking for numbers to look like they were tough on crime. It would be better if they were held accountable for how their prosecutions stopped the flow of drugs into our cities.

One last thing. The crack/powder dispute should not be at the Federal level. Crack is sold on the local level on the street because it is chemically unstable and can't be transferred far. It is cooked and sold on the street. That is something the local police can handle.

The Federal Government should be focusing their prosecutions on the people who are transporting huge amounts of cocaine into the country and across State lines. That is where we ought to put our Federal effort, not busting little boutique street markets which sell small amounts of crack on the street.

Senator Casey. I know I am over, but I would just say by way of comment, if we have time before we go, and I will try to ask more, but I really appreciate the focus here on what I will call reentry, the process of leaving prison and how we have not thought nearly enough about it and do not have policies in place to prepare people for the exit into our society, and the numbers on—the number of felons released per day and the idea that we can just release them without any kind of preparation for them and expect them to make it in society.

That is a challenge that I think we have in the Federal Government, and State governments have that challenge as well.

But Senator Webb has the time I have borrowed from him.

Senator Webb. Thank you, Senator Casey.

I am going to ask another question, but if you care to.

Senator Casey. I think I have to run.

Senator Webb. OK.

Senator Casey. Thank you, very much.

Senator Webb. We appreciate your being here.

I would like to throw something out again that came from the observations that I made when I was looking at the Japanese prison system years ago.

One is, if you were sentenced to 4 or 5 years in a Japanese prison, you had really done something wrong. The sentencing in Japan is very short. They focus on solving a crime. They focus on catching the criminal.

But once the criminal is caught, once the process has gone forward, the length of sentence is not as important as having brought some resolution to the process.

The other thing that they did was they had two different categories of prisons. They did not do this by nature of the severity of a crime. They did it by whether you were a repeat offender.

They had Category A prisons and Category B prisons. I do not know whether they still do this. But a Category A prison was a first offender. Any kind of first offender. And what they did in these prisons, the Category A prisons, is they focused on the prospect of re-entry.

They gave serious skills classes. For instance, at that time, auto repair; today it probably would be computers. But when you got a certificate out of this process, it did not say "Fuchu (phonetic) Prison" on it. It said "Ministry of Labor" on it.

So when someone came out of that system, they had had one bite of the apple, and it was assumed that they were going to re-enter society and they had a productive certificate in their hand.

Then they had Category B prisons. Even if you were convicted of shop lifting five times, you would go to the repeat offender prison and those people made paper bags. They worked. But they did basic, other types of jobs. They were populated very heavily by organized crime, the organized criminals, the aysans (phonetic), and those sorts of things.

But that leads me to two questions. One is, do any of you have an opinion or a belief that length of sentence actually deters crime? I think obviously we do not want to give the wrong impression to people that we are trying to be soft on crime. There are certainly people who deserve to be locked up for a long period of time.

But, (a), does the length of sentence actually deter crime?

And (b), there has to be some other way of looking at a lot of these drug offenses. Let's be honest. Drug use is pandemic in the United States. Would you have thoughts on a different process for people involved in drug crimes, particularly crimes of possession or low-level sales?

Dr. Loury. Yes, I would just say briefly that I think we should repeal mandatory minimum drug laws, and that we should release non-violent drug offenders, or at least mandate treatment for them both within prison and outside.

I mean the point has already been made here that the public safety benefits of locking someone up for non-violent drug offending

are de minimis. And the general question that Dr. Jacobson has I think done a good job of articulating of how to efficiently use our limited incarceration resources is raised here.

I mean, it is also raised by Three Strikes' laws that hold people in prison beyond the time in their life cycle when they would be most likely to offend.

The United States, I have heard someone say, is the only country in the world where prison gerontologist is actually an occupational title.

Dr. Jacobson. The deterrence question is a fascinating question, and I am sure we could stay here all day and talk about it. I think most people who look at this stuff would say that the most important deterrent is swift apprehension and punishment.

In fact, the length of time you serve, whether it is 3 years or 6 years for sticking up a 7-11, is something people simply do not make rational calculations about. They don't think about it because they do not know it.

Senator Webb. They don't think about, "Am I going to get caught?"

Dr. Jacobson. Correct. And most people do not think they are going to get caught. Most State legislators do not know the length of times for the crimes that they legislate. The public does not know it, although they have some sense that this is illegal; if I do it, I will go to prison; but there is absolutely no evidence that any marginal increase in going from a sentence of 3 to 4, 4 to 6, 8 to 10, or 10 to 20 has any benefit on general deterrence and keeping people from committing crimes—certainly not in relation to how quickly you might get apprehended and punished. Even if the punishment is 10 percent of the sentence.

And to further Dr. Loury's point, it's not just the Three Strikes law, and all these mandatory minimums, which is why we have geriatric prisons. We keep people well beyond their crime-committing years, which does not do any good for specific deterrence. You're not getting anything from keeping that person in prison, and there is no evidence that you get that general deterrence either.

So why we keep people in prison as our prisoners age into their sixties, seventies and eighties, which is happening in almost every State, is an interesting question. It is all about retribution and punishment. And you can understand that at some level if you are the victim or the victim's family of some of the crimes that those people might have committed. But we should just be clear about that discussion.

It is not about public safety. We do not keep people in prison when they are in their sixties, seventies and eighties for public safety. It has absolutely nothing to do with that, and there are huge costs to doing that.

Mr. Nolan. Both Dr. Loury and Dr. Jacobson are absolutely right. Prisoners are not rational calculators. They do not think they will get caught. If they thought they would get caught, they would seriously consider the sentences.

Most of the folks I met in prison thought they were smarter than everybody. They never thought they would get caught.

Secondly, because we have scarce resources our system focuses on the broken law. Prison Fellowship supports restorative justice in which you look at the harm done to victims and to the community, and you weigh that. Under restorative justice, the system weighs the relative costs to society of imprisoning an offender, versus the harm they have done. Possessing drugs does not do great harm to society. Shooting a bystander at 7-11 does. That is what the public worries about.

As far as how to deal with drug possession, treatment is so much more effective than incarceration. Dr. Joe Califano, former Secretary of HEW, who is at Columbia University, said: To lock up an addict for 5 years, 10 years, 15 years, but do nothing about their underlying addiction, and then releasing them is a fraud. It is absolutely a fraud on the public.

I also have a suggestion for you, Mr. Chairman. If you could have the staff of this Joint Economic Committee do a study of the economic impact of mass incarceration, one thing is the effect on the economy and the effect on national defense.

With such a huge swath of young men limited in their employability and income after prison—you can see the studies that show that—and impaired with a conviction, they are not able to participate in the economy, buy cars, et cetera, and they also cannot join the military.

Senator Webb. That's one of the principal objectives of this hearing—its economic impact, and we do intend to continue to focus on that.

Mr. Nolan. I just compliment you so much for this.

Senator Webb. Dr. Western?

Dr. Western. So, time served has increased enormously over the last 20 years, so people are serving longer and longer, and estimates attribute about a third of the increase in State and Federal prison populations, to an increase in time served.

And you see this in the penal codes, with a much greater reliance on life sentences. My reading of the research is exactly the same as Dr. Jacobson's. It's not the severity of the sentence that deters, it's the certainty of apprehension, and this is reflected in the effects of the increase in the number of police on the reduction in crime through the 1990s.

That was the big driver of the crime drop, was the very large increase in the number of sworn officers on the street in large urban areas.

On drug possession, through the 1970s and 1980s, I think we can say that drug dealing became a shadow economy, and informal economy in poor neighborhoods, and a context in which there were very few legitimate opportunities, and also in a context in which the problems of drug addiction were becoming more severe.

So we could have treated what was a social and economic problem, in several different ways: We could have used social and economic policy instruments to address the development of this shadow economy in poor neighborhoods, but we chose to adopt a punitive approach that relied heavily on the criminal justice system.

It's not too late to adopt social and economic policy measures to reduce the problems associated with this shadow economy, and I think employment policy and measures for drug treatment have to

be significant parts of what an alternative policy approach would look like.

Senator Webb. Thank you. Does anyone else care to comment?

[No response.]

Senator Webb. I would like to thank all of you for having taken the time to be with us today. I hope we have begun a process here where we can start shedding the right kind of light on this enormously complicated issue.

On the one hand, I don't think there are any of us who would like to see improper enforcement of the laws. There are people who truly deserve to be in prison.

Again, as I said during my opening statement, we want to be able to break the back of gangs in this country and to deter those types of conduct that can be deterred.

At the same time, I hope, from this hearing, a number of my colleagues and people in the community can understand a little bit better the dynamic that has taken over this issue, which is an unhealthy dynamic for our country.

I intend to continue to focus on this, and I welcome all of your input, not only today, but in the future, to my staff.

We intend to see what we can do to rebalance the scales in this country.

Again, thank you very much for appearing with us today, and we appreciate your testimony very much. This hearing is closed.

[Applause.]

[Whereupon, at 12:05 p.m., the hearing was adjourned.]

Submissions for the Record

PREPARED STATEMENT OF SENATOR JIM WEBB

I would like to thank Chairman Schumer for agreeing to hold this important hearing and allowing me the opportunity to chair it. I would also like to thank our witnesses for appearing today. Following my remarks, I would ask Vice-Chair Maloney and Senator Brownback to make their opening statements.

Over the course of the period from the mid-1970s until today, the United States has embarked on one of the largest public policy experiments in our history, yet this experiment remains shockingly absent from public debate: the United States now imprisons a higher percentage of its citizens than any other country in the world.

In the name of "getting tough on crime," there are now 2.1 million Americans in federal, state, and local prisons and jails—more people than the populations of New Mexico, West Virginia, or several other states. Compared to our democratic, advanced market economy counterparts, the United States has more people in prison by several orders of magnitude.

All tolled, more than 7 million Americans are under some form of correction supervision, including probation and parole.

America's incarceration rate raises several serious questions. These include: the correlation between mass imprisonment and crime rates, the impact of incarceration on minority communities and women, the economic costs of the prison system, criminal justice policy, and transitioning ex-offenders back into their communities and into productive employment. Equally important, the prison system today calls into question the effects on our society more broadly.

As Winston Churchill noted in 1910, "The mood and temper of the public in regard to the treatment of crime and criminals is one of the most unfailing tests of the civilization of any country." With the world's largest prison population, our prisons test the limits of our democracy and push the boundaries of our moral identity.

The growth in the prison population is only nominally related to crime rates. Just last week in the Washington Post, the deputy director of the Bureau of Justice Statistics stated that "the growth [in the incarceration rate] wasn't really about increase[ed] crime but how we chose to respond to crime."

The steep increase in the number of people in prison is driven, according to most experts, by changes in drug policy and tougher sentencing, and not necessarily an increase in crime. Also, the composition of prison admissions has shifted toward less serious offenses: parole violations and drug offenses. Nearly 6 in 10 persons in state prison for a drug offense have no history of violence or significant selling activity. In 2005, four out of five drug arrests were for possession and only one out of five were for sales.

Is incarcerating low-level drug offenders working, particularly given recidivism rates?

The racial composition of America's prisons is alarming. Although African Americans constitute 14 percent of regular drug users, they are 37 percent of those arrested for drug offenses, and 56 percent of persons in state prisons for drug crimes. African Americans serve nearly as much time in federal prisons for drug offenses as whites do for violent crimes.

A black male who does not finish high school now has a 60 percent chance of going to jail. One who has finished high school has a 30 percent chance. We have reached a point where the principal nexus between young African-American men and our society is increasingly the criminal justice system.

Moreover, we are spending enormous amounts of money to maintain the prison system. The combined expenditures of local, state, and federal governments for law enforcement and corrections personnel total over $200 billion. Prison construction and operation has become sought after, if uncertain, tools of economic growth for rural communities.

Are there ways to spend less money, enhance public safety, *and* make a fairer prison system?

Having such a large prison population also has significant employment and productivity implications. The economic output of prisoners is mostly lost to society while they are imprisoned. These negative productivity effects continue after release. As we've gotten tough on crime, we've given up on rehabilitating offenders. And we've created additional barriers to reentry with "invisible punishments." These include ineligibility for certain government benefits, such as housing, public assistance, or student loans. It is no longer possible to pay your debt to society.

We want to keep bad people off our streets. We want to break the back of gangs, and we want to cut down on violent behavior. But there's something else going on when we're locking up such a high percentage of our people, marking them at an early age and in many cases eliminating their chances for a productive life as full citizens. It will take years of energy to address these problems. But I am committed to working on a solution that is both responsive to our needs for law and order, and fairer to those ensnared by this system.

I welcome the thoughts of our witnesses today regarding these important topics, and a continuing national dialogue to address these enormous policy issues.

I would like to introduce today's witnesses:

Professor Glenn Loury is the Merton P. Stoltz Professor of the Social Sciences at the Department of Economics at Brown University. He has taught previously at Boston, Harvard and Northwestern Universities, and the University of Michigan. Mr. Loury is a distinguished academic economist who has contributed to a variety of areas in applied microeconomic theory and written on racial inequality.

Professor Bruce Western is the Director of the Multidisciplinary Program in Inequality and Social Policy at the Kennedy School of Government. He taught at Princeton University from 1993 to 2007. Dr. Western's work has focused on the role of incarceration in social and economic inequality in American society. He is the author of *Punishment and Inequality in America*, a study of the growth and social impact of the American penal system.

Alphonso Albert is the Director of Second Chances, in Norfolk, Virginia, a program designed to provide comprehensive support services that lead to full-time employment and social stability for those individuals impacted by the stigma of being labeled "ex-offender." Prior to working with the Second Chances Program, Mr. Albert served as the Assistant Director and Business Liaison for the City of Norfolk's Enterprise Community initiative, Norfolk Works Inc.

Michael P. Jacobson is the director of the Vera Institute of Justice. He is the author of *Downsizing Prisons: How to Reduce Crime and End Mass Incarceration*. Prior to joining Vera, he was a professor at the City University of New York Graduate Center and the John Jay College of Criminal Justice. He has served as New York City's Correction Commissioner, Probation Commissioner, and Deputy Budget Director.

