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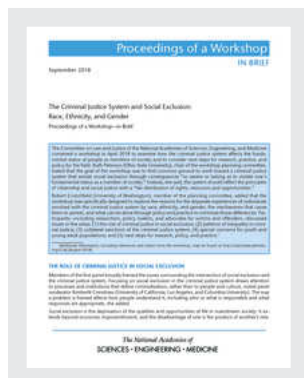## The Criminal Justice System and Social Exclusion: Race, Ethnicity, and Gender: Proceedings of a Workshop in Brief

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Proceedings of a Workshop

IN BRIEF

September 2018

The Criminal Justice System and Social Exclusion:
Race, Ethnicity, and Gender

Proceedings of a Workshop—in Brief

The Committee on Law and Justice of the National Academies of Sciences, Engineering, and Medicine convened a workshop in April 2018 to examine how the criminal justice system affects the fundamental status of people as members of society and to consider next steps for research, practice, and policy for the field. Ruth Peterson (Ohio State University), chair of the workshop planning committee, stated that the goal of the workshop was to find common ground to work toward a criminal justice system that avoids social exclusion through consequences "so severe or lasting as to violate one's fundamental status as a member of society." Instead, she said, the system should reflect the principles of citizenship and social justice with a "fair distribution of rights, resources and opportunities."

Robert Crutchfield (University of Washington), member of the planning committee, added that the workshop was specifically designed to explore the reasons for the disparate experiences of individuals involved with the criminal justice system by race, ethnicity, and gender, the mechanisms that cause them to persist, and what can be done through policy and practice to minimize those differences. Participants—including researchers, policy makers, and advocates for victims and offenders—discussed issues in five areas: (1) the role of criminal justice in social exclusion; (2) patterns of inequality in criminal justice; (3) collateral sanctions of the criminal justice system; (4) special concerns for youth and young adult populations; and (5) next steps for research, policy, and practice.[1]

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[1]Additional information, including references and videos from the workshop, may be found at http://nationalacademies.org/CLAJ [August 2018].

THE ROLE OF CRIMINAL JUSTICE IN SOCIAL EXCLUSION

Members of the first panel broadly framed the issues surrounding the intersection of social exclusion and the criminal justice system. Focusing on social exclusion in the criminal justice system draws attention to processes and institutions that define criminalization, rather than to people and culture, noted panel moderator Kimberlé Crenshaw (University of California, Los Angeles, and Columbia University). The way a problem is framed affects how people understand it, including who or what is responsible and what responses are appropriate, she added.

Social exclusion is the deprivation of the qualities and opportunities of life in mainstream society. It extends beyond economic impoverishment, and the disadvantage of one is the product of another's rela-

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tive advantage, explained Bruce Western (Harvard University). High rates of incarceration have become part of the institutional landscape of social and economic inequality in the United States, he said. This inequality is an enduring problem because its effects are cumulative, invisible, and intergenerational.

Incarceration deepens the social disadvantages that have resulted from racial disparities in poverty rates and educational attainment, Western explained. The social experience and effects of incarceration and reentry are also racialized experiences. For example, data show that despite sharing a criminal history and generally very low levels of schooling, black men are far less likely than white men to be employed in the 12 months after prison. Moreover, for the black men who were employed, they earned less than their white counterparts. Yet because high rates of incarceration are socially concentrated in disadvantaged communities, the disparities are invisible to most Americans, he said. This invisibility is institutionally compounded by widely used national surveys for estimating unemployment that omit incarcerated people from population estimates. Western noted that the incarceration rates of black men under 35 who never went to high school are higher than their employment rates.

High rates of incarceration also result in growing numbers of black children with an imprisoned parent, he said: that number is currently one in nine. These children, especially boys, are more likely to have symptoms of depression, behavioral problems, and lower school achievement. Ultimately, Western related, the social and spatial concentration of high rates of incarceration contribute to different life experiences and the collective disadvantage of communities.

Delores Jones-Brown (John Jay College of Criminal Justice) addressed the United States' legacy of racialized formal laws, law enforcement, and social norms to contemporary practices that continue to differentially impact people of color. Citing the 1920 observation of sociologist Thorsten Sellin, and the reporting of contemporary mass shootings, Jones-Brown noted that white criminality is commonly viewed in terms of individual failing, but black criminality is commonly presented and viewed as the failing of a group. The focus on proportionate rates of offending across racial groups by modern researchers has reinforced this notion.

She noted that quality-of-life enforcement, also known as broken windows policing and other proactive policing strategies, has resulted in increased arrests of people of color for nonviolent, low-level offenses that culminate in criminal histories that negatively affect their ability to participate in many aspects of civic life. Jones-Brown argued that popular support for these measures and others (such as stop and frisk) ignores the constitutionality of these strategies in practice and the ethicality of racialized consequences. She used the term "civil death" to describe the profound sense of being excluded from the normal enjoyment of public space evident in the research she highlighted.

