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## Learning to Counter Mass Incarceration Symposium Essays

Brett Dignam

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## Essay

### Learning to Counter Mass Incarceration

BRETT DIGNAM

*Limited access to education inside American prisons imposes a devastating condition of confinement that cripples both the offender and the community. The prolonged and empty time that characterizes prison today affords little mental stimulation, productive engagement, or preparation for post-release employment. Recent research and analysis has found that education during incarceration correlates with lower rates of recidivism and increases the likelihood and quality of post-release employment. There is a pronounced racially disparate dimension to these effects that are concentrated in communities where investment by the criminal justice system is extraordinarily high. Failure to provide education and the resulting higher rates of recidivism exacerbate prison overcrowding and inflate the costs of incarceration. Initiatives for expanding and evaluating diverse models of education, restoring federal funding for higher education inside prison, and forging partnerships between academia and people inside prison offer the hope of improved conditions both in our prisons and in our communities.*

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# Learning to Counter Mass Incarceration

BRETT DIGNAM\*

*When your mind changes, new possibilities begin to arise. In fact, everything changes when you can see things on different levels simultaneously, when you can see fullness and connectedness as well as individuality and separateness. Your thinking expands in scope.*<sup>1</sup>

Often when we talk about prison conditions, we focus on the bad and ugly pieces of our systems—rape, deficient medical care, the challenges inherent in treating people with mental illness in a prison, etc. But we should also focus on the opportunity that prison provides for positive change. As academics, we live the hope that education brings.

## I. THE DEMOGRAPHICS AND CONSTRAINTS OF MASS INCARCERATION

Education within prison challenges the resources of every correctional system. Mass incarceration has magnified those challenges. The often-cited statistic, that the United States has only five percent of the world's population yet twenty-five percent of its prisoners,<sup>2</sup> sets this issue in a uniquely American context. From 1978–2014, the United States prison population rose 408%.<sup>3</sup>

Increasing concentrations of both racial and educational disparity are major features of our unprecedented era of mass incarceration. Unsurprisingly, employment disadvantage correlates with race and incarceration.<sup>4</sup> A chart created by *The Washington Post* dramatically depicts the black-white gap in skyrocketing incarceration rates from 1960–2010.<sup>5</sup> As the chart and related research establish, this effect is particularly

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\* Clinical Professor of Law, Columbia Law School.

<sup>1</sup> Tiyo Attallah Salah-El, *A Call for the Abolition of Prisons*, 13 J. PRISONERS ON PRISONS 6, 6 (2004).

<sup>2</sup> See, e.g., Michelle Ye Hee Lee, *Does the United States Really Have 5% of the World's Population and a Quarter of the World's Prisoners?*, WASH. POST (Apr. 30, 2015), <https://www.washingtonpost.com/news/fact-checker/wp/2015/04/30/does-the-united-states-really-have-five-percent-of-worlds-population-and-one-quarter-of-the-worlds-prisoners/> [<https://perma.cc/39ZK-L8CL>].

<sup>3</sup> *The Prison Crisis*, ACLU BLOG, <https://www.aclu.org/prison-crisis> [<https://perma.cc/J8UE-6BTE>].

<sup>4</sup> Bruce Western & Becky Pettit, *Incarceration & Social Inequality*, 139 DAEDALUS 8, 13 (2010).

<sup>5</sup> George Gao, *Chart of the Week: The Black-White Gap in Incarceration Rates*, PEW RESEARCH CTR. (July 18, 2014), <http://www.pewresearch.org/fact-tank/2014/07/18/chart-of-the-week-the-black-white-gap-in-incarceration-rates/> [<https://perma.cc/KWU9-TBRH>].

acute for black men without a high school diploma—who are more likely to be incarcerated than employed.<sup>6</sup>

In 1980, about ten percent of young black men who dropped out of high school were in prison or jail; in 2008 that number was thirty-seven percent.<sup>7</sup> By 2000, more black men were in prison than college<sup>8</sup> and in 2003 researchers found that an American black man in his thirties was almost twice as likely to have experienced prison as opposed to college.<sup>9</sup> In 2003, one in three black men and one in six Hispanic men were headed to prison while only one in seventeen white men were.<sup>10</sup> Poverty among black men was also more pronounced than among white men, with forty-nine percent of black prisoners, but only thirty-six percent of white prisoners, reporting having earned less than \$800 per month before entering prison.<sup>11</sup>

Mass incarceration emerged from a confluence of factors including “tough on crime” and “truth in sentencing” campaigns that predictably led to longer sentences with mandatory minimum terms. During the last three decades, in response to these policies and to the exploding prison populations, states and the federal government built new and more secure prisons. Despite ambitious prison building programs, encouraged by federal subsidies, prison overcrowding is endemic. In *Brown v. Plata*,<sup>12</sup> the Supreme Court upheld judicial findings that overcrowding in California prisons led to constitutional violations. That overcrowding, which is not unique to California, is expensive. Today, eleven states (including Connecticut) spend more on incarceration than on education.<sup>13</sup>

Confinement in American prisons has also become increasingly punitive. We hold unprecedented numbers of people in administrative

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<sup>6</sup> *Id.*

<sup>7</sup> Western & Pettit, *supra* note 4, at 10.

