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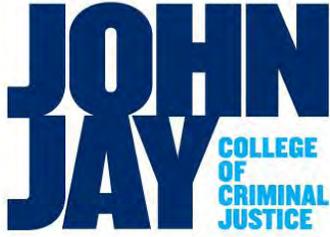
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What About the Children?

Assessing the Ripple Effects of Mass Incarceration

Lecture by

Jeremy Travis, President of John Jay College of Criminal Justice

City University of New York

At the

Center for the Study of Race and Race Relations

Levin College of Law

University of Florida

March 25, 2015

**What About the Children?
Assessing the Ripple Effects of Mass
Incarceration**

Lecture by
Jeremy Travis, President of John Jay College of
Criminal Justice

At the Center for the Study of Race and Race Relations
University of Florida
March 28, 2015



Dear Colleagues:

I am deeply grateful for this opportunity to speak with you about an issue close to my heart, namely the far-reaching impact of our nation's decision to embark on a policy choice that has led us to a reality we now call the era of mass incarceration. In my view, there are few issues as important to the future of our democracy. So I welcome the opportunity to speak with you, hopefully to give you some tools and perspectives that will help you think about this challenge to our national aspirations to be an inclusive, just and humane country. Whenever I receive invitations to speak with students – college students or law students – I try to accept because I believe that your generation has the power to reverse the damaging course we have embarked upon as we decided to put a million more people in prison. So your interest in this topic is inspirational and gives me hope for our future. I also admire your decision to focus our attention this afternoon on the impact of mass incarceration on children, and to examine this question critically through the lens of race. As I will set forth in a moment, I think this focus on children provides an opportunity to expand the conversation about mass incarceration to allow us to consider the far-reaching consequences of our policy choices.

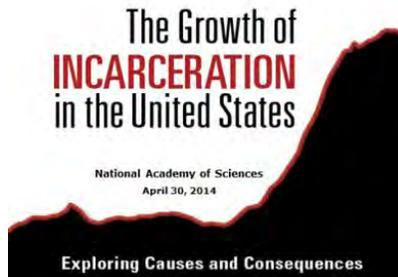
Over the past several months I have been focusing my attention on two complex and challenging questions – why has our democracy embarked on this unprecedented policy journey that has resulted in a four-fold increase in our rate of incarceration? And what will it take for us to reverse course and reduce the number of people in prison? These are profound questions with no easy answers. Today, you have provided me a welcome excuse to step back from those two questions and to examine two related questions of equal importance: what are the short and long term consequences of high incarceration rates on the families and children of those incarcerated? Second, recognizing that this lecture is sponsored by the Center for the Study of Race and Race Relations, I will also offer some thoughts about the impact of the prison build-up on our nation's pursuit of racial justice.

Thanks for giving me easy questions as a topic for this lecture!

Let's begin by establishing some facts. It is important that we have a shared understanding of the magnitude of the reality of mass incarceration and the causes of this expansion of prison as a response to crime. In illustrating these points I draw up on the findings of the Committee on the Causes and Consequences of High Rates of Incarceration.¹ This committee of twenty leading

¹ Unless referenced otherwise, all citations can be found in the following report: National Research Council. *The Growth of Incarceration in the United States: Exploring Causes and Consequences*. Washington, DC: The National Academies Press, 2014.

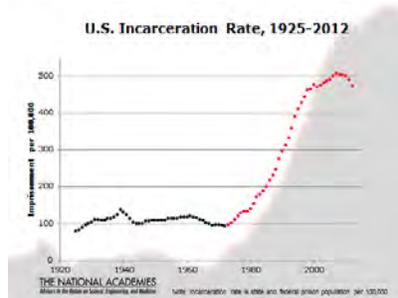
scholars and national experts was convened by the National Academy of Sciences to review the evidence on – as its title suggests – the causes and consequences of the four-fold increase in incarceration rates. I was privileged to be asked to chair this committee and am enormously grateful for the contributions of my colleagues to this landmark report that was released just a year ago. [slide 1; book cover]



The first key finding of our report is sobering: **When we consider today’s realities of mass incarceration, we must come to terms with the fact that our country has never been here before, and we stand apart from the rest of the world.** [slide 2]



