

Using a public health approach to address the incarceration crisis

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Incarceration as a public health crisis

Over the past four decades, the rate of incarceration in the United States has quadrupled.¹ With 2.2 million people currently incarcerated and 4 million people under probation or parole, the rate of incarceration in the United States is far beyond the rate of almost every other country, including countries like China, Russia, and Iran.² The rates of incarceration are disproportionately high in communities of color, especially among African American men, who are twice as likely as Hispanic men and six times more likely than white men to be admitted to prison during their lifetime.³ Evidence across a broad array of disciplines convincingly demonstrates that the incarceration rate has exacted a toll on those individuals who are incarcerated, their families (including their children), and their communities.

Incarceration and poverty. As this issue of *Focus* demonstrates, poverty is both a contributing factor and a consequence of incarceration. Having a criminal record limits employment and educational opportunities while simultaneously limiting access to safety net programs.⁴ Research shows that serving time in prison reduces hourly wages for men by approximately 11 percent, annual employment by 9 weeks, and annual earnings by 40 percent.⁵ Incarceration also contributes to family poverty; over half of incarcerated parents report being the primary source of financial support to their children prior to their incarceration.⁶ Research also shows that even after accounting for material hardships occurring before imprisonment, paternal incarceration strongly increases material hardships for the incarcerated father's family, defined as experiencing things like having the electricity turned off or not having enough money to make rent.⁷

Incarceration and health. Incarcerated individuals have disproportionately high rates of chronic conditions and infectious disease.⁸ Twenty-one percent of prisoners and 14 percent of jail inmates report ever having an infectious disease, including tuberculosis, hepatitis B and C, and other sexually transmitted diseases, compared with 4.8 percent

of the general population.⁹ Most incarcerated individuals will eventually return to the community, making access to quality health care post-release a key public health issue.¹⁰ There are also disproportionately high rates of mental illness and substance use disorders among jail inmates and state and federal prisoners.¹¹ Forty-nine percent of state prisoners, 40 percent of federal prisoners, and 60 percent of jail inmates report symptoms of a mental health disorder, compared to roughly 25 percent of the adult general population ages 18 to 64.¹² Sixty-nine percent of state prisoners and 64 percent of federal prisoners report regular drug use.¹³

Incarceration and community well-being. The rise of incarceration rates has not been evenly distributed, with certain communities facing greater numbers of absent working-age men. For example, the Justice Mapping Center found that in Wichita, Kansas, one quarter of all people on probation or parole live in only 8 percent of the city's neighborhoods.¹⁴ These high rates influence community health. Recent estimates indicate that 7 percent of all U.S. children have ever had a parent who lived with them go to jail or prison.¹⁵ Even when controlling for demographic, socioeconomic, and familial characteristics, parental incarceration is independently linked to a number of poor health outcomes for children, including learning disabilities, behavioral or conduct problems, and developmental delays.¹⁶ For mothers, having a child's father incarcerated is linked with mental health problems, including an increased risk of a major depressive episode, and a higher level of life dissatisfaction.¹⁷

The public health approach to addressing the harmful effects of incarceration

Addressing the scope and depth of harm that high incarceration rates impose on society requires a concerted strategic approach that addresses the full spectrum of causes and consequences of the incarceration crisis. Public health provides a useful frame in shaping this strategic approach, particularly in its conceptualization of primary, secondary, and tertiary prevention. Primary prevention entails actions to prevent a condition or disease from occurring (for example, a low sodium diet to prevent high blood pressure). Secondary prevention includes interventions that occur after the onset of a condition to mitigate its impact (for example, treating high blood pressure to prevent a stroke). Tertiary prevention encompasses rehabilitation effort, after a disease or condition has run its course to enable the individual to return to the greatest possible function (e.g., physical therapy to restore function after a stroke occurs). A comprehensive

approach to address the harms of incarceration must include all three elements and, indeed, this frame is evident in the current Administration's efforts to tackle this issue. Although a detailed review of Administration activities and proposals is beyond the scope of this commentary, below we include a number of examples of Administration policies and programs, Congressional initiatives, and other examples from the field that illustrate how such a framing can help ensure a comprehensive response.

Primary prevention: Avoiding initial justice system involvement

Reduce conditions of poverty, disadvantage, and harm. Given the damaging effects justice system involvement can have on individuals, families, and communities, the primary goal should be prevention of initial criminal justice system involvement whenever possible.

