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Abstract
Families and Incarceration
Donald Braman
2002

This dissertation describes findings from a three-year ethnographic study of male incarceration's effect on family life in the District of Columbia. The central finding of the study is that the dramatic increase in the use of incarceration over the last two decades has in many ways missed its mark, often injuring the families of offenders as much as, and sometimes more than, offenders themselves.

The effects of incarceration on families include practical hardships related to incarceration such as lost income and childcare, legal costs, and telephone expenses. Because prisoners are prevented from reciprocating, their families are not only materially impoverished, but the relationships within the extended kinship networks are eroded.

Incarceration also forcibly restructures household composition, reshaping family life in ways that are entirely absent from policy debates. In addition to the direct effect of incarceration on gender ratios and father absence, incarceration also has more subtle effects on gender norms, encouraging behavior that is consistent with many of the common stereotypes of poor, black, inner-city families. What the stereotypes obscure, however, are the ways in which incarceration is intricately involved in the dissolution of the very families they describe.

The stigma associated with incarceration has also had broad effects on inner-city family and community life. Because stigma is associated with families of prisoners, and because families are in communities that are disproportionately victimized by crime, they often face far more difficulties managing the stigma of criminality during incarceration than do offenders. The result is that, at the individual and community level, relationships are often diminished and distorted to guard information about incarceration and, at a broader political level, familial covering and silence effectively hides the effects of incarceration from public view.

Families and Incarceration

A Dissertation
Presented to the Faculty of the Graduate School
of
Yale University
in Candidacy for the Degree of
Doctor of Philosophy

by
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Some writing projects are completed quickly and need only minor changes. This is not one of those projects. Having spent three years working to finish it, it seems much less a writing project than a series of extended discussions. Many of these were in backyards, kitchens, and living rooms; some were in prisons, halfway houses, and vans that served as temporary homes; others were in offices, over the phone, or by email. All were essential.

I was continually surprised by the generosity participants in this study; I owe them an unpayable debt. They opened up their lives so that I could learn from them and helped me to discard many of my assumptions along the way. Their hospitality and friendship, often in the most trying circumstances, was something I was trained not to expect, but without which this work would have been impossible. Over dinner, in church, at work, or just when they had a few free moments, the families in this study shared not only their time, but intimate and often painful details of their lives. Their names do not appear here because they were promised anonymity, but they know who they are. I hope that my work does them justice.

My friends and colleagues were expert where I was not, helping me to understand the many arguments that had already been made about families, communities, and the law, and often pointing out lapses in logic or contradictions in my own. More importantly, they both prodded and reassured at the necessary times and places. I will be forever grateful to Kathryn Dudley who has become my model for academic mentorship. I would not have undertaken this study let alone finished it were it not for her sure guidance and unwavering encouragement. Hal Scheffler provided a solid and reassuring

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There is only one sure basis of social reform and that is Truth — a careful detailed knowledge of the essential facts of each social problem. Without this there is no logical starting place for reform and uplift.

*W.E. Burghardt Du Bois and Augustus Granville Dill,
The Negro Artisan.*

INTRODUCTION

Nearly one out of every ten of the District of Columbia's adult black men is in prison, and over half of the black men between the ages of eighteen and thirty-five are under some type of correctional supervision.¹ About seven percent of the adult black male population in the District returned from prison over the course of the last year, and most returned to the families and neighborhoods they lived in prior to their arrests.² If current conditions persist, well over seventy five percent of black men in the District and nearly all the men in the poorest neighborhoods can expect to be incarcerated at some time in their lives.³ Sadly, the District's incarceration rate is not particularly high when compared with other cities'.⁴ Incarceration has become the statistical norm for men in many poor urban communities across our nation.

While these numbers are striking, it is not immediately clear what they represent in terms of the lived experience of real people. What are the human consequences of our extensive reliance on incarceration? What does it mean for the families who live in the neighborhoods that these statistics describe? Are they better or worse off as a result of "tough" sentencing practices? Here, numbers simply fail us.

¹ ERIC LOTKE, NATIONAL CENTER FOR INSTITUTIONS AND ALTERNATIVES, *HOBBLING A GENERATION: YOUNG AFRICAN AMERICAN MEN IN D.C.'S CRIMINAL JUSTICE SYSTEM FIVE YEARS LATER* (1997). Figures assume incarceration rates have held constant since statistics were gathered in 1997. The latter figure includes jail, prison, parole, probation, and warrants.

² Author's estimate, based on DC DOC data and US Census population data.

³ Author's estimate, based on DC DOC data and US Census population data. See *infra* note? and accompanying text for further data lifetime likelihood. See Appendix for discussion of estimation methods.

⁴ For example, the overall rate of incarceration in the District is 1.8%, while in Baltimore, Maryland it is 2.1%, and in New Haven, Connecticut it is 1.7%. Estimates based on census data and data provided by the DC, Maryland, and New Haven Departments of Corrections.

This dissertation describes findings from a three-year ethnographic study of male incarceration's effect on family life in the District of Columbia.⁵ The central finding of the study is that the dramatic increase in the use of incarceration over the last two decades has in many ways missed its mark, often injuring the families of offenders as much as, and often more than, offenders themselves.

The effects of incarceration on families include practical hardships related to incarceration such as lost income and childcare, legal costs, and telephone expenses. As prisoners are prevented from actively participating in reciprocal relationships, however, the effects can ripple out through relationships between family members. As a result, their families are not only materially impoverished by incarceration, but more significantly the strength and quality of the relationships within the extended kinship networks of the family are eroded as well.

Incarceration also forcibly restructures household composition and kin relations, reshaping family life in ways that are entirely absent from policy debates. In addition to the direct influence of incarceration on gender ratios and father absence, incarceration also has more subtle effects on gender norms, encouraging behavior that is consistent with many of the common stereotypes of poor, black, inner-city families. What the stereotypes obscure, however, are the ways in which incarceration is intricately involved in the dissolution of the very families they describe.

The stigma associated with incarceration has also had broad effects on inner-city family and community life. Because stigma is associated with families of prisoners, and

⁵ See Appendix for description of study methods and data.

because families are in communities that are disproportionately victimized by crime, they often face far more difficulties managing the stigma of criminality during incarceration than do offenders. The result is that, at the individual and community level, relationships are often diminished and distorted to guard information about incarceration and, at a broader political level, familial covering and silence effectively hides the effects of incarceration from public view.

The result has been a steady and silent corrosion of family and community in our inner-cities and a public debate that fails to reflect how much families still matter there.

Invisible Families

It is not unusual to hear that, for many poor urban families and communities today, prison has become a way of life.⁶ And, in fact, as things stand now, a large majority of the men in our cities' most disadvantaged neighborhoods can expect to spend time behind bars.⁷ Yet it would be no exaggeration to say that we know practically

⁶ See, e.g., Hilary Shelton (Director of the NAACP's Washington bureau), *quoted in* Louise D. Palmer, *Number of Blacks in Prison Soars*, THE BOSTON GLOBE, February 28, 1999 at A14 ("There are so many people in the community going to prison you start to have the welfare effect, where it becomes acceptable — a rite of passage — for African-American men to go to prison."); Howard Manly and Zachary Dowdy, *Where prison is 'a fact of life'*, THE BOSTON GLOBE, July 7, 1993, at Metro 1 ("[Y]ouths today see prison as a rite of passage, something to brag about, not as the great divide separating the civil from the lawless. Many emerge from prison heads held high, unashamed."); John Hanchette, *Many Black Americans Resent GOP-style Conservatism*, USA TODAY, November 25, 1995 ("[P]rison is a rite of passage for most of our young men."); Gary Ivory, *Prison Overbuilding is a Bad Sign*, THE DALLAS MORNING NEWS, September 7, 1996 ("For some, especially African-American men and increasingly women, prison has become a 'rite of passage' — a rite that has become almost normal to aimless young men and women writhing in our urban caldrons and rural spaces."); and *Muggings In New York City Turn Violent*, NPR: MORNING EDITION, January 2, 1992 ("In the streets, in the — in the 'hood, going to prison is a rite of passage.").