From the 1920s to the early 1970s, our country experienced a very stable rate of incarceration (here measured by the state and federal prison population) averaging about 110 people incarcerated per 100,000 population. [slide 3]



Then in the early 1970s, the incarceration rate took off, increasing every year until 2009, rising more than four-fold in the space of a generation. When we compare ourselves to other Western democracies, the differences are stark. [slide 4]



The incarceration rate in Europe (here including prisons and jails) is much lower, ranging from 67 per 100,000 in Sweden to 148 per 100,000 in the United Kingdom. By comparison, the US rate, here including prisons and jails, is over 700 per 100,000, five to ten times higher than those in Europe. [slide 5]



The Committee of the National Academy of Sciences captured this reality with the first conclusion in our report: **“The growth in incarceration rates in the United States over the past 40 years is historically unprecedented and internationally unique.”** Other phrases used in our discourse express the same conclusion. We note, using an analysis first done by the Pew Charitable Trust, that today, nearly 1 in 100 adults in the United States is in prison or jail.² Or we point out that the United States is home to 5 percent of the world’s population, but 25 percent of the world’s prison population. Or, we state that we have the highest incarceration rate of any country in the world, having surpassed Russia and South Africa for this distinction.

However you say it, we must face a stark reality: something profound has happened in our country. We have never been here before. Never in our history have we held such a high percentage of our fellow citizens behind bars. In my hopeful moments, I take solace in the fact that we are just now, albeit belatedly, starting to come to grips with the implications of this new reality. It is indeed enormously gratifying to come to conferences such as this one to see the new awareness about mass incarceration that is emerging on the college campuses of our country. We have reason to believe that the next generation is committed to changing the course of our country on criminal justice policy generally. Just recall the marches for racial justice in policing practices after the deaths of Michael Brown and Eric Garner and on the overuse of prison specifically. Note the outpouring of support on college campuses for Michelle Alexander

² The Pew Charitable Trusts (2010). *Collateral Costs: Incarceration’s Effect on Economic Mobility*. Washington, DC: Pew Center on the States. Retrieved from http://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs_assets/2010/CollateralCosts1pdf.pdf.

following publication of *The New Jim Crow*.³ The younger generation gives us reasons to be hopeful.

Yet in my more realistic moments I come face to face with the daunting challenges that lie ahead if we are ever to reverse course and significantly reduce our incarceration rates. Sometimes I think we are at a tipping point. There is an undeniable national focus on the issue of mass **incarceration**. **Even the phrase “mass incarceration” is now a useful shorthand that describes** the reality that too many people are in prison, for too long. At the same time, we are witnessing the emergence of remarkable left-right coalitions devoted to reducing the prison population. The Koch Brothers, Newt Gingrich and a cleverly titled group called Right on Crime has made common cause with the Open Society Foundation of George Soros and the American Civil Liberties Union.⁴ Have the lions and the lambs actually lain down together? If you listen carefully, we can also sense the deep realization that America has gone off course, that something is wrong with this reality, something inconsistent with our founding principles. So perhaps these dynamics will coalesce to produce a political movement that rolls back our harsh sentencing statutes. Yet, at other times, I fear that we have reached a new normal, where mass incarceration is baked in to the American political reality. I fear that we might find a way to live comfortably with the fact that so many of our fellow citizens are consigned to spending part of their lives in prison.

In struggling to imagine a path forward that leads to significant reductions in mass incarceration, I always come back to another key finding of the National Academy of Sciences **report**. **I paraphrase here, but the NAS report basically said, “We are here because we chose to be here.” Stated differently we could say, “We have mass incarceration because we wanted mass incarceration.” Let me unpack this** to make sure we understand the power of this statement. The NAS report found there were three drivers of mass incarceration: (1) we chose to make long sentences longer; (2) we chose to enact statutes requiring mandatory minimum prison sentences for offenders who would otherwise have been subjected to community sanctions; and (3) we launched a war on drugs in response to public concerns about drug-related crimes and related behaviors. These were all policy choices, enacted by our elected officials who ran for office on tough-on-crime platforms and, once in office, delivered on their promises. Hence the bottom line: we are here because we chose to be here.

