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Reversing the Realities of Mass Incarceration: The Role of American Business

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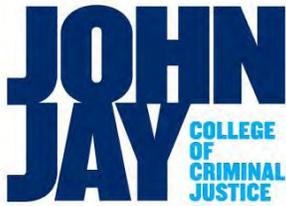
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Reversing the Realities of Mass Incarceration:
The Role of American Business

Keynote Address by

Jeremy Travis

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City University of New York

At the

2016 Social Entrepreneurship Leadership Forum

Solutions to Post-Incarceration and Entrepreneurship:

The Role of Businesses and Universities

A Collaboration between the

Tamer Center for Social Enterprise, Columbia School of Business

and the

Columbia University Center for Justice

April 22, 2016

President Bollinger; Professor Phillips; friends and colleagues:

I am deeply grateful for the invitation to speak with you this morning as you kick off this important symposium on the role of businesses and universities in providing, as the title of this event suggests, **“solutions” to the challenges faced by those of our fellow citizens who have been incarcerated in our nation’s prisons and jails.** You have a very impressive line-up of speakers – I am honored to be on the program with my colleagues Glenn Martin, one of the **nation’s** most thoughtful voices on criminal justice reform; Devah Pager and Michael Stoll, two leading scholars on the impact of felony convictions and incarceration; Kathryn Wylde from the Partnership for New York City and Bill Keller from the Marshall Project, both advocates for rational criminal justice policies; Ron Day from the Fortune Society, **the nation’s premier** reentry organization. And then all these really interesting folks at the cutting edge of entrepreneurship who I wish I knew better – Frederick Hutson of Pigeonly, John Dillow of **Skillsmart and Lynn Allen, with the coolest title of the conference, the “technical evangelist”** of Autodesk. I also note the presence of John Jay faculty Lila Kazemian and Preeti Chauhan; presidential interns Lauren Giles; Muhammad Rehman; Trushal Pandhi; and my associate, Bettina Muenster.

This promises to be a high energy, timely, thought-provoking symposium. I congratulate the sponsors on this rare combination of vision and execution, and thank you again for inviting me to launch this discussion.

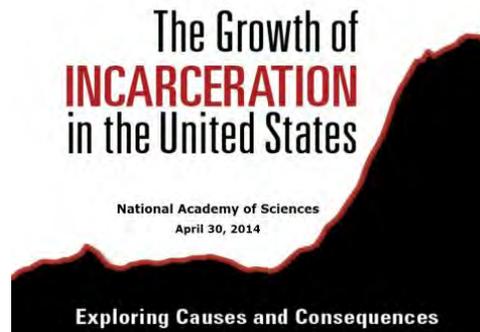
Here’s the roadmap for my talk over the next half hour or so, leaving time for questions and answers afterwards. To set the stage for today’s discussion I will first describe the realities of what we now call “the era of mass incarceration”. This discussion will lead to what I consider an inevitable conclusion, namely that every sector of our society – including particularly the businesses and universities at the center of today’s symposium – should be fully engaged, not tangentially engaged, in the struggle to reduce – significantly reduce; at least by half – the number of people in America’s prisons and jails. In my view, this is the business of American business, to persuade our elected officials to take necessary steps to bring our oversized, oppressive criminal justice system into alignment with America’s well-established principles of justice. Finally, I will focus on the specific challenge of creating employment opportunities for formerly incarcerated individuals and will recommend an ambitious, even radical, solution.

In many ways, I feel that my talk was pre-empted yesterday by the New York Times, which published an Op-Ed by Jason Furman, Chairman of the White House Council of Economic Advisors under President Barak Obama, and Douglas Holtz-Eakin, former director of the Congressional Budget Office under President George W. Bush. Two economists, one from the left, one from the right, agreeing – actually agreeing – **that “mass incarceration doesn’t pay.”**¹ **Unfortunately, they don’t offer a solution to mass incarceration** – that is our task today.