⁷ For a more extensive discussion of crime and incarceration rates, see *infra* notes 69-82 and accompanying text.

nothing about the effects of our most common criminal sanction on the social lives of families or communities.⁸

The extent of our ignorance is puzzling given that, for over a century, researchers have devoted considerable energy and time to understanding how basic social institutions like family and community and state institutions like the criminal justice system lend structure and meaning to our lives. Indeed, few subjects have garnered as much sustained attention, keen intellectual review, or extensive public debate as have the topics of family,⁹ community,¹⁰ and criminal sanctions.¹¹

⁸ Most accounts of inner-city life have been written by male ethnographers and focus on “male life.” *See, e.g.*, WILLIAM FOOTE WHYTE, *STREET CORNER SOCIETY* (1943) (describing “corner boys” in the North End of Boston); ELLIOT LIEBOW, *TALLY’S CORNER* (1967) (describing the lives of “Negro streetcorner men” in Washington, DC); ELIJAH ANDERSON, *A PLACE ON THE CORNER* (1978) (an account of “identity and rank among Black streetcorner men.”); PHILIPPE BOURGOIS, *IN SEARCH OF RESPECT* (1992) (describing the lives of a group of Puerto Rican crack dealers in Harlem); and MITCHELL DUNEIER, *SLIM’S TABLE* (1994) (describing the lives of a group of older black men who frequent a Chicago eatery.). Fewer accounts, usually by female ethnographers, have focused on poor women. *See, e.g.*, CAROL STACK, *ALL OUR KIN* (1975) (describing social networks among welfare mothers in a Chicago housing project); and KATHERYN EDIN & LARUA LEIN, *MAKING ENDS MEET* (1997) (describing how single mothers on welfare and low-wage jobs survive.”). While granting that women and men often have gendered experiences of the world, I feel that this pattern in urban ethnographies has furthered a sense of the inner city as populated by men and women living in different worlds, as if those worlds were natural occurrences and as if they rarely shared much with one another. With the exception of Katherine Newman’s recent work, KATHERINE NEWMAN, *NO SHAME IN MY GAME* (1999), there have been few accounts of the inner-city that attempt to describe families as such. *But see also* SARAH J. MAHLER, *AMERICAN DREAMING* (1995) (describing the pull of international family ties on Latino immigrants living in a New York suburb).

⁹ *See, e.g.*, STACK, *supra* (describing the importance of extended family to material and emotional well-being of poor women in Chicago projects); *REBUILDING THE NEST* (Jean Bethke Elshtain, Steven Bayme, Jean Bethke Elshtain, eds. 1991) (a collection of essays assessing the importance of varied family arrangements); STEPHANIE COONTZ, *THE WAY WE REALLY ARE* (1997) (describing importance and diversity of family in American life); and SYLVIA ANN HEWLETT & CORNEL WEST, *THE WAR AGAINST PARENTS* (1998) (describing the impact of various public policies on family life in America).

¹⁰ A growing number of ethnographies are focusing on the positive aspects of community life in urban America, and the strengths of community organizations. *See, e.g.*, STEVEN GREGORY, *BLACK CORONA* (1998) (describing political activism in an African American neighborhood in New York City.); KENNETH W. W. GOINGS & RAYMOND A. MOHL, *THE NEW AFRICAN AMERICAN URBAN HISTORY* (1997) (describing a “New African American Urban History” emphasizing “a sense of active involvement, of people empowered, engaged in struggle, living their lives with dignity and shaping their own futures.”); RHODA H. HALPERIN, *PRACTICING COMMUNITY* (1998) (describing the daily activities of ordinary people that create community in an urban setting.). Generally, these accounts describe people working together to overcome adversity. Sadly, while there are national and even local organizations active on the issue of incarceration,

Our ignorance is all the more puzzling because social scientists are particularly concerned about the effects of public policies on disadvantaged populations. Indeed, during the last thirty years, as incarceration rates have risen precipitously, numerous and highly publicized analyses of criminal justice policy have told us precisely how disproportionate the rates of incarceration are among poor, urban, and minority populations.¹²

How is it, then, that we know so little?

* * *

Running through much of the news coverage, academic literature, and policy discussions about our inner-cities are a set of narratives about how people behave and about how the social world works. The narratives are, broadly speaking, designed to explain perceived material and moral failings. Most commentators view life in the inner-city as materially difficult: unemployment is high, jobs are scarce, public facilities like schools and hospitals are under-funded, and housing is substandard. Many also argue that the moral life of our inner-cities is in similarly dire straits: families and communities are falling apart, there is little respect for fellow citizens, little sense of shame, and crime is rampant.

the present study suggests why the type of community organizing described in these works has failed to counter the effects of incarceration.

¹¹ See, e.g., MICHAEL TONRY, *SENTENCING MATTERS* (1995); GEORGE L. KELLING, CATHERINE M. COLES & JAMES Q. WILSON, *FIXING BROKEN WINDOWS* (1998).

¹² See, e.g., STEVEN R. DONZIGER, *THE REAL WAR ON CRIME* (1996); RANDALL KENNEDY, *RACE, CRIME, AND THE LAW* (1997); ELLIOTT CURRIE, *CRIME AND PUNISHMENT IN AMERICA* (1998); DAVID COLE, *NO EQUAL JUSTICE* (2000); MARC MAUER, *RACE TO INCARCERATE* (2000); and MICHAEL TONRY, *MALIGN NEGLECT* (2001).

The most common attempts at explaining these conditions emphasize either the former or latter as more causal, and the other as consequential. Those on the Left tend to argue that the decline in the moral order of our inner-cities is the result of prolonged material hardship. The state, having failed to provide adequate education, housing, and other services, has created desperation and demoralization so great that inner-city populations are forced to disregard many societal norms.¹³ Some go further, arguing that these behavioral adaptations eventually reshape social norms at the local level, creating a culturally distinct “underclass.”¹⁴

Those on the Right tend to argue the reverse: that material hardships are the result of a moral decline. In the conservative account, that some people are able to overcome the material hardships they face indicates that individuals can prevail if they approach life in the right way — that is, if they have the right values. The state also takes some blame in this narrative: through programs like AFDC, Food Stamps, subsidized housing, jobs programs, and unemployment insurance, conservatives argue, an overly interventionist state has undermined the values of individual industry, thrift, and responsibility.¹⁵ The values of the underclass, on this account, are what drives its impoverishment.

¹³ See, e.g., OSCAR LEWIS, *THE CHILDREN OF SANCHEZ* (1961); and BOURGOIS, *supra* note 8; Several studies also describe poverty and driving crime. See, e.g. R.E. Larzelere & G.R. Patterson, *Parental management: Mediator of the Effect of Socioeconomic Status on Early Delinquency*, 28 *CRIMINOLOGY* 2, 301-323 (1990) (one of the few longitudinal studies linking poverty with crime.); and William A. Niskanen, *Crime, Police, and Root Causes*, *POLICY ANALYSIS* 218 (1994) (“Crime rates are strongly affected by economic conditions. For example, an increase in per capita income appears to reduce both violent and property crime rates by a roughly proportionate amount.”); Robert Crutchfield, *Labor Markets, Employment, and Crime*, *NIJ RESEARCH PREVIEW* (1997).

¹⁴ See, e.g., LEWIS, *supra*; DANIEL P. MOYNIHAN, *THE NEGRO FAMILY* (1965); and WILLIAM JULIUS WILSON, *THE TRULY DISADVANTAGED* (1987).

¹⁵ See, e.g., MARTIN ANDERSON, *WELFARE* (1978); CHARLES MURRAY, *LOSING GROUND* (1989); MARVIN OLASKY, *THE TRAGEDY OF AMERICAN COMPASSION* (1992); MYRON MAGNET, *THE DREAM AND THE NIGHTMARE* (1993); CHARLES MURRAY, *THE UNDERCLASS REVISITED* (1999).

To the anthropologist, both liberal and conservative narratives overlook the ways that basic social institutions like family, community, and the law take shape and interact with one another in everyday life. By treating inner-city populations simply as groups of generic actors responding to market and state, both liberals and conservatives have failed to understand how fundamental forms of human organization shape individual behavior. As a result, liberal and conservative policy analysts alike have consistently been confounded by the unanticipated effects of the policy choices they advocate.¹⁶ Indeed, while both talk a good deal about family and community, the dominant debate among students of law and policy over the last thirty years has instead been about whether state regulation or unfettered market incentives provide more effective means of shaping individual behavior.

Unfortunately, this sensibility not only permeates the world of academic writing, but also the more influential world of policy talk in which family and community life in our inner-cities is seen as a contradiction in terms rather than a realistic policy goal. In policy making the pervasive stereotype of “the underclass” as being uninterested in and unable to forge a coherent family or community life has had significant social and political effects. Policy makers, seeing no families or communities to protect in crime-stricken areas, have come to view residents of minority, urban, and low income

¹⁶ The federal government and nearly every state government in the nation, whether under Democratic or Republican control, were surprised by and unprepared for the rate of growth in incarceration rates. As a result, a large majority of states regularly violated court orders mandating steps to reduce overcrowding. See Helen G. Corrothers, *Letters to the Editor: “Packing the Prisons”*, WASH. POST, December 26, 1989, at A22 (“Our state prison systems face similar difficulties, with 35 states and the District of Columbia operating under court orders or consent decrees related to prison crowding.”). The District was no exception, as Jonathan Smith, an attorney working on the issue of overcrowding at the time, told me: “The

neighborhoods as somehow outside of and untouched by the social norms of society at large. The result has been a set of studies and policies that, out of ignorance, have had a corrosive effect on many of the most vulnerable families and communities in our nation.

If we are to understand the full effects of our policy choices on what has for thirty years now been described as “the urban crisis,” we will need far richer and more nuanced descriptions of the social aspects of people’s lives than we have had to date.

Anthropological Offerings

The core concepts and methods that were employed in this study are not new. Descriptions of household economy, kinship, social networks, and social norms have been refined over nearly a century of ethnographic investigation and careful analysis.¹⁷ But they have taken on a new resonance as policy makers become more attuned their importance. Indeed, many of the concepts once of interest almost exclusively to anthropologists have been enjoying something a renaissance. The study of social networks, for example, has reemerged in studies of “social capital.”¹⁸ A number of popular works on social capital, most notably Robert Putnam’s *Bowling Alone*,¹⁹ have helped to reassert the importance of family and community over and above the

District was in violation of several such orders throughout the 1980s and 90s.” Interview with Jonathan Smith, (Aug. 16, 1999).

