



# Ending This Place of Torment:

## A Framework for Transforming the Criminal Justice Continuum

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**H**ousing nearly twenty-five percent of the world's prisoners, the United States incarcerates more individuals than any other nation. Undergirding this fact is the long-term history of structural racism that has disproportionately impacted people of color, low-income individuals and underserved communities in spatial concentrations of incarceration and poverty (Travis, Western, and Redburn, 2014). A spatial concentration is a measure of how densely particular groups are situated in a geographic or residential location. For the purposes of this report, at-risk and justice-involved youth as well as incarcerated and formerly incarcerated adults are the subjects of focus (particularly women, girls, juveniles, and undocumented migrants). The numbers are stark:

- 2.2 million people in the U.S. are incarcerated;
- one-fifth of the U.S. population (over 70 million people) has a criminal record (Cohn, Mukamal and Weisberg, 2019); and
- nearly 6.7 million adults are under some form of correctional control including 3.6 million on probation and 870,000 on parole (Jones 2018).

Over 40,000 state laws lay out barriers to employment, housing, voting, and education. In addition, a myriad of other obstacles contributes to stigmatization and second-class status for returning citizens. Our broken pretrial apparatus results in many with bails too high for them to pay thus leaving them to languish in jails and prisons. The current bipartisan momentum around criminal justice reform calls for innovative, creative approaches and practices that recognize what can be called the “criminal justice continuum.” Defined as continuous sequences in which adjacent segments differ un-perceptibly from each other, the continuum’s components are both connected and interstitial in nature with one segment bringing about causal effects on others. Looking at each segment (front, middle, and back) allows for a close examination of evidence-based and promising practices, policies and research within each.

## **The Front of the Continuum (Preventing And Decreasing Justice Involvement)**

Within the criminal justice field, research, practice, policy and funding have focused primarily on the “front” of the continuum. In order to reduce mass incarceration in the United States, the priorities of the work have focused on preventing individuals from getting justice, involved in the first place and providing alternatives to incarceration for those who are. A number of evidence-based and promising practices have emerged nationally including:

### **MACRO (FEDERAL)**

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- Mandatory minimums should be eliminated at the federal level;
- Possession of drugs should be decriminalized and become part of a comprehensive health-based rehabilitation drug program at the federal level;

### **MESO (STATE)**

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- Mandatory minimums should be eliminated at the state level;
- Possession of drugs should be decriminalized and become part of a comprehensive health-based rehabilitation drug program at the state level;
- Cash bail should be eliminated for non-violent offenses and comprehensive pretrial supports should be developed;

### **MICRO (COMMUNITY)**

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- School districts and schools should continue to focus on eliminating exclusionary disciplinary policies that result in expelling students;
- Youth detention centers and jails should be eliminated by minimizing out-of-home placements;

- Evidence-based and promising alternatives to incarceration such as diversion programs—embedded within communities—should be initiated, particularly where there are spatial concentrations of incarceration; and
- Indigent defense should be strengthened—particularly for undocumented migrants—and increasingly become part of strategies focused on criminal justice transformation. These strategies should also include participatory/holistic defense models that involve communities and families as integral partners in the process.

## **The Middle of the Continuum (Inside Prisons and Jails)**

The middle of the continuum—or what happens inside prisons or jails or other forms of confinement—is critically important. Although there are a myriad of issues related to this segment of the continuum such as solitary confinement and legitimate concerns over public vs. private prisons, for the purposes of this report, the focus will be on access to high quality education. Access to higher education for incarcerated individuals is particularly critical both while in prison and during reentry. A number of evidence-based and promising practices have emerged nationally including:

### **MACRO (FEDERAL)**

- Pell Grants for incarcerated students should be fully restored. In general, restrictions on federal student aid eligibility are removed for formerly incarcerated individuals, including those on probation, on parole, or residing in a halfway house;

### **MESO (STATE)**

- Solitary confinement should be banned;

In the development of statewide policy and practice recommendations, Delaney, Patrick and Boldin suggest the following:<sup>1</sup>

- Top corrections officers and administrators should convey to staff their commitment to higher education in prison and devise channels for students to speak with one another and those in authority;
- Supervision agencies can support successful completion of parole by examining and making changes to conditions of supervision to allow for returning students’ needs; and

### **MICRO (COMMUNITY)**

- In the absence of federal or state support for high quality higher education programs, communities should leverage public and private support to establish these programs in local community colleges or universities.

## **The Back of the Continuum (Reentry into the Community)**

Every year, nearly 500,000 returning citizens come home after serving time in prison or jail. Reentry into the community after being incarcerated involves many challenges and barriers. This “back” of the continuum has been rather neglected with respect to public and private investments unlike the front end and middle components of the continuum. Given that two-thirds of those released from prison in the United States will be re-arrested within three years, this part of the continuum deserves critical, thoughtful, focused attention. A number of evidence-based and promising practices have emerged nationally including:

<sup>1</sup> See: Ruth Delaney, Fred Patrick and Alex Boldin. “Unlocking Potential: Pathways from Prison to Postsecondary Education.” New York: Vera Institute of Justice, 2019., pp. 28, 30, 31, 32, 33, 37, 45, 47, 48.

## MACRO (FEDERAL)

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- A “returning citizens” tax credit at the federal level for families who house and support returning relatives;<sup>2</sup>
- Government agencies should reduce employers’ paperwork burden for receiving a tax credit to hire a returning citizen;<sup>3</sup>

## MESO (STATE)

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- A “returning citizens” tax credit at the state level for families who house and support returning relatives;
- Continuity of medical and mental healthcare with Medicaid enrollment happening prior to release (this again is an example of connections across the continuum with individualized exit plans suggested while people are incarcerated);<sup>4</sup>
- States should identify ways to provide employers with previous work performance;<sup>5</sup>

## MICRO (COMMUNITY)

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Scholars have focused on studies that use randomized control trials or natural experiments, particularly those that evidence successful reintegration in communities specific to recidivism, employment and education attainment. Highlights include:

- The intensity of community supervision should be decreased;<sup>6</sup>
- Transitional and ongoing support in the form of employment, housing, healthcare (including substance issues and mental disorders), and continuing education; and

- Cybersurveillance predictive policing must be closely examined and monitored by communities in catchment areas of their use (Hu, p.129).

The programs examined here do not exhaust attempts and solutions that have been tried. However, they do provide a sampling that can be applied in designated neighborhoods or other geographic regions of “concentrated disadvantage” (Sampson, et.al. 2018). It is important, therefore, to recognize that each segment of the continuum (front, middle and back) cannot be addressed as discrete parts; each part of the continuum must be addressed simultaneously and seamlessly applied within the contexts of communities where there are spatial concentrations of high rates of incarceration (Travis, et al. 2014).

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<sup>2</sup> Western.

<sup>3</sup> Hunt, et. al.

<sup>4</sup> Western.

<sup>5</sup> Hunt, et.al.

<sup>6</sup> See: Jennifer L. Doleac. “Strategies to productively reincorporate the formerly-incarcerated into communities: A review of literature.” Texas A&M University, 2018.