Ending Mass Incarceration: Safety Beyond Sentencing

After 50 years of mass incarceration, the United States faces a reckoning. While crime is far below its peak in the early 1990s,[1] the country continues to struggle with an unacceptable amount of gun violence.[2] Meanwhile, the drug war harms too many Americans and has failed to prevent fatal overdoses from reaching an all-time high.[3] A great imbalance in our national approach to public safety, one that relies too heavily on the criminal legal system, has produced excessive levels of punishment and a diversion of resources from investments that would strengthen the capacity of families and communities to address the circumstances that contribute to crime.

This report offers five recommendations for policymakers and community members to potentially improve safety without deepening our reliance on extreme sentencing:

- **Implement community safety solutions** – Community-based interventions such as violence interruption programs and changes to the built environment are a promising approach to decreasing violence without incarceration.

- **Transform crisis response** – Shifting responses to people in crisis away from police toward trained community-based responders has the potential to reduce police shootings, improve safety, and decrease incarceration.

- **Reduce unnecessary justice involvement** - Ending unnecessary police contact and court involvement by decriminalizing and diverting many offenses can improve safety.

- **End the drug war** – Shifting away from criminalizing people who use drugs toward public health solutions can improve public health and safety.

- **Strengthen opportunities for youth** – Interventions like summer employment opportunities and training youth in effective decision-making skills are a promising means of reducing criminal legal involvement.

A growing evidence-base for all of these interventions demonstrates that policymakers can think beyond police and incarceration to create safety in their communities and should invest in bringing innovative alternatives to scale.

Deep racial and ethnic disparities exist throughout the criminal legal system, from the point of arrest to post-incarceration experiences that include restrictions on voting and employment. Black, Latinx, and Indigenous residents experience cumulative disadvantage at every stage of the criminal legal system because they are more likely to be arrested, convicted, and receive more punitive criminal sanctions than white individuals.[4] Black adults are incarcerated in state prisons at nearly five times the rate of whites.[5] In 2019, Black youth were 4.4 times as likely to be incarcerated in the juvenile justice system as were their white peers.[6] And Black Americans die from gun violence at nearly 2.4 times the rate of whites.[7] Latinx people are likewise overrepresented in prisons[8] and juvenile facilities, and as victims of crime. While data on Indigenous incarceration rates is limited, it is clear that American Indian and Alaskan Native people are imprisoned and jailed at far higher rates than whites,[9] and victimized at higher rates.[10] Limited data obscures the incarceration rates of other marginalized racial and ethnic groups, but experiences of safety in the United States are far from equitable, with Asian Americans, for example, incarcerated at a lower rate but reporting higher incidents and fears of violence than whites.[11]

Research demonstrates that many social interventions have the potential to be more cost-effective and equi-

table than criminal legal responses. The highlighted interventions below in violence prevention, crisis response, early childhood education, harm reduction, and therapeutic support for youth are ways to reduce unnecessary contact with the criminal legal system while protecting public safety. This list is far from exhaustive, but illustrates the opportunity to expand on programs that improve safety while scaling back incarceration. By combining social interventions that address some of the root causes of crime and legislative reforms that reduce the harm of the criminal legal system, policymakers can create safer, fairer, and more equitable communities.

Implement Community Safety Solutions

A growing number of community-level approaches ranging from changing the built environment to violence interruption programs, demonstrate the potential to prevent crime. For example, communities are exploring innovative practices to reduce violence through "placemaking" or "greening."[12] Initiatives funding green spaces, improving street lighting, community-led efforts to clean up vacant lots, and reclaiming spaces including abandoned buildings can reduce violence.[13] Research found residents who belonged to organizations with their neighbors felt responsible for what happened in the surrounding community and increased participation in civic organizations improved quality of life outcomes for marginalized residents.[14]