Pat Nolan is the Vice-President of Prison Fellowship, where he focuses on efforts to ensure that offenders are better prepared to live healthy, productive, law-abiding lives on their release. He served 15 years in the California State Assembly, four of them as the Assembly Republican Leader. Mr. Nolan has appeared before Congress to testify on matters such as prison work programs, juvenile justice and religious freedom.

Witnesses should please limit their remarks to five minutes, although their entire statements will be entered into the record. After all the witnesses have presented their testimony, we will move to questions.

JOINT ECONOMIC COMMITTEE
SENATOR CHARLES E. SCHUMER, CHAIRMAN
REPRESENTATIVE CAROLYN B. MALONEY, VICE CHAIR

PREPARED STATEMENT OF CAROLYN MALONEY, VICE CHAIR

Good morning. I would like to thank Chairman Schumer for holding this hearing to examine the economic, political, and social costs of incarceration. I also want to thank Senator Webb for chairing.

The United States has the highest incarceration rates in the world, with more than 2 million Americans currently in jails or prisons. Clearly, imprisonment benefits society and is an important public safety measure. But faced with an unprecedented increase in incarceration, we must ask ourselves whether we are striking the right balance between the costs and benefits of imprisonment.

Putting more resources into creating economic opportunities that provide alternatives to crime would pay dividends in reducing crime and incarceration, while also strengthening families and communities.

We all know that in the long run crime doesn't pay, but it sure is costly. The average annual cost of incarceration for one federal prisoner exceeds $20,000—far more than the average annual cost of $3,700 for a youth program, $6,000 for a job training program or the $13,000 for tuition at public universities.

There is no question that crime rates have dropped in the U.S. over the past decade. Researchers agree that the increase in incarceration rates have been driven by tougher sentences for repeat offenders and drug offenders, mandatory minimums, and a more punitive approach to post-release supervision, rather than an increase in crime.

The racial dimension of incarceration is inescapable. Half of our prison population is African American, yet they represent just 13 percent of the population as a whole. It has become a sad truth that a black man in his late twenties without a high school diploma is more likely to be in jail than to be working. The effect on black communities has been devastating.

As noted Harvard sociologist Orlando Patterson wrote in the *New York Times* recently, one in three African American males in their 30s now has a prison record. He somberly noted, "These numbers and rates are incomparably greater than anything achieved at the height of the Jim Crow era."

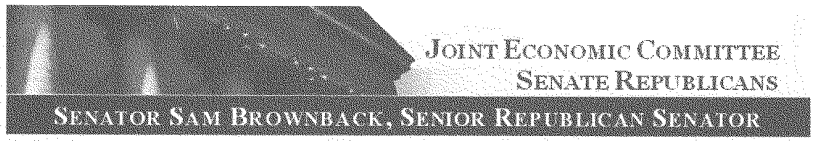
Women are typically convicted of nonviolent offenses. Most women who enter the criminal justice system have experienced physical or sexual abuse, and many have physical or mental health problems. These inmates may actually benefit from alternatives to imprisonment, such as suspended sentences coupled with extensive counseling.

When mothers are incarcerated, their children may be placed in foster care, or with other family members who then need financial assistance to provide for the children. Moreover, the removal of a significant family member can affect the healthy development of children.

The Catholic Charities Diocese of Brooklyn and Queens operate a week-long summer camp that provides opportunities for incarcerated mothers to have quality time with their children. Such programs serve as a means to maintain family bonds, and possibly provide a smoother transition and resumption of parental responsibilities upon release. If this program shows success, it could serve as a model for the nation.

Providing employment and training assistance for ex-offenders is critical to reducing barriers to employment, and it benefits families. I support the Second Chance Act of 2007, which provides grants for re-entry programs that provide mentoring, academic and vocation education, and employment assistance, and substance abuse treatment for ex-offenders.

I look forward to hearing from our distinguished panel about how best to protect public safety, while addressing the many costs of imprisonment.



Mr. Chairman, thank you for holding this important hearing regarding "Mass Incarceration in the Unites States: At What Cost?"

As you know, for some time, I, along with my colleagues on the judiciary committee, have been working extremely hard to enact legislation that will have a positive effect upon our prison system, the Recidivism Reduction and Second Chance Act of 2007.

It goes without saying that we have a broken prison system—and the results are devastating not only to those incarcerated and their families but to society as a whole.

This year alone, more than 650,000 inmates will be released from prison, and studies show that approximately two-thirds will likely be rearrested within three years of release.

The economic effects of our broken system are staggering and leave our state and local governments financially vulnerable.

State corrections systems across the country have experienced tremendous growth since 1980. Between 1980 and 2005, the total number of adults under corrections supervision (prisons, jails, probation, and parole) increased 283 percent from approximately 2 million in 1980 to more than 7 million in 2005. Likewise, state spending on corrections has grown faster than nearly any other state budget item—increasing from $9 billion in 1984 to $41 billion in 2004.

A recent report from the Pew Charitable Trusts revealed that the Nation's prison population is projected to grow an additional 13 percent over the next five years. State and federal prison populations are expected to add approximately 192,000 persons at a cost of $27.5 billion between 2006 and 2011.

It is time that we fix this broken system. It is time that we invest federal dollars wisely on programs that are successful in reducing the rates of recidivism for the program participants.

For too long, we have stood back and watched this situation deteriorate. I am pleased that there are States, such as Kansas, that are leading the way in innovative reentry programs with great success.

In 2007, the Kansas prison population was projected to grow 26 percent by 2016 at a cost to taxpayers of $500 million in additional construction and operating costs. High rates of failure among people on community supervision and low rates of in-prison program completion were identified as key factors driving the growth.

During the 2007 Session, Kansas policymakers overwhelmingly enacted a legislative package that is expected to avert the need to build nearly 1,300 new prison beds and to save the state $80 million over the next five years.

Mr. Chairman, we need to encourage such innovation and build upon the experiences of States such as Kansas in order to reduce crime and re-arrest and incarceration rates.

Although States have taken the first step in designing strategies to avert growth in their prison populations and corrections expenditures, they will need the support of the federal government going forward.

The role of the federal government in state and local re-entry must be limited, but can still have a significant impact.

I am pleased that our federal agencies have taken the lead and are collaborating on programs designed to increase public safety while providing services to inmates, which will, in turn, decrease recidivism.

Through legislation such as the Recidivism Reduction and Second Chance Act of 2007, small amounts of federal dollars can help to encourage innovation in re-entry, reduce recidivism and establish standards of performance.

In addition to the public response, organizations such as Prison Fellowship Ministries have led the way in providing non-profit assistance and I am pleased the Pat Nolan, Vice-President of Prison Fellowship Ministries is joining us today. These organizations are doing wonderful work in treating the "whole person"—this is beneficial to both inmates and their families and has transformed the lives of those who are incarcerated.

However, we must not stop here. We must continue to move toward rectifying the recidivism rates in this country.

Additionally, family environments need to be improved so that children are brought up under more stable conditions. Children who come from fatherless homes are 20 times more likely to be incarcerated and children who do not graduate high school are 3.5 times more likely to be incarcerated.

We can no longer set idly by and watch while ex-offenders and their families deteriorate—especially the children of those incarcerated—which not only leads to hardships for the ex-offenders and their families, but to society as a whole.

We must support programs that provide public safety, reduce the cost of recidivism on States, and provide for a second chance for ex-offenders and their families. I look forward to hearing the statements from today's witnesses.

PREPARED STATEMENT OF CONGRESSMAN ROBERT C. "BOBBY" SCOTT, CHAIRMAN FOR THE SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY

Thank you, Mr. Chairman. And thank you, Chairman Webb and Vice Chairwoman Maloney for the opportunity to be with you today as we discuss this very important subject of the cost of the mass incarceration we have in the United States. Today, the U.S. is the world's leading incarcerator, by far, with an average incarceration rate over 7 times the international average. The average incarceration rate in the rest of the world is about 100 per 100,000 citizens. The rate in the U.S. is over 700 per 100,000 residents, and in some inner-city communities, the rate goes over 4,000 per 100,000. Russia is the next closest in rate of incarceration with 611 per 100,000 citizens. Everybody else is much below, such as India, the world's largest Democracy, with 30 per 100,000 and China, the world's largest country by population, with a rate 118 per 100,000.

We didn't get to this position overnight. I have learned that when it comes to crime policy, you have a choice—you can reduce crime or you can play politics. The politics of crime call for so-called "tough on crime" approaches such as more life without parole, mandatory minimum sentences, and treating more juveniles as adults or gang members. Under the get tough approach, no matter how tough you were last year, you have to get tougher this year. We have been getting tougher year-by-year for over 30 years now. Since 1970, we have gone from around 300,000 persons incarcerated in the U.S. to over 2 million, and annual prison costs now are over $65 billion this year.

And the U.S. has some of the world's most severe punishments for crime, including for juveniles. Of the more than 2200 juveniles sentenced to life without parole, all but 12 are in the U.S.

Research and analysis, as well as common sense, tell us that no matter how tough you are on the people you prosecute for crime today, unless you are addressing the reasons they got to the point to commit the crimes in the first place, the next wave developing in the system will simply replace the ones you take out and crime continues. This is not to say that we shouldn't prosecute crimes or that imprisonment has no impact. The problem is that you reach the point of diminishing returns in a particular case with no appreciable benefit. In fact, you run the risk of it diminishing returns to the point of actually being counterproductive, such as when you have so many in a neighborhood with criminal records that a criminal record no longer represents a stigma or provides an effective deterrent to crime.

A corollary cost of the mass incarceration resulting from "tough on crime' politics is the fact that it falls in a grossly disproportionate manner on minorities, particularly Black and Hispanic youth. The sad reality is that many children born in minority communities today are, from birth, without an appropriate intervention, on a "cradle to prison pipeline". When we see how simple it is to get them on a "cradle to *college* pipeline", it is tragic, and much more costly to society, economically and socially, if we don't do so. There are also other costs to consider when crime rates are high, such as the medical costs associated with gun crimes. One study estimated the annual cost of gun violence in the U.S. to be $100 billion.

Fortunately, we have a choice. All the credible research and evidence shows that a continuum of evidenced-based programs for youth identified as being at risk of involvement in delinquent behavior, and those already involved, will not only put kids on an appropriate "pipeline", but will save much more than they cost when compared to the avoided law enforcement, prison and other costs. Washington State did an extensive study showing that evidenced-based prevention and rehabilitation programs reduce crime and save money when compared to waiting for crimes to be committed and sending offenders to prison. Washington State adopted many of these initiatives and consequently has avoided the necessity of building new, expensive prisons. The question is whether we have the political will to make that choice.

Washington made that choice, adopted the policy, avoided building more prisons, and reduced crime at the same time.

There is also a huge opportunity cost to not doing what research and evidence says will reduce crime. To illustrate, let's examine the impact in Virginia of the lost opportunities associated with the tough on crime sound byte "abolish parole". Rather than invest in proven crime reduction measures that work, Virginia chose to go down the costly and wasteful path of abolishing parole. Despite the proponents claim, even if it worked perfectly, the reduction in violent crime would be a statistically insignificant 3 percent, and even that would be without considering the counterproductive effects of no parole, such as the fact that you can't hold hardened criminals longer and the loss of an incentive for prisoners to get an education and job training while in prison. They estimated the cost of abolishing parole was $2.2 billion to build new prisons and about a billion in annual operating costs. Doing some back of the envelope arithmetics, let's see what we can do with that kind of money. There are 11 Congressional districts in Virginia, so that's about $200 million for construction and about $90 million for operations per Congressional district of 600,000 people. So for a city of around 100,000, you're talking about more than $30 million for construction and $15 million operating.

Alternatively, here's what you could do with that kind of money in a small city:

Construction:	
10—$3 million Boys and Girls Clubs or family resource center	30M
Operating:	
10 clubs or centers @ $600,000/yr	6M
1,000 summer jobs @ $1,000	1M
1,000 summer camp scholarships @ $1,000	1M
4,000 after school programs @ $250	1M
2,000 college scholarships @ $2,000	4M
Services for 200 juveniles @ $10,000/year	2M

So you can spend money codifying a slogan without knowing whether you are reducing or increasing crime or you can spend the same amount of money, or even less, on evidenced-based prevention programs and rehabilitation programs proven to reduce crime.

Of course, having so many people locked up, we are now seeing a huge number returning to our communities, in most cases no better off then when they left and, in all too many cases, much worse. This year, more than 650,000 people will be released from state and federal prisons, along with more than 9 million people leaving local jails. According to the Department of Justice's Bureau of Justice Statistics, some 67 percent of offenders leaving state and federal prison are rearrested within three years. Most offenders go into prison unskilled, poorly educated, and poorly motivated and over one-third of all jail inmates have some physical or mental disability. With no parole, no good conduct credits or other self-development incentives, limited vocational or other development programs in prison, and all the disqualifications that result from a felony record, it is not hard to see why the recidivism rate is so high.

One program in the federal prison system that has proven to be a huge incentive program for not only good conduct and safer, easier to manage prisons, and getting an education required to qualify for it, but has also for developing work skills proven to increase employment after release and reduce crime, is the Federal Prison Industries, or FPI program. Unfortunately, a provision in the just passed Senate Defense Authorization bill essentially guts the FPI program.

The Second Chance Act now pending before the Congress provides a host of evidenced-based approaches designed to reduce the high rate of recidivism now occurring. If we are going to continue to send more and more people to prison with longer and longer sentences, we should do as much as we reasonably can to assure that when they do return they don't go back to prison due to new crimes. The primary reason for doing so is not to benefit offenders, although it does—the primary reason for doing so is to better assure that all of us and other members of the public will not be victims of crime due to recidivism and to save the high cost of law enforcement and incarceration. Again, Mr. Chairman, I would like to thank you for holding this very important hearing and for inviting me to sit with you for it. Thank you.