¹⁷ For a classic introduction to household economy, see Donald Bender, *A Refinement of the Concept of Household*, 69 *AM. ANTHROPOLOGIST* 493 (1967). On kinship, see ROGER M. KEESING, *KIN GROUPS AND SOCIAL STRUCTURE* 131, 142 (1975); DAVID M. SCHNEIDER, *AMERICAN KINSHIP* (1980); and COONTZ, *supra* note 9. For a review of social networks literature, see ULF HANNERZ, *EXPLORING THE CITY* 163-201 (1980).

¹⁸ See, e.g., Francis Fukuyama, *Social Capital*, in *CULTURE MATTERS* (Lawrence E. Harrison & Samuel P. Huntington, eds. 2000); ADAM B. SELIGMAN, *THE PROBLEM OF TRUST* (2000); ROBERT PUTNAM, *BOWLING ALONE* (2001).

¹⁹ *Id.*

impersonal transactions that drive market capitalism. Similarly, the study of social norms, once an esoteric endeavor,²⁰ has been taken up by economists and legal scholars with increasing interest, complicating and even displacing neoclassical economic theory in current legal analyses.²¹

While this is heartening news for anthropologists, the lack of nuance and attention to ethnographic detail in much of the new work is troubling. For example, while the concepts that run through discussions of social capital — networks, reciprocity, and social norms — are useful analytical tools, their application in popular discussions has been more along the lines of thought experiments or statistical inference than hands-on-observation. Instead of accounts describing how real people make use of and are used by social networks, academics have instead developed rather broad and generic analyses describing one or another measure of social capital, asserting that it is rising or falling, or that it is, on the whole, either good or not so good.²² What has been lost in these efforts is

²⁰ Few outside of anthropology, I imagine, have read the early works in this area. *See, e.g.*, BRONISLAW MALINOWSKI, *CRIME AND CUSTOM IN SAVAGE SOCIETY* (1926) (Malinowski raised the issue of choice and negotiation in relation to norms); FREDRIK BARTH, *POLITICAL LEADERSHIP AMONG SWAT PATHANS* (1959) (developing an “interactionist” theory of norm formation); F. G. BAILEY, *STRATAGEMS, AND SPOILS* (1969) (describing the pragmatic negotiation of social norms in India, England, and France). *See also* KEESING, *supra* note 17 at 131, 142 (1975) (describing the dynamic negotiation of norms in relation to structural understandings of kinship).

²¹ There has been an “explosion of interest” in social norms over the last five years. Robert C. Ellickson, *Law and Economics Discovers Social Norms*, 27 J. LEGAL STUD. 537, 542 (1998). Those associated with bringing discussions about social norms into the legal mainstream have been called the “new Chicago school”—“new” because it has displaced much of the previous law-and-economics scholarship conducted by the “old” Chicago school. *See* Lawrence Lessig, *The New Chicago School* 27 J. LEGAL STUD. 661 (1998) (suggesting the utility of viewing the social norms analysis of the new Chicago school as the successor of the law-and-economics analysis of the old Chicago school).

²² Putnam’s work has brought the importance of social networks to individual and collective well being to public attention, making three core arguments: (1) the last half century has been witness to several trends including an extended period of peace, declining leisure time, more television watching, and suburban sprawl; (2) as a result, social networks are both weaker and less dense than they used to be; and (3) this has a host of negative consequences. *See, generally*, PUTNAM, *supra* note 18. Unfortunately, because he does not observe any real people, his causal arguments are (as he admits) speculative and his policy

an understanding that social capital is a way of talking about real people's relationships with one another, and that it is these real people rather than abstract concepts which must be attended to.

While popular depictions of social capital generally emphasize the positive aspects of social networks, norms of reciprocity, and resource sharing, the stories of families of prisoners also highlight their negative potential. By spreading the impact of incarceration across family and community ties, the rise of incarceration has not simply punished criminal offenders, it has devastated their families and communities as well. The result is that the relationships and norms described as social capital have become burdens rather than benefits to many inner-city families. This significantly alters the inferences that can be made from statistical studies of social capital in popular accounts and demonstrates the necessity of direct inquiry when asking how our most basic social relationships are developed, how they provide and tax common resources, and what they mean to the people in them.

The latter concern — the matter of meaning — has been the subject of renewed interest in the law under the rubric of social norms.²³ In many respects, like the literature on social capital, the new scholarship on social norms poses a direct challenge to economic models based on generic, wealth-maximizing individuals.²⁴ Rather than simply

recommendations vague. More importantly, the lack of grounded detail in Putnam's work obscures the ways that pursuit of social capital may force compliance with oppressive norms. *See, e.g.,* PIERRE BOURDIEU, *THE LOGIC OF PRACTICE* 108-110 (1980).

²³ *See, e.g.,* Robert C. Ellickson, *Law and Economics Discovers Social Norms*, 27 *J. LEGAL STUD.* 537, 542 (1998);

²⁴ Dan Kahan, a leading figure in the social norms movement, puts the matter succinctly when he writes that "[e]conomic analyses of criminal law that abstract from social meaning fail, on their own terms,

measuring economic efficiency and individual interests in material gains, discussions about social norms have forced scholars of law and economics to confront the richer kinds of meaning that humans create through their social interactions. Ironically, though, studies of social norms have been conducted largely in the methodological shadows of the economic models they challenge. Like popular discussions of social capital, recent analyses of social norms have focused on generic reactions to the structure of legal and nonlegal norms rather than focusing on the histories of actual relationships in which those norms become meaningful.²⁵

For example, recent scholarship on social norms has suggested the useful role of shame in criminal sanctions. But, as the accounts in this study show, the effects of stigmatization can be spread across families and communities with unanticipated results. As a result, it is not simply criminal offenders who manage the burdens of stigma, but a host of non-offenders as well. The broad impact of this stigma can make minefields of

because social meaning is something people value.” Dan M. Kahan, *Social Meaning and the Economic Analysis of Crime* 27 J. LEGAL STUD. 609 (1998).

²⁵ This is acknowledged in the literature and is a matter of regular complaint. Mark Tushnet, for example, notes that:

The problem [...] is that norms are really complicated things. Indeed, they are hardly “things” at all. They are unstable, subject to constant renegotiation and redefinition through processes of interaction that lead the new Chicago school to develop models. But modeling requires abstraction, and abstracting from norms is quite likely to generate either models that have essentially nothing to do with the real world of norms, or entirely formal results. Moreover, to the extent that one is interested in real norms in the real world, one would have to do a fair amount of empirical investigation. Aficionados of law and society studies know that legal academics are not well-trained to do such research and, even more, that the legal academy’s reward structure actively discourages it. This may account for the fact, as it seems to me, that articles associated with the new Chicago school have a rather high ratio of programmatic statements and illustrative (and short) anecdotes to actual investigations of real norms in real social settings.

Mark V. Tushnet, *Forum: “Everything Old Is New Again”: Early Reflections on The “New Chicago School”*, 1998 WIS. L. REV. 579, 586-587 (1998) (footnotes excluded). See, also, Ryan Goodman, *Beyond the Enforcement Principle*, 89 CALIF. L. REV. 643, 645 (2001) (“These scholarly efforts have developed analytic models to describe law’s impact, but little empirical work has been conducted to examine law’s actual effects in society.”).

family members' relationships with relatives, neighbors, and co-workers. The social silence that incarceration's stigma encourages extends to the political arena as well, making it difficult for families to seek remedies for the problems they encounter. The ethnographic accounts in this study will, I hope, serve as a cautionary supplement to more theoretical scholarship on social norms and stigma.

These are more than academic issues and, by describing the ways that social capital and social norms interact on the ground, this study should do more than simply complicate theoretical concerns. It is my hope that this study will contribute to a more realistic assessment of how those living in our nation's inner-cities are forced to struggle with the powerful and often contradictory worlds of family, community, and the law under conditions that all too often set these social institutions against one another. More generally, I hope that it will draw attention to the importance of attending to the everyday lives of real people when thinking about and developing public policy.

CHAPTER ONE: WHAT DOES INCARCERATION MEAN?

A PUBLIC DEBATE

Two elderly women have come to blows. As they shove and wrestle, scuffling across the hard floor of the District government office building, they are yelling at each other. “That’s my grandson you’re talking about. Don’t you talk about my grandson that way!” shouts one. “You love him so much, move to Ohio!” responds the other. The first woman is sent sprawling onto the floor, and the two are separated by others in a long line, all waiting to enter a public hearing about a proposed private prison slotted for an abandoned industrial dump in wooded area on the outskirts of Ward Eight, the poorest ward in our nation’s capital city.²⁶ The Corrections Corporation of America, the company proposing to build the prison, already runs a private prison in Ohio that holds many District inmates.