The corollary of this finding is also clear, and challenging. If our democracy brought us to this reality, we must turn to our democracy to bring us to a new reality with fewer people in prison. This realization, in turn, requires us to ask which political strategies – which arguments to our elected officials, opinion leaders, and community activists – will create a different climate so that deep reform is possible.

It is in this context that I ask you to consider whether the two topics I will address today – the impact of mass incarceration on children and on our aspirations for racial justice – provide hope for changing the political dynamics of our democracy.

³ Alexander, Michelle. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. Revised ed. New Press, 2012.

⁴ Right on Crime; (retrieved from the World Wide Web on April 1, 2015: <http://rightoncrime.com/the-conservative-case-for-reform/>).

Let's talk first about the children. One well-known tactic for building broad political coalitions is to show the effects of a particular public policy on children. It has worked for health insurance coverage. Recall that President Obama first extended the benefits of the Affordable Care Act to young people under the age of 25.⁵ It has worked on the movement to reduce smoking. Recall the TV commercials showing the effects of second-hand smoke on the children of smokers. It has worked in the struggle for marriage equality. Recall the advocacy on behalf of the children of gay and lesbian parents who simply wanted to live with their parents. I ask you to reflect on this question: can a similar argument help broaden the conversation about the damaging effects of mass incarceration? If we highlighted the ripple effects of prison on the children of the imprisoned, would American society, which is otherwise generally not open to arguments about reducing the level of imprisonment, be more open?

I think this argument has enormous potential for shifting the ground. First, let's consider the sheer magnitude of the phenomenon. A mere 25 years ago, one in 125 children in America (under age 18) had a parent incarcerated. Today, that ratio is one in 28. This phenomenon can also be stated as a rate. Today, 3.6 percent of minor children have a parent incarcerated. And of course the racial disparities are striking. One in 9 African-American children (11.4 percent), one in 28 Hispanic children (3.5 percent) and one in 57 White children (1.8 percent) has an incarcerated parent today.⁶

This is a dramatic growth – in a very short time – in the population of children affected by incarceration. It is hard to know how best to drive this point home. Try this: in 1980, there were about 350,000 children with an incarcerated parent; in two short decades, from 1980 to 2000, that number had grown to 2.1 million, then the number increased again to the most recent estimate of 2.7 million.⁷ The ripple effects of mass incarceration have reached deep into our most vulnerable population, our children, on a massive scale. Millions of children now experience the loss of a mother or father to prison who, in an earlier time, would not have suffered that loss.

As we dig deeper into the data on the prison build-up, we come to a better understanding of the ways that mass incarceration has left its mark on children. For example, we know that the number of mothers incarcerated has grown at a faster pace than the number of fathers incarcerated. Between 1991 and 2007 the number of children with a mother in prison increased 131 percent, while the number of children with a father in prison increased at a slower pace, 77 percent.⁸ This is because the incarceration rate for women, which is lower than for men, grew faster than the rate for men. We also know that nearly two-thirds of mothers in state prisons

⁵ "Health Care That Works for Americans." The White House. Accessed April 1, 2015. <https://www.whitehouse.gov/healthreform/healthcare-overview>.

⁶ Turney, K. & Wildeman, Christopher. (2015). Detrimental for Some? Heterogeneous Effects of Maternal Incarceration on Child Well-being. *Criminology & Public Policy*, 14(1), pp. 125 – 156.

⁷ Western, B., and Pettit, B. (2010). Incarceration & social inequality. *Daedalus*, 139(3), 8-19. Western, B., and Wildeman, C. (2009). The black family and mass incarceration. *The ANNALS of the American Academy of Social and Political Science*, 621, 221-242.

⁸ Glaze, L., Maruscgaj, L.M., & US Bureau of Justice Statisticians. (2008; revised 2010). *Parents in Prison and their Minor Children*. Washington, DC: U.S. Department of Justice, Office of Justice Programs. Retrieved from <http://bjs.ojp.usdoj.gov/content/pub/pdf/pptmc.pdf>.

were living with their child or children at the time they were incarcerated.⁹ Given the central role that women play in child-rearing in our society, we can readily conclude that the emotional, financial and developmental losses to those children exceed their raw numbers. Furthermore, we also know that putting a mother in prison will cause disruption in the child support network. In state prisons, mothers who are incarcerated are more likely to have come from single parent households (42 percent) than incarcerated fathers (17 percent).¹⁰ When we put all these statistics together, we come to a startling corollary conclusion. Not only has there been enormous growth in the number of children with a parent in prison, but there has been a more pronounced increase in incarcerated mothers. This trend, in turn, will have distinctive ripple effects because of the unique role of women as heads of households in America.

