

MASS INCARCERATION: OVERVIEW OF ITS EFFECTS ON BLACK AND BROWN INDIVIDUALS, WITH POLICY RECOMMENDATIONS USING FAMILY ENGAGEMENT TO ADDRESS RECIDIVISM

DURRELL MALIK WASHINGTON

Black and brown men are negatively impacted by the criminal justice system and have been incarcerated at higher rates than any other group in the United States (Knafo, 2013). The United States criminal justice system is built on punishment and exploitation rather than rehabilitation, resulting in higher rates of incarceration and recidivism compared to other developed nations (Gilligan, 2012). Countries such as Norway and the United Kingdom take a more humane approach to their criminal justice system, resulting in low recidivism rates (Sterbenz, 2014). Implementing policies that aim to keep families connected with individuals who are incarcerated is a major way to reduce recidivism rates (Clarke, 2013). Using New York State as a case study, this paper will propose extending conjugal visits beyond medium and low-security prisons and implementing Skype technology in prisons and jails as policy solutions to promote the well-being of people who are incarcerated and keep them from returning to prison once they are released. Social workers can play a vital role in efforts made to shift the United States' criminal justice system from a culture of punishment towards a restorative model.

INTRODUCTION

We live in a nation of incarceration. The United States has only 5% of the world's inhabitants, but 25% of the world's prisoners - the largest prison population in the world (Rabuy, 2017). When asked to describe mass incarceration using one word, slavery is apt. Over the course of its history, the United States has repeatedly developed new systems and strategically implemented policies to marginalize and oppress individuals of color (Butler, 2017). Slavery was made illegal in 1865 (Fruntdt, 2011). However, with the slave system in demise, oppression under the new name of "Law and Order" was born (Alexander, 2012 p. 40). The United States criminal justice system is known for disproportionately targeting and imprisoning black and brown bodies (Gilligan, 2012). The system is supposed to be built on rehabilitation; however, it has become an institution established on punishing those who are incarcerated and exploiting them for the economic gain of outside vendors (Butler, 2017). Not only are black and brown bodies locked up, but many policies also keep them completely cut off from contact with the world outside of prison walls (National Research Council, 2014).

Instead of rehabilitation, individuals can become institutionalized to the point that they are no longer able to cope and re-adjust to life on the outside (Butler, 2017).

Once released, formerly incarcerated people have stigmas attached to them because of their record and are stripped of their natural born rights of access to healthcare, employment, housing, and education (National Research Council, 2014).

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These barriers contribute to high rates of recidivism amongst formerly incarcerated individuals in the United States. How can we use the unjust system currently in place to help individuals of the carceral state? This paper will address the effects mass incarceration has both historically and presently had on black and brown people while also suggesting how policies to connect families with incarcerated loved ones can enhance the chances of keeping individuals from becoming repeat offenders.

EFFECTS OF MASS INCARCERATION ON BLACK AND BROWN INDIVIDUALS

Within the U.S. Constitution lies the 13th Amendment, which prohibits slavery and involuntary servitude “except as a punishment for crime whereof the party shall have been duly convicted” (U.S. Const. amend. XIII). This portion of the Amendment has been used to legally justify enslaving black and brown bodies and stripping them of their

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natural rights (King, 2016). Similarly to the days of slavery, incarcerated people are often shackled from their hands down to their feet. They are forced into harsh labor conditions with minimal if any, financial reciprocation. They are subjected to substandard living conditions, as well as mental, physical and sexual abuse. Once released, they are stripped of the rights and freedoms that are supposed to extend to

all people in society (Florio, 2018). They are now stigmatized, becoming even more marginalized and oppressed because of their criminal record (National Research Council, 2014).

Incarceration is one of the many ways marginalized, and oppressed bodies are kept at lower class status (Butler, 2017). Laws, policies, and platforms evolve over the decades to continuously target and push people of color into the criminal justice system and keep them at or below the poverty line (Rikken, 2018). Phrases such as “Jim Crow” and “black codes” are historical reminders of how a larger system has viewed people of color

throughout history (Bundles, 2015). The implementation of legalized segregation in the past placed limits on the places people of color could go, the education they could receive, and the jobs they could hold (Hansan, 2011). After the official end of segregation, the “War on Drugs” became its replacement, sparking the mass incarceration of black and brown individuals into the newly created prison industrial complex (Fornili, 2018). One in three black males and one in six Hispanic males will go to prison within their lifetime. Those numbers far outweigh incarceration rates for any other group in the U.S. (Knafo, 2013).