Jones-Brown also argued that the use of aggregate data by law enforcement agencies and other criminal justice personnel to identify certain places as "high crime areas" reinforces and reproduces racial inequality over time. She noted in particular that the collateral consequences of contemporary policing practices reinforce criminalization as both a spatial and racial phenomenon: the label of criminality is easily transferred from neighborhoods to their residents. Police and other criminal justice agents use these practices to justify increased surveillance and contact of people of color, even when those practices overwhelming affect residents who are not engaged in crime. A growing body of qualitative research documents that the collateral consequences include the over-criminalization of residents and the engendering of fear, hostility, depression, anxiety, and a sense of police illegitimacy. She further noted that increased police contact increases the chance that residents will be subject to police mistakes and misconduct, including unwarranted fatalities.

PATTERNS OF INEQUALITY

Steven Raphael (University of California, Berkeley) moderated a panel examining disparities by race, ethnicity, and gender in sentencing, policing, and criminal procedure.

Race and Criminal Justice Policy

Marc Mauer (The Sentencing Project) presented evidence about the role of race in criminal justice policy over the past several decades. In the 1960s and 1970s, a substantial rise in crime was shown as black

in public media imagery of the time, which resulted in a criminal justice response largely concentrated in low-income communities of color. Today, those biases in the perception of criminality persist: white survey respondents overestimate the proportion of crime committed by African Americans[2] by 20 to 30 percent and suggest harsher punishments when a crime is perceived to be a "black crime."

Some criminal justice policies and practices that appear race neutral have predictable racial effects that were rarely discussed when they were adopted: differential treatment for cocaine and crack offenses; enhanced penalties for crimes committed in a school zone, which cover large proportions of space in densely populated urban areas; and having a prior criminal record (e.g., "three strikes" laws) all have disparate effects on communities of color. Mauer suggested that these racial effects may have been unintentional but future policies should be more proactive in preventing them. He also pointed to the significant racial differences in prosecutors' decisions on charging and plea negotiations and the need for more sophisticated data on this topic.

Raphael gave an example of criminal justice system reforms in California that resulted in dramatic de-incarceration and narrowing of racial disparities. For many years, California's prison population was 200 percent of its rated capacity, leading to litigation that forced the state to quickly reduce the over-crowding. This requirement prompted two reforms: one was Corrections Realignment in 2011, which eliminated sending people who commit technical violations of their parole back to prison; the other was Proposition 47 in 2014, which reclassified property and drug felonies to straight misdemeanors with no prison sentences. Since 2009, the number of people incarcerated has been reduced by about one-fourth, with the largest declines among people with a high school diploma or less. Jail populations, arrests for lower-level offenses, and reimprisonments for habitual offending also declined. Just as the growth of incarceration disparately affected black males in California, so too did the reforms, explained Raphael. Proposition 47 also narrowed racial disparities in arrests leading to booking and in average days of pretrial detention.

The role of prosecutors in the system is "enormous," said Raphael, because they have discretion in how they apply the law, although Proposition 47 has limited this somewhat. In practice, differences in prosecutors' decisions about whether to prosecute for parole violations have not been as stark as some had feared, he said. Instead, police are less likely to arrest people for drug crimes, now misdemeanors, reducing the discretion of prosecutors to try people for what used to be low-level felony offenses. He noted, however, that some prosecutors are concerned that this reduces the chances of compelling drug treatment programs for people who need them.

Federal Drug Prosecutions

Mona Lynch (University of California, Irvine) noted that racial disparities in sentencing—deviations from the federal sentencing guidelines—are often theorized to be the product of bias at the level of the individual decision maker, but she stressed that disparities start before the sentencing decision. Prosecutors' decisions about case selection, charging decisions, and statutory enhancements can be very discretionary and, consequently, very unequal, as well as highly punitive. In addition, the structures around plea bargaining are variable at the district and jurisdictional level and ultimately constrain a judge's sentencing decision.

Lynch said that case selection is the leading driver of inequality. Furthermore, the application of charging and enhancement sentencing tools varies, especially with regard to criminal history and guns, and they are unequally applied across racial groups, leading to a cumulative structural inequality. Some aspects of the law have inequality "baked in," Lynch noted: "These legal tools get mobilized at the group level where discretionary actions are conditioned by local legal norms, broader ideologies about crime, race, gender, ethnicity, and class. Individual prosecutors, judges, and probation officers operate within that context." Finally, prosecutors' leverage around charges that garner long sentences are greatly increased in jurisdictions in which judges' discretion is constrained by mandatory or presumptive sentencing guidelines.