Community-based interventions can also decrease gun violence. The United States is a national outlier of gun-related deaths and has the highest rate of firearm homicides among high-income countries and territories with populations of 10 million or more.[15] The impact of gun violence is disproportionately suffered by people in predominantly Black communities: Black men between 10-24 years old are over 21 times as likely to be killed with a firearm than white men of the same age.[16] While violent crime in the United States remains well-below its peak in the 1990's, it has risen partly in response to the destabilizing impact of the Covid-19 pandemic and communities are searching for solutions.[17]

Gun violence in the United States ranges from mass shootings to suicides, requiring different responses. This brief focuses on non-intimate partner gun homicides, which are concentrated in marginalized neighborhoods and primarily occur within social networks.[18] The individuals most at risk of committing community gun violence are also most at risk of being victimized by it.[19] As such, community-based violence prevention interventions can be effective by changing social norms, building positive peer relationships, and preventing cycles of violent retaliation.[20]

Cure Violence is a common violence interruption model, rooted in public health concepts used in cities across the globe, including Baltimore, New York, and Chicago.[21] Cure Violence identifies and treats the people most at risk of violence, detects and interrupts conflicts, and works to change social norms. Violence interrupters and outreach workers serve as credible messengers because of their own histories of involvement with violence, and respectively disrupt conflict, discourage violence, and connect individuals to work, education, and social services. The success of Cure Violence programs has varied, reflecting challenges in implementation, but Cure Violence programs have been shown to decrease gun violence.[22] Advance Peace, another violence interruption model, builds on Cure Violence in multiple ways, including by incentivizing behavior change via stipends for participants, and is also a promising approach.[23]

Similarly, hospital-based gun violence prevention programs (HVIPs) use hospitals as an opportunity to intervene with gun violence victims and interrupt cycles of retaliatory violence by providing trauma counseling, access to social services, and case management to facilitate behavior change.[24] Evaluations of the over 30 HVIPs in the U.S., in communities like Oakland, San Francisco, and Baltimore,[25] have found that they can reduce future violence, retaliations, hospitalizations, and incarceration.[26]

"Rather than asking, "What's wrong with you?" we should ask, "What happened to you?"....[T]his moment of injury can become a moment of engagement. When a young person who has almost no reason to be hospitalized—most young people are hospitalized only when they have appendicitis or break their arm or something like that—is suddenly shot, he or she enters a system that has the potential to help heal much deeper wounds that preceded the injury."

— Dr. John Rich, co-founder of Healing Hurt People, a hospital-based gun violence interruption program[27]

Currently, these interventions are typically deployed on a smaller scale within specific neighborhoods, rather than within entire cities or entire areas of concentrated disadvantage, and as such their impact has been blunted.[28] While the federal Bipartisan Safer Communities Act of 2022 included a landmark $250 million in funding for community-based violence prevention initiatives, that figure falls short of the funding necessary to bring violence interruption programs to scale.[29] In 2020, state and local governments spent $129 *billion* to police communities.[30] Bringing violence prevention and other community-based interventions to scale would require investments of a more comparable magnitude.[31]

Transform Crisis Response

Police, prosecutors, and courts are often called upon to address broader societal issues they are ill-equipped to solve. Police are the default first responders to individuals experiencing mental health crises, substance use disorders, and a lack of housing. The outcome is needless arrests, the criminalization of mental illness and substance use disorders, cycles of trauma and reincarceration, and police violence. The United States' long history of disinvestment from Black and brown communities results in intersecting inequities in healthcare, housing, education, and income that deepen racial disparities.