The risk of incarceration is much higher in low-income communities and communities of color.¹⁸ Pre-incarceration income is 41 percent less for individuals who are incarcerated compared to individuals who have never been incarcerated but are of a similar age, even when controlling for the overrepresentation of individuals of color in the justice system.¹⁹ Addressing these conditions of poverty has been a central focus of Administration efforts. Efforts include dramatic expansion and strengthening of early childhood education (Head Start and pre-kindergarten) and child care; education reform resulting in substantial increases in high school graduation rates; joint Department of Education and Department of Health and Human Services (HHS) policy guidance to reduce exclusion of at-risk children from preschool and K-12 education, linked to the broader "My Brother's Keeper" initiative; expansion of public benefits such as the Earned Income Tax Credit, Supplemental Nutrition Assistance Program or SNAP, formerly known as food stamps, and school food programs; and the establishment of a series of "place-based" initiatives (Strong Cities, Strong Communities; Promise Neighborhoods; Promise Zones; and others) to bring coordinated federal engagement, expertise, and resources to address the needs of communities of concentrated poverty.

Increase access to behavioral health and substance abuse services. The Mental Health Parity and Addiction Equity Act of 2008 and the Affordable Care Act require group health plans, health insurance issuers, and individual health insurance plans to ensure that financial requirements (such as co-pays and deductibles) and treatment limitations (such as visit limits) are no more restrictive than the requirements and limitations applied to medical and surgical benefits, thereby improving the coverage of behavioral health treatment. Building on substantial investments throughout the Administration, the President's fiscal year 2017 budget includes a total of \$530 million for programs that expand access to behavioral health services by expanding service and workforce capacity and engaging individuals with serious mental illness in care.²⁰ Improving access to

behavioral health care can improve reentry outcomes, and may also prevent initial justice system contact.

Support problem-solving courts and other diversion strategies. Once a crime has occurred, alternative approaches exist to minimize the use of incarceration. Problem-solving courts, or courts that seek to address the underlying chronic behaviors of criminal defendants, offer promising strategies to divert individuals away from incarceration and toward needed behavioral health interventions. Drug courts integrate alcohol and other drug treatment services with justice system processing for nonviolent offenses, which supports early identification and placement in treatment as another alternative.²¹ Mental health courts similarly offer an opportunity for early identification and intervention for mental illnesses and emphasize access to appropriate treatment over incarceration.²²

Use evidence-based probation and parole practices. Smart probation and parole strategies can also be used to divert people away from incarceration. For example, the Project HOPE program in Hawaii uses drug testing and swift, certain sanctions to alter behavior while mandating treatment for those who need it. Probationers in Project HOPE have been found to be 55 percent less likely to be arrested for a new crime and 72 percent less likely to use drugs than those who don't participate.²³

Use more nuanced sentencing strategies. The Sentencing Reform Act of 1984 revised the criminal code and established the U.S. Sentencing Commission, which introduced mandatory minimum sentences for various crimes and eliminated the possibility of parole in some cases, causing an almost immediate increase in the prison population. Much has been done to revise these policy decisions. In 2010, the U.S. Congress passed the Fair Sentencing Act to reduce the sentencing disparity between possession of crack cocaine and powder cocaine. In 2014, the U.S. Sentencing Commission announced a reduction of the potential punishment for future drug offenders and then made that change retroactive, making thousands of prisoners eligible for early release.²⁴ In a separate effort, the Administration has commuted the sentences of 184 individuals as part of an initiative to grant clemency to certain nonviolent drug offenders in federal prison, many of whom would have received a substantially lower sentence if convicted of the same offense today.²⁵ Revising sentencing guidelines and overturning mandatory minimums will go a long way to ensuring that incarceration, with its associated costs, is employed prudently.

Secondary prevention: Providing evidence-based supports during incarceration to prepare for reentry

Encourage family strengthening policies and programs. Families often provide the needed housing, financial, and social support required for successful reentry, making strong family ties a predictive factor of successful reentry.²⁶ However, during incarceration, family members struggle

to navigate and maintain relationships when prisons are located far away from communities and the costs of visiting, phone calls, and other communication can be prohibitively expensive.²⁷ Family-friendly visitation policies and programs to support positive family communication and interaction can help strengthen family ties and potentially improve recidivism rates. Video visiting offers a low-cost, high-impact way to supplement in-person visitation. The Federal Communication Commission's recent caps on the cost of calls from prison also have the potential to improve family relationships as they are implemented and enforced.²⁸ Further research, such as the work described by Julie Poehlmann-Tynan in this issue, is needed to clarify what types of visits and contacts are most helpful for both the incarcerated individual and his or her family.