Lynch believes that case selection in the federal system is going to become more important than ever due to changing policies of the U.S. Department of Justice. For example, there is evidence of inequality in the way that federal drug cases involving opiates and heroin are being prosecuted and sentenced. She

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[2]Throughout this document, references to race and ethnicity reflect the terms used by speakers.

said that guarding against inequality in the system will require focusing on case movement through the system as a whole.

Policing

Jeffrey Fagan (Columbia University) turned to inequalities in policing. In New York, race predicts where police are allocated above and beyond the crime rates. Echoing Jones-Brown, he noted that more police presence in selected neighborhoods leads to greater exposure to police and in turn, higher rates of police contact, including arrest and use of force. He related that a robust research literature shows that those racial and neighborhood differences in arrests per crime and the use of force have cascading effects that subsequently have profound consequences for health, mental health, housing, voting, and economic well-being. These consequences in turn reinforce social inequalities, he added.

Fagan offered several examples of such consequences. Financial burdens from misdemeanor arrests are associated with bankruptcy and foreclosure. And being detained prior to trial, which can occur due to financial limitations, makes conviction more likely during a trial and contributes to the "marking" effect of conviction on employment. This financial instability often makes offenders unable to pay fines, further adding to their criminal history in ways that have stigmatizing and further economic consequences. In recent years, researchers have met the challenge to capture these processes and effects. However, it is difficult to determine from the research what motives prompt police decisions to allocate officers by neighborhood or for individual officers to stop or arrest civilians and whether those differences constitute discrimination.

Fagan explained that at the neighborhood level, certain patterns and consequences of policing mark neighborhoods in ways that reinforce them as "poverty traps"—the set of processes that keep people stuck in particular locations and poor—and that can discourage outside development and lending. Moreover, each cycle of attention by the police creates a "runaway" feedback loop of using arrest data to warrant further attention to persons and places. This leads to other consequences, including loss of rights to serve on juries and to vote, plus increased mental health problems.

Fagan suggested that future research should examine distributive justice by considering ways in which some people may be more burdened than others by the criminal justice system as it currently operates. Understanding differences—in neighborhood contexts, meanings of important concepts (e.g., unemployment or social class), and individual differences among people (e.g., different responses to police and court contact)—is also needed.

COLLATERAL SANCTIONS AND THEIR EFFECTS

Several panelists addressed both the effects of contact with the criminal justice system that extend beyond those meted out through sentencing and approaches for limiting these effects. Other panelists addressed the specific experiences of women and immigrants. Moderator Kareem Jordan (American University) noted the importance of these data and interventions to improve the quality and equality of justice.

Long-Term Effects

Christopher Uggen (University of Minnesota) described the cumulative and long-lasting effects of criminal records. The financial, physical, civic, and social sanctions that follow from criminal convictions and arrest histories often outweigh the offense. Criminal records attach strongly to individuals and are much more visible and accessible now than they used to be. Today, there are 19 million Americans with a felony record. This trend has especially affected African American males, for whom the percentage of the population with a felony record was more than 18 percent of the voting age population in some states (as of 2010). These rates vary significantly by state. Low-level arrests have increased dramatically, to 14 million per year. Even without convictions, arrests can have significant long-term effects.

Uggen explained that, as of 2016, 6 million people with criminal records nationwide had lost their voting rights. Criminal records also affect employment and educational prospects, especially for people of color. Colleges are also increasingly checking for felony records during admissions processes, but less discrimination is evident in that process than in other areas.

Uggen identified several potential remedies for these challenges. First, disenfranchisement should be pared back. In addition, commutations and pardons are underutilized tools that could be expanded. Last, he suggested the example of Norway: its incarceration rates are one-tenth of U.S. rates, and it follows a "principle of normality," whereby punishments are more limited, and rights and an approximation of outside life are maintained when people are incarcerated.

Effects of Monetary Sanctions

Alexes Harris (University of Washington) explained that monetary sanctions resulting from contact with the criminal justice system can be a permanent punishment, especially for poor people. These sanctions result in court supervision and the limitation of rights until payment is made in full. The result is a two-tiered system—one for people with the means to pay their fines and move forward and one for people who cannot afford to pay their fines—"who will forever carry this debt with them," she said.

Harris stressed that criminal justice systems have purposefully placed the burden of the costs of mass conviction and incarceration on the people who have contact with the system. When people fail to pay fines, they are summoned to appear in court. If people are homeless or lack a fixed address, they may miss summonses to appear in court, resulting in outstanding warrants and arrests, leading to further penalties. She noted that monetary sanctions can result merely from arrest or prosecution, without conviction. Studies show that these sanctions are both disproportionately imposed on and affect people of color. Furthermore, private industry is often the collector and payee of these fines, leading to a profit from people's contact with police.

