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The six articles in this issue examine the topic of incarceration, and how it affects prisoners and their families, both during and after imprisonment. The first article summarizes a seminar given by Christopher Uggen at the University of Wisconsin–Madison on crime, punishment, and American inequality, where he argued that basing criminal justice policy on the view that all people can be classified either as “bad actors” or “good citizens” is untenable and may lead to over-punishment. Michael Massoglia, Glenn Firebaugh, and Cody Warner look at the quality of neighborhoods that former prisoners call “home” after release, and whether that varies by race. They conclude that incarceration tends to harm whites more than blacks with respect to neighborhood attainment. Julie Poehlmann-Tynan summarizes recent research on children’s contact with incarcerated parents. She offers a number of policy recommendations intended to improve the experience of parent-child contact during parental incarceration and child and parent well-being in the context of parental incarceration. Anna R. Haskins uses newly available longitudinal data to look at the effects of a father’s incarceration on school-age children’s mental health, socioemotional development, and cognitive skills. She finds negative effects of paternal incarceration on both noncognitive and cognitive outcomes for children, and argues that these findings provide additional evidence that having an incarcerated father is an important avenue through which educational inequality is produced and reproduced among U.S. children. Signe Hald Andersen and Christopher Wildeman evaluate whether and how paternal incarceration may increase children’s foster care placement. They identify potential pathways through which this increase could occur, and, using data from Denmark, conclude that for Danish children having an incarcerated father results in large increases in the risk of children being placed in foster care. Finally, Madeleine Solan and Charles J. Homer, from the Office of the Assistant Secretary for Planning and Evaluation at the U.S. Department of Health and Human Services, offer an approach to first reduce incarceration and then, in the event it occurs, to mitigate its negative effects. They provide some examples of the Obama administration’s related efforts.

Crime, punishment, and American inequality

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When it comes to crime, there is a large gap between what the science of criminology shows to be true and public perception and policy. A generation of research demonstrates that over time, nearly all those who have broken the law eventually desist from crime.¹ Public policy, however, continues to be based on the perception that there are two kinds of people in the world: bad actors and good citizens. There is a persistent belief that if we can just lock up the bad

actors and throw away the key, then the rest of us will be safe. This gulf between research findings and public perception has recently widened as the label of “criminal” can now remain with an individual for much longer than in the past. If individuals are indeed being punished long after the point they would have left a criminal path, then there is a need to identify where there might be excess punishment, and find less coercive solutions to keeping order.

In this article, I contrast the fluidity of an individual’s participation in criminal activities with the stickiness of labels placed on those who have ever had any contact with the criminal justice system. The spillover effects of incarceration reach a variety of other areas; I focus on two of them: disenfranchisement for current and former felons, and welfare bans for those convicted of drug-related crimes. I describe some reintegrative approaches to justice in the United

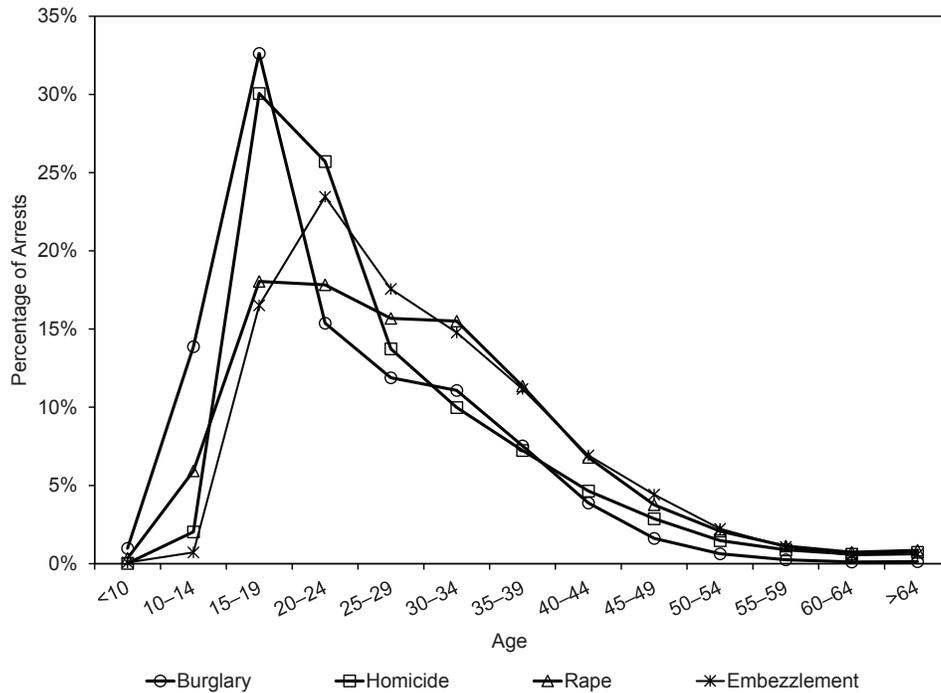


Figure 1. The U.S. age distribution of arrest, by type of crime.