<sup>8</sup> Vincent Schiraldi & Jason Zeidenberg, *Cellblocks or Classrooms? The Funding of Higher Education and Corrections and Its Impact on African American Men*, JUST. POL’Y INST. (Sept. 1, 2002); see also Bryan J. Cook, *By the Numbers: More Black Men in Prison Than in College? Think Again*, AM. COUNCIL ON EDUC. (Fall 2012), <http://www.acenet.edu/the-presidency/columns-and-features/Pages/By-the-Numbers-More-Black-Men-in-Prison-Than-in-College-Think-Again-.aspx> [<https://perma.cc/F4FK-H88G>] (describing that while this assertion has been challenged, 829,200 black men were in prison or jail while 717,491 black men were enrolled in post-secondary education in 2000).

<sup>9</sup> BRUCE WESTERN ET AL., JUSTICE POLICY INST., EDUCATION & INCARCERATION 8 (2003), [http://www.justicepolicy.org/images/upload/03-08\\_REP\\_EducationIncarceration\\_AC-BB.pdf](http://www.justicepolicy.org/images/upload/03-08_REP_EducationIncarceration_AC-BB.pdf) [<https://perma.cc/S4N9-QQ6F>].

<sup>10</sup> WENDY ERISMAN & JEANNE BAYER CONTARDO, INST. FOR HIGHER EDUC. POLICY, LEARNING TO REDUCE RECIDIVISM: A 50 STATE SURVEY OF POSTSECONDARY CORRECTIONAL EDUCATION POLICY 2 (2005), <http://www.ihep.org/sites/default/files/uploads/docs/pubs/learningreducerecidivism.pdf> [<https://perma.cc/3XF5-SHFN>].

<sup>11</sup> *Id.* at 3.

<sup>12</sup> 563 U.S. 493 (2011).

<sup>13</sup> AM. ACAD. OF ARTS & SCIENCES, PUBLIC RESEARCH UNIVERSITIES: CHANGES IN STATE FUNDING 10–11 (2015), [https://www.amacad.org/multimedia/pdfs/publications/researchpapersmonographs/PublicResearchUniv\\_ChangesInStateFunding.pdf](https://www.amacad.org/multimedia/pdfs/publications/researchpapersmonographs/PublicResearchUniv_ChangesInStateFunding.pdf) [<https://perma.cc/5AHS-E3P5>].

segregation, which is characterized by extreme social isolation.<sup>14</sup> Although the conditions of such confinement vary from system to system, administrative segregation commonly affords little out-of-cell time, limited personal property (including books), and little to no meaningful communication.<sup>15</sup> Programming, including education, is minimal.<sup>16</sup> Even in general population areas, employment and education are luxuries that many systems cannot afford. Prisons are now filled with unprecedented levels of people who are serving idle, unproductive, and expensive time.

Intuitively, we know that prisons are better places when the people in them are productively engaged.<sup>17</sup> Similar to the prison healthcare initiatives developed in response to the public health crisis that we faced with HIV/AIDS in the 1980s,<sup>18</sup> the challenge of providing education in prison also presents an opportunity to address the educational crisis we face outside prison walls. Connecticut was a leader in designing the public health response to HIV/AIDS. Reform of prison healthcare, which included robust education, testing, and confidentiality protections, provided the template for subsequent legislation that established community standards.<sup>19</sup>

## II. FUNDING HIGHER EDUCATION IN PRISON

Prisons today focus on basic adult education and secondary education<sup>20</sup>—an important first step for the large number of people lacking a basic educational foundation who are spending long periods of time in prison. However, in the early 1980s, when there were fewer than 500,000 people incarcerated in U.S. prisons, there were 350 college degree

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<sup>14</sup> See Sarah Baumgartel et al., *Time in Cell: The ASCA-Liman 2014 Liman National Survey of Administrative Segregation in Prison 3* (Yale Law Sch. Pub. Law Research Paper No. 552, 2015), [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2655627](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2655627) [https://perma.cc/67D3-9WT3] (estimating that between 80,000 and 100,000 prisoners were held in segregation during 2014).

<sup>15</sup> *Id.* at 40.

<sup>16</sup> *Id.* at 48.

<sup>17</sup> John Stuart Batchelder & J. Marvin Pippert, *Hard Time or Idle Time: Factors Affecting Inmate Choices Between Participation in Prison Work and Education Programs*, 82 PRISON J. 269, 269 (2002).