Yet beyond these descriptive data, we have very little empirical understanding of the consequences of this profound change for the children of America. It is really a national disgrace that our nation has not undertaken a series of major studies on the ripple effects of parental incarceration on the children. Yet we are not without a research base. The early signs, pieced together from small scale studies or larger research projects such as the Fragile Families and Child Wellbeing Study are very troubling. The research literature suggests, as summarized in the NAS report, that “incarceration is generally associated with weaker family bonds and lower levels of child well-being”.¹¹ Men who have been incarcerated are less likely to marry or enter into a stable relationship compared to those who have not been incarcerated. And the children whose parents are incarcerated are more likely to experience adverse developmental outcomes, compared to other children whose parents have not been in prison. The picture on the impact of parental incarceration on school performance is mixed – some studies find that these children do less well in school, others find no difference. But even with these competing claims, the overall picture is very troubling.

Another perspective on this new reality is critically important. We must remind ourselves that the growth in incarceration is not spread evenly across the American population. On the contrary, it is highly concentrated – in a small number of communities, among men, predominantly in communities of color, and in particular among high school drop outs in those communities. We rarely consider the corollary to this finding: the children affected by the new realities of mass incarceration also live in those communities. So, even as we ask about the individual impact of parental incarceration on a son or daughter, we must also ask about the aggregate impact in communities of high incarceration. For example, we should be concerned about the new role played by urban schools that now must deal with larger numbers of students with parents who have been arrested, held for trial, incarcerated, and then released back home. How does this affect classroom performance, school counseling services and after school programs? We should be concerned about the foster care systems that must deal with the larger number of children placed in the care of foster families because mothers or fathers are sent to prison. How have these systems helped these children deal with the loss of a parent to prison as the cause of their placement? We should wonder about the changing dynamics of adolescence –

⁹ NAS, page 274.

¹⁰ NAS, page 261.

¹¹ NAS, page 262.

the all-important rituals of dating, forming friendships, developing peer networks, establishing individual identity – when so many young people are dealing with the loss of parents to prison.¹²

We have very little empirical understanding of these new realities, but our colleagues who specialize in adolescent development would warn us that the consequences are likely quite negative. Likewise, our colleagues who study communities and collective efficacy have posited that the concentration of the negative effects of mass incarceration has so weakened the bonds **of informal social control that the community's capacity to self-regulate** and to prevent crime has been weakened.¹³ We are only a decade or two into the era of mass incarceration and it will take another generation to fully assess the impact of this new reality, but the early signs are sufficiently negative that we have reason to worry about the long-term well-being of these communities. Stated differently, we should be concerned that they might not be healthy communities for the children who live there, even if the parents of a particular child never go to prison.

Let's take a step back from the research and ask ourselves the larger question: How does this new reality fit into our understanding of the causes of the significant increase in incarceration in America? On one level, we must recognize the harsh irony of this reality. The severe sentencing statutes that were enacted by state and federal legislatures in our name were not intended to punish the children of the offenders. Yet that is what we have done; as is captured in the subtitle **of this conference, their children are the "Collateral Victims of Crime."** When these elected officials ran for office, they never said that getting tough on crime included making life difficult for millions of children. Yet here we are, and we have every reason to believe that the long-term consequences of this choice will be detrimental, to them and to our society.

In light of this profound shift in the reach of American penal policy into the next generation of Americans, we should take special note of the efforts of a number of advocacy organizations and service providers to act on behalf of these children. There are many such efforts around the country, including the Mommy Reads program here and others documented in the Resource Guide published today by The Center for the Study of Race and Race Relations. But please allow me to highlight the work of the Osborne Association, a justice reform organization in my home town, New York City.¹⁴ I have been very impressed with their work. They engage with a core group of children with incarcerated parents. They sponsor recreational group activities for the children, who are aged 5 to 12. These young people also come together to discuss topics such as the experience of being separated from a parent who is in prison or jail. They engage in role playing to work through their feelings, and write letters to their parents. The children can participate in day-trips to prisons to visit their parents. While the children are participating in these activities, their mothers who are incarcerated participate in a 12-session parenting program at the correctional facilities. At the end of this time, a special visiting day is organized **and the children are included in their mothers' graduation ceremony.** Particularly impressive is

¹² Braman, D.S. (2004). *Doing Time on the Outside: Incarceration and Family Life in Urban America*. Ann Arbor: University of Michigan Press.