States, which offer an alternative to stigmatizing approaches. Finally, I describe an analysis of the outcomes of a traditional community-based justice system in Rwanda, dating back to before colonization, that was adapted to address crimes of genocide. Rwanda provides an example of a large-scale attempt to successfully reintegrate former prisoners into their communities. The number of Rwandan perpetrators, combined with the very limited prison infrastructure, made such reintegration imperative. While the situation in the United States is clearly very different, we are approaching a point where it will be infeasible to simply exclude from society every person convicted of a felony. While reintegration efforts have been tried in the United States on a small scale, there is great potential to expand this approach.

Fluidity versus stickiness

It is well established that commission of crime rises with age, peaks in the late teenage years and early 20s, then declines, as illustrated in Figure 1. While this age-crime curve appears to be fairly smooth, patterns for individuals are much more “fluid,” as they cycle in and out of criminal life for some time until eventually leaving it behind. Ideally, policy should provide punishment when warranted, but then provide support when an individual is making the transition to being a law-abiding member of society; however, determining how to

find the balance between punishment and encouragement in practice is complicated. One key to answering this question is determining whether institutions ease or disrupt the transition out of a criminal life. This is an increasingly important policy issue, particularly in light of the aging U.S. population, and the costs associated with paying for incarceration and the lost productivity of incarcerated people who could otherwise be contributing members of society.

One of the challenges to promoting public safety and supporting an individual’s efforts to leave behind a life of crime is that criminal records are increasingly “sticky.” In the past, having a criminal record in one’s youth would not necessarily affect one’s adult education and career options. Now, that may no longer be the case, for two reasons. First, there has been an explosion of records as arrest has become increasingly commonplace, with 30 percent of all Americans (and 49 percent of African American males) experiencing an arrest by age 23. Overall, there are about 14 million arrests in the United States each year. While these arrests often do not lead to prosecution, and are much more likely to be for misdemeanor than felony charges, they still appear on the formal record. Second, there has been an expansion of access to these records. Since obtaining these records electronically is now quick and inexpensive, a large majority of employers check criminal records, even for entry-level minimum wage positions.

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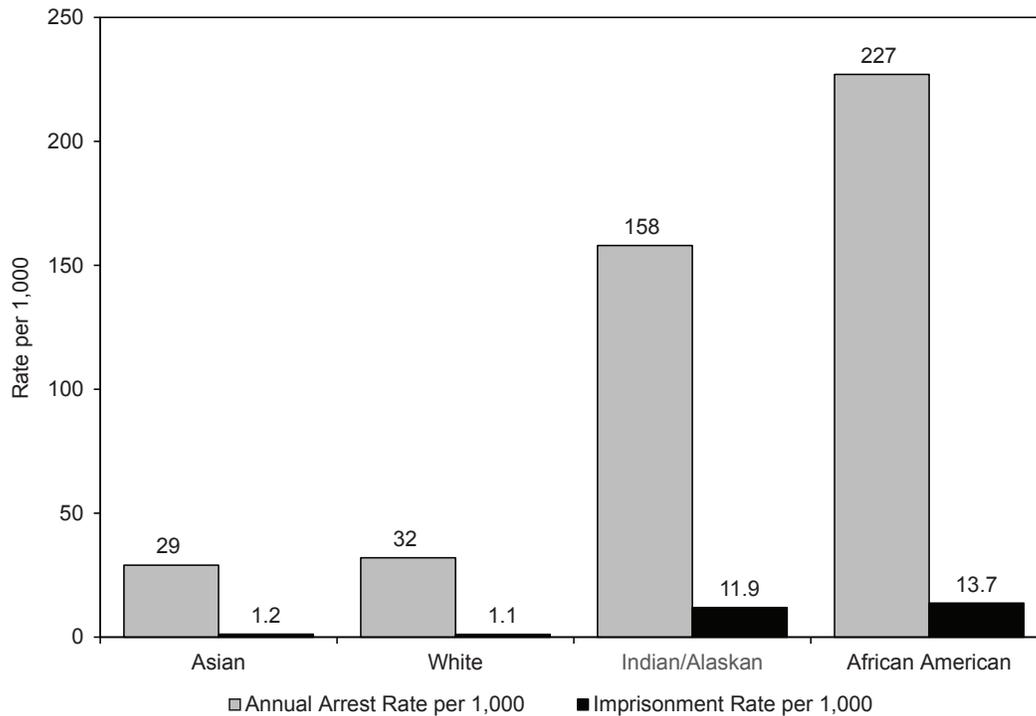