Let’s begin with a quick **stroll through our nation’s history with the use of prison.** Here I draw upon the report of the National Research Council consensus panel, which I was honored to

¹ Jason Furman & Douglas Holtz-Eakin. *Why Mass Incarceration Doesn’t Pay*. Retrieved from the World Wide Web on April 21, 2016: <http://www.nytimes.com/2016/04/21/opinion/why-mass-incarceration-doesnt-pay.html?smprod=nytcare-iphone&smid=nytcare-iphone-share&r=0>.

chair, that two years ago released a report titled *The Growth of Incarceration in the United States: Exploring Causes and Consequences*.

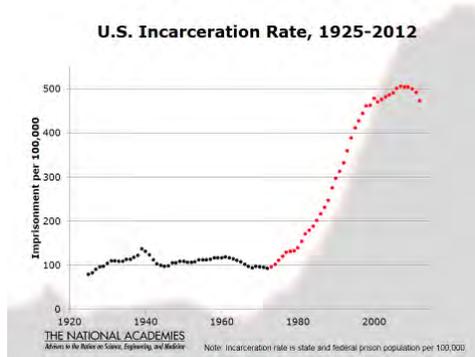


As you can see from this next slide, the incarceration rate in the United States — reflecting only those in prison, not jails — was remarkably constant for fifty years, from 1925 to 1972, hovering around 110 per 100,000 population.²



Beginning in the early 1970s, however, this stability came to an end and our incarceration rate started to increase, rising every year from 1972 to 2009, with only a slight decline after 2009.

² Unless referenced otherwise, all citations can be found in the following report: *The Growth of Incarceration in the United States: Exploring Causes and Consequences*, Washington, DC: The National Academies Press, 2014.



This represents a four-fold – actually 4 ½ times – increase in the rate of incarceration to well over 500 per 100,000. At the peak, we reached an important milestone: approximately one in every 100 Americans was in prison or jail.

We must ponder an inescapable conclusion: our nation has never been here before. Never before have we held so many people in prisons. And, since everyone we send to prison, unless they die of natural causes or execution, returns home, never before has our society sought to reintegrate such a large number of people who have served time in prison. Add to this the number of individuals who have spent time in jail, on probation or parole, or have been stopped or arrested by the police and we come to a simple, stark and troubling realization that the American justice system casts a long shadow over our society.

Not only is our current level of incarceration, in the words of the NRC report, “historically unprecedented” but it is also “internationally unique.” Look at the next slide and you will see the European incarceration rate, here combining prisons and jails, stands at about 90 per 100,000.

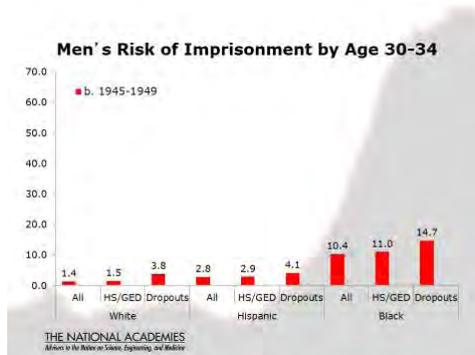


By contrast, the American incarceration rate for 2012 is 707 per 100,000.

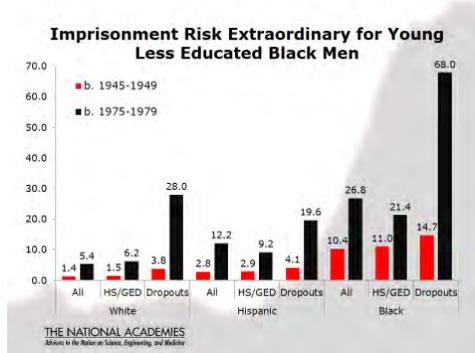


In this respect, we stand outside of the experience of every other Western democracy. No other country in the world has a higher incarceration rate. In fact, although our country is home to 5 percent of the world's population, our prisons hold nearly a quarter of the world's prisoners. This is a striking and troubling example of American exceptionalism.