<sup>18</sup> See Scott Burris, *Prisons, Law and Public Health: The Case for A Coordinated Response to Epidemic Disease Behind Bars*, 47 U. MIAMI L. REV. 291, 302–03 (1992).

<sup>19</sup> *Compare Doe v. Meachum*, No. H-88-562 (D. Conn. May 16, 1989) (consent judgment), <http://www.clearinghouse.net/chDocs/public/PC-CT-0005-0002.pdf> [https://perma.cc/2JP3-SNXN], with 1989 Conn. Legis. Serv. P.A. 89-246 (codified as amended at CONN. GEN. STAT. §§ 19a-581 to -590 (2015)).

<sup>20</sup> For example, a description of “Education Services” in Connecticut jails and prisons identifies no college programming. *Education Services*, CONN. DEP’T CORR., <http://www.ct.gov/doc/cwp/view.asp?q=265554> [https://perma.cc/H6GF-QBRV] (last visited May 27, 2016). Similarly, New York describes limited college programs at select institutions, but these are entirely privately funded. *College Programs*, N.Y. DEP’T CORR. & CMTY. SUPERVISION, <http://www.doccs.ny.gov/ProgramServices/academic.html#coll> [https://perma.cc/68QK-KZ7B] (last visited May 27, 2016).

programs in prisons with more than 27,000 students.<sup>21</sup> Federal grants paid prisoners' tuition.<sup>22</sup> Then we got tough on crime, eliminated grants for education, and paid the price by releasing a generation of under-educated and unemployable people from prison.

Government funding for higher education did and does continue to exist. Initially authorized by the Education Amendments of 1972,<sup>23</sup> the Pell Grant program is the largest single source of grant aid for undergraduate postsecondary education funded by the federal government.<sup>24</sup> Pell Grants are made to undergraduate students on the basis of need and were available to prisoners from 1972 to 1994.<sup>25</sup> In 1994, this funding was eliminated for prisoners, despite the fact that only one percent of all Pell Grants between 1993 and 1994 were awarded to prisoners.<sup>26</sup> Significantly, no student was ever denied a Pell Grant because of prisoner participation in the program.<sup>27</sup>

Making prisoners ineligible for Pell Grants had an immediate and dramatic effect.<sup>28</sup> A 1995 study by the American Correctional Association found that the number of states offering higher education programming fell from thirty-seven to twenty-six and prisoner enrollment in such programs fell by forty percent.<sup>29</sup> Another study by the American Correctional Association in 1997 found that only twenty-one states offered postsecondary education and that these programs enrolled less than two percent of the prison population.<sup>30</sup> Only twenty-five of forty-five states responding to a 2002 survey reported that they offered college programs.<sup>31</sup>

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<sup>21</sup> Bruce I. Wolford & John F. Littlefield, *Correctional Post-Secondary Education: The Expanding Role of Community Colleges*, 9 COMMUNITY JUNIOR C. RES. Q. RES. & PRAC. 257, 258, 261 (1985).

<sup>22</sup> See *Federal Pell Grants for Prisoners*, CONGRESSIONALRESEARCH.COM, <http://congressionalresearch.com/RS21785/document.php?study=Federal+Pell+Grants+for+Prisoners> [https://perma.cc/SF7U-TUR2] (last visited May 27, 2016).

<sup>23</sup> *Id.*

<sup>24</sup> *Fast Facts*, NAT'L CTR. FOR EDUC. STAT., <https://nces.ed.gov/fastfacts/display.asp?id=31> [https://perma.cc/PFS3-DEVE] (last visited May 27, 2016).

<sup>25</sup> INST. FOR HIGHER EDUC. POLICY, REAPING THE BENEFITS: DEFINING THE PUBLIC AND PRIVATE VALUE OF GOING TO COLLEGE 8 (1998), <http://www.ihep.org/sites/default/files/uploads/docs/pubs/reapingthebenefits.pdf> [https://perma.cc/LW46-EBNR]; Nick Anderson, *Advocates Push to Renew Pell Grants for Prisoners, Citing Benefits of Higher Education*, WASH. POST (Dec. 3, 2013), [https://www.washingtonpost.com/local/education/when-congress-cut-pell-grants-for-prisoners/2013/12/03/fedcabb2-5b94-11e3-a49b-90a0e156254b\\_story.html](https://www.washingtonpost.com/local/education/when-congress-cut-pell-grants-for-prisoners/2013/12/03/fedcabb2-5b94-11e3-a49b-90a0e156254b_story.html) [https://perma.cc/9S5S-TJPN].

<sup>26</sup> Anderson, *supra* note 25.