The effects of these larger policies can have detrimental effects on a person (National Research Council, 2014). However, we do not always look at incarceration as a holistic entity that affects not only the person who is incarcerated but also the many different systems to which that person belongs. Families of incarcerated people can suffer from psychological, emotional and financial problems as a result of one’s incarceration (Arditti, 2016).

When an individual goes through a period of incarceration, it is essential to look at them within their broader environment and assess the behavior related to the alleged crime, as well as factors that might have triggered the behavior (Visher et al., 2014). Factors such as the community where a person comes from, his or her mental health status, and his or her family functioning can be helpful in understanding what may have led to incarceration. Understanding what led up to the behavior is important because it can shed light on ways to prevent similar action in the future (National Research Council, 2014).

A criminal justice system that financially gains off of the trauma and exploitation of people should be reformed. This country has been built off of the labor of, and profiteering off of people of color for centuries (Bell, 2007). The systematic oppression enforced by mass incarceration has been disguised using policies such as the “War on Drugs” and “Stop and Frisk,” which are targets on black and brown bodies in order to continue a narrative that is displayed through media and other outlets labeling people of color as criminals (Fornili, 2018).

EFFECTS OF FAMILY ENGAGEMENT POLICIES ON RECIDIVISM

People released from prison face many different obstacles that can make it hard for them to readjust upon release (Visher et al., 2014). These include homelessness, unemployment, and substance abuse (Visher et al., 2004). Not only did the number of prisoners quadruple between the 1970s and early 2000s, so did the number of people reentering communities once released from prison (Sabol et al., 2009). To dismantle the prison industrial complex, one step to take is reducing recidivism rates. Recidivism is a person’s relapse into criminal behavior (Cohen, 2017). Over the years,

many policies and initiatives have been implemented to reduce recidivism rates. Many of these policies address different factors that can either cause or prevent incarceration, such as mental health programs, substance use programs, and restorative justice programs (Roberts, 2012). Promoting family engagement for individuals while they are incarcerated can also ease transitions back into the community upon release. Implementing family engagement policies could reduce recidivism rates, impacting individuals of color who are recurring offenders (Clarke, 2013).

Nationwide, prison visitation policies are implemented in some form (Sterbenz, 2014). However, some of these policies can be problematic. Duwe and Clark (2011) state that “visitation policies can actually inhibit visits from family, friends... Offenders are primarily responsible for conveying visitation rule if a visitation is denied, it is the prisoner’s responsibility to relay that information” (Duwe & Clark, 2011, p. 4). Nevertheless, research has demonstrated over the years that visits from family members improve behavior and lower the likelihood of recidivism (Clarke, 2013). One of the first studies done on prison visitation and recidivism found that only 2% of individuals who had visitors within their final year of incarceration returned to prison, compared to more than 12% of those who did not (Duwe & Clark, 2011).

As prison sentences have increased, incarcerated individuals have had a more difficult time maintaining social support networks (Lynch & Sabol, 2001). Removal from their families for an extended period can cause individuals to feel incredibly isolated while incarcerated. This isolation can affect behavior while incarcerated, as well as behavior once released (Friedmann, 2014). Having a connection to one’s family correlates with lower crime and lower recidivism rates (LaVigne et al., 2005). In the following sections, I will examine current policies aimed at connecting families with loved ones who are incarcerated, as well as policy changes that could improve the system.

EFFECTS OF FAMILY CONTACT

According to The Vera Institute, a nationally recognized research and policy organization, maintaining a connection between family members and incarcerated people is essential (Friedmann, 2014). The primary ways imprisoned people stay connected with their families are through prison visits, letters, and phone calls. Most prison institutions have policies in place to facilitate family contact through these three methods; however, these systems need to be revamped. Independent evaluations of family contact policies have shown that many of them can be problematic (Giovanna, 2013).