The small meeting room quickly fills to standing-room only, and people begin waving signs and shouting at each other. On one side of the room is a small group of people, mostly women relatives of prisoners, there to support a local prison; on the other side is a much larger group of residents and local business members, opposed to the prison. At first the chants and shouts are direct:

Keep them home! We are family! Don’t send them away!
No prison gates in Ward Eight! We don’t need it, we don’t want it!

Someone hands out t-shirts emblazoned with “KEEP THEM HOME,” and most of the people in the family group put on the t-shirts, some a little hesitantly. The calls opposing

the prison become heated. “Move the trash out of DC!” shouts one man, and it is clear that he is not talking about industrial waste.

If your man had stayed home, he wouldn't be locked up now!
Thugs not wanted!

The small room is not made to hold this many people, and those packed into it begin to wipe their brows as the heat and humidity rise. A rumor circulates that the woman leading the prison family group is on the payroll of the company that wants to build the prison; another rumor goes around that the t-shirts were paid for and the families “bought and brought” with money and busses by the private corrections company. A new chant goes up:

Prison pimps go home!
Say no to prison ho's!

As the phrases are taken up as a chant, the families grow silent; some on both sides of the room begin to look very angry. A local council member announces that the meeting has been cancelled for security reasons and will be rescheduled. Sweaty and worked up, a hundred or so people, most of them neighbors, begin to file into the street and go home.

* * *

This strange public demonstration took place early in my fieldwork, and provided a striking introduction to both local city politics and the increasingly complex politics of

²⁶ Ward Eight is located in the southern corner of the District.

incarceration. It was followed by five public hearings,²⁷ the last two of which were open for comments from the general public. But even at the first hearing, the divergent perspectives within the community were quite clear.

The proposal that the Corrections Corporation of America (CCA) was presenting seemed, at least on the surface, to be an easy sell. Ward Eight was a community with the highest unemployment rate in the District, one where many families of prisoners lived. A large new correctional facility would not only provide hundreds of well-paying, recession-proof jobs to local residents, but it would keep prisoners closer to home, where family, counselors, and clergy could help with their rehabilitation. The proposed prison was to be state-of-the-art, including a host of educational and job-training programs for inmates — in fact, the proposed programs were so extensive that some residents complained that they were “better than what we get out here,”²⁸ and CCA promptly added community scholarships and neighborhood job-training programs to the proposed package. To top it off, CCA noted, there were plenty of other communities around the country that would be happy to have the facility if the residents of Ward Eight refused it.

This was the point that the former mayor, Marion Barry, made in his testimony at the hearings:

²⁷ There were five subsequent Zoning Commission hearings. See Zoning Commission Hearings In the Matter of: Consolidated PUD and Related Map Amendment at Oxon Cove — D.C. Correctional Facility, Case No. 98-16C, November 16th, 1998, November 19th, 1998, May 17th, 1999, May 24th, 1999, and May 27th, 1999 (hereinafter “November 16th Hearing,” “November 19th Hearing,” “May 17th Hearing,” “May 24th Hearing,” and “May 27th Hearing.”).

²⁸ Rebecca Charry, *Job Training Programs Come to Ward Eight — But You’ll Have to Go To Prison to Get It*, THE COMMON DENOMINATOR November 19, 1998, at A2.

Other states are trying to get the District to send their prisoners to their states so that jobs can be maintained in those states. In fact, in Youngstown, the Congressman there wants an addition of 2,500 beds built because the economics of 450 jobs. And Ward Eight has the highest unemployment rate of any in the city: some thirteen percent among adults, and some sixty percent among teenagers. We need these jobs in Ward Eight.²⁹

Despite the chanting and cat calls from the first meeting, a few family members also returned to testify for the proposal when public comment was finally allowed six months later. One mother spoke, generalizing from her concern about her own child to that of all the “wayward children” in prison:

I am here today to pledge my strong support for the proposed correctional rehabilitation facility in Ward Eight. I was brought up to believe that we are responsible for every child, and that we are mothers and fathers to every one of them. We cannot toss our children aside when they are sick and in need of help. If we do not help them, then who will? Are we so insensitive as a society that we do not care about our children and their cries for help? Let us work together and make a productive people of our children and help those who need help the most. God said, “When you help the least of my people, you help me.” Let me leave you with this final thought. What if it was your child? What type of help would you want to offer your child? I happen to know first hand. And I earnestly believe, that I would want to have available the assistance that this proposed correctional facility has to offer. What about you?³⁰

Her comments touched not only on the feelings that many families of prisoners have about the lack of rehabilitation programs in most correctional settings, but also on the responsibility of the community to take care of its own.

Over the course of the five hearings, however, it became clear that the opposition to the prison was overwhelming. The current Mayor, Anthony Williams, the City

²⁹ Testimony of Marion Barry, May 24th Hearing, *supra* note 27. It should be noted that inmates are excluded from unemployment rates.

Council, and the local Area Neighborhood Commissions all voiced strong opposition to the project,³¹ as did the major and minor papers and nearly all the citizens' organizations in the District.³² If the proposed prison would provide Ward Eight with valuable economic opportunity and an increased chance of rehabilitation for local residents involved in the criminal justice system, why were so many people opposed to it?

Symbolic Politics

Opponents cited a variety of complaints, but a central theme that ran through the most poignant and persuasive arguments was that the prison was, for this community in particular, an indignity. As the Reverend Dennis Wiley argued at the final hearing, "Even the thought of placing such a complex in our community is but another indication of the low regard in which the citizens of this Ward are held."

Building this facility in Ward Eight is not only unwise, it is wrong. In fact, Ward Eight ought to be the last place that anyone would think of building a prison. Why? Because the people of Ward Eight and especially the young people have for too long been stereotyped as residents of the most dysfunctional, pathological and undesirable section of the city. Already this Ward has more than its share of programs, projects, institutions and facilities that no other Ward wants. Already the negative image that is constantly projected onto this Ward has taken its toll in broken dreams,

³⁰ Testimony of Naomie K. Martin, May 24th Hearing, *supra* note 27.

³¹ Testimony of Eugene Kinlow, May 24th Hearing, *supra* note 27 ("The second document lists those groups and organizations that are opposed to a prison at the Oxon Cove location and it starts off, it's broken out in sections. The first section are letters from the economic development organizations that operate in Ward Eight including the Anacostia Economic Development Corporation, the East of the River Development Corporation and the Far Southwest Southeast Community Development Corporation. The second part indicates those officials, elected officials in Washington, D.C. who are opposed to a prison, including Mayor Anthony Williams; our Council Member on Ward Eight, Sandy Allen; Council Member David Cattania, Howard Brazil, Phil Mendelssohn, Kevin Chavez, etcetera. So it lists all the groups, coalitions, Maryland government officials, coalitions of associations and federations, political parties and entities and others, including churches and so on.")

³² The exception was the citizens' group organized with the express purpose of supporting the proposal.

lowered self-esteem, frustrated ambitions, misdirected lives and untimely deaths. The burden, the shame, the indignity and the despair of trying to be somebody when everybody keeps telling you that you're nobody is often more than the human spirit can overcome. What I am saying is that the people of Ward Eight need hope. And at this critical juncture on the eve of the twenty-first century, any major facility that is built in that Ward ought to be a symbol of that hope. And I am sorry no matter how you try to package it, no matter how you try to camouflage it, no matter how you try to fix it up and make it look attractive, a prison is not a symbol of hope.³³

This concern was echoed in the testimony of David Pair, a member of a local youth advocacy organization, who suggested that those families of inmates who were supporting the proposed prison, far from advancing the welfare of their loved ones, were inadvertently supporting their demise and those of others in the community.³⁴

There are many people who support locating a prison in Southeast because it helps keep families closer, however this statement seems to say that people who reside in Ward Eight are the only perpetrators of crimes that occur in the District. [...] I can say that most of the young people, males anyway, will install in their mind that yes, yes they've built a prison over here because of that. And all this, I feel as though it will be a bullet shot into minds of the young black males.³⁵

But residents were not simply concerned with the potentially demoralizing effect of a prison on residents in Southeast Washington. As the Reverend Wiley's and Mr. Pair's arguments made clear, Ward Eight residents were also keenly aware of the perceptions others had of their community. This sensitivity to how the prison would color the perceptions of those who lived elsewhere was apparent when Damion Cain, a youth living in Southeast, argued that the construction of a prison in Ward eight would

³³ Testimony of Reverend Dennis Wiley, May 27th Hearing, *supra* note 27.

³⁴ Covenant House of Washington Youth Congress. As Mr. Pair described it, "Youth Congress is a youth advocacy program located in Southeast Washington. We strive to work together to make positive and sustaining changes in our community."

“perpetuate [the] negative images that those outside of Southeast, D.C. have branded in their minds.” The prison, he argued, would simply reinforce the preconceptions that people outside of Southeast had about the community:

Because I usually go to Northeast and Northwest and [when someone asks] “Where are you from?” And I’m like, “Oh, Southeast, D.C.” [They respond:] “Oh yeah, that’s where the thugs at.” “That’s where the drugs at.” “That’s where everything at.” You know, “It’s hot around there.” And stuff like that. That’s what I hear. I hear it everywhere. [...] How do I feel about the prison? Well, I feel that it shouldn’t be there. It’s a negative image because Southeast, D.C. is already labeled as a prison, by the crime and all the drugs and the trades going on in Southeast. They are just looking at the surface of our community and not looking in the heart of the community to see what’s good.³⁶

As another resident of Southeast argued “Construction of a correctional facility in Ward Eight could lead to create negative images that other communities outside of Southeast D.C. have branded in their minds.”