<sup>27</sup> ERISMAN & CONTARDO, *supra* note 10, at x (citing INST. FOR HIGHER EDUC. POLICY, PELL GRANTS: ARE PRISONERS THE PROGRAM'S BIGGEST PROBLEM? 1-2, 7 (1994)).

<sup>28</sup> ERISMAN & CONTARDO, *supra* note 10, at x.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> Jonathan E. Messemer, *College Programs for Inmates: The Post-Pell Grant Era*, 54 J. CORRECTIONAL EDUC. 32, 34 (2003).

Funding for those programs came from state and federal agencies,<sup>32</sup> corporations, foundations, universities, and inmates.<sup>33</sup>

In 2003, the Institute for Higher Education Policy surveyed correctional administrators about the challenge of providing post-secondary education.<sup>34</sup> At that point, forty-three states and the federal Bureau of Prisons (BOP) responded that they had some postsecondary education, but it was concentrated.<sup>35</sup> Only fourteen states and the BOP had more than 1,000 prisoners enrolled and those systems had eighty-nine percent of the students.<sup>36</sup> Postsecondary education was available to only five percent of all prisoners and the degree completion rate was low.<sup>37</sup> About two-thirds of prisoners were enrolled in vocational programs for college credit,<sup>38</sup> which was most commonly awarded by community colleges<sup>39</sup> and funded by Incarcerated Youth Offender (IYO) block grants.<sup>40</sup> Lack of funding was a key barrier to additional educational programming.

Private donors, including Doris Buffett<sup>41</sup> and George Soros,<sup>42</sup> and institutions stepped up to fund college programs in prison when the federal government withdrew eligibility for Pell Grants. That private funding financed the development of promising programs. Premier liberal arts colleges such as Wesleyan and Bard have led the way in Connecticut and New York.<sup>43</sup> Both institutions pioneered rigorous courses where people in prison earn college credit.

The success of those programs and research establishing that higher

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<sup>32</sup> For example, in 1998, the Incarcerated Youth Offender grant program (IYO) restored some federal funding for prisoners younger than thirty-five. Although that program must be reauthorized yearly, it had a positive effect. ERISMAN & CONTARDO, *supra* note 10, at 27–28, 32–33.

<sup>33</sup> *Id.* at 29–31.

<sup>34</sup> *Id.* at 5.

<sup>35</sup> *Id.* at 13.

<sup>36</sup> *Id.* at 14.

<sup>37</sup> *Id.* at 20–21.

<sup>38</sup> *Id.* at 19.

<sup>39</sup> *Id.* at 22.

<sup>40</sup> *Id.* at 23.

<sup>41</sup> Doris Buffett funds college programs at New York prisons through the Sunshine Lady Fund. *About Sunshine Lady*, SUNSHINE LADY FOUND., [http://www.sunshinelady.org/?page\\_id=2](http://www.sunshinelady.org/?page_id=2) [<https://perma.cc/J3YK-33VZ>] (last visited May 27, 2016).

<sup>42</sup> George Soros has been a major supporter of the Bard Prison Initiative through the Open Society Foundation. See *Bard College on Behalf of the Bard Prison Initiative*, OPEN SOC'Y FOUND., <https://www.opensocietyfoundations.org/about/programs/us-programs/grantees/bard-college-behalf-bard-prison-initiative-0> [<https://perma.cc/H2N5-F9K7>] (last visited May 27, 2016); *George Soros*, OPEN SOC'Y FOUND., <https://www.opensocietyfoundations.org/people/george-soros> [<https://perma.cc/EX5W-TJFV>] (last visited May 27, 2016).

<sup>43</sup> The Wesleyan Center for Prison Education receives funding from the Connecticut-based Tow Foundation. *Center for Prison Education*, WESLEYAN U., <http://www.wesleyan.edu/cpe/> [<https://perma.cc/TG4D-XHGQ>] (last visited May 27, 2016); *What We Do*, BARD PRISON INITIATIVE, <http://bpi.bard.edu/what-we-do/> [<https://perma.cc/84KK-C5YJ>] (last visited May 27, 2016).

education correlates with lower recidivism rates have inspired renewed government investment. In February 2014, Governor Cuomo announced a plan to expand college courses in prison by allocating \$1 million of the almost \$3 billion corrections budget to that effort.<sup>44</sup> Although he abandoned that proposal six weeks later in the face of strong political opposition,<sup>45</sup> he recently presented a reconfigured and innovative alternative plan. On January 10, 2016, Governor Cuomo announced that he would use \$7.5 million from the civil forfeiture fund (matched by \$7.5 of private funding) to finance college courses in state prisons.<sup>46</sup> Manhattan District Attorney Cyrus Vance, II, who oversees that fund, acknowledged that the program made sense from a crime-fighting perspective because people who earn college degrees are less likely to return to prison.<sup>47</sup>