Figure 2. Comparison by race of annual arrest and imprisonment rates per 1,000 men, Minnesota 2007.

There are stark differences in arrest rates by race, as illustrated by Figure 2. When I began data collection in Minnesota in 2007, the average annual arrest rate for African Americans was 227 per 1000, compared to about 30 per 1000 for whites or Asians.² Further, while arrest rates are substantially higher than incarceration rates for all races, incarceration rates for African American and Native American men are still notably high, at 12–14 per 1000 per year, compared to just over 1 per 1000 for white and Asian men.

My colleagues and I looked at whether and how employers considered low-level arrests in hiring decisions.³ Young African American and white men were sent to apply for entry level jobs, with half reporting a disorderly conduct arrest that did not lead to conviction. We found that employer callback rates were about 4 percentage points lower for those reporting an arrest than for an identically matched applicant who applied for the same job but did not report an arrest. So, even a low-level arrest had some stigma attached as demonstrated by the employer response. Racial differences were even larger; in both the arrest group and the control group, blacks had callback rates that were about 10 percentage points lower than whites, though the difference attributable to arrest was similar for blacks and whites. We also found that personal contact, such as handing in an application in person, dramatically improved the job prospects of our applicants. On January 1, 2014, Minnesota law was changed so that employers may now consider criminal records only at the interview stage, ensuring an opportunity for contact. As of January 2016, a total of 19 states and over 100 cities now “ban the box,” meaning employers are not permitted to ask about a felony conviction on a job application. Whether this

change will make a meaningful difference for people with criminal records is not yet known, but evaluations of the policy change are currently underway in several cities.

Rise of the criminal class

Between 1980 and 2010, the number of people in the United States who were on parole, in prison, in jail, or on probation rose from under 2 million to over 7 million, although there was a slight drop near the end of that period.⁴ In 2010 there were around 20 million current or former felons in the United States; that number will continue to grow, even as the rate of incarceration levels off.⁵ While even arrests and misdemeanors can cast a shadow on an individual’s future, as described above, felony records can negatively affect that future in numerous and profound ways, including restricting an individual’s access to public assistance, right to vote, and ability to find employment. For blacks this is especially true because they have long been overrepresented in U.S. correctional populations. In 1980, for example, 5.5 percent of blacks had a history of felony conviction, compared to 2.1 percent of the adult population overall. By 2010, the U.S. felony conviction rate for blacks had risen to 18.3 percent, with rates over 20 percent in many states, compared to 6.4 percent for the overall adult population.⁶ This large increase in the number of people with a felony conviction is not just a story about incarceration, but also reflects large increases in the number of people on probation. In a recent Pew Foundation report, for example, Minnesota ranked forty-ninth among the states on incarceration rates, but fourth in terms of community supervision and seventh in terms of total correctional control.⁷



Figure 3. Total number of arrests for female drug offenders, before and after welfare ban.

Spillover effects

The effects of a past felony conviction vary by state. In Alabama, Iowa, Kentucky, and Mississippi, for example, neither felons nor ex-felons are permitted to vote, even after their sentence (including probation and parole) is complete. In Maine and Vermont, in contrast, prisoners, parolees, and probationers are all permitted to vote. In most states, felons in prison, on probation, or on parole are excluded from voting. Overall, only about one-quarter of those not permitted to vote are currently incarcerated. Even though only a minority of states disenfranchise for life, the number of ex-felons banned from voting accumulates rapidly, because young ex-felons generally have decades of life and civic participation ahead of them. Policy on this issue is not in line with public sentiment, as the great majority of U.S. adults favor allowing former felons to vote, and most also approve of voting rights for probationers and parolees.⁸ Public support, however, does drop off for prisoners; only about a third support permitting currently incarcerated felons to vote.