¹³ Clear, T.R., and Rose, D. (1999). *When Neighbors Go to Jail: Impact on Attitudes about Formal and Informal Social Control*. Washington, DC: National Institute of Justice Research in Brief.

¹⁴ "Osborne Association. Children & Youth Services." Osborne Association. Children & Youth Services. 2012. Accessed April 1, 2015.

the televising program which enabled children with a mother at Albion Correctional Facility or a father at the Clinton-Annex correctional facilities to “video visit” with their incarcerated parent. This program is now being expanded to other correctional facilities and holds great promise for maintaining a connection between parent and child.

Other jurisdictions have launched similar efforts to maintain stronger connections between parents and children. In my view, we have an obligation to help the children of incarcerated parents deal with this confusing, complicated, and sometimes shameful reality in their lives. These efforts all around the country deserve our support. But today I want to keep our focus on the larger goal of reducing mass incarceration. Clearly the best way to help children of incarcerated parents is to **have fewer parents in prison. Let’s ask, as our final question, whether** the children have a role in spurring a larger movement to roll back the prison system in our country. For me, the emphatic answer to this question is yes.

Over the years, I have spent time with young people who have a father or mother in prison. I was energized and inspired by the young professionals who spoke on the previous panel. In the majority of cases, I have been struck by their devotion to their parent, their desire to understand the situation that led to the crime that led to prison and their honest and touching ambivalence about the day that their mother or father comes home from prison. I think we need to capture these voices, harness this energy, and put it to good use in building the argument to reduce the number of people in prison. Their voices can help our country put a human face on the consequences of our policy choices. They can bring to our elected officials the reality that prisons reach deeply into our communities. Their experiences can shed light on the inhumane realities of mass incarceration. Just as the children of gay and lesbian parents fought for the right to be in a family recognized by the laws of their states, just as the children of the mentally ill fought for better treatment for their parents, just as the children of smokers who lost their parents to cancer became advocates for smoking cessation programs, so too the children of incarcerated parents can become advocates for shorter prison sentences, more humane conditions of confinement, better planning for reentry and family reunification, and less stringent conditions of parole.

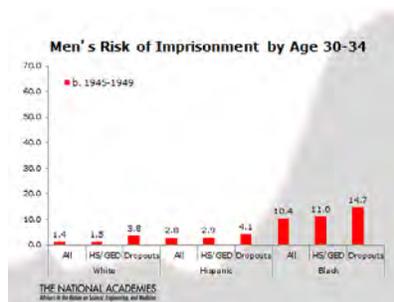
One of the most inspiring examples of leadership has been provided by Emani Davis. When she was six years old, her father was sentenced to 107 years in prison. Emani and her mother, Liz Gaynes, the Director of the Osborne Association, decided to launch a movement on behalf of children of incarcerated parents. Their efforts contributed to the creation of the United Nations Convention for the Rights of the Child which now stipulates that children with parents in prison have certain rights.¹⁵ These include the right to know where their parent is being held, to maintain contact with their parent through telephone calls, letters and visits, to express their own thoughts and views when their parent is sentenced to prison, and to grow up in a supportive home if they cannot live with their mothers or fathers. The United Nations Convention affirms the human dignity of the children of incarcerated parents—and their parents. It recognizes the most basic human needs of all of us to affirm loving relationships with **our family members. In recognition of their efforts, Emani and her mother received the World’s**

¹⁵ "United Nations Convention for the Rights of the Child." United Nations Human Rights. Office of the High Commissioner for Human Rights. September 2, 1990. Accessed April 1, 2015.