Harris explained that there are multiple levels of monetary sanctions. Although large debts may be imposed, little is collected, and what payments are made tend to be in exceedingly small amounts. Yet the financial, social, and health-related consequences of this system are substantial. Debt accumulates through the interest, surcharges, and collection costs, which add to the financial burden on poor people. These monetary sanctions also disrupt families, especially when people are incarcerated for nonpayment, and fear of reincarceration can lead to significant stress. She noted that although some jurisdictions hold ability-to-pay hearings to deal with this situation, many do not.

Some policy changes being considered involve changing payment plans or minimum payments, but policies could eliminate financial barriers altogether. "The system clearly deepens preexisting disadvantages in our society," she said, "and it's purposeful." She suggested dialogue around the costs of the criminal justice system and who should bear them. She called for additional research to enhance understanding of the factors and multiple layers of fines and fees being imposed and the role that financial burden plays on the process of desisting from crime.

Effects on Employment

In looking at employment, Nancy La Vigne (Urban Institute) noted, first, that stable employment is especially important to social inclusion in communities. Being part of society—maintaining housing, taking care of others, paying taxes, giving back—all rest on stable employment and reduce the likelihood of engaging in crime.

She reported on the Returning Home Study, a longitudinal study following people from incarceration through 1 year after their release. It showed that higher paying jobs are more protective against recidivism than lower paying ones. The study found that jobs often came from "friends and families, through connections, prior relationships, people who were willing to take a chance on them," she noted. Geography and transportation issues compound challenges to stable employment.

La Vigne described the growing evidence that race plays a larger role than a criminal record in employment. Overall, black unemployment is double that of white unemployment. She said that her own research shows that gender adds another layer of challenge for employment: women tend to have less employment prior to and following prison and less training behind bars than men. They also face high stakes for bonding with and supporting their children when they return to their communities.

Programs to foster social inclusion need to be gender responsive, she said. Furthermore, future programs and research need to be holistic and account for the intersecting and compounding factors re-

lated to contact with the criminal justice system and employment. Finally, La Vigne, stressed, more research should include the perspectives of people who have experienced incarceration or who have felony records.

Amanda Agan (Rutgers University) noted that approximately 60 percent of people recently released from prison are unemployed after 1 year, and she presented research on the effects of "Ban the Box," also known as "Fair Chance" policies. Ban the Box policies are designed to increase the chances of employment for people with criminal records by delaying when in the process employers become aware of an applicant's criminal record. Currently, 30 states and 150 cities and counties have such policies for public employers; 10 states and 31 local jurisdictions have such policies for private employers. Proponents of Ban the Box policies have also hoped that the policies would reduce racial disparities in employment.

Despite its intentions, Ban the Box has had a number of unintended consequences, Agan explained. First, employers appear to be trying to work around the policy, consciously or unconsciously, by guessing from applications whether an applicant may have a criminal record based on observable characteristics, such as race or age. Although this type of discrimination based on stereotyping is illegal, it still appears to be occurring, as shown in a study by Agan and a colleague. They analyzed callbacks from 15,000 fictitious applications to entry-level low-skill jobs sent before and after Ban the Box policies went into effect in New Jersey and New York. All of the applicants were young and male, but they randomly assigned a black-indicating or white-indicating name and felony conviction. Ban the Box led to a small increase in callbacks for black men with records, a much larger increase in callbacks for white men with records, but a significant decrease in callbacks for black men without records. That is, Ban the Box increased racial disparities: employers appear to be assuming that black applicants are more likely to have a criminal record.

Agan noted that other studies have found similar effects relating to Hispanic males and to eventual employment. Moreover, other research has found decreases or no change in employment for people with records after Ban the Box went into effect. There is no easy fix to the complex issue of employment for people with criminal records. Despite these effects, some advocates continue to call for Ban the Box policies, but Agan said that she believes that additional or alternative policies may be needed to achieve the desired goals. Other advocates have reacted by calling for more enforcement of existing antidiscrimination laws, though how to achieve this is not clear.

Experiences of Women

Andrea James (National Council for Incarcerated and Formerly Incarcerated Women and Girls) shared her experiences and perspectives as a former inmate and current advocate. While imprisoned for 2 years, she was moved by the women around her, who were faced with such difficult money choices as purchasing hygiene products or calling their children. She was motivated to act after spending time with women who had been away from their young children long enough to be receiving pictures of their children's children. Ultimately, James began working as a teacher while in prison, and, with her fellow inmates, began organizing. Today, as a national organization with thousands of participants, the National Council for Incarcerated and Formerly Incarcerated Women and Girls seeks to have the voices of women included in conversations about how to change the criminal justice system. It seeks alternatives to policies that focus on criminalizing and imprisoning people, instead of addressing the underlying needs of people and their communities.