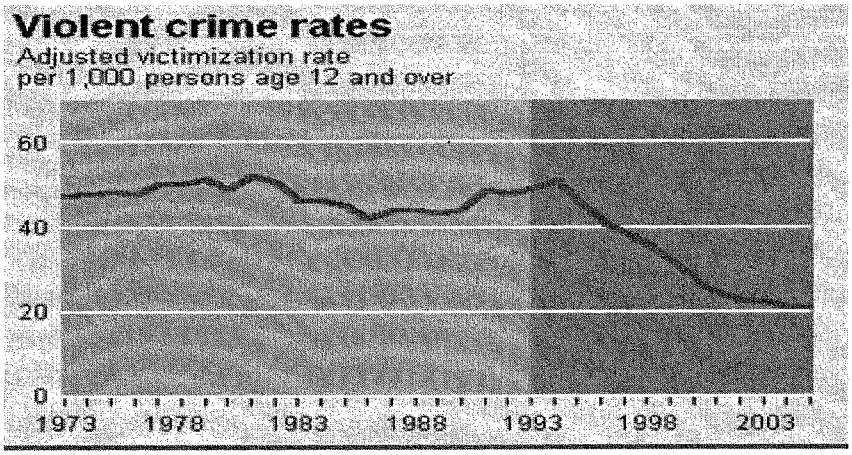
PREPARED STATEMENT OF GLENN C. LOURY, MERTON P. STOLTZ PROFESSOR OF THE SOCIAL SCIENCES, DEPARTMENT OF ECONOMICS, BROWN UNIVERSITY

MASS INCARCERATION AND AMERICAN VALUES

Mr. Chairman, Madam Vice-Chairwoman, and distinguished Members, I thank you for the opportunity to address this vital issue before your committee.

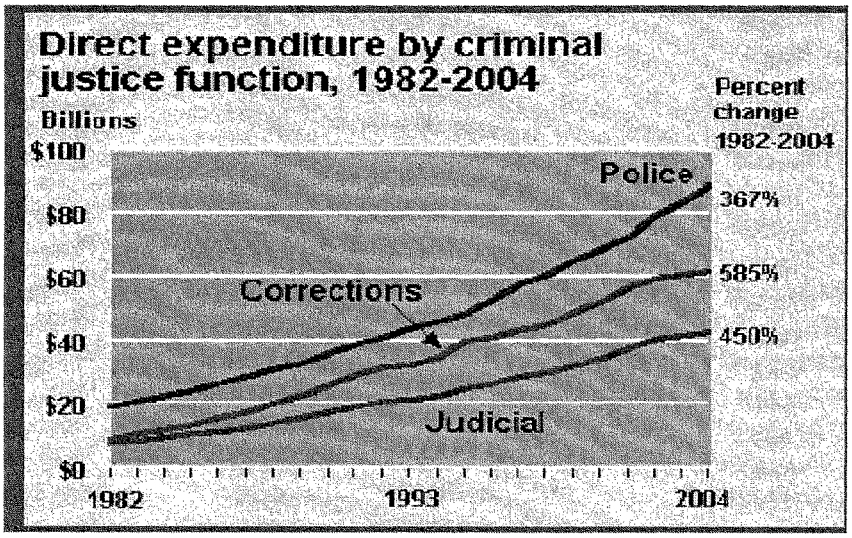
There are six main points about the advent of mass incarceration as a crime control policy in the United States that I wish to make with this testimony:

1. First, I wish to emphasize that with the advent of the mass incarceration policy we have witnessed an historic expansion of coercive state power, deployed internally on a massive scale. Violent crime peaked in the early 1990s, and began what has proven to be a long, precipitous decline. (See the Figure below. A similar trend applies for non-violent property crimes.) But, no one saw this coming. Crime was a real problem two decades ago, and fighting a war on crime was bipartisan national policy.



As a result of this policy, the American prison system has grown into a leviathan unmatched in human history. Never has a supposedly "free country" denied basic liberty to so many of its citizens. As of December 2006, some two-and-one-quarter million persons were being held in the nearly 5,000 prisons and jails that are scattered, like an archipelago, across America's urban and rural landscapes. Incarceration is now being used in the United States on an unprecedented scale. We imprison at a far higher rate than any other industrial democracy in the world. We imprison at a higher rate than Russia or China, and vastly more than any of the countries in Europe.

And, it is costing us a veritable fortune. Spending on law enforcement and corrections at all levels of government now totals roughly a fifth of a trillion dollars per year. In constant dollars, this spending has more than quadrupled over the last quarter-century. The table below indicates how this spending breaks-down by function:



2. Second, I claim that this high level of imprisonment is not any longer, if ever it was, a rational response to high levels of crime. Rather, our mass incarceration policy is an historical inheritance, bequeathed to us by wave after wave of crime-fighting at the state and the federal levels over the past 35 years. This policy response, I firmly believe, has now become counter-productive. (The so-called War on Drugs, about which I have more to say at the end of this testimony, is a leading example of one such misconceived policy initiative that now has us in its grip.)

3. Third, I wish to point out that institutional arrangements for dealing with criminal offenders in the United States have evolved to serve expressive as well as instrumental ends. We have wanted to "send a message"—to the criminals and to the law-abiding public, alike—and, have done so with a vengeance. In the process, we have answered the question: Who is to blame for the maladies which beset our troubled civilization? We have, in effect, constructed a national narrative. We have created scapegoats, indulged our need to feel virtuous about ourselves, and assuaged our fears. We have met the enemy, and the enemy is THEM—the violent, predatory, immoral, irredeemable "thugs." I believe that this narrative, which supports and encourages our embrace of the policy of mass incarceration is, itself, a sociologically naive and morally superficial view.

4. Fourth, I wish to observe that these people who have offended against our laws are nevertheless human beings. And, while they may deserve punishment, imprisoning them is something that We the People of the United States of America are doing. Indeed, punishment is one of the most politically salient things that we do in a democracy: the state is forcibly depriving citizens of their liberty. And, while this practice is necessary for the maintenance of order in society, it should always be done humanely, in a manner that comports with our deepest political values. We ought never to lose sight of the essential humanity of those whom we punish—and, of the humanity of those to whom offenders are connected via intimate ties of social and psychic affiliation. Unfortunately, we have not always lived up to this high standard. Thus, *Confronting Confinement*, a report released last year from the Commission on Safety and Abuse in America's Prisons (of which former US Attorney General Nicholas Katzenback was co-chairman), found that our penal institutions are (i) dangerously overcrowded, that (ii) they rely overly much on physical isolation to manage the behavior of inmates (a practice which, the Commission found, can have a lasting adverse effect on the prisoners' mental health), and that they are horribly, unnecessarily violent. The report estimates that more than 1.5 million people annually are released from prisons and jails with a life-threatening infectious disease—the HIV, drug-resistant staph infections, hepatitis-C, and tuberculosis; and, that at least one out of every six prisoners—over 350,000 people on a given day—are "seriously mentally ill."

5. Fifth, I must call attention to a huge gap between the races in the incidence of punishment which exists in our country. Black Americans and Hispanics together

account for about one-quarter of the overall national population, but constitute about two-thirds of state and federal prison populations. The extent of racial disparity in imprisonment rates is greater than in any other major arena of American social life: at eight-to-one, the black-white ratio of incarceration rates dwarfs the two-to-one ratio of unemployment rates, three-to-one non-marital child bearing ratio, the two-to-one black-white ratio of infant mortality rates and one-to-five ratio of net worth. As the table below makes clear, more black male high school dropouts are incarcerated than belong to unions or are enrolled in all government social welfare programs, combined.

Men Incarcerated (2000), in Unions, or in Social Programs (1996)

	Whites	Hispanics	Blacks
All men, age 20 to 40			
In prison or jail	1.60%	4.60%	11.50%
In labor union	9.70%	10.70%	11.50%
On welfare	1.70%	1.40%	2.30%
In any program (including welfare)	6.70%	4.90%	10.80%
Male high school dropouts, age 20 to 40			
In prison or jail	6.70%	6.00%	32.40%
In labor union	6.30%	8.10%	2.30%
On welfare	6.20%	1.70%	3.70%
In any program (including welfare)	17.90%	6.30%	24.00%

* Survey of Incomes and Program Participation (1996)

The scandalous fact of the matter is that the primary contact between poorly educated black American men of a certain age and the American state is via the police and the penal apparatus. For instance, among black male high school dropouts ages 20 to 40, a third were under lock and key on a given day in the year 2000, while fewer than 3 percent belonged to a union, and less than one-quarter were enrolled in any kind of social program (according to Harvard University sociologist, Bruce Western.) The coercive aspect of government is the most salient feature of their experience of the public sector. Western estimates that some 58 percent of black male dropouts born between 1965 and 1969 were sent to prison on a felony offense at least once before reaching the age of 35.

For these men, and the families and communities with which they are associated, the adverse effects of incarceration will extend beyond their stays behind bars. To see how the post-1980 prison boom affected Americans differently, depending on their race and their social class, consider two birth cohorts of black and white men. The first cohort was born in 1945 to 1949, just after World War II. These individuals reached their mid-thirties by 1970, just before the rapid increase in imprisonment rates. The second cohort was born during the Vietnam War, from 1965 to 1969, and reached their mid-thirties during the height of the prison boom. The table below compares the imprisonment experience of these two cohorts, broken down by race and level of education:

Cumulative Risk of Imprisonment

	All	Less than HS	HS or GED	All Noncollege	Some College
	(1)	(2)	(3)	(4)	(5)
White men					
Born 1945 to 1949	1.4	4	1	2.1	0.5
Born 1965 to 1969	2.9	11.2	3.6	5.3	0.7
Black men					
Born 1945 to 1949	10.5	17.1	6.5	12	5.9
Born 1965 to 1969	20.5	58.9	18.4	30.2	4.9

Notice that the aggregate risk of imprisonment is twice as great in the later cohort—2.9 percent as compared to 1.4 percent for white men; and, 20.5 percent as compared to 10.5 percent for black men. Moreover, one can see from the table that the experience of incarceration for poorly educated black men is estimated to be four times more prevalent in the later than in the earlier cohort—58.9 percent as compared to 17.1 percent. The massive scale of this policy shift is stunning. To repeat: there is a nearly three-fifths chance that a black male with less than HS diploma

born between 1965–69 will have gone to prison or jail at least once prior to reaching age 35.

A fundamental point to bear in mind is that the experience of prison feeds-back to affect the life course of those incarcerated in an adverse manner. The vast majority of inmates return to society. The evidence that prison adversely affects the subsequent life chances of the incarcerated is considerable and impressive.

Table 5.2—Wages, Employment, Earnings

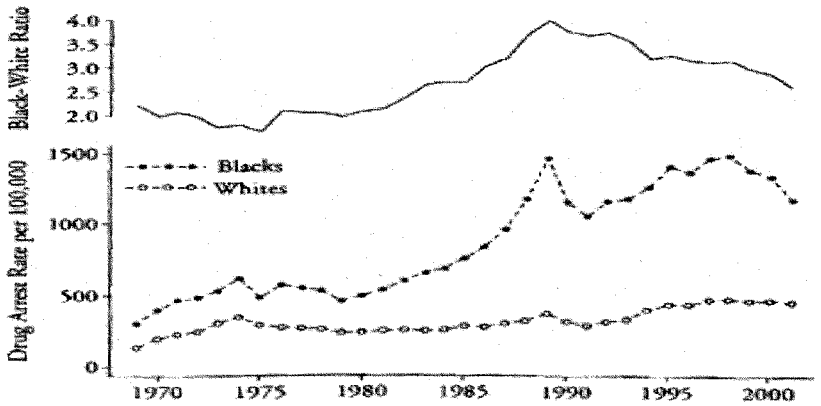
	Incarceration Status		
	Never	Before	After
Hourly wages (dollars per hour)			
White	14.7	11.14	11.8
Hispanic	13.59	12.3	10.31
Black	12.34	10.25	9.25
Annual employment (weeks per year)			
White	44	37	23
Hispanic	43	35	24
Black	40	35	21
Annual earnings (thousands of dollars per year)			
White	26.44	13.7	9.76
Hispanic	23.9	13.29	9.14
Black	20.37	13.34	7.02

The table above reproduces Harvard University sociologist Bruce Western's (admittedly crude but suggestive) estimates of the impact of imprisonment on subsequent labor market outcomes. Hourly wages of incarcerated black men are 10 percent lower after prison than before. And weeks worked per year of all imprisoned men are down by ⅓ or more after release, as compared with prior to their incarceration. Now, consider the nearly 60 percent of black male high school dropouts born in the late 1960s who will have been imprisoned before their fortieth year. For these men, their links to family have been disrupted; their subsequent work lives will be diminished; their voting rights are often permanently revoked. They will suffer, quite literally, a "civic excommunication" from American democracy. It is no exaggeration to say that, given our zeal for social discipline, these men will be consigned to a permanent, non-white, male nether caste. And yet, since these men—whatever their shortcomings—have emotional and sexual and family needs, including the need to be fathers and lovers and husbands—we will have created a bio-political situation where the children of this nether caste are likely themselves to join a new generation of untouchables.

A central reality of our time is the fact that there has opened a wide racial gap in the acquisition of cognitive skills, the extent of law-abidingness, the stability of family relations, the attachment to the work force, and the like. This disparity in human development is, as a historical matter, rooted in political, economic, social, and cultural factors peculiar to this society and reflective of its unlovely racial history: it is a societal, not communal or personal, achievement. At the level of the individual case we must, of course, act as if this were not so. There could be no law, no civilization, without the imputation to particular persons of responsibility for their wrongful acts. But the sum of a million cases, each one rightly judged on its merits to be individually fair, may nevertheless constitute a great historic wrong. The state does not only deal with individual cases. It also makes policies in the aggregate, and the consequences of these policies are more or less knowable. And who can honestly say—who can look in the mirror and say with a straight face—that we now have laws and policies that we would endorse if we did not know our own situation and genuinely considered the possibility that we might be the least advantaged?