Let me share one more finding from the NRC report that puts the era of mass incarceration in a very stark perspective. The growth of incarceration was not evenly distributed across the population. In fact, our report documented that most of the growth came from one demographic group – high school dropouts – and mostly minority male high school drop outs. The next slide compares the probability that a male high school dropout would spend at least a year in prison before reaching his 34th birthday. For an African American male born between 1945 and 1949 – in essence a baby boomer – the probability was 14.7 percent.



For the same demographic group born after the prison boom began, the probability was now 68 percent.



Think of it – an African American man who has dropped out of high school in America now has a two in three chance of spending at least a year in prison before turning 35. What have we done to our pursuit of racial justice? What have we done to the dream of upward mobility? What have we done to the life prospects of those already on the margins, struggling to get an education and get ahead? When we think of the importance of ending the era of mass incarceration, we need to think of these young men and the importance of their future in the larger American experiment in building an inclusive land of economic opportunity. Stated differently, as you hold your deliberations at this conference, please recognize that you are undertaking work that is critically important – not just to individuals, but to society.

But I cite these statistics NOT simply to encourage you to find employment and entrepreneurship opportunities for individuals who have been incarcerated. Nor to work to **improve the nation’s high schools**. You should do that, of course. Rather I want to make a different point: in my view, the first obligation of representatives of American business (and American universities, but here I focus on businesses) is to use your power and influence to reduce the number of people incarcerated in our country. To support this assertion, I ask you to look at the era of mass incarceration from a business perspective. I see three lines of argument. First, a fiscal conservative looking at our prison expenditures would be shocked. According to the NRC report, we now spend \$53.2 billion a year on state prisons, up from \$6.7 **in today’s** dollars in 1985. If we include federal prisons and jails, spending today is close to \$90 billion. Put differently, from 1985 to 2007, spending on corrections as a portion of state general fund expenditures increased by about 40 percent, while state spending on higher education declined by about 30 percent.³ Talk about getting our priorities backwards!

Here’s another perspective on cost. If we look at the spending on prisons and jails and assign those costs to the neighborhoods where the incarcerated individuals lived before their incarceration, we come up with a staggering statistic. There are blocks in New York City – and in virtually every city around the country – where the taxpayers of the state spend more than a million dollars a year to pay for the housing of the men and women from that block in prison or jail. They are known as “**million dollar blocks**”.⁴ A fiscal conservative – and a social progressive

³ Bruce Western. *From Prison to Work: A Proposal for a National Prisoner Reentry Program*. The Hamilton Project, 2008.

⁴ Emily Badger. *How mass incarceration creates ‘million dollar blocks’ in poor neighborhoods*. The Washington Post, 2015. Retrieved from the World Wide Web on April 20, 2016: <https://www.washingtonpost.com/news/wonk/wp/2015/07/30/how-mass-incarceration-creates-million-dollar-blocks-in-poor-neighborhoods/>

– would ask the same simple question: can't we find a better way to spend a million dollars a year?

When Republican Governor Tommy Thompson of Wisconsin created a sentencing commission, he named business leaders to serve on that commission, not just the usual criminal justice officials. The first question the business leaders asked was about return on investment. What do taxpayers get in return for spending over a million dollars a year per block? This is precisely the fiscal discipline we should impose on our run-away prison expenditures. What have we bought? Could we get better results with a different investment portfolio? How much are we willing to pay for retribution? If, as the science clearly indicates, long sentences do not have public safety value, why do we have geriatric prisons, or nursing homes behind bars? If mandatory minimum sentences are also ineffective at reducing crime, why are we so enamored of this type of punishment?

The second reason the business sector should care about mass incarceration is that prisons **represent wasted lives. Let's put this self-evident statement** in the context of our economy. Harry Holzer, the former chief economist for the Department of Labor, made a simple calculation of the impact of incarceration on our national Gross Domestic Product. We start with the recognition that half of the individuals now incarcerated held full time jobs when they were arrested, and nearly one-fifth held part-time jobs. We tend to forget this simple fact. Putting so many people in prison interrupts their economic productivity, takes money off the family table, and disrupts local businesses. Stated in economic terms, their incarceration reduces their earnings, which in turn decreases **the nation's GDP**. Holzer calculates that our current incarceration rates **reduces America's overall employment rate by about one percent, and the nation's GDP by one to two percent. Let's put this in** macroeconomic terms: our decision to increase the rate of incarceration has depressed our GDP by about \$100-200 billion dollars a year.⁵ **Simply reducing the rate of incarceration would increase the nation's** productivity and employment rates.