Another spillover effect of incarceration, in this case for those with felony convictions for drug-related crimes, is the lifetime ban on receipt of welfare (Temporary Assistance to Needy Families or TANF) and food stamps (now known as the Supplemental Nutrition Assistance Program, or SNAP), implemented as part of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.⁹ Although states may choose to opt out of or modify this ban, most abide by either the original or a modified version of it. In 2013, the Sentencing Project reported that 37 states either fully or partially enforce the TANF ban, and 34 states either

fully or partially enforce the SNAP ban.¹⁰ Since the great majority of welfare recipients are women, the welfare ban for drug offenders disproportionately affects women and their children. Targeting drug-involved women may in fact lead to increased crime. This is illustrated in Figure 3, which shows that over time, states that partially or fully implement the welfare ban have higher overall female arrest rates.¹¹ This pattern is apparent for both property and violent crimes; the only type of offense that appears unaffected by the welfare ban is drug crime.

Reintegrating versus stigmatizing approaches to justice

While the policies described above constitute stigmatizing approaches that make it very difficult for former prisoners to shed the label of “criminal” and rejoin society, there are other approaches that emphasize reintegration. One of these is supported employment, helping hard-to-employ populations find and keep jobs. Using data on former drug users from the National Supported Work Demonstration, we found that 18 months after entering Supported Work, 26 percent of those in the treatment group had been arrested, compared to 32 percent of those in a control group.¹² This represents a statistically significant 19 percent reduction in recidivism. We also looked separately at arrests for robbery or burglary, an outcome of interest because these are predatory economic crimes that inflict harm on individuals and communities. Again, we found statistically significant lower arrest rates for those in the treatment group; at 18 months, 7 percent of those in the treatment group had been arrested for robbery

or burglary compared to 13 percent of those in the control group, a 46 percent reduction in recidivism.

Unfortunately, this notable result—that jobs help people avoid recidivism—was overshadowed by the finding that Supported Work did not reduce drug use. Since many viewed the goal of this and other social programs of the 1970s as to turn the most disadvantaged U.S. citizens into stable middle-class workers, the continued drug use contributed to perceptions that these programs were failures. This raises the broader policy question of whether post-release programs should insist on abstinence from drugs and alcohol. The answer to this question is still unclear, and depends greatly on the ultimate policy goals of the intervention. The fact remains, however, that supported employment represents a policy lever that has been shown to reduce crime.

Rwanda: Rescaling from crime to genocide

Few nations punish at rates comparable to the United States in this age of mass incarceration. Nevertheless, looking at criminal justice cross-nationally can provide a helpful perspective on the American system. We look at the example of post-genocide Rwanda. Although estimates vary, as many as one million people were killed in the 1994 Rwandan genocide, approximately 14 percent of Rwanda's population.¹³ In total, Rwandan courts have since tried more than 1.96 million genocide cases (which include property offenses, as well as killing, and planning violence). As new government leaders worked to rebuild the country and hold offenders accountable, the large number of people involved meant that they had no choice but to determine how to reintegrate perpetrators into society. With Hollie Nyseth Brehm, I am particularly interested in the steps that were taken in Rwanda once reintegration became an imperative, since the United States is also reaching a tipping point where it is infeasible to simply exclude from society every person convicted of a felony. In Rwanda, with the legal system decimated by the genocide, and prison facilities intended to hold only a small fraction of the perpetrators, the government in 2001 turned to a system that combined retributive and restorative justice, based on traditional community-based *gacaca* courts. The *gacaca* courts did use incarceration, including life sentences and long-term imprisonment, for some more serious crimes against people, such as killing, rape, and torture; however, the average sentence was much shorter than the average for similar crimes in the United States. The *gacaca* courts also made extensive use of community service as a form of retribution.

In an analysis of data from 10,000 *gacaca* courts, we noted that, similar to the relationship between age and arrest in the United States illustrated in Figure 1, there is an age-crime curve for the genocide-related crimes perpetrated in Rwanda as well.¹⁴ The age-genocide curve is more symmetrical than that shown in Figure 1, and peaks in the early thirties rather than around 20, but it is clear and consistent whether looking at looting, murder, or planning the genocide.

Given the extremely limited incarceration capacity in Rwanda relative to the number of perpetrators, the *gacaca* courts necessarily had to turn to culturally specific alternative sanctions, including a mix of fines and restorative justice alternatives. Many looting cases were settled through a negotiated agreement between the perpetrators and families who lost property. If the perpetrator admitted his crime and asked for forgiveness, the two parties could make an agreement on acceptable restitution. Such a process has been used on a very small scale in the United States with juvenile offenders, particularly with low-level property crimes. These methods have not been used in U.S. community courts with more serious offenses, but there may be some potential in that setting.