Effects on Immigrant Communities

The criminal justice system affects immigrants, especially illegal immigrants, in unique ways, explained Amada Armenta (University of Pennsylvania). In her view, many of the exclusionary consequences of the criminal justice system are not unintended, and addressing this problem requires more than incremental or marginal changes.

Armenta studied policing in Nashville, Tennessee, where police used traffic enforcement as a central way to increase arrests of people with outstanding warrants and to look for potentially illegal drugs or weapons. She found that these pretextual stops had a disproportionate impact on undocumented immigrants because they were ineligible for driver's licenses. Police could either cite or arrest these drivers,

but even the misdemeanor citations were expensive, and many times they resulted in arrests for failure to appear and then in immigration screenings once a person was in jail. This approach and its consequences made it difficult for local police to avoid participating in immigration enforcement systems. Other frequent police contact in the neighborhoods through pretextual stops of people of color was "just another path to deportation," she said.

Armenta noted that criminal justice proceedings are different and the consequences often harsher for immigrants than for citizens. Undocumented immigrants are often held at the request of the federal government without bail, and they may be detained by immigration and customs enforcement without due process. She said that immigration enforcement actions are associated with negative opinions of police, as well as negative health outcomes, such as chronic stress and increased rates of preterm and low-weight births, not only among undocumented immigrants, but also among legal permanent residents and citizens of Latino descent. She called for an expanded definition of sanctuary, "where all communities of color are actually safe in their neighborhoods, [and] . . . that means bail reform, prison reform, police reform."

YOUTH AND YOUNG ADULT POPULATIONS

One workshop panel addressed the special concerns of youth and young adult populations. Moderator Reginald Dwayne Betts (lawyer, poet, memoirist) challenged the group to consider what it means to characterize schools as places where behavior is criminalized and how to expand forms of data to include the voices of youth and young adults. He also stressed the need for frank conversations about violence and its implications for youth and young adults in the criminal justice system.

School Exclusion

Aaron Kupchik (University of Delaware) discussed the effects of school exclusion on youth. Schools are important in the context of criminal justice because schools are where people first encounter nonfamilial authority, where they learn about their roles as citizens, and (in some schools) where they may encounter police on a daily basis. And schools have increased criminalization of school discipline, characterized by zero-tolerance policies and more suspensions for less severe infractions.

Kupchik noted that even though overall victimization in schools has decreased dramatically, a trend that mirrors the decline of juvenile crime outside of school over the past 25 years, the links between schools and the criminal justice system are increasing. Eighty-one percent of all schools have surveillance cameras, drug-sniffing police dogs are used in 62 percent of high schools, and many schools have metal detectors. More schools today have school resource police officers than previously, despite a lack of evidence that they deter crime or protect students. But their presence is associated with increasing arrests of students, especially for simple assault and nonserious school offenses. Overall, minor offenses lead to more suspensions than they did a generation ago, and suspensions are associated with future arrests, risk of school failure, dropping out, not being accepted to college, and civic disengagement.

Black students disproportionately experience school exclusion, stated Kupchik. They face higher rates of discipline, suspensions, and arrests from school. The disparity is especially stark for black girls, who are suspended at six times the rate of white girls. This may be the product of racial bias: black students are more likely to be perceived as loud and disorderly, even when their behaviors are similar to those of white students. She noted that even though there is little evidence of greater behavior problems for black students than white students, they are suspended at far higher rates, starting as early as preschool, and for more reasons that are discretionary. Increasingly, data show that students are more likely to be seen as disruptive and to be punished on the basis of their sexual orientation, poverty status, gender, disability status, and immigration status.

Kupchik said that preventing school exclusion involves clear rules and communication, and consequences that build rather than disrupt communities. Seeing children as children, rather than as threats, and helping to deal with the root causes of misbehavior also leads to better outcomes. Developing policies that limit what offenses lead to school arrests and positive behavioral interventions have proven successful in limiting racial disparities.

Young Adults

Looking at young adults, Lael Chester (Columbia University) presented work from the Emerging Adult Justice Project, which studies 18- to 25-year-olds. Many jurisdictions are changing how they address the crimes of people transitioning from adolescence to adulthood. Since the late 1800s, people have recognized children as not being adults, but the precise age at which they have been considered adults has varied. Recent research on adolescent development has illuminated the cognitive and psychological markers of this phase, which extends through the mid-20s, but many states are still considering whether and how the criminal justice system should recognize this developmental period. Generally speaking, Chester said, youth under 18 are treated in the juvenile system, which has the goal of rehabilitation; youth over 18 are treated as adults, with no distinction made between people of very different ages and with more of a focus on deterrence and retribution than rehabilitation. Although young adults comprise 10 percent of the U.S. population, they make up nearly 30 percent of arrests and about 20 percent of the incarcerated population.