But we also recognize that, even if we had fewer people in prison, **any time in America's prisons** represents a wasted opportunity. When someone is sentenced to prison, he or she is taken out of the normal rhythms of the work world – including getting a job, losing a job, getting **promoted or transferred, building one's** human capital and social capital. Imagine, instead, that we made good use of the time spent in prison to promote good work skills, provide educational programs ranging from vocational and remedial programs up to college, and actually trained incarcerated individuals in trades and skills that made them immediately employable on release. The era of mass incarceration is also characterized by a decline in prison programs, the elimination of Pell funding for college education, and enormous wasted human potential. Certainly our business leaders – and our educators – can raise their voice for prisons that respect human dignity, promote positive and constructive engagement with society, and maximize the capabilities of those held behind bars.

Spatial Information Design Lab. *Million Dollar Blocks*. Retrieved from the World Wide Web on April 20, 2016:
<http://spatialinformationdesignlab.org/projects/million-dollar-blocks>

⁵ Jeremy Travis. *But They All Come Back: Facing the Challenges of Prisoner Reentry*, Urban Institute Press, 2005, p 159.

The third reason for business leaders to join the call for an end to mass incarceration is the simple fact that someone who has been in prison experiences a reduction in his earnings power for the rest of his life. When someone returns home from prison, that person is unemployed about half the time, earns about \$9,000 a year, and does not experience the same upward mobility and promotional opportunities that would otherwise have been available. Stated differently, economists have calculated that the mere fact of incarceration translates into a 30 percent reduction in lifetime earnings.⁶ When we add to this the enormous costs borne by the family of the incarcerated individual – to supply commissary funds, travel to far-away prisons for visiting day, pay for exorbitant collect calls – we realize that the true costs of prison extend far beyond the state budget. Finally, when we remember that high rates of incarceration are concentrated in a small number of communities, mostly communities of color in urban America, then we realize that the era of mass incarceration represents a significant diminution of the assets and earnings power of those struggling communities. To make the point most poignantly, scholars have calculated that the intergenerational transfer of wealth among African-American **families has been significantly depressed simply because today’s families are now losing** the income of those incarcerated, spending more money on keeping the family together, paying for collect calls and commissary, and losing opportunities to invest in homes and retirement accounts.⁷

Please allow a final business perspective on our criminal justice policies: The American impulse to punish severely those who have violated the law is expressed not just in prisons and jails but **also in a network of “invisible punishments”** – legislative enactments that restrict the freedoms of those with criminal convictions.⁸ Over the same time we have put more and more people in prison, we have also walled off large sectors of our economy to those with felony records. This includes some of the fastest-growing sectors of our economy such as health care, security services and social assistance services. Bureau of Labor Statistics data show, for example, that the health care and social assistance services sector has steadily grown in the past and is projected to increase from 18,057,400 jobs in 2014 to 21,852,200 jobs in 2024.⁹ But many of these jobs disqualify anyone with a felony conviction, even though that conviction is unrelated to the services being provided. Other examples of such disqualifications show how nonsensical these invisible punishments can be. If you have a conviction for a misdemeanor or felony in New York, you cannot become a school bus driver, obtain a permit to practice creative arts therapy or get a bingo supplier license. Really? Why are we blocking opportunities to hold a decent job?

We then add to this dismal picture the sobering reality that a felony record is seen as automatically disqualifying for even the most basic jobs. One of your speakers, Dr. Devah Pager, **has conducted pioneering research on this topic using the “tester” methodology** – two individuals with similar resumes are sent for the same job. Her research found that the white applicant with a felony record is more likely to be called for an interview than the African-American applicant with no criminal record. And the black applicant with a felony record is doubly disadvantaged because of racial prejudice.¹⁰ While **we can rally in support of the “ban the**

⁶ Bruce Western. *The Impact of Incarceration on Wage Mobility and Inequality*. American Sociological Review, 2002.