Last summer, the federal government also announced an “institution-based experiment” to provide Pell Grant funding to students who are incarcerated in federal and state penal institutions.<sup>48</sup> Noting surveys of state and federal institutions, which found that only forty percent of these institutions offer postsecondary programs, the Secretary of Education invited proposals from postsecondary institutions for education in prison.<sup>49</sup> The notice cited a study by the Department of Justice concluding that, “postsecondary correctional education is a promising and cost-effective practice that supports the successful reentry of justice-involved individuals.”<sup>50</sup>

### III. INVESTMENT IN HIGHER EDUCATION PAYS DIVIDENDS

The benefits of a college degree are well established. Recent analysis shows that, on average, those with only a high school diploma earn sixty-two percent of the income earned by those with college degrees, and that the gap is widening.<sup>51</sup> Objections to higher education in prison are often framed in terms of fairness. Why should taxpayers provide an advanced

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<sup>44</sup> Thomas Kaplan, *Cuomo Drops Plan to Use State Money to Pay for College Classes for Inmates*, N.Y. TIMES (Apr. 2, 2014), [http://www.nytimes.com/2014/04/03/nyregion/cuomo-drops-plan-to-use-state-money-to-pay-for-college-classes-for-inmates.html?\\_r=0](http://www.nytimes.com/2014/04/03/nyregion/cuomo-drops-plan-to-use-state-money-to-pay-for-college-classes-for-inmates.html?_r=0) [https://perma.cc/9AGJ-UEQ4].

<sup>45</sup> *Id.*

<sup>46</sup> Jesse McKinley & James C. McKinley, *Cuomo Proposes Higher-Education Initiative in New York Prisons*, N.Y. TIMES (Jan. 10, 2016), <http://www.nytimes.com/2016/01/11/nyregion/cuomo-proposes-higher-education-initiative-in-new-york-prisons.html> [https://perma.cc/LCF6-JH52].

<sup>47</sup> *Id.*

<sup>48</sup> 80 Fed. Reg. 45,964 (Aug. 3, 2015).

<sup>49</sup> *Id.* at 45,965.

<sup>50</sup> *Practice Profile: Postsecondary Correctional Education*, NAT’L INST. JUST., [www.crime.solutions.gov/PracticeDetails.aspx?ID=23](http://www.crime.solutions.gov/PracticeDetails.aspx?ID=23) [https://perma.cc/3JAV-DKSM] (last visited May 27, 2016).

<sup>51</sup> Danielle Kurtzleben, *Study: Income Gap Between Young College and High School Grads Widens*, U.S. NEWS & WORLD REP. (Feb. 11, 2014), <http://www.usnews.com/news/articles/2014/02/11/study-income-gap-between-young-college-and-high-school-grads-widens> [https://perma.cc/G6VE-48W9].

education for people in prison when they struggle to pay tuition for their own children? Because it provides hope, improves public safety, and saves money—by lowering recidivism rates and increasing the likelihood of post-release employment.<sup>52</sup>

Ninety-eight percent of all prisoners will return to the community, between 600,000 and 700,000 people every year.<sup>53</sup> It is in our interest to reduce the likelihood that they will re-offend and return to prison where we will once again support them at an annual cost that sometimes exceeds tuition at a private college.<sup>54</sup> College undergraduates incur those expenses for four years; taxpayers are often supporting prisoners for a much longer period of time.

Researchers have been examining the relationship between education in prison and conditions of incarceration for decades.<sup>55</sup> Postsecondary education correlates with improved environments in correctional institutions.<sup>56</sup> An Indiana survey documented that those who had taken college courses had seventy-five percent fewer disciplinary infractions,<sup>57</sup> and a study at Bedford Hills prison in New York found that education enhanced self-esteem and the ability to communicate effectively.<sup>58</sup> It was also found helpful in breaking down racial barriers.<sup>59</sup>

Educational attainment also correlates positively with recidivism. An extensive study in 2001 of 3,200 former prisoners who participated in educational programs found they were twenty-nine percent less likely to be

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<sup>52</sup> LOIS M. DAVIS ET AL., RAND CORP., EVALUATING THE EFFECTIVENESS OF CORRECTIONAL EDUCATION: A META-ANALYSIS OF PROGRAMS THAT PROVIDE EDUCATION TO INCARCERATED ADULTS, at iii (2013), [http://www.rand.org/content/dam/rand/pubs/research\\_reports/RR200/RR266/RAND\\_RR266.pdf](http://www.rand.org/content/dam/rand/pubs/research_reports/RR200/RR266/RAND_RR266.pdf) [<https://perma.cc/F7PU-L5CC>].

<sup>53</sup> E. Ann Carson, *Prisoners in 2014*, U.S. DEP'T JUST. (Sept. 2015), <http://www.bjs.gov/content/pub/pdf/p14.pdf> [<https://perma.cc/47AT-8SJG>].