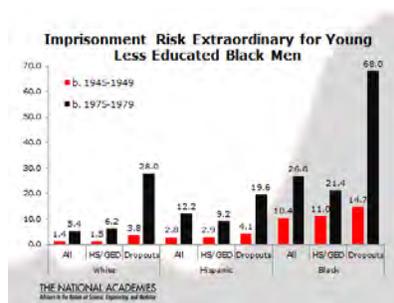
Children’s Honorary Award in 2004 “for their tireless struggle for children of prisoners.”¹⁶ Their work, which continues to this day, is inspirational. Emani captures her mission with a powerful phrase: **“We are not children at risk, we are children of promise.”**

As we are developing advocacy strategies that might move the nation in the direction of lower rates of incarceration, I would like to enlist your support for a frank discussion of the racial disparities of incarceration and an explicit call for racial reconciliation. I think one of the most important tasks we face is to come to terms with the implications of mass incarceration for our pursuit of racial justice.

It is a commonplace observation to note the disparate impact of high rates of incarceration on communities of color. But the NAS report was more precise: we noted that the impact was concentrated on young, African-American men who had dropped out of high school. Let me illustrate this finding by referring to two slides from the report. [slide 6]



As this slide illustrates, for African-American high school drop outs born between 1945 and 1949 – the baby-boom generation – the likelihood that they would serve at least a year in prison before age 34 was 14.7 percent. Now look at the next slide. [slide 7]



For those born a generation later – between 1975 and 1979 – who came of age during the prison boom, the likelihood of imprisonment is now a staggering 68 percent.

I consider this a jaw-dropping finding. Our fellow citizens who are already struggling – African-American men growing up in a society riddled with racial discrimination, most likely living in poor communities, having difficulty in school – now face a two in three chance that they will spend at least a year in prison before they reach their mid-30’s.

¹⁶ "World’s Children’s Honorary Award." Children of Prisoners. Accessed April 1, 2015. <http://childrenofprisoners.eu/2004/04/15/worlds-childrens-honorary-award/>.

We must combine this statistical finding with the first conclusion of the NAS report – we have mass incarceration because of policy choices, not because of crime increases – and the reality starts to sink in. We have extended the reach of the punitive powers of the state far beyond anything reasonably required to achieve a legitimate social purpose and have imposed the weight of incarceration on a subgroup of our society set apart by race, class and educational attainment.

When we ask about the collateral damage of mass incarceration, and count the children of incarcerated parents among those suffering, we should not overlook the damage to our notions of racial equality. When I think about what we have done – what our elected officials, acting in our name, have done – I wonder what it would take to undo the damage. Clearly we need to reverse course and put fewer people in prison. I know that the people in this room are committed to that cause. But we also need to imagine a process of racial reconciliation. How does our country open up a dialogue about the ways that the justice system – from policing to incarceration to community supervision – has become an instrument of social control? How do we create a space where police leaders, prosecutors, legislators, judges, corrections officials can think critically about this new reality and recognize that the policies of the past have caused enormous damage, to individuals, communities, and our democracy?

I am heartened by the latest developments in this regard. We should applaud the recent statements by President Obama, Attorney General Holder, FBI Director Comey and, most recently, New York City Police Commissioner Bratton recognizing that the law enforcement agencies have often been on the wrong side of the struggle for racial justice. We should applaud the decision of the Department of Justice to create the National Initiative for Building Community Trust and Justice at John Jay College.¹⁷ Working with our colleagues from Yale Law School, UCLA and the Urban Institute we will be working in six cities around the country to tackle issues of implicit bias in policing, provide training on procedural justice, and open up processes of reconciliation. Other voices, including Van Jones, Bryan Stevenson and Michelle Alexander, have eloquently called for a national recognition of the need for acknowledgment of harm in the name of justice.

I hope you will add your voice to these voices. Certainly The Center for the Study of Race and Race Relations could provide a forum for these discussions. Certainly a college campus, full of young people who are convinced that the nation has lost its way and are equally committed to getting us back on track, will serve as fertile ground for this new movement. And this movement can be led by the children who have seen their parents taken away to prison. Who else has a stronger claim on the conscience of the country?

I look forward to the success of the movement you are about to lead.

¹⁷ Eric Holder, Attorney General, Press Release: *Justice Department Announces National Effort to Build Trust Between Law Enforcement and the Communities They Serve* (September 18, 2014).