The racial disparities within this age group are troubling and greater than those for juveniles. Young adults are also especially hard hit by the drug crisis because of their risk-taking behavior and self-medication for mental health problems. Drug abuse violations peak during this period, even as their other criminal behaviors are decreasing. Moreover, young adults can face particular challenges after incarceration because they are less well established than older adults, who may have a pre-incarceration work history, their own housing, or an established family. She suggested that other countries, such as Germany, may provide a positive model for future reforms efforts in the United States because they are more oriented toward success after imprisonment.

Chester also noted that the young adult population includes many with special needs. Homeless young adults are particularly vulnerable, and their numbers and needs are not well understood. Homeless young women are at high risk for sexual abuse. She reported that multiple efforts are under way to address the needs of young adults given their vulnerability and poor outcomes, including specialized courts, caseloads, or correctional facilities. In some jurisdictions, legal provisions for young adults, such as differing parole terms or expanding the juvenile justice system to include emerging adults, are being implemented.

Marlon Peterson (executive producer, Decarcerated Podcast) described the importance of understanding the point of view of young adults of color who experience social exclusion through the criminal justice system. Informed by his experiences as a violence interrupter, a creator of programming inside of prison, and as someone who was formerly incarcerated, he now examines issues of violence and incarceration around the world. He challenged the group to understand the impact of both physical and emotional violence and oppression inherent in the criminal justice system. When communities of color are criminalized through policies, he said, sometimes young people, who lack effective ways to cope, respond through violence. In his work around the world, Peterson has come to see "that the violence that young folks perpetrate—not to absolve them of it—but the violence that many of our young people perpetuate, whether it be in schools or out of school environments, are rational responses to irrational situations."

Peterson also described his concern that criminal records will hinder the ability of young adults to participate in the "gig" economy, made up largely of people under 25. Many young people of color are feeling unheard and experiencing a feeling of a broken spirit. He challenged the group to consider the long-term relational impacts of concentrated criminalization of people of color, the future of research, and the interpersonal effects of bias on youth and young adults of color.

Latino Youth

Vera Lopez (Arizona State University) focused on the experiences of Latino youth, highlighting three key areas of social exclusion. First, Latinos have been ignored in the criminal justice literature, in part because ethnicity and race have often been conflated. The result is that the true extent of crime among Latino youth is not well understood. In addition, departments and agencies use many different methods to collect ethnicity data, including assumptions based on appearance, and they lack specificity that accounts for how Latino people identify themselves. Only recently have there been initiatives to gather better data at the state and local level to understand problems that may exist. New reports that do examine the experiences of Latino youth show some interesting trends and disparities. For example, delinquency

referrals to juvenile court are most often made by law enforcement. Interestingly, Latino youth are 30 percent more likely to be adjudicated for delinquency and less likely to be waived to criminal court for case processing than black youth.

Second, Lopez noted, the stories of Latina girls involved with the criminal justice system are not being heard. As a group, they comprised 25 percent of Latino juvenile arrests in 2013, but otherwise data on this population are sparse. She said that, in her experience, these girls are often involved in multiple systems, including the behavioral health, child protective, and educational systems. Just like all girls in the juvenile justice system, many Latina girls have histories of victimization and trauma, as well as substance abuse and mental health issues. Their parents may also be involved in the criminal justice system and face multiple stressors. Latina girls often face a "gendered pathway to system involvement"—early child maltreatment can lead to running away, substance use, and eventual involvement in the juvenile justice system.

Third, Lopez explained, current policies and practices are based on stereotypes and blame individuals, families, and culture for problems. Her research with Latina girls, their families, and juvenile justice practitioners has identified biases and their effects on girls' treatment. She suggested that practitioners, who often hold negative views of Latina youth, could be more effective by taking a strengths- and family-based approach and listening to the girls themselves.

NEXT STEPS FOR RESEARCH, POLICY, AND PRACTICE

Over the course of the workshop, many participants provided their ideas for new directions for research, practice, and policy in criminal justice to foster social inclusion. Many participants, including researchers, practitioners, and others, conveyed a sense of urgency that actions are needed in addition to more research.

Promising Practices and New Ideas for Policy

Various participants offered several ideas for promising practices and policies that could address social exclusion in the criminal justice system. Some suggested that it would be beneficial to look to other systems (e.g., public health) and outside the United States for successful approaches to conflict resolution and transformation. Ultimately, said Jones-Brown and others, bringing together people from research, philanthropy, law enforcement, the faith community, and other fields to address issues in meaningful ways would be useful. Mauer noted two important data trends looking over the past 20 years that warrant further exploration: the reduction of young people in juvenile residential placements by 50 percent and the dramatic decline in black women being incarcerated.