<sup>54</sup> In Connecticut, this is often referred to as the “Yale or jail” dynamic. Douglas McCrory, *Yale or Jail*, CONN. HOUSE DEMOCRATS (Mar. 10, 2014), [http://www2.housedems.ct.gov/McCrory/2014/pr007\\_2014-03-10.asp](http://www2.housedems.ct.gov/McCrory/2014/pr007_2014-03-10.asp) [<https://perma.cc/P6DW-PEDB>]. In 2010, the average annual cost per prisoner in Connecticut was \$47,421; tuition, room, and board at Yale College for 2009–2010 was \$47,500. See also CHRISTIAN HENRICHSON & RUTH DELANEY, VERA INST. OF JUSTICE, THE PRICE OF PRISONS: WHAT INCARCERATION COSTS TAXPAYERS 12 (2012), <http://www.vera.org/sites/default/files/resources/downloads/price-of-prisons-updated-version-021914.pdf> [<https://perma.cc/7APN-C7DY>].

<sup>55</sup> See DAVIS ET AL., *supra* note 52, at 5–8 (synthesizing findings from meta-analyses of correctional education programs in the United States, with data spanning from 1945–2006).

<sup>56</sup> ERISMAN & CONTARDO, *supra* note 10, at 7.

<sup>57</sup> J.M. Taylor, *Should Prisoners Have Access to Collegiate Education? A Policy Issue*, 8 EDUC. POL'Y 315 (1994).

<sup>58</sup> See MICHELLE FINE ET AL., CHANGING MINDS: THE IMPACT OF COLLEGE IN A MAXIMUM-SECURITY PRISON 21–22 (2001), [http://www.prisonpolicy.org/scans/changing\\_minds.pdf](http://www.prisonpolicy.org/scans/changing_minds.pdf) [<https://perma.cc/FF7H-MQRP>] (quoting prisoners and correctional institution employees in expressing how education correlates to improved self-esteem and communication).

<sup>59</sup> ERISMAN & CONTARDO, *supra* note 10, at 7.

sent back to prison than those who had not participated in such programs.<sup>60</sup> A meta-analysis of fifteen different studies documented recidivism rates for those who had taken some college classes that were, on average, forty-six percent lower.<sup>61</sup> There is also evidence that those who had earned a college degree had lower recidivism rates than those who had earned only a GED or taken vocational courses.<sup>62</sup> Western and Petit demonstrated that increased levels of incarceration dramatically intensified the effect of low educational attainment, deepening the racial and poverty gap, and disproportionately affecting African American and Hispanic communities.<sup>63</sup>

In 2010, the RAND Corporation, a self-described “nonprofit institution that helps improve policy and decision-making through research and analysis,”<sup>64</sup> was awarded federal funding under the Second Chance Act of 2007 to examine the state of correctional education, where it was headed, and which programs were effective.<sup>65</sup> The comprehensive report examined and evaluated fifty studies for recidivism and eighteen for employment.<sup>66</sup> It also compared the direct costs of correctional education with those of re-incarceration to place the recidivism findings in a broader context.<sup>67</sup>

Key findings of the RAND meta-analysis included:

- 1) Correctional education improves the chances that people released from prison will not return and may improve their chances of post-release employment;<sup>68</sup>
- 2) Cost analysis suggests that correctional education programs can be cost-effective in light of effects on recidivism;<sup>69</sup>

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<sup>60</sup> STEPHEN J. STEURER ET AL., THREE STATE RECIDIVISM STUDY 6, 50 (2001), <http://www.ceanational.org/PDFs/3StateFinal.pdf> [<https://perma.cc/NK49-VL56>].

<sup>61</sup> Cathryn A. Chappell, *Post-Secondary Correctional Education & Recidivism: A Meta-Analysis of Research Conducted 1990–1999*, 55 J. CORRECTIONAL EDUC. 148, 158 tbl.1 (2004).

<sup>62</sup> See Mary Ellen Batiuk et al., *Disentangling the Effects of Correctional Education: Are Current Policies Misguided? An Event History Analysis*, 55 CRIM. JUST. 55, 67–68 (2005) (“[T]he college variable proved to be the only educational program variable to significantly decrease recidivism hazard rates . . . . The current study also found that none of the other educational programs examined had such a strong effect on the rate of recidivism . . .”).

<sup>63</sup> See Western & Pettit, *supra* note 4, at 8 (outlining the social inequality produced by mass incarceration).

<sup>64</sup> DAVIS ET AL., *supra* note 52.

<sup>65</sup> *Id.* at iii.

<sup>66</sup> *Id.* at 16.