⁷ Donald Braman. *Doing Time on the Outside*. University of Michigan Press, 2007.

⁸ Travis, 2005, p. 64.

⁹ Bureau of Labor Statistics. *Employment by major industry sector*. Monthly Labor Review, 2015.

¹⁰ Devah Pager. *The Mark of a Criminal Record*. AJS Vol. 108, p. 960.

box” movement which holds questions about criminal records until the end of the selection process, we must also confront the stigma that a criminal conviction carries, the unregulated availability of criminal records on the internet, and the reluctance of some employers to even consider an applicant with a record. These seemingly insurmountable barriers – some in our laws, some in our culture – call into question the assertion, in the words of President George W. Bush, that **“America is the land of the second chance.”**¹¹ Instead, to cite Steven Raphael of U.C. Berkeley, **the criminal conviction has become “the new scarlet letter.”**

I would hope that business leaders of our country would rally around two causes – first, to significantly reduce the rate of incarceration; second, to promote economic opportunities – and reduce arbitrary barriers -- for those who have been incarcerated. Both causes make good business sense. Both causes are good for our country. Your voice is sorely needed in the growing national chorus promoting justice reform.

But let us now focus on the role that businesses can play as employers, investors, and corporate citizens. I want to propose a **radical idea: why shouldn't America's business leaders partner** with government to provide a period of transitional employment for everyone coming out of prison who does not have a job? Think about it: We spend thousands of dollars a year to house someone in prison and then, on the day they are released from prison, our public expenditures drop to near zero. Why? We know that the period of time immediately after release from prison is the highest risk – of rearrest, suicide, murder, relapse to drug use – yet at the precise moment when risks and needs are highest, our public expenditure is lowest. During this time, transitional supports are badly needed, including transitional jobs.

We have a strong literature on the effectiveness of supported work – or transitional work programs.^{12,13} Yet, we do not invest in these programs at scale. We know that work release programs and halfway houses are successful ways to help people transition from prison to home.¹⁴ Yet, we have cut back on these programs.¹⁵ We know that helping people learn marketable skills in prison helps them find jobs on the outside, but we have cut back on those prison programs and do not build enough bridges to jobs on the outside.¹⁶ We make half-hearted efforts to build prison industry programs, but we end up recognizing that idleness not productive work is the norm in prison.

Why not flip it? Why not take the last few months of a prison sentence, advance the release date, transform these months into the first few months of work release or supported work in the community, and set as our goal that everyone coming home from prison is employed, or in school – at least for the first six months? Our colleague Bruce Western of Harvard produced a proposal along these line in a 2008 paper presented at the Hamilton Project of the Brookings Institute.¹⁷ As he noted, this strategy could easily pay for itself by reinvesting saved prison costs

¹¹ George W. Bush. *State of the Union Address*. January 20, 2004.

¹² Western, 2002.

¹³ Office of Planning, Research, and Evaluation. *Final Results from the Evaluation of the Center for Employment Opportunities (CEO) Transitional Jobs Program*. Retrieved from the World Wide Web on April 26, 2016: http://www.mdrc.org/sites/default/files/full_451.pdf

¹⁴ Karen Kadela. *Prisoner Reentry: What Works, What Does Not Work, and What is Promising*. Crime & Delinquency Vol. 49 No. 3.

¹⁵ Western, 2008, p. 7.

¹⁶ Western, 2008, p. 24.

¹⁷ Bruce Western, *From Prison to Work: A Proposal for a National Prisoner Reentry Program*. The Hamilton Project; The Brookings Institution, December 2008.

in transitional work programs. He also points out that we should want to invest in transitional housing, where needed, family support services, where needed, drug treatment, where needed, and mental health services, where needed. But a job is perhaps the most important element of a successful reentry strategy, and planning for a job while still in prison would significantly alter the dynamics of the reentry process.