The implications of these negative perceptions were brought home by one long-time community activist, Robin Ijames. Voicing strong opposition, Ijames described how, after “the former Administration overlooked our distressed community for the designated Empowerment Zones and Enterprise Communities’ benefits,” residents of Ward Eight started their own “first-time home-buyers project” and a “first-time entrepreneurs project,” but struggled to find investors “due to the fact that it’s a redlined area.”³⁷ By denying mortgages and insurance to poor and minority residents in “risky”

³⁵ Testimony of David Pair, May 27th Hearing, *supra* note 27.

³⁶ Testimony of Damion Cain, May 27th Hearing, *supra* note 27.

³⁷ The District of Columbia property insurers are allowed to practice geographic discrimination and insurance redlining. *See Fireman’s Insurance Co. of Washington, D.C. v. Washington*, 483 F.2d 1323 (D.C.

neighborhoods, financial institutions that practice redlining severely restrict that ability of businesses and homeowners to invest in local properties, making the rehabilitation of inner-city neighborhoods difficult.³⁸ “I didn’t even know what redlining was until I moved to Ward Eight,”³⁹ Ijames continued. “but, investors and lenders are very leery of Southwest and Southeast deals.” Trying to “rise above the poverty and violence that has entrapped our community for many years,” would be all the more difficult with a prison coloring the way outsiders looked at the community as well. Ward Eight didn’t need a new prison, she argued, because her “distressed community” was already “a prison without walls.”⁴⁰

This is true literally as well as figuratively. A majority of the men between the ages of eighteen and thirty-five in Ward Eight are under some type of correctional supervision, most on probation or parole.⁴¹ Indeed, a large majority of the men in Ward Eight will spend time behind bars if current conditions persist.⁴² The different meanings of the proposed prison to different people at the hearing give us some sense of how moral and practical concerns can be turned against one another as disadvantaged communities struggle with the terms of their own estrangement.

Cir. 1973) (Affirming judgment holding invalid regulations prohibiting geographic discrimination as to basic property insurance).

³⁸ See The United States Conference of Mayors, *America’s Homeownership Gap: How Urban Redlining and Mortgage Lending Discrimination Penalize City Residents*, 1 (1998) (finding that “urban redlining has ruined and continues to ruin thousands of minority communities.”) <http://www.usmayors.org/uscm/news/press_releases/press_archive.asp?doc_id=98>.

³⁹ Redlining is the refusal of home mortgages or home insurance to applicants who live in neighborhoods deemed poor financial risks. Redlining is a significant obstacle to people who are attempting to rehabilitate a neighborhood because [cites and quotes on redlining.]

⁴⁰ Testimony of Robin Ijames, May 24th Hearing, *supra* note 27.

⁴¹ See LOTKE, *supra* note 1.

While none of the families in this study testified at the hearing, they had opinions on both sides of the issue. The same legitimate and conflicting concerns could have turned them against their neighbors, or their neighbors against them. The struggle of two women in the corridor of the District's municipal building is symbolic of the struggle of people in the District and across the nation as they grapple with poverty, crime, incarceration, and competing understandings of what has gone wrong and who is to blame.

⁴² See *infra* note 81 and accompanying text.

CHAPTER TWO: WHAT WENT WRONG?

Londa lives in the center of Washington, DC in a thirty-year-old housing project.⁴³ When I first meet her, she has trouble opening the door because her leg is in a cast and her crutches get in the way. Once I'm inside her house, surrounded by the debris of family life — toys, a few empty kid-sized boxes of juice, dishes on the table from a lunch just finished, bottles and baby blankets strewn over the couch — she is apologetic for the mess. “But,” as she tells me, “I’ve got three kids, a broken leg, and a husband who’s locked up.” She has been struggling against her husband’s crack addiction and struggling to keep her family together for fifteen years. Gesturing around her, she tells me, “I don’t want to end up like everyone else. I guess I’m halfway there. But my kids need a father. I look around here and none of these kids have fathers. It’s a mess what’s happened.”⁴⁴

What, exactly, has happened? Not just to Londa’s family, but to families and communities like hers across America? How did we get here?

A Brief History

The District is, in many ways, a city that has shown all the promise and suffered all the defeats of urban America. During the first half of the twentieth century, freed slaves flocked to a city that had neither the infrastructure nor the political interest in managing the influx. By 1950, hidden from visitors “behind the marble mask” of

⁴³ For further discussion of Londa’s case, see *infra* notes 218 and accompanying text.

⁴⁴ Interview with Londa (Jun. 7, 1998).

monuments and museums,⁴⁵ most African Americans lived in aging and decrepit ghettos, forced by slumlords and segregation to pay exorbitant prices so they could remain close to sources of employment.⁴⁶ As conditions became more crowded and unsanitary, a number of aborted attempts at reform were launched to address the very real — but also highly racialized — problem of ghettos in the nation’s capital.⁴⁷ By mid-century, the neighborhoods of Southwest, Foggy Bottom, and what would eventually be called “Shaw” had become crowded black communities, small towns within a city.⁴⁸

Many who grew up in “the Alleys,” as these neighborhoods were known, recall the 1940s and 50s with mixed emotions. “You almost had to be close to survive. Nobody had anything. We didn’t lock doors, nobody locked a door. There wasn’t anything to steal.”⁴⁹ Despite the impoverished conditions, however, most remember the alleys as rich with social support. “It was hard to go hungry, because everyone would feed you, take anybody’s child and feed them.”⁵⁰ “In that awful place where I lived there was so much love and affection — not just in my house but in all of southwest. We had a real community.”⁵¹ The inhabitants, while unhappy with poor housing and unresponsive landlords, had developed a powerful sense of community. Many had parents and

⁴⁵ GODFREY FRANKEL AND LAURA GOLDSTEIN, *IN THE ALLEYS* 89 (1995).

⁴⁶ See JAMES BORCHERT, *ALLEY LIFE IN WASHINGTON, FAMILY COMMUNITY, RELIGION, AND FOLKLIFE IN THE CITY, 1850-1970*, at 182-183 (1980) (describing impact of high rents on quality of life & mortality.).

⁴⁷ See *id.* at 190-193.

⁴⁸ “Black communities” is, admittedly, a gloss. See FRANKEL & GOLDSTEIN, *supra* note 45 at 47 (“It was still a segregated city, but believe it or not, there was mixed housing you could have half a block that was white from one section up to the end, and the next section would be black from one end to the other.”). While some neighborhoods were mixed, the vast majority were two-thirds majority black or white. BORCHERT, *supra* at 44.

⁴⁹ Medell E. Ford, *quoted in* FRANKEL & GOLDSTEIN, *supra* note 45, at 51.

⁵⁰ *Id.* at 58.

grandparents who were ex-slaves and had brought with them the extended networks of kin that have been described in numerous accounts of plantation life.⁵²

The 1950s brought urban “redevelopment,” in which the ghetto communities of Southwest were demolished, effecting the mass eviction of blacks from the heart of the capital.⁵³ The 1950s were also the decade during which Americans, drawn by billions of dollars in federal housing incentives, began to flee the city for the suburbs. But while the rise of the American suburbs was financed with subsidized mortgages and tax write-offs paid for by all, they were granted only to a particular segment of the population, as “the Federal Housing Authority [did not] approve mortgage funds for integrated communities,

⁵¹ Hilton O. Overton Jr., *quoted in* FRANKEL & GOLDSTIEN, *supra* note 45, at 49.

⁵² As James Borchert has noted:

While its forms varied considerably, the alley family facilitated individuals’ survival in difficult conditions. Many alley families which appeared to be nuclear, based on census records, were in fact extended, with relatives either sharing the house or living in the same alley. Considerable evidence suggests the continuing strength of the extended family and kinship network; members performed functions ranging from child-rearing, socialization, and socializing to extending considerable support in times of trouble. Rather than representing a divisive element in the family, boarders were, instead, incorporated to expand the family’s network for support in difficult times. These extended-augmented family networks represented adjustments to a new environment, displaying continuity with the slave and post-Civil War rural experience as well as with the larger ghetto experience of more recent years.

JAMES BORCHERT, *ALLEY LIFE IN WASHINGTON, FAMILY COMMUNITY, RELIGION, AND FOLKLIFE IN THE CITY, 1850-1970*, at 219-220 (1980). *See, also, generally*, Eugene D. Genovese, *Roll Jordan Roll* (1974); and HERBERT G. GUTMAN, *THE BLACK FAMILY IN SLAVERY AND FREEDOM, 1750-1925* (1976).