<sup>67</sup> *Id.* at xvi. For a particularly effective infographic summary of these findings, see Lois M. Davis et al., *Serving Time or Wasting Time? Correctional Education Programs Improve Job Prospects, Reduce Recidivism, and Save Taxpayer Dollars*, RAND CORP., <http://www.rand.org/pubs/infographics/IG113.html> [<https://perma.cc/7628-2SMZ>] (last visited May 27, 2016).

<sup>68</sup> DAVIS ET AL., *supra* note 52, at iii.

<sup>69</sup> *Id.*

- 3) Additional understanding of what makes programs effective, such as curriculum, dosage, or quality, is necessary,<sup>70</sup> and
- 4) The evidence base must be built in four key areas: a) stronger research designs; b) measuring dosage; c) identifying program characteristics; and d) examining more proximal indicators of program efficacy.<sup>71</sup>

The higher quality research studies that RAND reviewed indicate that, on average, people who participate in correctional education programs are forty-three percent less likely to recidivate than people who do not.<sup>72</sup> Those who participate in high school/GED programs are thirty percent less likely to recidivate than those who do not.<sup>73</sup> The eighteen studies that looked at post-release employment found that correctional education (academic or vocational) increased the odds of obtaining employment by thirteen percent and vocational training increased the odds by twenty-eight percent.<sup>74</sup> Importantly, the RAND study found that the direct costs of providing correctional education are cost-effective compared with the direct costs of re-incarceration (average savings per participant of \$8,700 to \$9,700 based on a three-year period).<sup>75</sup>

#### IV. DIVERSE MODELS AND PROMISING INITIATIVES

The RAND study has given us hope—solid findings and a challenge for the future. More work needs to be done in assessing existing models and developing additional effective models. We who think, write, and advocate about these issues are uniquely situated to do that work. Several successful initiatives are already in place.

In 1999, Bard College launched a program that offered college credit and degrees to prisoners in New York State prisons. Bard now enrolls nearly 300 men and women who are pursuing associate or bachelor degrees at six New York prisons. Bard has also forged a coalition with other liberal arts colleges and programs, including Wesleyan College in Connecticut, Grinnell College in Iowa, Goucher College in Maryland, Notre Dame and Holy Cross College in Indiana, Washington University in Missouri, and the Freedom Education Prison Project in Washington State.<sup>76</sup> Cornell University also has a Prison Education Program that provides a

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<sup>70</sup> *Id.* at iv.

<sup>71</sup> *Id.* at xxii–xxiii.

<sup>72</sup> *Id.* at xvi.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.* at xvi–xvii.

<sup>75</sup> Davis et al., *supra* note 67.

<sup>76</sup> *Locations*, CONSORTIUM FOR LIBERAL ARTS IN PRISON, <http://consortium.bard.edu/locations/> [<https://perma.cc/XH7P-KBF6>] (last visited May 27, 2016).

liberal arts curriculum leading to an Associate of Arts degree from Cayuga Community College for men incarcerated at the Auburn and Cayuga Correctional Facilities.<sup>77</sup>

These programs work. In a highly publicized event, students participating in the Bard Prison Initiative debate program recently defeated a Harvard College debate team.<sup>78</sup> The recidivism numbers for participants in those programs are encouragingly low. For example, less than two percent of prisoners who earned degrees with Bard returned to prison within three years.<sup>79</sup>

Columbia University has recently launched an interdisciplinary Justice-in-Education Initiative.<sup>80</sup> Supported by a grant from the Andrew W. Mellon Foundation, this collaboration provides educational opportunities to incarcerated and formerly incarcerated persons.<sup>81</sup> It offers courses taught by Columbia instructors at local prisons and jails, including youth on Rikers Island.<sup>82</sup> With the Media and Idea Lab at the Center for the Study of Ethnicity and Race, the Initiative intends to present stories that emphasize the role of education in human development whether behind bars or as part of successful reentry for those returning home from prison.<sup>83</sup>

Boston University hosts a Consortium on Prison Teaching.<sup>84</sup> Based in its Prison Education Program, the consortium consists of faculty members from Boston University, Harvard University, Boston College, Bridgewater State College, Brandeis University, Cambridge College, University of Massachusetts Boston, and Lasell College, among others.<sup>85</sup> Approximately twenty-two faculty members teach classes each semester.<sup>86</sup>

California recently created a Prison Education Program.<sup>87</sup> The program description notes that there is a college within a twenty-five-mile radius of

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<sup>77</sup> CORNELL U. PRISON EDUC. PROGRAM, <http://cpep.cornell.edu/> [<https://perma.cc/6X62-S866>] (last visited May 27, 2016).

<sup>78</sup> Leslie Brody, *Prison vs. Harvard in an Unlikely Debate*, WALL ST. J. (Oct. 8, 2015), <http://www.wsj.com/articles/an-unlikely-debate-prison-vs-harvard-1442616928> [<https://perma.cc/3FRH-MS7F>].