6. Finally, I would like to make a few observations about the so-called War on Drugs. This policy has not been successful in my view, and it has had a hugely disparate, adverse impact on the African American community. Consider the table below, showing the trend in drug arrest rates by race since 1970.

Figure 2.2 Drug Offenses and Arrest Rate Ratio



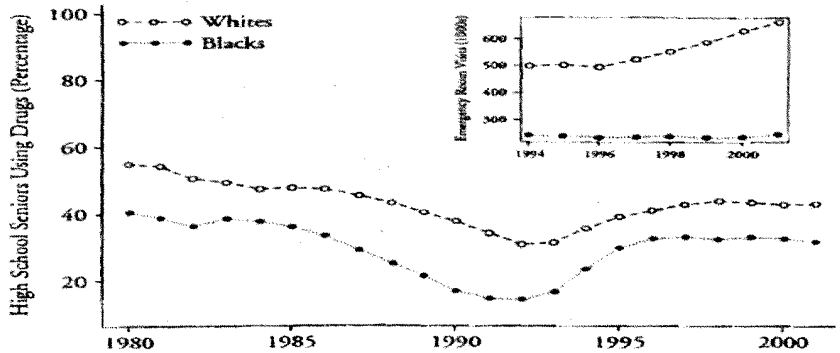
Source: Federal Bureau of Investigation (1993, 2003).

DRUG ARRESTS OF BLACKS SPIKE IN LATE 80'S

Blacks were twice as likely as whites to be arrested for a drug offense in 1975, but four-times as likely (1,460 versus 365 per 100,000) by 1989. For all of the 1990s, drug arrest rates remained at historically unprecedented levels. Yet, according to the National Survey on Drug Abuse (NSDA), drug use among adults fell from 20 percent in 1979 to 11 percent in 2000. A similar trend occurred for adolescents. In the age groups 12–17 and 18–25, usage of marijuana, cocaine and heroin all peaked at roughly the same time (in the late 1970s), and began a steady decline thereafter (Tonry 2004, Figure 5.14, p. 132). *Thus, a decline in drug use across the board had begun a decade before the War on Drugs was initiated.*

There are some interesting discrepancies between the racial gap in drug use and in drug arrests. In figure 2.2 (above) one can see that the drug arrest rate for blacks stood at twice the rate for whites in the late 1970s, rising to 4 times the white rate by 1990. On the other hand, figure 2.3 (below) reveals that throughout this period white high school seniors reported using drugs at a significantly higher rate than blacks.

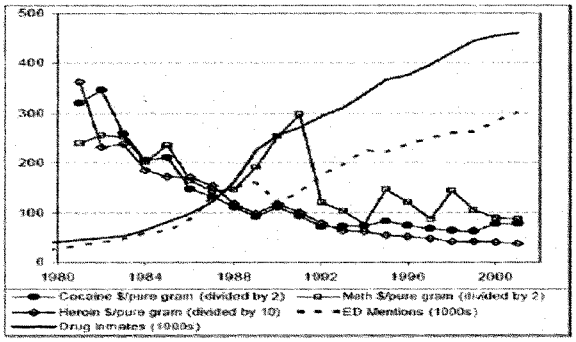
Figure 2.3 High School Seniors Reporting Drug Use



Presumably this relatively high rate of drug use in the early 80's in the mainstream of American society partially explains the urgency many felt to mount a national attack on the problem. Yet, how successful has the effort been, and at what cost?

As the data below make clear, retail prices on the street of illicit drugs fell steadily and sharply throughout the period 1980–2000 (with the exception of methamphetamine which experienced a price spike in the late 80's–early 90's), even as "war mobilization" caused drug incarceration rate to skyrocket:

Winning the War? Drug Prices, Emergency Treatment and Incarceration Rates: 1980-2000

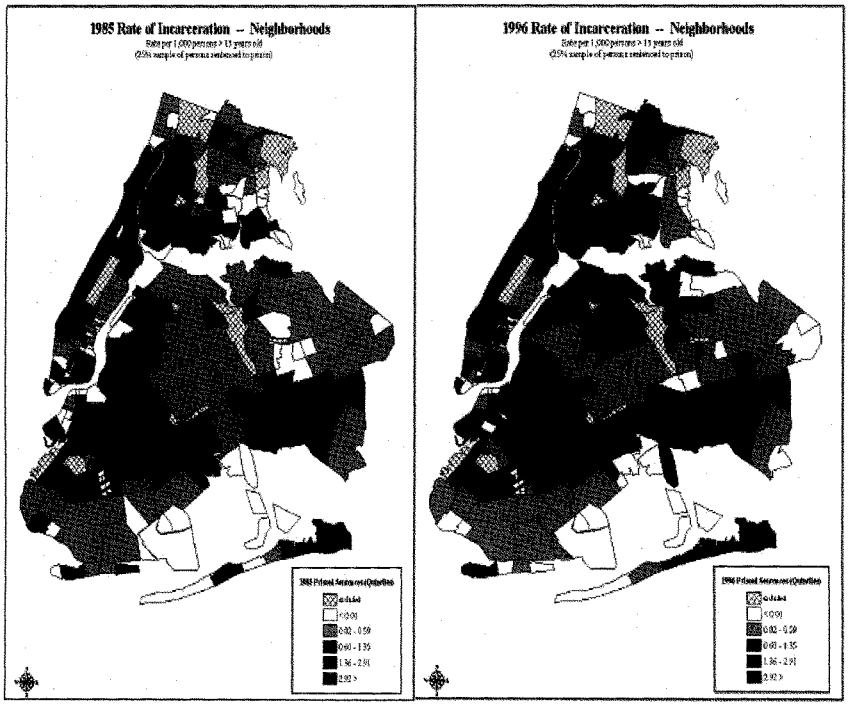


[Source: Caulkins, Reuter and Taylor, "Can Supply Restrictions Lower Price?" *Contributions to Economic Analysis and Policy* Vol. 5 (2006)]

SPATIAL EFFECTS

What all this comes to is that, to save "our" middle class kids from the threat of their being engulfed by a drug epidemic that might not have even existed by the time drug incarceration began rapidly rising in the 1980s, we criminalized "our" underclass kids. Arrests went up and up, drug prices went down and down, and drug consumptions seems not to have been much impacted by the policy.

Changes in the spatial concentration of incarceration in New York City: 1985-1996



Source: Fagan, West and Holland, "Reciprocal Effects of Crime and Incarceration in New York City Neighborhoods." *Fordham Urban Law Journal*, 2003.

An interesting case in point is New York City. Columbia University criminologist Jeffery Fagan and his colleagues have analyzed data on arrests in various New York City residential neighborhoods and police precincts. They report that, 70 percent of state inmates in New York come from New York City. Between 1990 and 2003 the number of state prison inmates coming from the city rose from 55,000 to 70,000. The City also had an average daily jail population of nearly 18,000 in 1999. "Rates of incarceration in NYC have been largely unaffected by the city's dramatic declines in crime. Moreover, the increase in incarceration is in part "attributable to aggressive enforcement of drug laws, especially street-level enforcement resulting in large numbers of felony arrests of retail drug sellers." They note that "drug-related offenses have accounted for an increasing proportion of prison admissions—up from 12 percent of state prison admissions in 1985 to 31 percent in 1990, to 38 percent in 1996. Some 11,600 residents of NYC entered the NY state prison system on drug-related offenses in 1996, compared to 9,345 in 1990.

As the maps above make clear, incarceration was highest in the City's poorest neighborhoods though these were not in every instance the neighborhoods where crime rates were highest. Most interestingly, when these data were analyzed at the level of police precincts, the authors discovered a perverse positive feedback of incarceration on crime: higher incarceration in a given neighborhood seemed to predict higher crime rates one year later in that same neighborhood. They concluded that the growth and persistence of incarceration over time were due primarily to drug enforcement and to sentencing laws that require imprisonment for repeat felons. Police scrutiny was more intensive and less forgiving in neighborhoods high incarceration neighborhoods, and parolees returning to such neighborhoods were more closely monitored. This discretionary, spatially discriminatory police behavior led to a

high and increasing rate of repeat prison admissions in the designated neighborhoods, even as crime rates fell.

Further evidence along these lines can be found by examining the experience of anti-marijuana law enforcement. Comprehensive data on this have been collected for New York City by the Queens College sociologist Harry Levine and his colleagues, and are presented in the tables that follow. These data speak volumes about the racially discriminatory and spatially selective enforcement of anti-drug statutes. Bear in mind when viewing these data that U.S. Government statistics have consistently found that White teenagers and young adults use marijuana as much, or more, than Blacks and Hispanics do. Nonetheless, in 2006 in New York City, the per capita arrest rate of Blacks was nearly 8 times the rate of Whites.

Again, I wish to express my gratitude to the Committee for this opportunity to present my reflections on this urgent matter of national policy.

RESPONSES BY DR. GLENN C. LOURY TO QUESTIONS FROM REPRESENTATIVE ROBERT C. "BOBBY" SCOTT

Question 1. In your testimony, you state that high levels of imprisonment have become counterproductive. Please elaborate.

Response. The three main reasons that I see the current high level of imprisonment as being counterproductive are as follows:

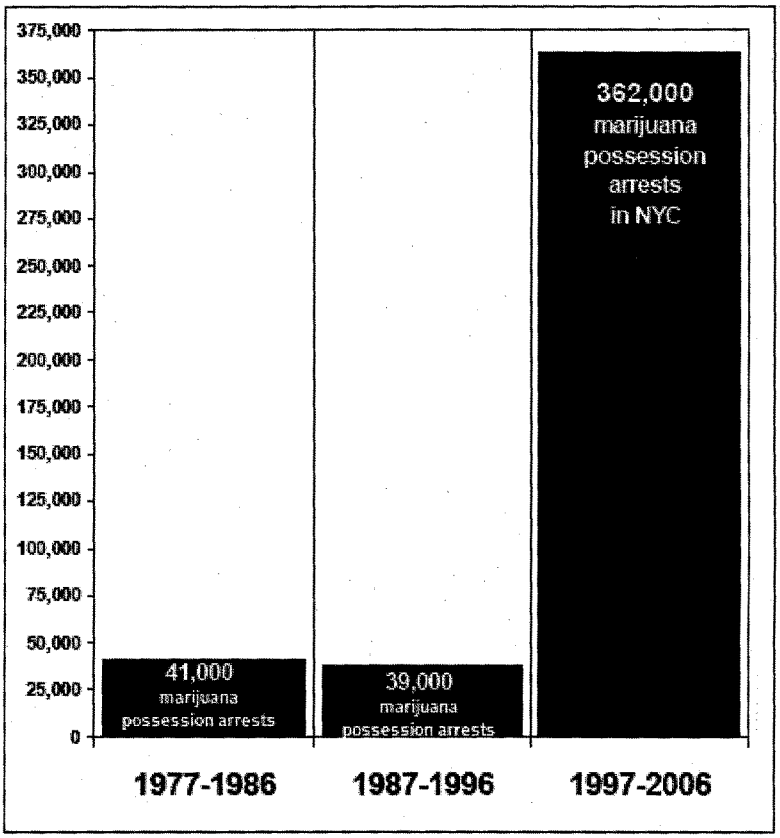
1. Holding people in prison doesn't make them "better." Rather, it makes them "worse." Not only do we fail to rehabilitate criminals when they're in custody. Incarceration has a significant adverse impact on the employability (weeks work down by a third) and the earnings (wages off by 10 percent) of ex-convicts. They are "scarred" by the experience of prison. Their mental and physical health is negatively affected. Recidivism rates are such that nearly 50 percent of prisoners are returned to custody within three years of their release.

2. The amount of public safety "purchased" for society by using prisons on the scale that we are now using them does not justify the cost incurred to hold prisoner behind bars, let alone the cost we're imposing on prisoners and the communities from which they come.

The economist, Steven Levitt, estimates that more money spent on policing, and less on imprisonment, would lead to lower crime rates (Journal of Economic Perspectives, 2004). The conservative political scientist, John Dilulio, opined in the Wall Street Journal nearly a decade ago (March 12, 1999) that we were then overusing prison for crime control purposes, and that we should aim toward "zero-growth in incarceration." Some "tough on crime" policies, like "three strikes and you're out" hold offenders behind bars for decades beyond the point in the lifecycle after which people cease to be a threat to society. Given the widespread problems of over-crowding and the huge pressure on state budgets due to the cost of running these mammoth prison systems, cell space devoted to holding non-violent drug offenders could be much more effectively utilized.

3. Imprisonment on the scale which we are now undertaking, and that is so concentrated among the poorly educated, urban, racial minority male youth populations of our country, does not make the communities from which offenders are taken better, it makes them worse. A number of observers (see, for example, Fagan et al., "Reciprocal effects of crime and incarceration in New York City Neighborhoods," Fordham Law Journal 2003) have noted that massive and spatially concentrated incarceration feeds-back to have a detrimental effect on the social climate in the communities to which inmates inevitably return. The legitimacy of law enforcement is weakened; the moral norms against offending are undermined; the stigma of imprisonment is eviscerated; the intensity of law enforcement scrutiny is enhanced. Fagan et al. actually find that New York City neighborhoods which experienced the highest rates of incarceration in one year were, other things equal, likely to experience higher rates of crime in future years.

1. Marijuana Possession Arrests in New York City in Three Decades



Source: New York State Division of Criminal Justice Services, Computerized Criminal History system. Includes all fingerprintable arrests for NY State Penal Law Article 221 offenses as the most serious charge in an arrest event. Ages 16 and older. 1978 data was used for 1977.