⁵³ As one woman, still angry over the destruction of her childhood neighborhood told me:

It was neighbor-neighbor. You didn’t even have to lock your doors and if your mother — my grandmother raised me — when my grandmother went to work the neighbor watched me. But when they torn Southwest down, they destroyed them. I mean and it was never the same. [They told us] “It’s going to escalate in value and this and that, and you can come back.” But once they got the people out, they never got back. I moved to southeast. Far southeast. [...] They’re smothering you. You know. Like downtown Washington. It’s no shopping area. As a child I remember going up 7th Street. It was all kind of 5 and dimes and you know. And we don’t have that in the District. Everything is malls. And once they smother you in you have to go. Southwest is horrible. It’s a horrible place. And then they built a one little project there in the middle. And they built all around it. And they had the nerve to say they should not of put those people there! Well they were there first. They were there first!

Interview with Dolores, (Jul. 27, 2000).

or mortgages for female headed households.”⁵⁴ The “dream houses” that became the American standard of middle-class arrival for many families also fostered the racial balkanization of post-war urban and suburban communities, drawing two-parent families, particularly white families, out of the District.

As whites began a mass exodus from the District, black in-migration accelerated. Between 1950 and 1970, more than half of the white population of the District departed while, during the same period, the black population doubled.⁵⁵ To help new suburban workers access the capital city, plans for highways that were developed in the 1950s came to life in the 1960s, again displacing thousands of residents, mostly in black neighborhoods.⁵⁶ Public protests over the new highways for suburbanites and lack of mass transit for local residents were regular features of Washington’s political life in the late 1960s. As debate over the new highways reached its peak in 1968, Martin Luther King Jr. was shot and killed, and rioting shook the District. Over seven thousand people were arrested, more than twelve hundred buildings burned, and property damage exceeded twenty four million dollars.⁵⁷ As in Watts in 1965 and Detroit in 1967, most of the damage was in poor and majority black neighborhoods.⁵⁸

⁵⁴ DOLORES HAYDEN, *THE GRAND DOMESTIC REVOLUTION* 7 (1981). *See, also*, DOLORES HAYDEN, *REDESIGNING THE AMERICAN DREAM* (1984), KENNETH JACKSON, *CRABGRASS FRONTIER: THE SUBURBANIZATION OF THE UNITED STATES* (1985); and MARK BALDASSARE, *TROUBLE IN PARADISE: THE SUBURBAN TRANSFORMATION IN AMERICA* (1986).

⁵⁵ *See infra* note 61 and accompanying figure.

⁵⁶ Early plans to run freeways through white neighborhoods were quickly quashed in Congress. *See* HOWARD GILLETTE, JR., *BETWEEN JUSTICE AND BEAUTY* 165 (1995) (“Formidable opposition, much of it from members of Congress whose own homes were threatened, managed to kill the proposed Wisconsin Avenue Interstate in affluent Northwest Washington....”)

⁵⁷ *Id.* at 169.

⁵⁸ *Id.*

By 1970, the problems that Jane Jacobs described so vividly a decade prior had come to full flower in the District and across America:

Low-income projects that become worse centers of delinquency, vandalism and general social hopelessness than the slums they were supposed to replace. Middle-income housing projects which are truly marvels of dullness and regimentation, sealed against any buoyancy or vitality of city life. Luxury housing projects which mitigate their inanity, or try to, with a vapid vulgarity. Cultural centers that are unable to support a good bookstore. Civic centers that are avoided by everyone but bums, who have fewer choices of loitering place than others. Commercial centers that are lack-luster imitations of standardized suburban chain-store shopping. Promenades that go from no place to nowhere and have no promenaders. Expressways that eviscerate great cities. This is not the rebuilding of cities. This is the sacking of cities [...] To house people in this planned fashion, price tags are fastened on the population, and each sorted-out chunk of price-tagged populace lives in growing suspicion and tension against the surrounding city.⁵⁹

Sliced into the haves and have-nots by highways and devastated by “redevelopment” projects, the District remained symbolically as much if not more segregated by race and class in post-segregation America than it had during legal segregation itself.

By the time that Richard Nixon was describing the District as the “crime capital of the United States” in his 1968 campaign, popular perception saw in the District another of America’s fallen urban centers. During the 1970s and 80s, whites continued to flee the District to the suburbs of Virginia as they had during the previous decades, but

⁵⁹ JANE JACOBS, *THE DEATH AND LIFE OF GREAT AMERICAN CITIES* 4 (1961).

they were now joined by middle class blacks who would seek the refuge of suburbs in Maryland and their familial homelands in the rural south.⁶⁰

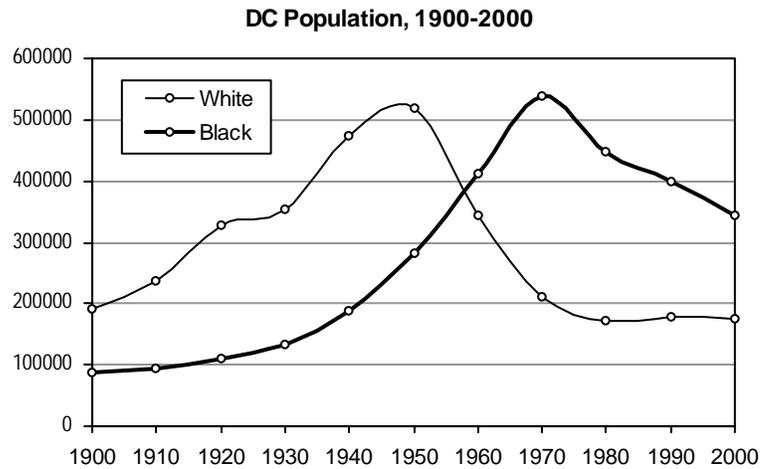


Figure 1: Shifting Population in the District⁶¹

The exodus of the black and white middle class, combined with urban renewal that destroyed longstanding communities and highways that separated Washington's poorest communities of the District from downtown, made for hard times for those who remained in those neighborhoods. While the number of jobs grew with the aggressive development of the downtown area, the job base for those living in local neighborhoods actually shrank, as positions were increasingly filled by those living outside of the

⁶⁰ Carol Stack has described the national trend of which this black urban out-migration was a part. She notes that while the conditions for blacks outside of urban America were not necessarily places with better job opportunities,

the resolve to return home is not primarily an economic decision but rather a powerful blend of motives; bad times back home can pull as well as push. People feel an obligation to help their kin or even a sense of mission to redeem a lost community...or simply a breathing space, a refuge from the maelstrom.

Stack, xv.

⁶¹ US Census Data, 1950-2000.

District.⁶² The jobs that were available to District residents were nearly inaccessible to the population living in areas that mass transit did not reach — again, mostly poor, mostly black neighborhoods.⁶³

As if inner-city families in the District didn't have it hard enough, the 1960s, 70s, and 80s also saw major federal cutbacks in programs benefiting parents — particularly married parents — with dependent children. There was a steady real-dollar decline in the federal per-dependent tax exemption, an exemption that would be worth well over \$6,000 per child today, adjusting for inflation.⁶⁴ This accompanied dramatic reductions in “tax-splitting” benefits for married couples, significantly reducing the after-tax income available to families.⁶⁵ Added to this was the steady increase of the payroll tax — the most regressive regular tax on the income of working families. As two prominent commentators recently described: “1963 to 1985 was a period when tax policy turned fiercely against families with children.”⁶⁶ Because low-income families could afford these changes the least, and because these families were concentrated in inner-cities, the reversal of family-friendly policies of the 1950s was an especially difficult blow to those struggling to get by in Washington.

⁶² GILLETTE, *supra* note 56 at 198.

⁶³ The District's subway did not reach Shaw or Southeast Washington until 1991. WASHINGTON METROPOLITAN AREA METRO AUTHORITY, CAPSULE HISTORY OF WMATA 5-6 (2002).

⁶⁴ See SYLVIA ANN HEWLETT AND CORNELL WEST, *THE WAR AGAINST PARENTS* 98-99 (1998) (Describing “a uniform \$600 exception per dependent person” in the late 1940s, “which would be worth \$6500 in 1996 dollars.”). Both President's Kennedy and Nixon failed to include increases in the deduction to account for inflation. See *Id.* at 103.

⁶⁵ See *Id.* at 103. (“Richard Nixon's tax reform package of 1969 [limited] the gains from income splitting to 20 percent of total income.”)

⁶⁶ *Id.* at 104.

As Republicans pushed for tax-cuts for the wealthy homeowners at the expense of the low income families, Democrats pushed for the expansion of benefits for poor single parents.⁶⁷ One of the undeniable and largely unanticipated effects of welfare policies (particularly ADC and AFDC) was that poor women with children who chose to marry were punished with benefit reductions. As the average income for the bottom quarter of wage-earning men in the District and across the nation declined significantly, the cumulative economic pressures to avoid marriage grew.⁶⁸ Indeed, given all the factors working against low-income urban families, it is surprising how many families remained intact.