Expand parenting education. Many incarcerated individuals are able to use the time spent in prison to identify the mistakes they may have made, and qualitative research indicates that many incarcerated parents are eager to help their children avoid the same mistakes but struggle with how they can share these lessons when their credibility as a parent has been tarnished.²⁹ Evidence-based parenting programs such as Inside Out Dad or Parenting Inside Out offer needed strategies to incarcerated parents who struggle to maintain or revive relationships with their children.³⁰ Parenting education is often reserved for individuals who are close to release; however, offering these parenting strategies closer to entry may help to avoid broken ties that would later need to be rekindled. The Charles Colson Task Force, a bipartisan blue ribbon task force created by Congress, has recommended that the Federal Bureau of Prisons develop greater opportunities for family engagement, including expanding visitation programs and establishing a centralized visitation and family affairs office to provide a coordinated approach to supporting families.³¹

Prevent accumulation of child support debt. Individuals who enter prison with a child support order can leave prison with \$15,000 to \$30,000 in child support debt.³² This debt can be a significant barrier to reentry by interfering with criminal record expungements, receipt of public benefits, obtaining housing, and getting access to credit.³³ Helping incarcerated parents apply for and modify their child support orders early in their justice system involvement will help reduce the accumulation of debt. Such an approach has been adopted by many states, and is incorporated in a proposed rule from the Administration that, if implemented, would prohibit states from treating incarceration as “voluntary unemployment,” which effectively prevents incarcerated parents from applying for a modification to their orders.

Offer practical employment and education opportunities during incarceration. Employment opportunities offered during incarceration should build knowledge and skills in industries that are accessible to individuals with a criminal record. Increasing access to high-quality education programs has also proven to be a recidivism-reduction strategy. One recent study from the RAND Corporation found that

individuals who participated in correctional education were 43 percent less likely to return to prison than those who did not.³⁴ This past July, the U.S. Department of Education launched a Pell Pilot Program, to test new models to allow incarcerated Americans to receive Pell Grants and pursue postsecondary education.³⁵ The President's fiscal year 2017 budget includes a proposal to reinstate the Pell eligibility of incarcerated students.³⁶

Expand and encourage substance use and mental health treatment. Risk-reduction programming offered within prisons is an important avenue for setting incarcerated individuals up for success upon release. The Colson Task Force also recommends expanding eligibility for drug programs. The task force asks the Federal Bureau of Prisons to expand its intensive Residential Drug Abuse Program by allowing high- and medium-risk individuals to participate and offering time-off sentence incentives for completing the program.³⁷

Tertiary prevention: Addressing collateral consequences post-release

Remove barriers to employment for individuals with criminal records. Finding stable employment is one of the most significant challenges to overcome post release, a challenge made more difficult by criminal background checks and licensing restrictions. State and local “Ban the Box” initiatives have made significant headway in allowing formerly incarcerated individuals an equal chance at employment.³⁸ By preventing employers from having a box indicating a criminal record on the initial application and screening out all those required to check the box, employers are encouraged to meet with and evaluate candidates on a more personal level. Encouraging expungement of records is another promising strategy. The Department of Labor and the Department of Justice are working together to establish a National Clean Slate Clearinghouse to provide technical assistance to local legal aid programs, public defender offices, and reentry service providers to build capacity for legal services needed to help with record-cleaning, expungement, and related civil legal services.

Consider changes to state and local laws to improve access to safety net programs. Many states have taken action to overturn or reduce the lifetime ban on Temporary Assistance for Needy Families and SNAP benefits for individuals with felony drug convictions, allowing more individuals access to these supports during the difficult reentry period.³⁹ The U.S. Department of Housing and Urban Development has issued guidance instructing public housing authorities that arrest records may not be the basis for denying admission, terminating assistance, or evicting tenants.⁴⁰ States can also consider provisions allowing for geriatric release for elderly inmates in poor health.

Improve the continuity of health care upon release by connecting individuals to affordable health care coverage and services. Under the Affordable Care Act's Medicaid

expansion, adults with incomes under 138 percent of the Federal Poverty Level are now eligible for Medicaid in the states that have adopted the Medicaid expansion. Since incarcerated individuals have their Medicaid coverage suspended or terminated during incarceration (because correctional facilities are directly responsible for the provision of health services), special effort must be taken to connect individuals to health care coverage post-release. The Office of the Assistant Secretary for Planning and Evaluation at HHS currently has several studies underway to examine how improved access to health care may affect recidivism outcomes. One such study, “Evaluating Early Access to Medicaid as a Reentry Strategy,” conducted in partnership with the National Institute of Corrections, will work with correctional and Medicaid authorities to design a process to assist soon-to-be-released incarcerated individuals with their Medicaid applications. The study will track outcomes, including use of health care services, employment, and recidivism outcomes, post-release.

Conclusion

The articles in this issue of *Focus* summarize research that demonstrates how incarceration affects not only those who are imprisoned, but also their families and their communities. A comprehensive public health approach that both focuses on the underlying causes of incarceration and addresses the factors that contribute to cycles of incarceration and recidivism is necessary in order to fully address the challenges presented. ■

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