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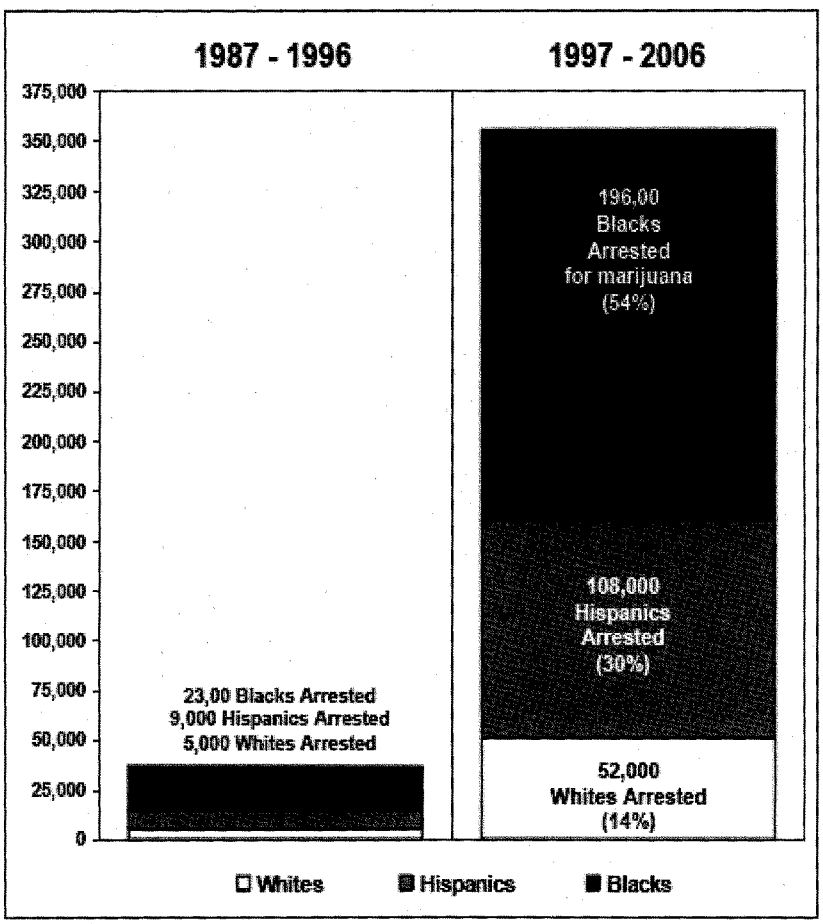
Deborah Small / Break The Chains / New York, NY / dsmall@breakchains.org

July 2007

2. New York City Marijuana Possession Arrests of Whites, Hispanics and Blacks in Two Decades



Source: New York State Division of Criminal Justice Services, Computerized Criminal History system. Includes all fingerprintable arrests for NY State Penal Law Article 221 offenses as the most serious charge in an arrest event. Ages 16 and older.

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July 2007

PREPARED STATEMENT OF BRUCE WESTERN, DIRECTOR, DEPARTMENT OF SOCIOLOGY, HARVARD UNIVERSITY

Mr Chairman and Members of the Committee: thank you for the opportunity of testifying today about the causes and economic effects of the growth in the incarceration rate.

I. TRENDS IN INCARCERATION

The fraction of the population in state and federal prison has increased in every single year for the last 34 years. The rate of imprisonment today is now five times higher than in 1972.[1] The US rate of imprisonment is five to ten times higher than in the longstanding democracies of Western Europe, and is only rivaled, though not exceeded, by the incarceration rates of South Africa and Russia.

Today's novel rates of incarceration are most remarkable for their concentration among young African American men with little schooling. While fewer than 2 percent of young white men, aged 22 to 30, were in prison or jail in 2004, the incarceration rate of young black men was 13.5 percent (Table 1). Among young black men who had never been to college, 21.1 percent were locked up on an average day in 2004. At the bottom of the education ladder, I estimate that more than 1 in 3 black male high school dropouts were incarcerated in 2004.

Table 1.—Incarceration rates for young men, 1980 and 2004.

	Whites		Blacks	
	1980	2004	1980	2004
Men Aged 22–30 in Prison or Jail (%)				
All men	0.6	1.9	5.7	13.5
Without College Education	1.1	4.2	7.4	21.1
High School Dropouts	2.3	7.3	11.7	34.2
Men with Prison Records by Age 34 (%)				
All men	1.2	2.8	9.0	22.8
Without College Education	1.8	5.1	12.1	30.9
High School Dropouts	4.2	14.8	14.7	62.5

Note: Percentage of men with prison records are risks of imprisonment estimated for birth cohorts born 1945–1949 by 1979, and 1970–1974 by 2004. Sources and methods are described in Western (2006).

To examine the chances of going to prison over a lifetime, I also calculated the percentage of men who have ever been to prison by their mid-thirties. (Most prisoners will be admitted for the first time before age 35.) These percentages describe the prevalence of imprisonment, not jail incarceration—at least 12 months in a state or federal facility, and an average of 34 months of time served. For men born in the late 1940s who reached their mid-thirties in 1979, blacks were 9 percent likely to go to prison. For black men born in the late 1960s, the lifetime chances of imprisonment had grown to 22.8 percent. Among black men without college education now in their early forties, nearly a third have prison records. For young black male dropouts, prison time has become a normal life event, affecting 60 percent of those born since the late 1960s. Young black men are now more likely to go to prison than to graduate college with a 4-year degree, or to serve in the military.[2] These extraordinary rates of incarceration are new. We need only go back 20 years to find a time when the penal system was not pervasive in the lives of young African American men.

In the period of mass incarceration, blacks have remained 7 to 8 times more likely to be incarcerated than whites. The large black-white disparity in incarceration is unmatched by most other social indicators. Racial disparities in unemployment (2 to 1), nonmarital childbearing (3 to 1), infant mortality (2 to 1), and wealth (1 to 5) are all significantly lower than the 7 to 1 black-white ratio in incarceration rates.[3]

II. INVISIBLE DISADVANTAGE

Because of high incarceration rates, conventional measures of economic well-being are optimistic for young unskilled black men. Conventional economic statistics, like

[1] Pastore and Maguire (2007).
[2] Western (2006, 29).
[3] Western (2006, 16).

wage and employment rates, are based only on the non-institutional population. For example, the employment-to-population ratio calculated from the monthly Census Bureau household survey, the Current Population Survey, significantly overstates employment rates. Figure 1 shows the employment-to-population ratio for black men without college education, aged 22 to 30. Taking the conventional approach and excluding prison and jail inmates from the population count, employment appears to have declined from 73 to 63 percent, from 1989 to 2004. Once prisoners are counted among the jobless in the population, the percentage employed among young low-education black men falls from 65 to 50 percent. Figure 1 shows that employment rates for young non-college black men did not increase at all through the economic expansion of the late 1990s. The appearance of improved employment in the noninstitutional population was overshadowed by rising incarceration rates.

III. The Labor Market After Prison

While mass incarceration creates a large pool of disadvantaged men who are invisible in conventional labor force statistics, it also diminishes the economic opportunities of those who are released. Researchers have found that men released from incarceration earn less and are employed less than similar men who have not been incarcerated. Estimates of the earnings loss associated with imprisonment range from 10 to 30 percent.[4] A few studies also report that youth detained in correctional facilities before age 20 have higher unemployment and receive lower wages a decade or longer after incarceration.[5]

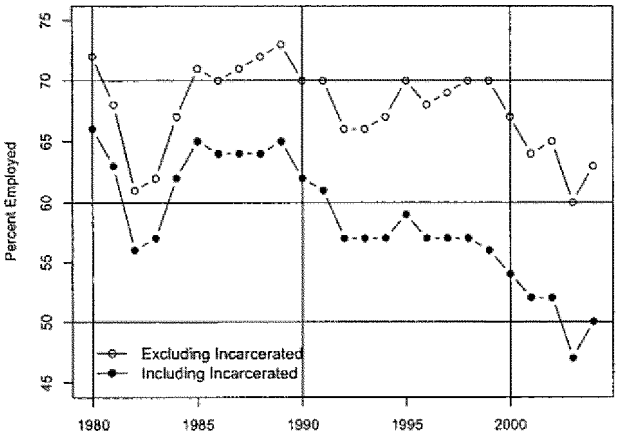

Figure 1. Employment-to-population ratios for African American men without college education, aged 22 to 30, including and excluding the incarcerated population.

The poor labor market experiences of the formerly incarcerated can be explained in several ways. Those coming out of prison typically have little schooling and erratic work histories. A prison record further deepens this disadvantage. The stigma of a criminal conviction makes ex-offenders undesirable job applicants in the eyes of employers. Criminal stigma has a legal dimension in which those with criminal records are barred from employment in certain industries and occupations. Incarceration can also deplete skills and foster behaviors that are ill-suited to the open labor market.

Analysis of the National Longitudinal Survey of Youth (1979) suggests time in prison affects a wide range of employment experiences. The NLSY is a nationally representative survey of youth aged 14 to 20 in 1979. The respondents were interviewed annually until 1994, then every other year after that. From 1979 to 2000,

[4] Grogger (1995), Lott (1990), Waldfogel (1994), Western (2002).
[5] Freeman (1992) and Western and Beckett (1999).

1 in 5 of the black male respondents were interviewed at least once in a correctional facility.

Statistical analysis shows that imprisonment reduces the hourly wages, annual employment, and annual incomes of young men. Annual employment is reduced by between 10 and 15 percent. Hourly wages are reduced by between 12 and 16 percent. The combined effects of incarceration on hourly wages and annual employment, produce large losses in annual incomes. I find that the annual incomes of formerly incarcerated men are about 35 percent lower than for similar men who have not been incarcerated. We can gain more insight into the kinds of jobs obtained by released prisoners by considering the effects of incarceration on job tenure and wage growth. Analysis of the NLSY shows that the wages of ex-prisoners grow 25 percent more slowly as workers get older. Incarceration is also associated with a one-third reduction in job tenure. These statistics suggest that incarceration channels men into informal, secondary labor market jobs that offer little economic stability or upward mobility.

These effects of incarceration on individual economic status are not new, but they are now playing out on a novel scale. Because returning prisoners are highly concentrated in poor urban neighborhoods, the economic penalties of incarceration now permeate the most economically vulnerable families and communities.

IV. Policy Implications

Because incarceration rates are now so historically high, assistance for re-integration and rehabilitation will be felt not just by those coming out of prison, but by the poor and minority communities from which they originate. Three types of policies would help alleviate the social and economic effects of mass incarceration.

• Congress should re-examine the large of number of collateral consequences limiting the access of ex-felons to federal benefits and employment. Many restrictions—such as limitations on educational, welfare, and housing benefits—do not serve public safety, impede the reintegration of the formerly incarcerated, and penalize family members. While restrictions on benefits or employment might be justified if they are closely linked to particular crimes, such restrictions should be strictly time-limited, given the strong pattern of criminal desistance with age.

• Congress should support prisoner re-entry programs that provide transitional employment and other services. Well-designed programs have been found to improve employment and reduce recidivism. Research suggests that community-based re-entry programs should ideally be integrated with education and other programs in prison, and also provide housing, drug treatment, and health care to improve the job readiness of released-prisoners.[6] Post-prison employment would be encouraged by passage of the Second Chance Act of 2007. Employer incentives can be promoted through expansions of the Work Opportunity Tax Credit and the Federal Bonding Program. Taken together, these three measures would provide an important first step to a comprehensive federal re-entry policy.

• Congress should support the establishment of criminal justice social-impact panels in local jurisdictions that can evaluate unwarranted disparities in juvenile and adult incarceration. By assessing the link between socioeconomic disparities in offending to disparities in incarceration, local social impact panels could identify and take steps to eliminate disproportionate incarceration in poor and minority communities. Social-impact panels could also be charged with assessing disparities that may arise under proposed sentencing reforms.

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RESPONSES BY DR. BRUCE WESTERN TO QUESTIONS FROM REPRESENTATIVE ROBERT C. "BOBBY" SCOTT

Question 1. In your testimony, you mentioned creating local social-impact panels. Could you provide more details about these panels, including who would sit on these panels?

Response. Regarding social impact review panels, sentencing commissions at the state and federal levels periodically review demographic patterns in sentencing and other phases of criminal processing. The US Sentencing Commission, for example, is required to collect and publish data on federal sentencing practices. Under its Congressional mandate, the USSC annually publishes figures on the racial, ethnic, age and sex composition of sentenced defendants. The social impact panels I propose would do similar work, drawing on similar expertise and resources as the research arm of the USSC. The panels might ideally be established within state sentencing commissions.

Although the data collection and dissemination tasks would be similar in form to the reporting activities of the USSC, the content would be different. Social impact panels would collect data not just on sentencing but also on arrest, pretrial incarceration, sentenced incarceration, and release. Instead of collecting data just on the race, ethnicity, age, and sex, data would also be obtained on the schooling and residence of those going to prison. This focus on schooling and residence is motivated by the extreme educational and residential disparities in incarceration. Finally, to identify unwarranted disparities, the social impact panels would compare patterns of incarceration to patterns of offending reflected in survey data and data on calls to police. The panel could thus identify localities and social groups whose incarceration rates exceeded their levels of criminal offending. If systematic evidence of disparate incarceration was reported, the panel would work with criminal justice agencies and other stakeholders to eliminate the disparities.

Many of the data resources to conduct this work already exist. Data from the National Corrections Reporting Program provides a demographic census of prison admissions and releases in 38 states. The FBI Uniform Crime Reports and National Incident-Based Reporting System offer detailed counts of offenses known to the police at the county level. The National Crime Victimization Survey of the Bureau of Justice Statistics provides highly detailed demographic information about crime victims. The proposed work of the social impact panels would not build a new statistical system; rather it would extend existing resources with the clear purpose of identifying and mitigating social and residential patterns of disparate incarceration. The social impact panels would also provide advice to policymakers about proposed sentencing and other reforms. By providing this information, policymakers will tend to weigh more heavily the adverse consequences of unwarranted disparities. (A similar and more detailed discussion is provided by Marc Mauer in his proposal for racial impact statements in the 2007 Ohio State Journal of Criminal Law.)

