Mass Incarceration and its Impacts

March 15, 2017
Gerry Leonard
Professor
LAW
Does Constitutional Law Have Anything to Say About Mass Incarceration?

The Sixth Amendment promises effective assistance of counsel.

The Due Process Clause and the Equal Protection Clause promise that the quality of justice an accused gets should never turn on ability to pay.

The Due Process Clause and the Equal Protection Clause promise that prosecutors will charge rationally, according to “fundamental fairness,” and without bias by race, class, gender, etc.

The Fourth Amendment promises that the police will not detain or search anyone without probable cause or at least reasonable suspicion.

*Can litigation move the courts to redeem these promises so as to durably improve the practices of police, prosecutors, defenders, and legislators?*
Mary Ellen Mastrorilli

Associate Professor of the Practice
and Associate Chair

Applied Social Sciences
MET
College Behind Bars: Worthy or Worthless?

1. Worthy

2. Evidence-based programming

3. Prisoners “deserve” to be studied

4. Second Chance Pell Grant Pilot Program

Jessica T. Simes
Assistant Professor
Sociology
CAS
Danielle Rousseau
Assistant Professor
Applied Social Sciences
MET
Disparity and Intersectionality in Mass Incarceration

Disparities in Imprisonment

Women defendants experienced leniency in decision to incarcerate and length of sentences imposed

Black defendants were more likely to be incarcerated and received longer prison sentences than any other defendants

Exploring Intersectionality

Black women were less likely to be incarcerated
Black and Hispanic women received shorter prison sentences

Black men were more likely to be incarcerated
Black men received longer prison sentences

Conclusions

Do disparities exist in the justice process?
Women are different than men in their justice system experience
Disparities exist, but are complex and interactive

How can we begin to explain current disparities?
Cultural norms, gender norms, parenthood
Judicial concerns and stereotypes, not justice workforce diversity
Luz Marilis López

Clinical Associate Professor
and Associate Director, Public Health & Social Work Program

Clinical Practice
SSW
Drug users (35%) in federal prison had no or minimal criminal history & No violent crimes.

* African American/Black = 88% of crack cocaine offenders
* Latinos = 54% of powder cocaine offenders & heroin
* White = 48% of methamphetamine (NIJ, 2015)

Public Health crisis! NO treatment =< overdose deaths: 338 in 2000 to 1,526 in 2015 (MA DPH, 2016)
Megan Sullivan

Associate Dean for Faculty Research and Development; Associate Professor, Rhetoric; and Director, Center for Interdisciplinary Teaching & Learning

CGS
75% of women & 65% of men in prison are parents.

72% of mothers lived with their children before incarceration.

50% never receive a visit from their kids.

400= number of miles some women are housed away from their residence.

2.7M minor children have a parent in prison.

10M have experienced a parent’s incarceration.

1 in 15 are Black.

1 in 42 are Latino.

1 in 111 are White.

From 1990-2007, the number of children with a parent in prison rose 77% (fathers)

131% (mothers).

Increased risk of poverty, housing & food insecurity, mental health concerns, criminal justice involvement.

We can help children through:

- Health, mental health and educational assessments and interventions
- Family and kinship support
- Encouraging visits & communication
- Considering family at sentencing
- Family and support services
- Lifting housing restrictions
- Educating professionals
- Discussing children’s rights
D. Keith McInnes
Research Associate Professor
Health Law, Policy & Management
SPH
Research Health Scientist
Department of Veterans Affairs
Post-Incarceration Engagement (PIE) Project

- Single-room occupancy (SRO)
- Unemployed
- Learning to use cell-phone & public transport
- 12 years, state facility

- Job in benefits office
- Janitor
- Army ranger
- Police Officer
- 18 months, HOC
Research on Tap: Mass Incarceration and its Impacts

Daniel LeClair
Professor and Chair
Applied Social Sciences
MET
Old Wine, New Bottles: Community Reintegration For Prison Populations

### Yearly Recidivism Rate Differentials by Furlough Program Participation, 1973-1978

<table>
<thead>
<tr>
<th>Year of Release</th>
<th>Number of Releases</th>
<th>Recidivism Rate</th>
<th>Recidivism Rate</th>
<th>Recidivism Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Furlough</td>
<td>Furlough</td>
<td>Total Population</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Participants</td>
<td>Non-Participants</td>
<td></td>
</tr>
<tr>
<td>1973</td>
<td>966</td>
<td>16%</td>
<td>25%</td>
<td>19%</td>
</tr>
<tr>
<td>1974</td>
<td>911</td>
<td>14%</td>
<td>31%</td>
<td>19%</td>
</tr>
<tr>
<td>1975</td>
<td>806</td>
<td>14%</td>
<td>30%</td>
<td>20%</td>
</tr>
<tr>
<td>1976</td>
<td>925</td>
<td>9%</td>
<td>25%</td>
<td>16%</td>
</tr>
<tr>
<td>1977</td>
<td>1138</td>
<td>7%</td>
<td>23%</td>
<td>15%</td>
</tr>
<tr>
<td>1978</td>
<td>1118</td>
<td>8%</td>
<td>24%</td>
<td>16%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>5864</strong></td>
<td><strong>12%</strong></td>
<td><strong>26%</strong></td>
<td><strong>17%</strong></td>
</tr>
</tbody>
</table>