Who is to blame? Was it liberals who, intent on giving women choices other than sometimes-abusive marriages, offered direct aid to poor single women with children? Was it conservatives who, intent on trimming government, forgot that the families of the 1950s were heavily underwritten by expensive federal programs? In hindsight, the liberal emphasis on personal freedom and choice and conservative emphasis on free markets seem oddly compatible, as both contributed to the steady erosion of programs benefiting poor families and the introduction of programs benefiting single Americans, suburban Americans, wealthy Americans — everyone but them. For the most part, both liberals

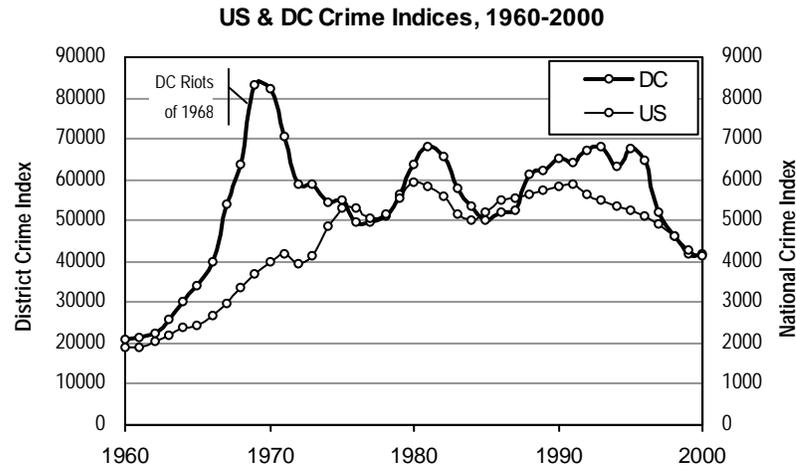
⁶⁷ Democrats from Kennedy to Clinton have also embraced similar tax cuts, though to a lesser extent. *See Id.* at 103 & 109 (“Direct dismantling [of the pro-family tax code] began mildly enough with Kennedy’s 1963 tax cut. Kennedy’s tax bill instituted a new minimum standard deduction that paid no attention to the presence or absence of children.” “In the summer of 1996, President Clinton, in a preelection bid for the support of affluent voters, all but eliminated capital gains taxes on the sale of expensive homes.”).

⁶⁸ There is considerable debate over whether men’s wages have been falling overall, after adjusting for inflation. *See* John M. Berry, *BLS to Test Experimental CPI*, WASH. POST, April 11, 1997, at G03. There is no debate, however, over the fact that during the 1970s, 80s, and 90s, while the top quarter of wage earners saw their pay increase, the bottom quarter of wage earners saw their pay drop off considerably.

and conservatives also supported the reforms that injured or removed families from cities like Washington. From redevelopment and highway construction to tax restructuring and housing incentives to the regulation of direct benefits, liberals and conservatives alike have waged an unwitting war on families in our inner-cities.

The Rise of Incarceration

If the playing field was tilted against families living in America's inner-cities, those outside of its neighborhoods showed little recognition of the impact of diminishing opportunities. Most, including Congressional representatives from around the nation, appeared blithely unaware of the consequences of redevelopment, highway construction, exclusionary housing policies, or the contracting economic prospects of those without access to transportation. Instead, they saw minorities moving into the capital, property values going down, businesses pulling out, and, perhaps most symbolically, crime on the rise.



*Figure 2: Crime in the District & the Nation*⁶⁹

In addition to the geographic and economic issues described above, there were demographic influences on crime as well. During the 1960s and early 70s, in what many experts describe as one of the greatest influences on crime rates over the last century, the boys of the Baby Boom generation entered what are typically the most criminally active years of any generation, between age seventeen and thirty five.⁷⁰ While, in retrospect, it seem unsurprising that crime would also increase, liberal and conservative policy makers

⁶⁹ Crime Index, FBI, Uniform Crime Reports, 1960-2000. Note that the index only counts victimization rates. Crimes defined as “victimless,” generally drug possession and distribution, are not counted. Aside from the years leading up to and following the riots in 1968, the crime rate in the District has roughly tracked that of the nation as a whole; however, because crime rates are generally higher in larger cities and areas with denser populations, DC has a crime rate lower than that of larger metropolitan areas like New York City, but higher than most states (with which it is often erroneously compared).

⁷⁰ See Alfred Blumstein & Allen J. Beck, *Population Growth in U.S. Prisons, 1980-1996*, 26 CRIME & JUST. 17, at 28 (1999). See also Sandra Evans Skovron, *Prison Crowding: The Dimensions of the Problem and Strategies of Population Control*, in *Controversial Issues in CRIME AND JUSTICE* 183 (Joseph E. Scott & Travis Hirschi eds., 1988) (arguing that, due to demographic shifts, the “baby-boom” generation reached an age bracket more likely to commit crimes at that time.)

alike were caught off-guard by the dramatic rise in crime rates in urban areas across the nation and in the nation's capital.⁷¹

American frustration with the seeming intractability of the crime issue over the last thirty years is borne out by public opinion research. With polls consistently showing that over seventy percent of Americans feel courts do not treat offenders "harshly enough,"⁷² it is little wonder that politicians almost unanimously supported measures forcing the judiciary to increase criminal penalties — and the one sanction that the left and right could agree on was incarceration.⁷³ In the District, as in jurisdictions across the nation, the movement towards longer and more rigidly determined sentences was encouraged by a series of federal programs offering billions of dollars in federal aid during the last two decades:

1984 Comprehensive Crime Act & Sentencing Reform Act

Established mandatory minimum sentences for some federal drug offenders; abolished parole for all federal offenders; and required federal judges to use new sentencing guidelines.⁷⁴

1986 Anti-Drug Abuse Act

Established mandatory minimums for all federal drug offenders and transferred sentencing power from federal judges to prosecutors. Provided \$1.7 billion to states for new prison construction.⁷⁵

⁷¹ Richard Nixon effectively capitalized on the unexpected rise of crime, attributing it to Democratic failings, and "conjur[ing] up the image of Washington as the 'crime capital of the world.'" See GILLETTE, JR., *supra* note 46 at 182.

⁷² GSS, 1975-2000.

⁷³ For an insightful explanation of why they agree, see, generally, Dan M. Kahan, *What do Alternative Sanctions Mean?*, 63 U. CHI. L. REV. 591 (1996).

⁷⁴ Comprehensive Crime Control Act of 1984, Pub. L. No. 98-473, 98 Stat. 1837 (1987) (codified as amended in scattered sections of 18 U.S.C. and 28 U.S.C.). (federal guidelines restricted the ability of judges to reduce sentences and provided model sentencing code for state and local jurisdictions).

⁷⁵ Anti-Drug Abuse Act of 1986, Pub. L. No. 99-570, 100 Stat. 3207 (1989) (codified as amended in scattered sections of 16, 19, 20, 21 & 48 U.S.C.).

1988 *Omnibus Anti-Drug Abuse Act*

Established mandatory minimums of five years for possession of five grams of crack cocaine and twenty years for continuing criminal enterprises, and broadly expanded conspiracy.⁷⁶

1994 *Violent Crime Control and Law Enforcement Act*

Twenty laws including mandatory sentencing and lengthened minimum sentences for drug offenses.⁷⁷

1996 *Violent Offender Incarceration / Truth in Sentencing Act*

Amending the 1994 Violent Crime Act, encouraged States to adopt federal sentencing guidelines with over 9 billion dollars in incentives for adopting new sentencing guidelines.⁷⁸

The District, just ahead of many other jurisdictions, began to implement mandatory minimum sentencing in the early 1980s for violent offenders, drug offenders, and, more recently, repeat offenders;⁷⁹ most recently, in response to VOI/TIS funding opportunities, the District has also adopted both determinate and “truth in sentencing” measures.⁸⁰

Each of these reforms significantly increased the minimum criminal penalties that offenders faced, so that judges in the District’s Superior Court had little discretion in sentencing those committing relatively minor drug offenses. As one attorney recounted, “First time distribution was twenty months to five years, third time distribution is a

⁷⁶ Omnibus Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, 102 Stat. 4181 (codified as amended at 28 U.S.C. ch. 13 (1988)) (The mandatory minimum for possession of crack cocaine is viewed by many as having targeted black populations. See KENNEDY, *infra* note 12 at 364-386 (describing the debate).)

⁷⁷ Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, 320935(a), 108 Stat. 1796, 2136-37.

⁷⁸ Violent Offender Incarceration / Truth in Sentencing Act 42 U.S.C. §§ 13701-13712 (2000) (providing appropriations of over \$997 million in authorized appropriations to eligible states for the 1996 fiscal year and providing for these amounts to increase yearly until 2000. For the 1997 fiscal year, over \$1.3 billion were made available to states. In 1998, that amount increased to over \$2.5 billion. In the 1999 fiscal year over \$2.6 billion were available. In year 2000, over \$2.75 billion were made available to states to subsidize the incarceration of violent offenders to facilitate a greater amount of prison time actually served.)

⁷⁹ See Laura A. Kiernan and Al Kamen, *Crimes Involving Guns, Drug Sales; Mandatory Sentence Proposal Strongly Backed in D.C. Vote*, WASH. POST, September 15, 1982, at A15 (“District voters yesterday gave overwhelming approval to a proposal requiring mandatory minimum prison terms for most crimes involving guns and for certain drug offenses.”).

mandatory seven to twenty-one sentence — people were just getting slammed for selling small amounts of crack on the street corner and doing huge amounts of time, so the population just went through the roof.”⁸¹ Incarceration rates from those years bear him out.