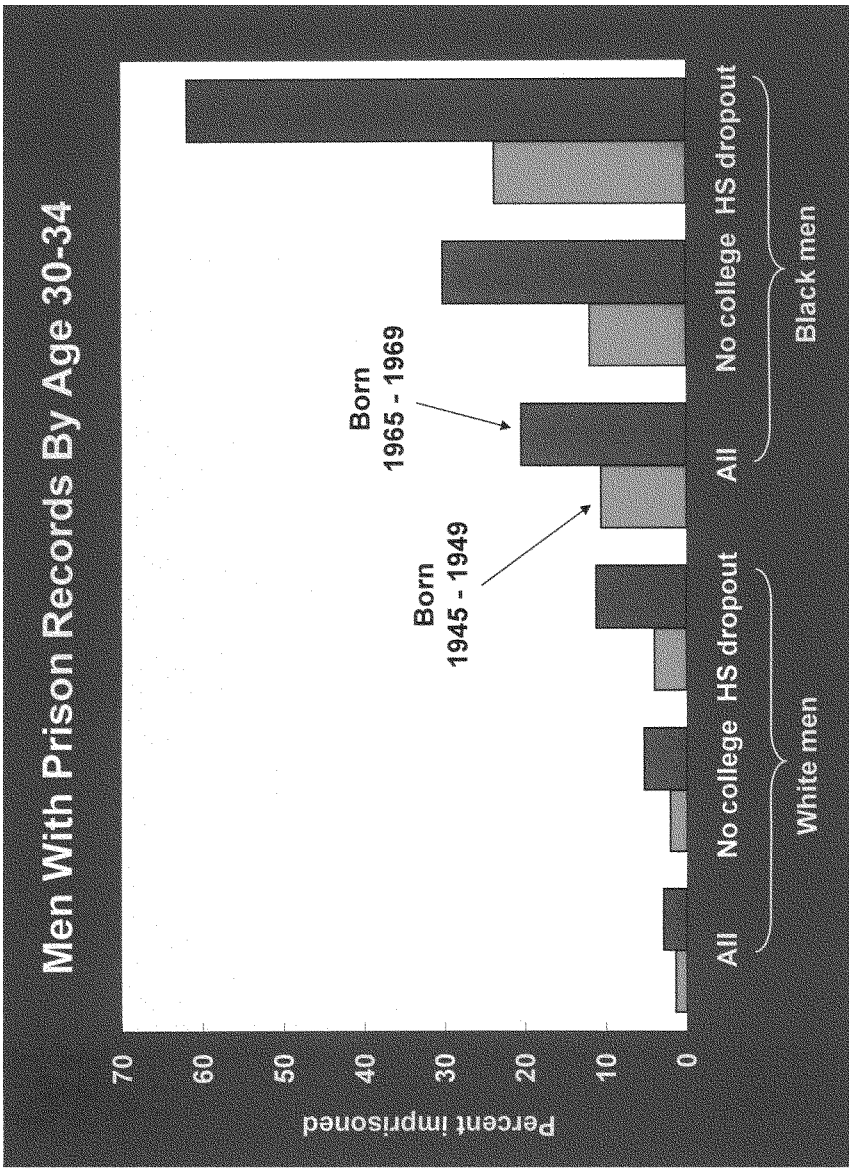
Question 2. In your testimony, you mentioned collateral consequences of incarceration, such as restrictions on participation in public benefit programs. What specific recommendations do you have with regard to these restrictions? What are the negative consequences of having these restrictions?

Response. Regarding collateral consequences of incarceration, individuals with criminal convictions may currently be denied a range of federal benefits. TANF, food

stamps, education grants and loans, and federal housing assistance are currently denied to those with felony and misdemeanor records. The 1996 welfare reform established bans on TANF and food stamps for people with felony drug convictions. States could expressly pass exemptions for the denial of benefits and twelve did so while the remainder kept the bans in full or adopted modified restrictions. These bans disproportionately affect poor women with children, a group whose incarceration rate is growing much faster than the general population. I know of no scientific evidence that public safety is served by the denial of TANF and food stamps to individuals with drug convictions. Indeed, rehabilitation and reintegration may well be promoted by such benefits. Many individuals with criminal records have difficulty obtaining work, either because they lack job skills or because employers have policies against hiring individuals with prior convictions. Public assistance and food stamps provide such individuals with necessary survival assistance as they look for employment. Public assistance and food stamps also help ensure the continued availability of alcohol and drug treatment programs. Alcohol and drug treatment programs, particularly residential programs, have historically relied on funding from a client's public assistance and food stamps to pay for room and board. Without these funds, programs are forced to reduce services. Because they might adversely affect public safety. Congress should eliminate bans on TANF and food stamps for those with drug convictions.

In 1998 the Higher Education Act was amended to disqualify those with felony and misdemeanor drug convictions from eligibility for post-secondary aid from Pell Grants, Stafford loans, and work-study assistance. Lifetime ineligibility is imposed on those with three convictions for drug possession or two convictions for drug sales. The GAO estimates that from 2001 to 2003, around 140,000 applicants for federal education assistance were denied because of a drug conviction. The number affected is likely to be much larger, because the ban on those with drug conviction discourages many from applying. Low education is perhaps the dominant deficit, besides the criminal record itself, limiting the economic opportunities of those released from incarceration. As for the ban on TANF and food stamps, I know of no scientific evidence that the ban on post-secondary education assistance promotes public safety. Indeed, the ban on post-secondary education for those with drug convictions is more likely to lead to recidivism than desistance from crime. Because higher education supports are targeted at low-income students, banning post-secondary aid compounds the economic difficulties that those with criminal records are struggling to overcome. Congress should eliminate the denial of federal post secondary education benefits to individuals with drug convictions.

Finally, a variety of provisions deny federally assisted housing benefits to those involved in drug-related activity. Federal law provides for two main exclusions. Those engaging in drug-related activity in public housing can be evicted, and applications for public housing can be denied to those with convictions for drug-related activities. Drug-related serious violence is an acute problem in public housing. However, there is little evidence that the denial of housing to those with drug convictions has reduced crime public housing. Public housing, like education and welfare benefits, helps erase a key deficit for those returning home from prison and jail. In the absence of evidence that the denial of public housing to those with drug convictions improves public safety, and in light of the vast number of poor citizens with drug convictions, Congress should eliminate ineligibility for public housing on the basis of a criminal record.


Men With Prison Records By Age 30-34
Percent imprisoned
70
60
50
40
30
20
10
0
Born
1965 - 1969
Born
1945 - 1949
All
No college
HS dropout
All
No college
HS dropout
White men
Black men

Prevalence of Life Events for Men
b. 1965-1969

	Whites	Blacks
Marriage	72%	59%
Bachelor's Degree	32%	13%
Military Service	14%	17%
Imprisonment	3%	22%

Pay and Employment Among Ex-Prisoners (NLSY)

	Incarceration Effect
Hourly Wages	26%
Annual Weeks Worked	-6.9 weeks
Log Annual Earnings	42%
Rate of Hourly Wage Growth	27%
Job Tenure	34%

PREPARED STATEMENT OF ALPHONSO ALBERT, EXECUTIVE DIRECTOR, SECOND CHANCES

The Second Chances program is a program sponsored by the city of Norfolk to assist non-violent offenders that are returning back into the local community after being incarcerated in jail and prison.

Over the past eight years, Second Chances has served more than 1200 offenders, provided more than 900 jobs at an average wage of $9.00 per hour and maintained a 73 percent employment retention rate over one year period. Additionally, Second Chances has implemented programs to serve children of incarcerated parents, opened a permanent supportive housing initiative to provide housing for offenders that are homeless upon their return and started three business enterprises that hire program participants at a minimum of $ 8 per hour and $12 per hour with benefits when they have drivers license.

There is a collateral cost to incarceration however, that is rarely observed or talked about but one that comes back to haunt society in so many other ways. The cost is one that impacts families and children of incarcerated individuals. Most incarcerated individuals have families and many of them have children that grow-up themselves to be incarcerated. The fact that a child that lives in a household with a loved one or family member that has been incarcerated and will likely be incarcerated themselves when they grow up is due in large measure to the fact that the same conditions that existed for the adult will exist for the child unless there is some intervening factors. Limited education, lack of positive role model, poor housing conditions, abuse, etc. are all factors that contribute. The Second Chances staff recently conducted a survey of women in the Norfolk City jail that were within 90 days of release. The results of the survey indicated that and that 34 women had children between the ages of 4–18, only 9 of the 34 had legal custody of their children, 25 or the 34 self reported as having problems with substance abuse or addiction, 16 admitted having damaged relationship with family as a result of their addiction, and 27 acknowledged that they needed some type of parenting class or training in order to be a better parents.

The greatest challenge that we face on a daily basis in helping offenders make a positive transition from prison back into the community (getting out and staying out as productive citizens) is pre-release planning and post release services. The department of corrections provides limited training opportunities for returning offenders and has only recently began focusing re-entry planning as a part of their overall strategy for helping offenders make a smooth transition back into local communities. More often than not, the issues of no proper identification, no birth certificates, limited pre-release plans, no post release services, housing and lack of job leads, financial burden and hardship are all things that stifle the offenders and prevent the individual from having a positive re-entry experience. These factors also lead to recidivism and relapse in so many of the cases that we see on a daily basis.

Recently, the State of Virginia became one of seven states around the country to participate in the National Governors Association Reentry Policy Academy. Virginia sub sequentially established five pilot programs around the State that focused on providing pre-release planning and post release services. The challenge to these pilot sites however, is lack of funding. Lack of funding means no counselors to work with offenders prior to release in getting proper Identification, birth certificates and a total of all fines, court cost, child support, restitution and other financial obligations prior to release. Funding at the federal level would also support staffing that helps offenders with job leads, housing placement, job training and other post release services. It is my opinion that funding for reentry programs that provide pre and post release planning as well as job placement, case management and follow-up aftercare should be made available in order to help prevent recidivism, strengthen families, and promote healthy communities through the concept of investing in our human infrastructure at a time when we can least afford not to do so.

Thank you for the opportunity to provide testimony to this committee and I would be pleased to answer any further questions.

RESPONSES BY ALPHONSO ALBERT TO QUESTIONS FROM REPRESENTATIVE ROBERT C. "BOBBY" SCOTT

Question 1. In your testimony, you mention the importance of pre-release planning and post-release services. How would you recommend integrating these ideas into the current criminal justice and incarceration system and what effect would the re-institution of parole have on an inmate's incentive to plan for release.

Response. Pre-release planning and post release services could be integrated into the current system by funding directed to the state re-entry pilots and programs

that are currently providing pre and post release services as beginning models. Funding that would provide each pilot site with two pre-release counselors per facility that would be responsible for assisting offenders with securing id cards, birth certificates, clothing, an assessment of all fines and financial obligations prior to release as well as two or three weeks of orientation that prepares the offenders for what to expect when returning. Funding for the same pilot for post release services would help with transitional jobs, case managers, housing vouchers, transportation assistance, life skills, job training and other related services.

As far as the parole board, I do think that having parole adds incentive to an inmates when incarcerated and motivates positive behavior and outlook for inmate. I also feel however that the compromise achieved when selecting a parole board in the past (and by compromise, I mean the people selected) has been too political and influenced too heavily by people that either advocate revenge or victim rights. This does not allow for an objective viewing of the risk factors and suitability of inmate parole candidates. I am strongly in favor of reinstituting the parole system here in Virginia, however; the board should be selected differently. I certainly hope that I have answered your questions satisfactorily and please feel free to contact me if I can be of further assistance.

PREPARED STATEMENT OF MICHAEL JACOBSON, DIRECTOR,
VERA INSTITUTE OF JUSTICE

Good morning Senator Webb. I would like to thank you for inviting me here to testify today. I have some brief remarks and then I'd be happy to answer any questions you might have.

The United States now spends over $60 billion annually to maintain its corrections system reflecting the fact that we imprison a greater percentage of our population than any other nation on earth. In the last 30 years, we have seen the jail and prison population rise from 250 thousand to almost 2.3 million, almost a tenfold increase.

The strain that this geometric increase in those incarcerated puts on our states and cities is cumulative and continues to grow. Over the last decade and a half, the only function of state governments to grow as a percentage of overall state budgets is, with the exception of Medicaid, corrections. The rate of growth of spending on corrections in state budgets exceeds that for education, health care, social services, transportation and environmental protection. There is a very clear relationship between the amount of money we spend on prisons and the amount that is available, or not available, for all these other essential areas of government. In many states—California is one that especially comes to mind—one can literally see money move in the budget from primary and secondary education to prisons. State budgets tend to be largely zero sum games and increases in corrections spending has absolutely held down spending in these other areas of government, many of which are also directly related to public safety.

Of course, the obvious question this raises is, "what do we get for that money?" Certainly, there should be some significant connection between our tremendous use of prison and public safety. As most people know, the U.S. experienced a large crime decline from the early 1990s to the early 2000s and it would seem to make intuitive sense that our significantly increasing prison systems played a major role in that decline.

In fact, it is a much more mixed and nuanced story than it would appear. There is some consensus among criminologists and social scientists that over the last decade, our increased use of prison was responsible for some (perhaps around 20–25 percent) but by no means most of the national crime decline. Additionally, there is also agreement that, going forward, putting even more people in prison will have declining effectiveness as we put more and more people in prison who present less and less of a threat to public safety. At this point, putting greater numbers of people into prison as a way to achieve more public safety is one of the least effective ways we know to decrease crime.

We know, for instance, that even after spending tens of billions of dollars on incarceration, more than half of those leaving prison are back in prison within three years—not a result that anybody should be proud of. We know that targeted spending for effective in-prison and post-prison reentry programs will reduce crime and victims more substantially than prison expansion. We know that diverting people from prison who are not threats to public safety into serious and structured community based alternatives to prison is more effective than simply continuing to incarcerate, at huge expense, these same people. In the same vein, the research shows that increasing high school graduation rates, neighborhood based law enforcement

initiatives and increases in employment and wages will also more effectively reduce crime than greater use of prison.