### Yearly Comparison of Recidivism Rates by Pre-Release Participation

<table>
<thead>
<tr>
<th>Year of Releases</th>
<th>Number of Releases</th>
<th>Percent of Population Released by Pre-Release Centers</th>
<th>Recidivism Rate: Participants</th>
<th>Recidivism Rate: Non-Participants</th>
<th>Recidivism Rate: Total Releases</th>
</tr>
</thead>
<tbody>
<tr>
<td>1971</td>
<td>1107</td>
<td>0%</td>
<td>__</td>
<td>25%</td>
<td>25%</td>
</tr>
<tr>
<td>1972</td>
<td>1550</td>
<td>1%</td>
<td>__*</td>
<td>__*</td>
<td>22%</td>
</tr>
<tr>
<td>1973</td>
<td>966</td>
<td>11%</td>
<td>12%</td>
<td>20%</td>
<td>19%</td>
</tr>
<tr>
<td>1974</td>
<td>911</td>
<td>25%</td>
<td>12%</td>
<td>21%</td>
<td>19%</td>
</tr>
<tr>
<td>1975</td>
<td>806</td>
<td>28%</td>
<td>14%</td>
<td>22%</td>
<td>20%</td>
</tr>
<tr>
<td>1976</td>
<td>925</td>
<td>40%</td>
<td>9%</td>
<td>21%</td>
<td>16%</td>
</tr>
<tr>
<td>1977</td>
<td>1138</td>
<td>42%</td>
<td>8%</td>
<td>19%</td>
<td>15%</td>
</tr>
<tr>
<td>1978</td>
<td>1118</td>
<td>36%</td>
<td>9%</td>
<td>21%</td>
<td>16%</td>
</tr>
</tbody>
</table>

*Figures not available for sub-samples in this year.*
## Recidivism for Males Released From 1973 Through 1978 According to Pre-Release and Furlough Experience

<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>NO</td>
<td>NO</td>
<td>294(30)25%</td>
<td>225(25)29%</td>
<td>265(33)28%</td>
<td>353(30)20%</td>
<td>422(37)25%</td>
<td>486(43)25%</td>
<td>2045(35)26%</td>
</tr>
<tr>
<td>YES</td>
<td>NO</td>
<td>2(1)50%</td>
<td>12(2)67%</td>
<td>39(5)39%</td>
<td>73(8)11%</td>
<td>124(11)19%</td>
<td>85(0)10%</td>
<td>335(6)21%</td>
</tr>
<tr>
<td>NO</td>
<td>YES</td>
<td>563(50)17%</td>
<td>460(50)17%</td>
<td>317(39)17%</td>
<td>207(22)10%</td>
<td>243(21)10%</td>
<td>224(20)10%</td>
<td>2014(34)15%</td>
</tr>
<tr>
<td>YES</td>
<td>YES</td>
<td>107(11)11%</td>
<td>214(23)9%</td>
<td>105(23)9%</td>
<td>392(32)0%</td>
<td>349(31)5%</td>
<td>323(29)7%</td>
<td>1470(25)7%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>966(100)19%</td>
<td>911(100)19%</td>
<td>806(100)20%</td>
<td>925(100)16%</td>
<td>1138(100)15%</td>
<td>1110(100)16%</td>
<td>5064(100)17%</td>
</tr>
</tbody>
</table>


<table>
<thead>
<tr>
<th>Category</th>
<th>Number of Releases</th>
<th>Expected Recidivism Rate</th>
<th>Actual Recidivism Rate</th>
<th>Difference</th>
<th>Significance Level</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. Maximum Security</td>
<td>418</td>
<td>27.9%</td>
<td>26%</td>
<td>- 1.9</td>
<td>Not statistically significant</td>
</tr>
<tr>
<td>II. Medium Security</td>
<td>130</td>
<td>21.1%</td>
<td>19%</td>
<td>- 2.1</td>
<td>Not statistically significant</td>
</tr>
<tr>
<td>III. Minimum Security</td>
<td>81</td>
<td>22.1%</td>
<td>9%</td>
<td>- 13.5</td>
<td>Statistically significant</td>
</tr>
<tr>
<td>IV. Pre-Release</td>
<td>212</td>
<td>21.1%</td>
<td>12%</td>
<td>- 9.1</td>
<td>Statistically significant</td>
</tr>
<tr>
<td>V. Total Male Releases</td>
<td>841</td>
<td>24.6%</td>
<td>20%</td>
<td>- 4.6</td>
<td>Statistically significant</td>
</tr>
</tbody>
</table>
“conduct that presents a serious potential risk of physical injury to another”

Armed Career Criminal Act – 6,000 prisoners
  • adds an average of 7 years to the sentence

Career Offenders under the USSG – 12,000 prisoners
  • more than doubles the underlying sentence
  • racial disparity
  • trivial offenses: i.e. drunk driving, failure to stop, resisting arrest
  • prosecutorial overreaching: the Holder memorandum and the Sessions repudiation
  • Supreme Court retrenchment: *Johnson* limited in *Beckles*
Phillipe Copeland
Clinical Assistant Professor
Clinical Practice
SSW
THE MATRIX OF MASS INCARCERATION

MENTALITY

HISTORY

MORALITY

MACHINERY