Meanwhile, unnecessarily subjecting people to criminal legal involvement can harm public safety. Incarceration and prior arrests can increase the likelihood of future contact with law enforcement resulting in collateral consequences like lost income, housing insecurity, and criminal legal debt.[32] Criminalization of marginalized communities can geographically concentrate disadvantage – a factor strongly associated with increased rates of crime.[33] Disparities in policing and prosecution can harm community trust in legal system actors, decreasing the willingness of individuals to cooperate with police investigations of more serious cases – impacting case closure rates.[34]

Alternative responder programs, in which non-police trained crisis workers respond to many types of non-emergency calls instead of police, are one potential way to reduce criminalization. These programs aim to minimize law enforcement with community members and decrease the risk of police violence by authorizing trained outreach workers to serve residents. Eugene, Oregon's CAHOOTS program, is staffed by two-person teams of trained crisis workers and medics who work to prevent mental health crises and interactions with law enforcement, as well as provide connections to social services and basic emergency medical care. CAHOOTS has been funded by the Eugene Police Department (EPD) as a component of their crisis response system since 1989 and expanded access to healthcare in 2016. Staff developed criteria to divert appropriate 911 calls to CAHOOTS while community members can also request crisis teams. Of the roughly 24,000 calls that CAHOOTS received in 2019, just over 300 required police contact, and CAHOOTS teams resolved almost 20 percent of all calls received.[35]

Additionally, crisis response interventions tailored to individuals who are frequently arrested *and* are users of public health systems can yield significant cross-system savings. Many communities lack treatment resources for individuals experiencing a mental health crisis, leaving emergency rooms and jails to provide care. Twenty-four hour health centers are affordable alternatives to meet the needs of persons in crisis. Diversion programs can authorize police officers to connect people in crisis to health interventions rather than arrest. Tucson, for example, developed a comprehensive mental health crisis response infrastructure over the last 20 years that serves thousands of people each year. The community based infrastructure includes a crisis hotline, mobile response teams, and police co-responder teams.[36] The Crisis Response Center yearly serves over 14,000 adults and youth, provides urgent mental health care, and access to medication-assisted treatment. In 2020, officers referred over 6,000 people to the Crisis Response Center instead of arresting or transporting them to emergency rooms, leading to dramatic declines in the annual arrests for vagrancy, civil disturbance, and drinking in public, as well as significant savings.[37]

Reduce Unnecessary Justice Involvement

The criminal legal system is not equipped to address the root causes of crime and in many circumstances may even worsen them. As such, communities can strengthen safety and justice by reducing unnecessary criminal legal involvement by decriminalizing some offenses and diverting others.

Some non-public safety offenses strongly associated with poverty and racial disparities in enforcement, such as loitering, can be safely decriminalized.[38] Research suggests that non-prosecution of such offenses not only does not increase crime,[39] but also reduces rearrests amongst those who would have otherwise been prosecuted.[40]

For offenses which cannot be moved out of the criminal legal system altogether, early short-term diversion programs, which connect individuals to services or rehabilitative programming as early as prior to first court appearance, can offer an alternative to the harms associated with more prolonged court-involvement. Some types of lengthy diversion programs, which keep cases open and unresolved leading to repeated court appearances and cumulative legal fees, have limited benefits and significant potential harms.[41] Shorter diversion programs, which resolve cases within weeks or a few months so that justice-involved individuals can move on with their lives, may be more appropriate in many circumstances.

For example, The Community Works West launched the nation's first pre-charge restorative justice diversion model in 2011, in Alameda County, California.[42] Restorative justice programs are survivor-centered processes that bring together the people affected by the crime to address the harm and hold the responsible person accountable.[43] The Community Works West's program provides an alternative to incarceration for youth and young adults up to 25 years-old who have been arrested for misdemeanors and felonies, with a focus on more se-

> **"I have seen first-hand as a former superior court judge and now district attorney how the criminal justice system is not doing enough to support our youth. Traditionally, the way our criminal justice system handled crimes committed by youth has not always worked. At the same time, restorative justice diversion leads to greater victim satisfaction, and creates a space for our youth to make amends with victims impacted by harm."**
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> **—Contra Costa County District Attorney Diana Becton**

rious offenses.[44] The individual responsible for the harm, the victims, the youth's family or supporters, and other impacted stakeholders work together on an accountability plan. The program works with the responsible young person to monitor their progress on the plan. Upon completion of the plan, the prosecutor agrees not to file the charges.[45] A 2017 study of the Community Works West's program found that in the first two years, the prosecutor's office diverted over 100 legal system bound youth. Participating youth were 44% less likely to recidivate compared to similarly situated youth in the youth justice system.[46] Similar programs have now been implemented in several other jurisdictions including Contra Costa, California and Philadelphia, Pennsylvania.[47]