We also know that incarcerating so much of our population and especially the disproportionate incarceration of people of color also comes with other costs as well. Hundreds of thousands of people leave prison annually with no right to vote, no access to public housing, hugely limited abilities to find employment and high levels of drug use and mental illness. These unintended consequences of incarceration ripple through families and communities as those returning home are overwhelmed by seemingly intractable obstacles. Not surprisingly, many people wind up returning to prison in astounding numbers, further draining scarce resources that could be made available to deal with some of these obstacles themselves.

As someone who used to run the largest city jail system in the country, I know that most people who leave jail and prison do not want to come back. It is a miserable and degrading experience and my colleagues who run these systems and I always marvel about the numbers of people who are leaving prison who want to make good and do good. Once they leave however, they are confronted by such overwhelming barriers on which we currently spend almost no money or attention that no one should be surprised that these same people are back in prison so soon.

We know that states can continue to decrease crime and simultaneously decrease prison populations. New York State, for example, has for the last seven years seen the largest decrease in its prison population of any state in the nation—a decline of 14 percent. The rest of the states increased their prison populations by an average of 12 percent over the same time period. At the same time, violent crime decreased in New York State by 20 percent compared to just over 1 percent for the rest of the country. Prison populations can drop along with crime and victimization.

If we were serious about using our limited resources most effectively in reducing crime and victimization and increasing public safety, then we would begin to responsibly and systematically transfer some of the resources now used to imprison people to community based prevention, reentry and capacity building. It is important to stress here that this is an issue of public safety. Even putting aside all arguments about efficiency and effectiveness, talking only in terms of public safety, we will all be safer if we begin to reinvest some of the money that now goes to incarcerate people who do not pose a threat to public safety (and who become more of a threat to public safety after they are imprisoned) into other programmatic initiatives both inside and outside the criminal justice system.

The fact is that almost all the extant research points out that our prison system is too big, too expensive, drains funds away from other essential areas that can more effectively increase public safety, and is harmful to our poorest communities. Despite all this research, however, we continue to imprison more and more people. There are a host of reasons for this ongoing trend including: the attraction of prisons as engines of economic development for rural communities; the financial incentives for public employee unions as well as for the private prison industry in more spending on prisons; the "realities" of the budget process and constrained budgets that limit opportunities to make substantial investments in new initiatives; and the omnipresent hyper-politics that surround issues of crime and punishment in the United States.

These are all formidable obstacles but none should be sufficient to keep us from educating policymakers and the public that there is a better way to be safe and have less crime.

RESPONSES BY DR. MICHAEL P. JACOBSON TO QUESTIONS FROM REPRESENTATIVE ROBERT C. "BOBBY" SCOTT

Question 1. In your testimony, you reference the need to invest in capacity building. Could you elaborate on what capacity building means in this context?

Response. The context in which I was using "capacity building" was around improving the civic infrastructure in high incarceration communities. For instance, if you superimposed on the map of New York City that Dr. Loury brought showing high impact communities in New York City, you would also find that these same communities generally have the lowest performing schools, the fewest health and child care facilities, the fewest financial institutions, community centers, after-school programs etc. It is no coincidence that the communities that "contribute" the greatest numbers of state prisoners are also so lacking in adequate civic infrastructure. In addition to directing funding away from prisons and to alternatives to prisons, community based reentry programming and treatment, it is important to consider the essential needs and services of these communities as well.

Question 2. Please describe the essential elements of successful crime reduction programs.

Response. In terms of the essential elements of crime reduction programs, any successful crime reduction strategy must consist of more than simply increased criminal justice resources. We know, for instance, that targeted investments in education programs (especially those that increase high school graduation rates), employment programs and wages, and treatment all have the potential to decrease crime by a greater amount than just simply more use of prison (where we know the impact will be minimal) and generally increasing the number of police (though particular policing strategies can be very effective). The overall point here is that if we are serious about reducing crime the research tells us we have to look at investments outside the criminal justice system in addition to whatever we fund in criminal justice. The politics may not work as well, but the research tells us that specific funding in education, employment, wages, and treatment can have a significant impact on reducing crime. (See Stemen, Don. *Reconsidering Incarceration: New Directions for Reducing Crime*, Vera Institute of Justice, January 2007.)

PREPARED STATEMENT OF PAT NOLAN, VICE PRESIDENT, PRISON FELLOWSHIP

Mr. Chairman and members, I am grateful for this opportunity to share with you some thoughts on the cost to our society of the massive increase in incarceration in the United States. Thank you for holding this hearing to address this very important topic. Others have discussed the financial cost of mass imprisonment. I will try to give you some perspective on the human toll it is taking.

My name is Pat Nolan. I am a Vice President of Prison Fellowship and lead their criminal justice reform arm, Justice Fellowship. I also serve on the Prison Rape Elimination Commission and the Commission on Safety and Abuse in America's Prisons. I bring a unique background to this work. I served for 15 years as a member of the California State Assembly, four of those as the Assembly Republican Leader. I was a leader on crime issues, particularly on behalf of victims' rights. I was one of the original sponsors of the Victims' Bill of Rights (Proposition 15) and was awarded the "Victims Advocate Award" by Parents of Murdered Children. I was prosecuted for a campaign contribution I accepted, which turned out to be part of an FBI sting. I pleaded guilty to one count of racketeering, and served 29 months in federal custody.

Now, God has placed me in a position that I can share these observations with criminal justice officials, using my experiences as a lawyer, legislator and prisoner to improve our justice system. Justice Fellowship works with government officials at the federal and state levels, helping them develop policies that repair the harm done to victims, reform the hearts of offenders, and, in doing that, restore peace to communities.

The figures on incarceration are staggering. One in every 32 adult Americans is in prison or on supervised release. Prisons have become one of the fastest growing items in state budgets, siphoning off dollars that that might otherwise be available for schools, roads or hospitals.

In America today, offenders serve their sentences in overcrowded prisons where they are exposed to the horrors of violence including rape, isolation from family and friends, and despair. The best way to I can describe how it felt to be imprisoned is that I was like an amputee. I was cutoff from my family, my friends, my work, my church and my community. Then, with my stumps still bleeding, I was tossed into a roiling cauldron of anger, bitterness, despair and often violence.

Most inmates are idle in prison, warehoused with little preparation to make better choices when they return to the free world. Just one-third of all released prisoners will have received vocational or educational training in prison. While approximately three of every four inmates have a substance abuse problem, less than 20 percent will have had any substance abuse treatment before they are released. The number of returning inmates is now four times what it was 20 years ago, yet there are fewer programs to prepare them return to their communities. They get little preparation to make better choices when they return to the free world. On leaving prison they will have great difficulty finding employment. The odds are great that their first incarceration will not be their last.

Our large investment in our prisons might be justified if the inmates released from them were reformed in hearts as well as habits. However, most inmates do not leave prison transformed into law-abiding citizens. In fact, the very skills inmates develop to survive inside prison make them anti-social when they are released.

More than 700,000 inmates will be released from America's prisons next year. To put this in perspective, that is more than three times the size of the United States Marine Corps. Even more will be released the following year, and even more every year thereafter. Each day, over 1,900 offenders leave prison and return to neighborhoods across the country.

What has been done to prepare these returning inmates to live healthy, productive, law-abiding lives? What kind of neighbors will they be? Each of us has a stake in seeing that these men and women make a safe and successful return to their communities. Yet, very little is being done to help them make that transition successfully.

The fact of the matter is most of the inmates we have released do commit more crimes. Over the last 30 years, the rate of rearrest has hovered stubbornly around 67 percent. If two-thirds of the patients leaving a hospital had to be readmitted, we would quickly find a new hospital. So also, we must find a better way to prepare inmates for their release if we are to have safer communities. One way is through the Second Chance Act which is now before the Senate. It will provide the states and our communities help in developing better ways to do that.

However, we must also examine sentencing laws that put so many non-violent offenders in prison. Certainly we need prisons to separate violent and dangerous people from the rest of society. But given the overcrowding and violence in our prisons, why on earth would we put people convicted of non-violent crimes in prison? Prisons are for people we are afraid of, but our sentencing laws have filled them with people we are merely angry at. Changing our sentences so that low risk offenders are punished in the community under strict supervision would reduce overcrowding in prisons and help control violence. It would hold low risk offenders accountable without exposing them to the violence and the great difficulties of transition back to the community after their sentence.

After release from prison, offenders face many barriers, often called "invisible punishments": They are frequently denied parental rights, driver's licenses, student loans, the right to vote, and residency in public housing—which is often the only housing that they can afford.

Further, little is done to change the moral perspective of offenders. Most inmates do not leave prison transformed into law-abiding citizens; in fact, the very skills inmates develop to survive inside prison make them anti social when they are released. Most are given a bus ticket to their hometown, gate money of between $10 and $200, and infrequently a new set of clothes. Upon leaving prison virtually all will have great difficulty finding employment.

The moment offenders step off the bus they face several critical decisions: Where will they live, where will they be able to find a meal, where should they look for a job, how will they get to a job interview, and where can they earn enough money to pay for necessities? These returning inmates are also confronted with many details of personal business, such as obtaining identification cards and documents, making medical appointments, and working through the many everyday bureaucratic problems that occur during any transition. These choices prompt feelings of intense stress and worry over the logistics of their return to the outside world. To someone who has had no control over any aspect of their lives for many years, each of these problems can be difficult. In accumulation, they can be overwhelming.

My own experience provides a good example. Shortly after my release from prison to the halfway house, some friends took me to lunch at a local deli. The waiter came over to take our orders. Everyone else told him what they wanted, but I kept poring over the menu. My eyes raced over the columns of choices. I knew that I was supposed to order, but the number of options overwhelmed me. My friends sat in embarrassed silence. I was paralyzed. The waiter looked at me impatiently. I began to panic. How ridiculous that I wasn't able to do such a simple thing as order lunch. Finally, in desperation I ordered the next item my eyes landed on, a turkey sandwich. I didn't even want it, but at least it put an end to this embarrassing incident.

For two years I hadn't been allowed to make any choices about what I ate. Now I was having a hard time making a simple choice that most people face every day. If I had this much difficulty after only a couple of years in prison, think how hard it is for those inmates who haven't made any choices for 5, 10, or 15 years. And what about those who didn't have the wonderful home, the loving family, the strong faith and the good education that I had? They face a baffling array of options and little preparation. Is it any surprise that so many newly released prisoners make some bad choices and end up back in prison?

The choices offenders make immediately after release are extremely important. Of the ex-prisoners who fail, over half will be arrested within the first 6 months. That is not much time to turn their lives around. One study of rearrests in New York City found that the rate was especially high during the first hours and days fol-

lowing release. This early window of time is the most intense period for ex-prisoners, when they may be overwhelmed by the accumulation of large and small decisions facing them. On average, ex-offenders have only a one-in-three chance of getting through their first three years without being arrested.

As the number of people released from prison and jail increases steadily, we cannot afford to continue to send them home with little preparation. These policies have harmed too many victims, destroyed too many families, overwhelmed too many communities, and wasted too many lives as they repeat the cycle of arrest, incarceration, release and rearrest. The toll this system takes is not measured merely in human lives: The strain on taxpayers has been tremendous. As jail and prison populations have soared, so have corrections budgets, creating fiscal crises in virtually every state and squeezing money for schools, health care, and roads from state budgets.

It does not have to be this way. Fortunately, there are many things that the government in partnership with the community, and in particular our churches, can do that increase the likelihood that inmates will return safely to our communities.

One of the most important provisions of the Second Chance Act will provide grants to community and faith-based non-profits to link offenders and their families with mentors. Let me tell you why this is so important.

It is essential that returning inmates have a friend they can turn to as they take their difficult first steps in freedom. A loving mentor can help them think through their decisions and hold them accountable for making the right moral choices.

The importance of mentors to returning prisoners was stressed by Dr. Byron Johnson in his recent study of the Texas InnerChange Freedom Initiative (IFI), the reentry program operated by Prison Fellowship under contract with the state. Dr. Johnson's study found that IFI graduates were two and a half times less likely to be reincarcerated than inmates in a matched comparison group. The two-year post-release reincarceration rate among IFI graduates in Texas was 8 percent, compared with 20.3 percent of the matched group.

Dr. Johnson emphasized that mentors were "absolutely critical" to the impressive results. The support and accountability provided by mentors often make the difference between a successful return to society and re-offending. As these offenders make the difficult transition back into the community, they need relationships with caring, moral adults. The greater the density of good people we pack around them, the greater the chance that they will be successfully replanted into the community.

IFI recruits members of local churches to give at least 1 hour a week to mentor the IFI inmates, both while they are still incarcerated and after they return to their community. In his interviews with the IFI participants, Dr. Johnson found that the mentors' weekly visits were very important to the inmates. "Without exception, IFI participants have indicated the critical impact volunteers have made in their lives. The sincerity and time commitment of volunteers has simply overwhelmed program participants." The benefit of these relationships with their mentors derives not only from the things discussed, but also for the love conveyed. By faithfully keeping their commitment to the weekly mentoring sessions, the mentors show a commitment to the inmates that many have never experienced before in their lives. As Dr. Martin Luther King, Jr., said, "To change someone, you must first love them, and they must know that you love them."

While many people would never associate the word "love" with prisoners, love is precisely what has been lacking in the lives of many of these men and women. They have gone through life without anyone caring about them or what they do, nor caring enough about them to coach them as they confront life. Many inmates are emotionally overdrawn checkbooks. We must make deposit, after deposit, after deposit before we will see any positive balance.