<sup>79</sup> *Id.*

<sup>80</sup> *Justice in Education Initiative*, COLUM. U. CTR. FOR JUST., <http://centerforjustice.columbia.edu/education/justice-education-initiative/> [<https://perma.cc/YL8R-DJGH>] (last visited May 27, 2016).

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> *Prison Education Program*, BOSTON U. METROPOLITAN C., <http://sites.bu.edu/pep/> [<https://perma.cc/2TBB-99XM>] (last visited May 27, 2016).

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> The current website primarily analyzes and describes this educational effort in terms of recidivism and cost savings. PRISON EDUC. PROJECT, <http://www.prisoneducationproject.org/index.html> [<https://perma.cc/85BB-MRDC>]. This is unsurprising in light of the courts' mandate for population reduction in *Brown v. Plata*.

most of the state's prisons.<sup>88</sup> That fact demonstrates the potential to develop and evaluate different models. One of the models California identifies as an opportunity for volunteers is the Inside-Out Program.<sup>89</sup> Based in Philadelphia, the Inside-Out Prison Exchange Program had its inception at Temple University in 1997 and is self-described as a "dynamic partnership"<sup>90</sup> that brings college undergraduates together with incarcerated men and women for a weekly academic seminar behind prison walls.<sup>91</sup>

There are undoubtedly a myriad of other efforts. Columbia Law School clinic students have partnered with residents of Bedford Hills who have designed and taught parenting classes.<sup>92</sup> The law students learn from the prisoners and later design and teach classes with them.<sup>93</sup> A unique conversation between Yale law students and prisoners at New York's Green Haven Correctional Institution has been ongoing for more than forty years. Twice a month, law students drive to Stormville, NY, to discuss issues of mutual interest.<sup>94</sup> The curriculum is designed by Green Haven participants in PACT (Program for a Calculated Transition) and law student directors. The PACT members often surprise the law students by their conservative positions on social issues such as welfare reform and voting. Many Yale students describe these conversations as one of the most valuable things they got from law school.<sup>95</sup> We might think about other collaborative possibilities—classes for prisoners and staff, many of whom come from the same communities and face the same challenges as the prisoners. As educators, we can meet these challenges and be part of the solution.

## V. CODA

John Lennon, one of twenty-three beneficiaries enrolled in a college

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<sup>88</sup> *Id.*

<sup>89</sup> See *Volunteer*, PRISON EDUC. PROJECT, <http://www.prisoneducationproject.org/Prison-Involve.html> [https://perma.cc/KAB2-JLGP] (last visited May 27, 2016).

<sup>90</sup> For a poignant explication of how meaningful these programs can be, see a description of a course taught at Oregon State Penitentiary and student response papers written for that course on the novel *The Brothers Karamazov*, at [http://www.insideoutcenter.org/publication-pdfs/TurnedInsideOutBook\\_Part2.pdf](http://www.insideoutcenter.org/publication-pdfs/TurnedInsideOutBook_Part2.pdf) [https://perma.cc/297N-QZW8] (last visited May 27, 2016).

<sup>91</sup> *About Us*, INSIDE-OUT CTR., <http://www.insideoutcenter.org/about-us.html> [https://perma.cc/9C8C-R8AK] (last visited May 27, 2016).

<sup>92</sup> *Incarceration and the Family Clinic*, COLUM. L. SCH., <http://web.law.columbia.edu/clinics/prisoners-and-families-clinic> [https://perma.cc/YT7Z-VQ55] (last visited May 27, 2016).

<sup>93</sup> *Id.*

<sup>94</sup> *List of Student Organizations*, YALE L. SCH., <https://www.law.yale.edu/student-life/student-journals-organizations/student-organizations> [https://perma.cc/L7LW-T7Z9] (last visited May 27, 2016).

<sup>95</sup> *Greenhaven Prison Project*, YALE L. SCH., <https://www.law.yale.edu/admissions/profiles-statistics/student-perspectives/greenhaven-prison-project> [https://perma.cc/T27H-3MLD].

creative writing program at Attica Prison, eloquently described the value of higher education in a recent editorial.<sup>96</sup> Citing his need to be prepared for his return to the outside world, he also asks that we have hope for those who are still inside prison. The piece ends with his mother's admonition: "How you think is how you act."<sup>97</sup> We would do well to act the way we think.

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<sup>96</sup> John J. Lennon, *Let Prisoners Take College Courses*, N.Y. TIMES (Apr. 4, 2015), [http://www.nytimes.com/2015/04/05/opinion/sunday/put-schools-back-in-prison.html?\\_r=0](http://www.nytimes.com/2015/04/05/opinion/sunday/put-schools-back-in-prison.html?_r=0) [https://perma.cc/5JQP-L94N].

<sup>97</sup> *Id.*