Alternatives to Drug Enforcement

The drug war has resulted in a skyrocketing number of Americans incarcerated for drug offenses – from 40,900 in 1980 to 430,900 in 2019 – for increasingly lengthy periods of time.[48] The United States' choice to prioritize punishment over evidence-based responses to drug use has also cost hundreds of thousands[49] of Americans their lives, as overdose deaths have continued to climb to all-time highs.[50] Given the racist origins of the Drug War, its costs have disproportionately impacted Black, Latinx, and Indigenous communities.[51] For example, Drug War arrest and sentencing policies harmed Black communities by imposing longer mandatory sentences on crack cocaine offenses than powder cocaine, deepening racial disparities in sentencing.[52] Fatal overdoses are rising fastest among Black and Indigenous people in the United States,[53] and also rising sharply among Latinx individuals.[54]

Communities can improve public safety while shrinking the footprint of the criminal legal system by prioritizing public health, rather than criminal legal responses to substance use.[55] Improving access to harm reduction services can both save lives and reduce crime.[56] Multiple studies have found that methadone maintenance treatment reduces criminal behaviors and fatal overdoses.[57] Studies demonstrate that access to medication assisted treatment in correctional settings can reduce overdos-

es, yet access to this treatment in communities and in correctional facilities remains limited.[58] Research shows that improving access to harm reduction services, such as needle exchanges and supervised consumption sites (where people use drugs in a community setting to prevent overdoses), can reduce other negative outcomes of drug use including the transmission of infectious diseases.[59] Expanding access to Medicaid is also a key step in ensuring that the individuals who most need substance use-related health care can access evidence-based treatment.[60]

Meanwhile, criminalization has detrimental health impacts – incarceration is associated with increased risk for overdose death.[61] Significantly reducing the use of incarceration, including by decriminalizing possession for personal use, has the potential to increase public health and safety.[62]

Strengthening Opportunities for Youth

Community-based support for youth can also reduce criminal legal involvement. Research finds particular crime prevention success with programs for pregnant teens or with children in early childhood. A strong program in this category is the Nurse Family Partnership (NFP), a home visitation program that trains and supervises registered nurses as home visitors. The initiative attempts to identify young, first-time mothers early in their pregnancy. The sequence of approximately 20 home visits begins in the prenatal period and continues over the first two years of a child's life and then decreases in frequency. Through the home visits, new mothers develop a close relationship with a nurse who becomes a trusted resource with the ability to offer advice and connections to community-based services. A 15-year review of the Prenatal/Early Infancy Project in Elmira, New York found that nurse home visits significantly reduced child abuse and neglect in participating families, as well as arrest rates for children and their mothers. The NFP has been successfully evaluated in several sites and has been replicated in over 200 counties and many foreign countries.[63]

Darian and his girlfriend Salinta enrolled in the national Nurse-Family Partnership program early in her pregnancy. Through the program, they received resources and information to develop life and parenting skills through regular home visits from Sarah, a registered nurse with the program. Sarah visited Darian and Salinta in the apartment they shared with family in Madison, Wisconsin. Visits with Sarah helped the young parents learn what to expect in late pregnancy and connect them with community resources, such as with finding their own place to live. When the couple determined they didn't have enough money for a security deposit, Sarah helped them access financial assistance to move into their own apartment with their daughter, Armonie. The parents worked with Sarah on parenting tips to support Armonie's childhood milestones from talking to potty training. Salinta and Darian are both working and envisioning a bright future as a family. They both want to continue their education and continue developing skills that will help them provide a good life for Armonie.