A mentor can help the ex-offenders think through employment options and tell them what their employer will expect of them on the job. Many offenders have never had someone in their lives who has held a steady job. They have no model for being a good employee. A mentor can teach them that they need to get up on time, go to work each day, and call their supervisor if they must be late or absent. Offenders may find it difficult to take direction or may lack skills to cope with a difficult boss or fellow employees. A mentor can help them with these and other everyday difficulties of the workplace and teach them the importance of punctuality, politeness, and diplomacy on the job.

Mentors help returning inmates deal with many of the personal problems they typically encounter upon leaving prison: no reliable friends outside their former gang network, marital problems, and no easy way to get on with life.

Mentors can also help the offenders learn decisionmaking skills and teach them how to keep track of bills and pay them on time. In prison, inmates do not have to deal with any of this. On the street such details may quickly overwhelm them.

In short, offenders need to be taught how to make good choices, handle responsibility, and be accountable—to make the right choice even when no one is looking.

Corrections staff can't make this kind of commitment to help each individual prisoner. But volunteer mentors can, and, in fact are, making this commitment in programs throughout the country.

Most of us can remember a teacher, coach, or neighbor who believed in us and helped us believe in ourselves. That is exactly what returning offenders need, yet most have never had someone like that in their lives. Mentors can fill that void. A loving mentor lets returning inmates know that the community is invested in their success. And the Second Chance Act will provide concrete assistance to community and faith-based groups to recruit and train mentors for this essential work.

As you work to improve our criminal justice programs, I suggest you keep several concepts in mind:

The purpose of our criminal justice system is to create safer communities and reduce the number of victims. There is a tendency to focus on institutional safety, rather than community safety. Under this narrow, institutional focus, the surest way to avoid escapes and riots would be to keep prisoners in their cells 24 hours a day, 7 days a week However, the public would be in far greater danger after those prisoners were released. Instead of focusing on institutional convenience, correctional policy must be judged by whether it makes the public safer.

Reentry planning should start at intake. Planning for the release of inmates should start as soon as they are sentenced. Assignment to a prison should include factors such as the proximity of the prison to the inmate's family and the availability of needed programs.

Prison policies should strengthen families. Crime not only has a devastating impact on the direct victims, but also on the families of offenders. Incarceration puts tremendous stress on the spouses and children of offenders. These family members have committed no crime. The stress on the family is exacerbated by policies such as placing inmates far from their families, frequently treating visiting families with disrespect, and charging exorbitant fees for telephone calls.

In addition, there are often preexisting issues of drug abuse, physical abuse, and marital conflict. If these issues are not resolved during incarceration, reentry will be much more difficult. Programs such as La Bodega de la Familia in New York, work with the entire family to strengthen their relationships. A healthy, functioning family is one of the most important predictors for successful reentry. Our prison policies must be changed to strengthen families rather than destabilize them.

Prisons are for people we're afraid of, but many of those filling our prisons are there because we are merely mad at them. The response to a technical violation should not automatically result in return to prison. Obviously, it is important for offenders to learn to live by the rules. However, if an offender is making good progress it makes little sense to throw that all away because he didn't file his paperwork on time or missed a meeting with his probation officer. One judge told me, "Right now, I can either send him back to prison or let him go to the beach. Give me something in between."

Inmates should be encouraged to participate in faith based programs. To deal effectively with crime, we must first understand it. At its root, crime is a moral problem. Offenders make bad moral choices that result in harm to their victims. To break the cycle of crime, we must address this immoral behavior. There aren't enough police officers to stop everyone tempted to do something bad from doing it; inmates must rely on inner restraint to keep from harming others.

Job training and education alone won't transform an inmate from a criminal into a law-abiding citizen. For some inmates such programs merely make them smarter, more sophisticated criminals. It is a changed heart that can transform a prisoner. Unfortunately, many prison programs ignore the moral aspect of crime and avoid all discussion of faith and morality. In doing so, they are missing a significant factor that has proven very effective at changing criminals' behavior faith. If inmates are to live healthy, productive, law-abiding lives when they return to their communities, we must equip them with moral standards to live up to and a world view that explains why they should do so.

The community should "own" reentry. There is a tendency to view reentry as a program of corrections departments. While our prison systems are certainly central to the reentry process, it is the community that has the most at stake. Many corrections policies make it difficult for community and church groups to be involved in preparing inmates for release. Many systems "keep their options open" on release dates, often right up to the day of release, making it impossible to recruit, match and train mentors, locate appropriate housing, arrange for jobs or welcome the inmates at the bus. For reentry programs to be a success, community groups and

churches should be viewed as important partners with the state, not as mere auxiliaries.

An important example of a corrections policy that makes reentry much more difficult is the so-called "non-fraternization" rule. I am sure you will be shocked to learn that the Federal Bureau of Prisons and many states DOCs prohibit religious volunteers from being in contact with inmates after they are released. This policy cuts the inmates off from the very people most likely to be able to help them make a successful transition. Corrections policies must be rewritten to encourage mentoring relationships to begin inside prison and continue after release. These healthy relationships should be encouraged, not prohibited. I am told the BOP is considering changes to this policy, but to make sure the Second Chance Act will overturn this counterproductive policy.

Programs are important, but healthy relationships are even more important. The support and accountability provided by mentors often make the difference between a successful return to society and re-offending. As offenders make the difficult transition back into the community, they need relationships with caring, moral adults. The greater the density of good people we pack around them, the greater the chance that they will be successfully replanted back into the community.

I have written a book, When Prisoners Return, which covers all these issues and is being used by departments of corrections, churches and community organizations to coordinate their efforts to help offenders during the difficult transition from prison to the community. If you and your staff would like copies, I will gladly provide them to you.

I mentioned that I serve on the Commission on Safety and Abuse in America's Prisons. Last year we released our report "Confronting Confinement". It concluded that our prisons are breeding grounds for future crime. The overcrowding and lack of educational and rehabilitative programming are spawning violence behind bars that spills over into our neighborhoods once prisoners are released.

The Commission made several recommendations based on a clear consensus among the experts that to prevent violence in prison we must:

- Reduce crowding.
- Increase access to meaningful programs and activities.
- Encourage a climate of mutual respect between staff and inmates.
- Increase the transparency of the institutions by increasing accessibility to outside agencies and volunteers.
- Identify at-risk prisoners and potential predators, and classify them accordingly.
- Make better use of surveillance technology.
- Strengthen family relationships by placing inmates close to their families, encouraging family visits, and lowering the cost of phone calls.

At Prison Fellowship, an outreach founded by Chuck Colson, we have had 31 years of experience in seeking the transformation of prisoners' lives. We have identified six "best practices" that we believe are applicable in almost any prison setting to achieve transformation in the lives of prisoners resulting in lower recidivism and greater public safety.

a. Community—men or women living together on a floor, wing, or building with the intentional purpose of transforming their lives.

b. Consistency—being able to work with prisoners on a frequent and consistent basis—daily if possible

c. Character—a focus on the moral and personal issues that led to criminal behavior

d. Comprehensive—holistic in nature and includes spiritual formation, education, vocational training, substance abuse treatment, life skills training, parenting training, etc.

e. Continuous—it begins in prison and continues in as they are released from prison into the community.

f. Collaborative—it is a collaborative process that must involve many individuals, government agencies, the business community, faith based institutions, and nonprofits.

As a state legislator I made the mistake of thinking that locking people up made our communities safer. Only when I was in prison did I realize that most inmates will be released someday, and locking so many of our people in prison while doing nothing to prepare them for their release is very dangerous. I commend this committee and your staff for calling attention to the horrible toll that overincarceration is taking on American society.

PREPARED STATEMENT OF CONGRESSWOMAN SHEILA JACKSON-LEE, OF TEXAS

Thank you, Chairman Schumer and Vice-Chairwoman Maloney for holding this important and timely hearing on the exponential growth of the prison population in the United States. Thank you also for allowing me to share with the Joint Economic Committee a legislative proposal I have been advocating for several years which help alleviate this crisis.

As members of this Committee are fully aware, the United States has experienced a sharp increase in its prison population in the past 30 years. From the 1920s to the mid-1970s, the incarceration rate in the United States remained steady at approximately 110 prisoners per 100,000 people. Today, the incarceration rate is 737 inmates per 100,000 residents, comprising 2.1 million persons in federal, state, and local prisons. The United States has 5 percent of the world's population but now has 25 percent of its prisoners. There are approximately 5 million Americans under the supervision of the correctional system, including parole, probation, and other community supervision sanctions.

When it comes to the plight of African American and Hispanic males, the numbers paint an even bleaker picture. Incarceration is not an equal opportunity punishment. For example, incarceration rates in the United States by race were:

- Blacks: 2,468 per 100,000
- Latinos: 1,038 per 100,000
- Whites: 409 per 100,000

Gender is an important "filter" on who goes to prison or jail, June 30, 2006. Males are 10 times as likely to end in prison as females:

- Females: 134 per 100,000
- Males: 1,384 per 100,000

Looking at just the males by race, the incarceration rates become even more frightening, June 30, 2006:

- Black males: 4,789 per 100,000
- Latino males: 1,862 per 100,000
- White males: 736 per 100,000

Looking at males aged 25–29 and by race, you can see what is going on even clearer, June 30, 2006:

- For White males ages 25–29: 1,685 per 100,000.
- For Latino males ages 25–29: 3,912 per 100,000.
- For Black males ages 25–29: 11,695 per 100,000. (That's 11.7 percent of Black men in their late 20s.)

Here is another statistic that I find particularly striking. The United States locks up its Black males at a rate 5.8 times higher than the most openly racist country in the world ever did:

- South Africa under apartheid (1993), Black males: 851 per 100,000
- United States (2006), Black males: 4,789 per 100,000

In Texas, the state from which both President Bush and I hail, the situation is just as bad. Texas has an African American population of 11 percent but an African American prison population of 44 percent. Texas also ranks number first in putting citizens to death. It ranks third in spending on prisons but 20th in education spending. It ranks 15th in incarcerating drug offenders.

Mr. Chairman, this state of affairs is not sustainable. The costs of maintaining this "prison-industrial complex" annually consume an increasing share of public revenues and adversely impacts society's ability to make other needed public investments in education, health care, infrastructure, and economic growth. That is why I am pleased that the Joint Economic Committee is holding this hearing today to examine why the United States has such a disproportionate share of the world's prison population, as well as ways to address this issue that responsibly balance public safety and the high social and economic costs of imprisonment.

According to the Urban Institute, "the social and economic costs to the nation are enormous." With 2.25 million people incarcerated in approximately five thousand prisons and jails, the combined expenditures of local governments, state governments, and the federal government for law enforcement and corrections personnel totals over $200 billion.

I have reintroduced legislation in this Congress which addresses an important cause of the prison population explosion, and that is the continued warehousing of elderly and middle-aged non-violent offenders. My legislation, H.R. 261, the "Federal Prison Bureau Nonviolent Offender Relief Act," provides for the early release for non-violent offenders who have attained the age of at least 45 years of age, have

never been convicted of a violent crime, have never escaped or attempted to escape from incarceration, and have not engaged in any violation, involving violent conduct, of institutional disciplinary regulations.

My bill seeks to ensure that in affording offenders a second chance to turn around their lives and contribute to society, ex-offenders are not too old to take advantage of a second chance to redeem themselves. A secondary benefit of my legislation is that it would relieve the some of the strain on federal, state, and local government budgets by reducing considerably government expenditures on warehousing prisoners.

Mr. Chairman, some of those who are incarcerated face extremely long sentences, and this language would help to address this problem. Releasing rehabilitated, middle-aged, non-violent offenders from an already overcrowded prison population can be a win-win situation for society and the individual who, like the Jean Valjean made famous in Victor Hugo's *Les Miserables*, is redeemed by the grace of a second chance. The reentry of such individuals into the society will enable them to repay the community through community service and obtain or regain a sense of self-worth and accomplishment. It promises a reduction in burdens to the taxpayer, and an affirmation of the America value that no non-violent offender is beyond redemption.

Mr. Chairman, at a time when tight budgets have forced many states to consider the early release of hundreds of inmates to conserve tax revenue and when our nation's Social Security system is in danger of being totally privatized, early release is a common-sense option to raise capital.

The rate of incarceration and the length of sentence for first-time, non-violent offenders have become extreme. Over the past two decades, no area of state government expenditures has increased as rapidly as prisons and jails. According to data collected by the Justice Department, the number of prisoners in America has more than tripled over the last two decades from 500,000 to 1.8 million, with states like California and Texas experiencing eightfold prison population increases during that time. Mr. Chairman, there are more people in the prisons of America than there are residents in states of Alaska, North Dakota, and Wyoming combined.

Over one million people have been warehoused for nonviolent, often petty crimes. The European Union, with a population of 370 million, has one-sixth the number of incarcerated persons as we do, and that includes violent and nonviolent offenders. This is one third the number of prisoners which America, a country with 70 million fewer people, incarcerates for nonviolent offenses.

The 1.1 million nonviolent offenders we currently lock up represents five times the number of people held in India's entire prison system, even though its population is four times greater than the United States.

As the number of individuals incarcerated for nonviolent offenses has steadily risen, African-Americans and Latinos have comprised a growing percentage of the overall number incarcerated. In the 1930s, 75 percent of the people entering state and federal prison were white (roughly reflecting the demographics of the nation). Today, minority communities represent 70 percent of all new admissions—and more than half of all Americans behind bars.

As I have stated, my legislation will ensure that in affording offenders a second chance to turn around their lives and contribute to society, ex-offenders are not too old to take advantage of a second chance to redeem themselves. My legislation will also relieve the some of the strain on federal, state, and local government budgets by reducing considerably government expenditures on warehousing prisoners.

For these reasons, I commend to your attention H.R. 261, the "Federal Prison Bureau Nonviolent Offender Relief Act," and ask you to give this proposal due consideration.

Chairman Schumer, Vice-Chairwoman Maloney, let me express again my appreciation to you and the members of the Joint Economic Committee for holding this hearing and allowing me to submit this statement.

Thank you.

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