But there is another reason – a business-related reason – for promoting this strategy of a massive transitional employment program on a scale that matches mass incarceration. I mentioned before the reluctance of employers to hire people with criminal records. There are a number of programs designed to help employers overcome that reluctance – including the federal bonding program, the Work Opportunity Tax Credits and other incentives. But the work of Harry Holzer and his colleagues underscores the potential of this proposal for universal transitional employment.^{18,19} Employers were most likely to hire this population when a third party – some sort of intermediary – screened the candidates, provided a testing period, and attended to ancillary needs such as child care, transportation and housing. With this third-party reinforcement, and appropriate support services, private employers are more willing to look beyond the stereotype, overcome their biases, and see an individual who could be a valuable employee.

Ultimately, of course, we should not envision a world of perpetual government supported work that might tend to further marginalize individuals who have served time. This is where the private sector, as well as public and non-profit employers, are needed to step up to the plate. When the period of transitional work (six months) is over, ideally there will be a well-paying, steady job waiting. Ideally, there will be opportunities for our formerly incarcerated fellow citizens to join the entrepreneurial revolution now underway. There are stellar examples across the country of entrepreneurship programs for people leaving prison. One of my favorites is Project ReMADE, offered by a unique partnership between the Stanford Law School, Stanford Business School, and the tech sector of Silicon Valley.²⁰ The goal of the program is to facilitate economic independence of men and women with criminal records. Participants, carefully screened, receive 50 hours of business planning classes at Stanford. By graduation, each entrepreneur has written a business plan which he or she then pitches to a panel of micro-enterprise lenders. Project ReMADE is getting enormous attention and is chalking up signal successes.²¹ **Why can't every business school in the country** – starting with Columbia School of Business – follow the lead of Stanford?

Before closing, I must acknowledge that universities also have a role to play in supporting successful transitions. I am proud of the work of my colleagues in the Prisoner Reentry Institute at John Jay College who created the Prison to College Pipeline that provides CUNY courses taught by CUNY faculty behind bars. We are now working with a broad coalition – including folks in this room – to restore college education to prisons in our state. As with the supported employment program I just outlined, our work is focused on the inevitable return home of

¹⁸ Travis, 2005, p. 181.

¹⁹ Harry J. Holzer, Steven Raphael, and Michael A. Stoll. *How willing are employers to hire ex-offenders?* *Focus* Vol. 23, 2004.

²⁰ Project ReMAde: <http://projectremade.org/>.

²¹ Sharon Driscoll. *Project ReMADE: The Other Entrepreneurs*. Retrieved from the World Wide Web on April 26, 2016: <https://law.stanford.edu/stanford-lawyer/articles/project-remade/>

everyone in prison. We believe that we should provide high quality, credit-bearing courses to every potential student behind bars. We believe that all institutions of higher education should provide instruction in prison, and we should ensure the smooth transfer of those credits to colleges in the community. If we are true to our belief in the liberating power of a college education, then we have an obligation to provide those opportunities to everyone. We are pleased to note that Governor Cuomo, in partnership with Manhattan DA Cyrus Vance, Jr. has set aside \$5 million to prime the pump. The Ford Foundation and David Rockefeller Fund have also provided critical leadership. We hope that Congress and the New York State legislature will soon reverse the damaging policies of the 1990s and restore funding for college education in our state. I hope we can continue to count on Columbia University as a strong ally in this movement.

This is the greatest tragedy of the era of mass incarceration – wasted lives. Our first task – as educators, as business leaders – is to reduce – significantly; at least by half – the rate of incarceration. I believe the business community can be a powerful leader in this struggle. Working together, we can lead a movement to support the development of human and social capital of those who are in prison. And for those who come home – nearly 700,000 a year across the country – we must create pathways to success. We know that a job is the best reentry program. Creating those jobs, and the argument for the primacy of work, is the unique province of the business community. Who better to argue for full employment **ment than the nation's** employers?

I wish you a successful symposium. We need your best ideas. Thank you.