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LETTER WRITING

Writing letters can be an efficient way for people to stay in contact with family members. Maintaining family ties has been correlated with helping an incarcerated person to succeed once they are released (Sakala, 2013). However, some letter writing policies can be deemed unfair. Some prison institutions do not allow individuals or their families to send letters bigger than a piece of paper the size of a postcard (Friedmann, 2014). Limiting how much a person can write does not allow individuals to express themselves openly and effectively when trying to communicate with a loved one. Nevertheless, because individuals who are incarcerated may be located far distances from their families, letter writing is a significant tool of communication between them.

VISITATION

Access to family visitation has been shown to affect recidivism rates. Being able to interact with one's family has been heavily correlated with positive behavior both while incarcerated, as well as upon release (Clarke, 2013). A 2011 study by the Minnesota Department of Corrections followed over 16,000 ex-prisoners over five years, examining differences in recidivism rates between those who received prison visits and those who did not (Clarke, 2013). Results demonstrated that any level of visitation lowered the risk of recidivism. Felony re-convictions were 13% lower for those who received prison visits. Visitation had an even more significant impact on technical violation revocations, which were 25% lower. Visitation can, however, be unpleasant. There are often long wait periods, invasive searches, limited visitation times, and other unfair or burdensome rules. For example, a report from The Vera Institute describes:

One female attorney said she was told by prison officials that she could not visit a prisoner because her underwire bra set off the metal detector. After leaving, removing her bra and then returning, she was told she could not visit because she wasn't wearing a bra" (Friedmann, 2014).

There are also prisons that only allow visitation on the weekends (Sims, 2017). Continuous obstacles in the way of staying connected with loved ones who are incarcerated can make visitation undesirable, which can prevent family members from wanting to partake in visits due to some of these rules (Giovanna, 2013).

PHONE CALLS

Regular phone conversations also can reduce recidivism rates among formerly incarcerated individuals. However, evaluations of phone policies in prisons and jails have revealed that inflated phone rates have resulted

in barriers to contacts between prisoners and their families and friends. People from low-income families cannot afford to continuously pay for phone calls at increasing rates. In order for phone calls to be an effective form of family contact, they have to be made more affordable (Friedmann, 2014).

INTERNATIONAL EFFORTS

Internationally, many countries seem to be more advanced in their efforts to reduce recidivism than the United States. When looking abroad, the literature illustrates a more humane approach. Many foreign justice systems, particularly those in Europe, emphasize rehabilitation rather than punishment. For example, Germany builds normalization into their policies: the experience while incarcerated is as close to life on the outside as possible. Some of these policies have helped to keep other countries' recidivism rates low (Sterbenz, 2014). In the United Kingdom, there are many opportunities for family visitations, including prison visitation centers in England. In Canada, incarcerated people are provided with an opportunity to have private family visits in separate areas that have access to a kitchen and living space; these visits can last up to 72 hours at a time and can occur every two months. Denmark has instituted policies in which, every third weekend of the month, prisoners can leave for the weekend to be with their families. These policies have not resulted in increases in crime. Many international criminal justice systems rehabilitation efforts are reflected in their low rates of recidivism (Sterbenz, 2014).

NEW YORK STATE VISITATION POLICY ISSUES

New York State Governor Andrew Cuomo's 2017-2018 budget contained a proposal to reduce visitation days at maximum security correctional facilities (Sylvia Rivera Law Project, 2017). Governor Cuomo states that the visitation reduction is intended to cut costs and to align maximum-security policy with medium-security facilities (Abraham, 2017). However, as previously discussed, prison visits have already shown the ability to reduce recidivism (Clarke, 2013). It is counterintuitive to make prison visits more difficult. Family members of incarcerated people often have to travel far distances to remain connected with their loved ones. Restricting the days during which they can visit may reduce someone's chance of even having visitors at all. (Abraham, 2017). Policy change may also lead to congestion problems during visitations because of restricted days (Rivera, 2017).

POLICY RECOMMENDATIONS

A lack of family reunification programs can be a root cause of high recidivism rates. In addition to facilitating visitation in prisons, as discussed throughout this paper, other policies intended to keep individuals connected with their families can be strengthened or implemented. Specifically, I propose two policies aimed at lowering recidivism through family engagement programs:

- (1) Inmate conjugal visits implemented in all jails and state prisons.
- (2) Inmate access to Skype video chats in conjunction with telephonic communication.