Other participants offered "bold ideas" to reimagine criminal justice system policy. Jeremy Travis (Laura and John Arnold Foundation) suggested that envisioning how a criminal justice system should be built from "square one" would be a useful thought experiment to generate new approaches. Mauer challenged participants to consider capping sentences for serious and violent offenders, a common practice in other developed nations. In U.S. prisons, one of every seven inmates is serving a life term, and data show that lengthy sentences are counterproductive from a public safety perspective. A few participants said that productive discussions will need to address both the volume of nonviolent criminal justice activity and better ways for the system to respond to violent crimes, recognizing that many perpetrators have also been victims.

Several participants commented that systemic change requires multiple approaches. "We need litigation. We need media strategy. We need more research. And we need more conversation and representation from people who have this debt to help us figure out what strategies and mechanisms and policies can we put in place to better protect the rights of poor people," said Harris. La Vigne offered the idea that researchers or journals adopt an "inclusive research pledge" to ensure systematically that researchers engage with people with lived experience in the criminal justice system in the course of their work. She also proposed more policies to commit to "people-first" language (e.g., people with a felony record rather than felons) and called on researchers to call "out the kind of inequality that we see and experience every day in our lives, in workplaces, and in the academy."

Western proposed a national presidential effort that would provide a means of confronting "the real history of race in America" that would be fundamentally humanistic, incorporating cultural, educational,

and scientific elements. The material conditions of poverty and the reality of violence in everyday life could be themes of such an effort, he added: "Science shouldn't just have a utilitarian value for policy. Part of what we do is record and document social realities that are often unpleasant or invisible or in conflict with prevailing official ideologies." He stressed that efforts should be bipartisan, account with the past, and culminate in a national apology and a program of legislative reforms.

The Role of Research

Several participants related that researchers should challenge their own theoretical assumptions, research paradigms, and ways of framing issues that may limit understanding of the effects of the criminal justice system. Candice Jones (Public Welfare Foundation) noted that, especially at the intersection of race and criminal justice, research can be used as both a sword and a shield. Several participants noted the importance of language that researchers use to describe people and issues. Using certain terms (e.g., inmate, felon, offender) can devalue people, cautioned James. More than one participant noted the need for more diversity within academia. Betts suggested that researchers can also do more to foster inclusion through mentoring.

Principles of proportionality in criminal justice should drive the future research agenda, according to several participants. Travis also suggested the need for a focus on citizenship and parsimony to guide society's response to crime. John Laub (University of Maryland) noted that many theories suggest that social connections are important in keeping individuals out of the criminal justice system; when the criminal justice system contributes to social exclusion, it thus also contributes to even higher crime rates. However, Jones questioned whether the criminal justice system could ever be seen as a tool of social inclusion.

Broadening Methods and Voices

Multiple participants suggested that academic researchers should include in their studies the voices and expertise of people who have experienced the criminal justice system. This approach includes combining quantitative with qualitative methods, as well as using participatory research approaches. Furthermore, several participants suggested, researchers should aim to give communities a voice in determining the relationship they have with justice agents. Edward Hailes, Jr. (Advancement Project) noted that this is especially important for communities of color. Jones-Brown suggested that to increase social inclusion—those who are policed the most and otherwise have disproportionate contact with criminal justice apparatus—should be given a voice in decision making. She also noted that more criminal justice researchers of color are needed, especially those of black racial identity and, especially on the topic of policing.

Humanizing the effects of the criminal justice system is needed, according to several participants. "You need our stories. You need our narratives to bring this to reality so that people cannot just continue to look at numbers," said James. Betts concurred, saying that individual experiences are critical to humanize and understand the ways that criminal justice policies and practices affect people's lives and actions. He added that art and literature can sometimes be more effective at conveying a complex lived experience than hearing the story of an average person. These experiences should not only include those of people involved with the justice system, but also crime victims.

Jones suggested that researchers should start with observing and listening to people on the front lines of practice in the criminal justice system. Pursuing new research questions to provide answers that practitioners need could lead to wider reception of research, she suggested. Researchers can also help practitioners with framing their questions, she noted.