> "[Sarah taught] us about stages before they happened so we knew what to expect," said Darian, who partnered with Nurse-Family Partnership nurse Sarah to achieve his and his girlfriend's parenting goals.

Source: Nurse-Family Partnership

Preschool education for three and four year olds is also an effective prevention strategy. The most well known model – the High/Scope Perry Preschool Project[64] – demonstrates that Head Start and other preschool programs produce both short term and long-term benefits. This includes reduced engagement with the criminal justice system through the age of 27, along with positive school outcomes and reduced need for social services. Cost-benefit analyses conducted by the RAND Corporation show that every $1 invested in such programs produces $7.16 in societal savings. When adjusted for inflation, the investment in the Perry program's early childhood prevention initiative resulted in a taxpayer return of $88,433 per child.[65]

Likewise, engaging youth in school, improving education quality, and increasing summer employment can also reduce involvement in violent crime.[66] A study of one program to increase summer employment found that during the first year, involvement in violent crime dropped by 45% and "social benefits are likely to justify program costs, and may outweigh them by as much as 11 to 1."[67] Likewise, youth at risk of system involvement thrived in Chicago's intensive tutoring and mentoring program, known as Match. The program intensive support provides a safety net for students, and offers individualized tutoring to customize instruction that suit each student's needs. Students, many of whom were marginalized young Black and Latinx men, were 60% less likely than members of the control group to be arrested for a violent crime.[68]

Furthermore, strengthening decision-making skills, particularly for the most vulnerable youth can achieve significant reductions in arrests and recidivism. Becoming a Man (BAM) is a school-based group counseling program developed by the nonprofit Youth Guidance that helps teenage boys in 7-12th grades to learn, internalize, and practice social cognitive skills. BAM was evaluated in two randomized controlled trials, showing reduced violent crime arrests of 45–50% and 12-19% increases in graduation rates.[69] Likewise, Roca provides cognitive behavioral therapy (CBT)-based interventions for youth identified as being at-risk of engaging in violence. A 2021 evaluation found an association between participant's usage of such CBT skills and positive outcomes,[70] and the program is a promising innovation to reduce violence.[71] Roca's program for young mothers similarly uses CBT-based programming to stabilize families.[72]

Conclusion

As the United States marks 50 years of mass incarceration, the need for a comprehensive reimagining of our public safety infrastructure to prevent another 50 is clear. Some states have already taken meaningful steps to reduce their reliance on prisons to create public safety. The U.S. prison population declined 25% since reaching its peak in 2009[73] and twenty-one states have partially closed or fully closed at least one correctional facility since 2000, resulting in a trend of prison repurposing in which old prisons are converted for community and commercial use.[74] However, at the current pace of decarceration, averaging 2.3% annually since 2009, it would take 75 years—until 2098—to return to 1972's prison population.[75]

At every stage of the criminal legal system, and before harm ever arises, there are promising ways that communities can protect public safety and take steps toward ending mass incarceration. State legislatures and the federal government should invest in these interventions and incentivize their adoption.[76] Communities have already begun to build the interventions necessary to reduce America's reliance on prisons. Together, social interventions that address the root causes of crime and legislative reforms that reduce the harm of the criminal legal system can move the U.S. toward a safer, fairer, and more equitable future.

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This policy brief was written by Liz Komar, Sentencing Reform Counsel, and Nicole D. Porter, Senior Director of Advocacy, at The Sentencing Project. It is an update of the 2013 report Ending Mass Incarceration: Social Interventions That Work.

It is part of our campaign, 50 Years and a Wake Up: Ending The Mass Incarceration Crisis In America. The campaign raises awareness about the dire state of the criminal legal system in the country, the devastating impact of incarceration on communities and families, and proposes more effective crime prevention strategies for our country.

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The Sentencing Project advocates for effective and humane responses to crime that minimize imprisonment and criminalization of youth and adults by promoting racial, ethnic, economic, and gender justice.