These policies can be applied in to all jails and prisons in New York State.

INMATE CONJUGAL VISITS IMPLEMENTED IN ALL STATE PRISONS AND JAILS

New York is one of only four states (the others being California, Connecticut, and Washington) that allow conjugal visits. However, these programs are currently only allowed in medium and low security prisons (Dopplr, 2017). One major policy change would be to extend conjugal visits to all correctional facilities throughout the state. If a prison is large enough, administrators could designate specific sections for hosting families. Otherwise, external trailers could be purchased for this purpose. Although pushback would not generally be expected, there might be opposition around conjugal visits for inmates serving time for certain offenses, such as sexual assault (Lochrie, 2014). Eligibility restrictions could be applied if necessary, allowing the majority of incarcerated people to still benefit.

ACCESS TO SKYPE VIDEO CHATS IN CONJUNCTION WITH PHONE CALLS

Phone calls are a major means of maintaining family contact, but they can also be problematic. In 2013, the FCC proposed a plan to impose rate caps and lower intrastate phone rates to keep costs down for people who were incarcerated (Marimow, 2017). In response, a number of corrections officials filed objections to the plan (Friedmann, 2014). Prisons and jails nationwide have thus far received hundreds of millions of dollars in kickbacks from prison phone companies, resulting in inflated phone rates that create financial barriers to communication between prisoners and their family members (Friedmann, 2014).

Implementing policies that allow prisoners to communicate via Skype would make up for current faults in established policies (Stroud et al., 2015). Doing so would save money for both families and institutions, and

prisoners would be able to use commissary money to pay the prison, as opposed to paying phone companies directly. Instead, the prison could pay a monthly internet fee to supply the prison with broadband access, enabling electronic communication. Prisons in St. Louis have implemented this policy, yet phone companies continue to try to take the majority of profits (Stroud & Brustien, 2015). By installing internet connections, the main financial compensation would be kept in-house. This innovation would be beneficial to family members who may have to travel extensive amounts of times, or simply do not wish to be subjected to prison searches, to save money (Stroud & Brustien, 2015).

IMPORTANCE OF SOCIAL WORKERS ROLE IN THIS WORK

Social workers can play a significant role in revamping the scope of the criminal justice system in the United States. Social work is based on an ethical framework that emphasizes fighting for social justice and empowering oppressed and marginalized individuals in society (National Association of Social Workers, 2008). Social workers can lead research initiatives, create programs, propose policies, and advocate on behalf of incarcerated individuals to help end injustices, by advocating for policies that promote family engagement for people while they are incarcerated.

CONCLUSION

Allowing individuals who are incarcerated a means to stay connected with the outside world is just one of the many ways to reduce recidivism and promote community. A system that aims to rehabilitate individuals should focus on developing ways in which behavior can be changed, and opportunities can be provided. Punishment has shown to be a method that does the opposite. The benefits of the policy proposals to extend conjugal visits to all jails and prisons and to allow prisoners access to Skype telecommunication extend not only to incarcerated individuals and their families, but also to correctional staff. More humane policies can help lower recidivism and keep staff safe. Efforts should continue to be made in order to strengthen these policies in order to benefit everyone.

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DURRELL MALIK WASHINGTON is a second-year Advanced Standing student at the Columbia University School of Social Work. At Columbia, Durrell Interns in the Safe Lab which is a research initiative focused on examining the intersections between social media and violence. Under the supervision of Dr. Desmond Patton, Durrell supports ongoing qualitative research using social media and other forms of technology to understand the context behind online language. Durrell also assists in developing linguistic algorithms, to equip an artificially intelligent chatbot (WYSA), specializing in cognitive behavioral therapy, with the ability to serve as an intervention tool for youth of color. Durrell is a Beyond the Bars Fellow. The fellowship is built around helping students and community members develop a deeper understanding of mass incarceration and social change. Durrell's interest centers on criminal justice reform, and the different nuances that leads to people of color entering the carceral state.