Data Gaps

Throughout the workshop, many participants highlighted areas for which important data are lacking. For example, Laub noted that detailed data on criminal justice processing (e.g., police and prosecutorial discretion to handle cases formally or informally), particularly at early stages are needed, as are data on later life outcomes of people who have been incarcerated. Others noted that data are sparse for particular populations, such as Latinos, Native Americans, and LGBTQ individuals. Several participants mentioned the intersection of race and gender with the experiences of school discipline and the criminal justice system. For example, Crenshaw noted, black women are more vulnerable to police misconduct

than white women, and women may have particular risk factors that men do not. Less is known about incarcerated women than men, and Crenshaw and others suggested that research on affected women, children, and families is needed.

Jones added that more research on effective reentry after incarceration is needed, particularly on innovative approaches. Too few practices have been evaluated to provide evidence for different policy choices, she said. Similarly, Laub said, a rigorous research agenda should include questions that address the causal links between criminal justice policies, programs, and practices and their effects on individuals and communities, including taking advantage of natural experiments. Fagan pointed out that incentives and systemic factors that prevent change are important to consider.

Many participants called attention to the simplistic way in which research has considered complex concepts, such as poverty. "Intersectionality"—the notion that such factors as race, gender, educational level, geography, and income level alone are insufficient to understand how experiences of individuals vary even within groups—arose in discussions as an important concept that should guide more holistic research approaches that capture the interdependent and cumulative nature of interactions. In this vein, some participants noted, it is important to understand the effects of co-occurring disadvantages. Others noted that the criminal justice system intersects with many other systems and social problems (e.g., substance abuse, mental health), and creative solutions are needed to help communities more effectively address these different needs. Currently, "the criminal justice system becomes the de facto social policy of last resort," said Western.

Communicating Research Findings

Several participants discussed how to effectively communicate research with practitioners, advocates, and policy makers. Bridging organizations can play an important role, suggested La Vigne, helping to translate research into practice quickly and rewarding more varied forms of research and dissemination. James noted that nonprofit organizations often rely on those partnerships. La Vigne explained that although researchers are hesitant to engage with the advocacy community, both can learn from each other. Other participants emphasized the need to communicate on multiple fronts (e.g., media, research, litigation) to bring about change in criminal justice policies.

Several participants stressed the importance and challenge of getting research to the community level, including both law enforcement agencies and other people working at the local level. Clarence Cox (National Organization of Black Law Enforcement Executives) said that most of the 18,000 law enforcement agencies around the country would be unlikely to have heard of the research that has been presented at the workshop. He emphasized that more work needs to be done to ingrain the methods and principles of 21st century policing practices across the country. Fagan agreed: "There needs to be some kind of place politically and institutionally where these kinds of analyses have to take place and where the information has to be put on the table for an open and honest debate about what we're doing with respect to policing neighborhoods." Organizations and publications can help with this bridging, noted one participant. Armenta said that she sees her role as not only conducting rigorous research, but also amplifying the work being done by organizations working in communities. It is also important, she added, that researchers report back to communities on the effects of policies, whether those effects are good or bad. One participant noted that implementation science can provide evidence-based approaches for bridging research and practice.

Communicating criminal justice research can be challenging in part because many people hold preconceived notions about the types of people who have been incarcerated, noted Raphael, making them believe that persons involved with the justice system do not deserve help. Researchers can help evaluate and provide data and evidence to counter inaccurate claims that people make in the public sphere. There is also a different, but important role for advocates to play, he added. One participant noted that encouraging data sharing and aggregation could also help with providing information for decision making in criminal justice, but Cox noted that this idea is often met with resistance and might not occur voluntarily. More broadly, Jones explained, data are needed to demonstrate the overall impact of the criminal justice system on all Americans, such as the effects on gross domestic product.

FINAL OBSERVATIONS

Crutchfield offered a challenge to participants: keep pushing for answers as to why there are persistent disproportionalities in the criminal justice system and what can be done about the resulting social exclusion of some groups. Related to this challenge, Loren Harris (Nathan Cummings Foundation) encouraged participants to ensure that scholarship reaches communities at all levels so that change-makers "can put it to use to create statements for policy change and help to move the dialogue in their communit[ies] ... about how we approach justice in a different and innovative and more just and equitable way."

WORKSHOP PLANNING COMMITTEE: Ruth D. Peterson (*Chair*), Professor Emerita, Ohio State University; **Reginal Dwayne Betts**, Lawyer, Poet, Memoirist; **Marshall Clement,** Council of State Governments; **Kimberlé W. Crenshaw**, University of California, Los Angeles, and Columbia University; **Robert D. Crutchfield,** University of Washington; **Nicole D. Porter,** The Sentencing Project; **Steven Raphael,** University of California, Berkeley; and STAFF: **Kathi Grasso**, CLAJ Board Director; **Leticia Garcilazo Green**, Senior Program Assistant; **Erik Saari**, Senior Program Assistant; **Miranda Galvin**, Mirzayan Fellow; **Erica Scott,** Intern.

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