Further research on the restorative efforts used in Rwanda could explore the possibilities for their adaptation to disadvantaged communities in the United States. Such approaches could provide justice while also alleviating prison overcrowding.

Possibilities for reform

In light of this research, the idea that the world can be divided into bad actors and good citizens seems untenable. While it is admittedly difficult to figure out how many people need to be incarcerated, and how many are being punished unnecessarily, it appears very likely that we are over-punishing. Criminology as a science has evolved from identifying offenders to figuring out how to effect transitions out of crime, and identifying the factors that help explain transitions into and out of crime. While the stigmatizing approach of coercing people through fear of punishment is the current practice, there are alternatives, including making a real societal promise that being good will result in doing well, as in supported employment programs; and an appeal to common values and standing shoulder-to-shoulder with fellow citizens, as is being attempted in Rwanda. I do believe that it is possible to achieve the dual policy goals of dramatically reducing mass incarceration, while at the same time keeping crime rates low. In fact, the success of such an approach is illustrated by Rwanda, where, over the past 20 years since the genocide, they have cut their incarceration rate dramatically and reintegrated a massive number of returning prisoners with some degree of success. ■

¹³For example, see J. Laub and R. J. Sampson, *Shared Beginnings, Divergent Lives: Delinquent Boys to Age 70* (Cambridge, MA: Harvard University Press, 2003).

¹⁴People may be arrested multiple times per year, so this does not mean that 22.7 percent of all African Americans were arrested in 2007. C. Uggen, M. Vuolo, S. Lageson, E. Ruhland, and H. Whitham, "The Edge of Stigma: An Experimental Audit of the Effects of Low-Level Criminal Records on Employment," *Criminology* 52 (2014): 627–654.

¹⁵C. Uggen et al., "The Edge of Stigma"

¹⁶See, for example, T. P. Bonczar, D. Kaeble, and L. Maruschak, *Probation and Parole in the United States, 2014*, U.S. Department of Justice, Bureau

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⁵S. Shannon, C. Uggen, J. Schnittker, M. Thompson, S. Wakefield, and M. Massoglia, "Growth in the U.S. Ex-Felon and Ex-Prisoner Population, 1948–2010," Unpublished Manuscript, 2014.

⁶Shannon et al., "Growth in the U.S. Ex-Felon and Ex-Prisoner Population"

⁷Pew Center on the States, *1 in 31: The Long Reach of American Corrections*, The Pew Charitable Trusts, Washington DC, March 2009. Available at http://www.pewcenteronthestates.org/uploadedFiles/PSPP_1in31_report_FINAL_WEB_2-27-09.pdf

⁸J. Manza, C. Brooks, and C. Uggen, "Public Attitudes Toward Felon Disenfranchisement in the United States," *Public Opinion Quarterly* 68, No. 2 (2004): 275–286.

⁹R. Jayakody, S. Danziger, K. Seefeldt, and H. Pollack, "Substance Abuse and Welfare Reform," National Poverty Center Policy Brief #2, April 2004.

¹⁰M. Mauer and V. McClamont, "A Lifetime of Punishment: The Impact of the Felony Drug Ban on Welfare Benefits," The Sentencing Project, Washington, DC, 2013. Available at http://sentencingproject.org/doc/publications/cc_A%20Lifetime%20of%20Punishment.pdf

¹¹M. Thompson and C. Uggen, "How Welfare Reform Drove Up Female Arrest Rates," Paper presented at Institute for Research on Poverty Summer Research Workshop, in Madison, WI, June 26, 2013.

¹²C. Uggen and S. Shannon, "Productive Addicts and Harm Reduction: How Work Reduces Crime—But Not Drug Use," *Social Problems* 61, No. 1 (February 2014): 105–130.

¹³Center for Conflict Management of the National University of Rwanda, *Evaluation of Gacaca Process: Achieved Results per Objective*, study commissioned by National Service of Gacaca Courts, Kigali, Rwanda, 2012.

¹⁴H. N. Brehm, C. Uggen, and J.-D. Gasanabo, "Genocide, Justice, and Rwanda's Gacaca Courts," *Journal of Contemporary Criminal Justice* 30, No. 3 (2014): 333–352.

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