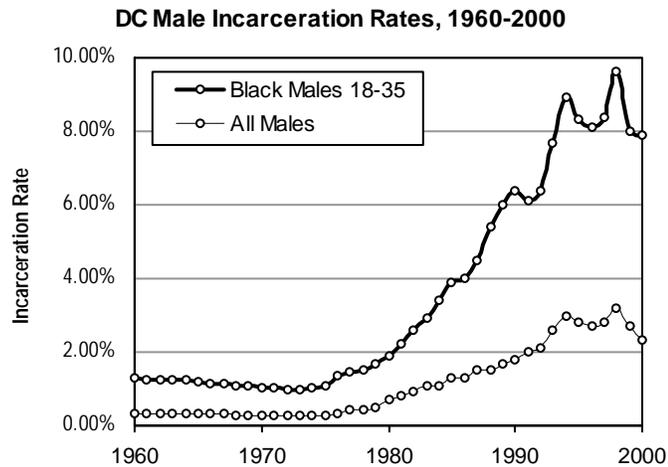


Figure 3: Race and Incarceration in the District

As a result, incarceration today no longer affects only a small portion of families in low-income neighborhoods in the District; incarceration has expanded to touch a sizeable majority of such families and a surprising number of middle class and suburban families

⁸⁰ See Neely Tucker, *New Sentencing Rules Take Effect in District; Set Terms Mandated; Parole Eliminated*, WASH. POST, August 6, 2000, at C01.

⁸¹ Interview with Jonathan Smith (Aug. 6, 1999). Crime Index, FBI, Uniform Crime Reports, 1960-2000. Note that the index only counts victimization rates. So-called “victimless” crimes, generally drug possession and distribution, not counted. Aside from the years leading up to and following the riots, the crime rate in the District has roughly tracked that of the nation as a whole; however, because crime rates are generally higher in larger cities and areas with denser populations, DC has a crime rate lower than that of larger metropolitan areas like New York City, but higher than most states (with which it is often erroneously compared).

as well. Estimates of lifetime expectancy of incarceration among male resident of the District are quite high.⁸²

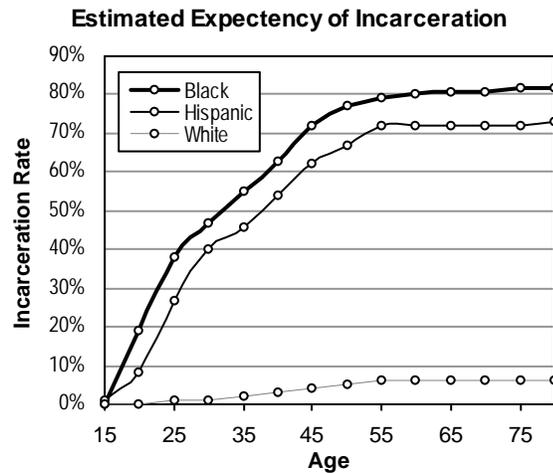


Figure 4: Lifetime Likelihood of Incarceration in the District

In fact, if conditions remain as they are today, nearly every boy growing up in the poorest neighborhoods of the District can expect to be incarcerated at some point in his life.

⁸² Estimates based on District of Columbia Department of Corrections Statistics and year 2000 US Census data. Estimate assumes stable incarceration rates by age cohort and no in- or out-migration.

CHAPTER THREE: SOCIAL ECONOMIES AND SOCIAL COSTS

NETWORKS OF RECIPROCITY AND THEIR CURTAILMENT

Talking to families of prisoners about how their lives have changed as a family member enters or returns from prison, I found that incarceration often injures other family members as much as, and sometimes more than, the offenders themselves. Incarceration, at least as it is currently practiced, is socially damaging because it erodes modes of exchange and reciprocity that are fundamental to family and community well-being. It does this not only by physically removing individuals from the networks of exchange in which they are involved but also by restraining them from returning the assistance, gifts, and concern that others show them. These social effects of incarceration ripple outward from the initial failings of reciprocity in ways that significantly impact other families in communities from which prisoners herald. And, because these families and communities are generally those with the fewest resources, the extended consequences of incarceration can be devastating.

Arrested: Kenny's Family

Kenny and his two boys, Shabaka and Tyrone were living with his mother, Edwina, at the time of his arrest. He also has a daughter, Tasha, by a previous relationship who, just prior to his incarceration, had a child of her own and moved in with Kenny and his mother.

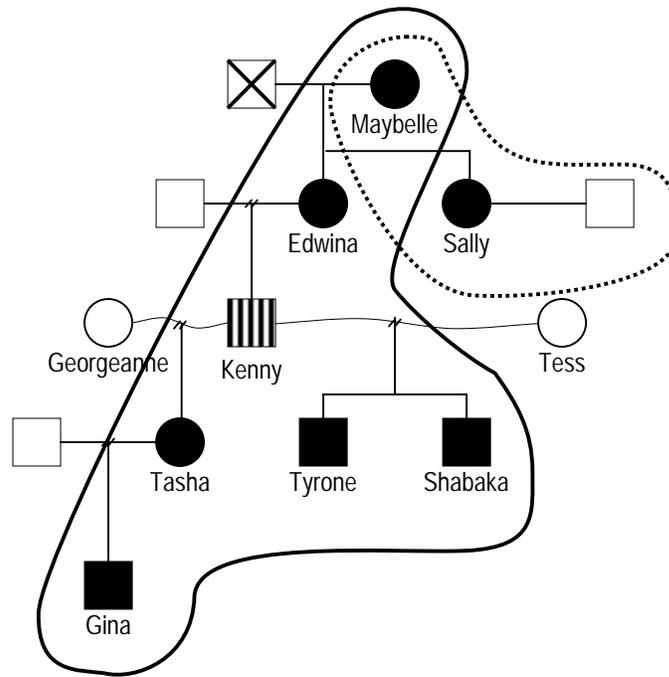
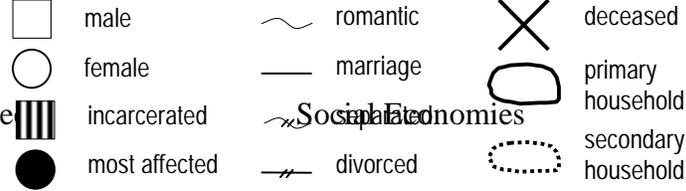


Figure 5: Kenny's Family

Prior to his incarceration, Kenny took care of his two sons because their mother, Rachel, was as Kenny put it, “in the drug life.” Now that he is incarcerated, Kenny’s mother takes care of the boys, although, given their mother’s drug problem and reputation as a go-go club partier,⁸³ Edwina doesn’t fully trust the claim that Kenny is the father of the two boys. “I wanted him to test himself to make sure those boys was his, but he did refuse, so I, well, he accepts them, I accepts them, you know.”⁸⁴ She brings the boys over

⁸³ When I asked what Rachel was using, Kenny told me, “mostly boat. That’s how it was back in the day — that was the DC thing — smoking love boat and dancing all night at the go-go club. It was a big DC thing.” Kenny, 12/20/01. “Love boat” (or “boat” or “lovely”) is marijuana laced with PCP and was prevalent in Washington during the 1970s and ‘80s. Go-go is a style of dance music distinctive to Washington. See Ta-Nehisi Coates, *Dropping The Bomb: An Oral History Of Go-Go*, WASHINGTON CITY PAPER, January 14-20, 2000.

⁸⁴ Interview with Edwina (Aug. 10, 2000).

to see their mother when they ask, but they've been asking less and less as her addiction has made her life and her living arrangements increasingly unpleasant. To give some indication of Rachel's state of mind, Kenny told me, "Let me put it this way, their mother no longer remembers their birthdays, and to a kid, that signifies."⁸⁵

Prior to his incarceration, Kenny had a job as a computer technician at the Washington Times that paid well, so he was able to help his mother with her expenses while she helped him to care for his children. His mother, who had worked as a data card programmer for the Army back in the 1960s, was happy that Kenny was involved "in the computer field." She had just retired and was receiving a pension, so the extra income helped to pay the mortgage, buy groceries, and cover whatever bills she had trouble with. But even when she was working and Kenny was between jobs, she liked having him and the boys around:

When he wasn't working, I didn't have to worry about those boys. He got them up, he fixed their breakfast, he washed their clothes, he'd see that they went to school. And like I tell people, "Y'all don't understand. Money is not everything. Sometimes it's what people do that means much more to you than giving you that money, because once you spend that money, you can't account for it." [...] He got his children up, he washed 'em, and not only that, you know, he would help around here in the house and clean the house.⁸⁶

Late in the summer, while Kenny was returning from a trip to the 7-11 near a relative's house in Southeast, a stranger came up to him and demanded a cigarette. When Kenny

⁸⁵ Interview with Kenny (Mar. 1, 2000).

⁸⁶ Interview with Edwina (Aug. 10, 2000).

declined, he was first verbally and then physically assaulted by the man.⁸⁷ Kenny had just recently begun carrying a knife with him on the advice of his father who thought the neighborhood was dangerous; he stabbed his assailant and, when the man collapsed, ran away. Kenny tried to put the incident out of his mind, but two days later, he was arrested and charged with murder; he had stabbed the man through the heart and killed him. A woman on the street who Kenny had talked to prior to the attack identified him as the killer.

For Kenny's family, the arrest was difficult. His mother, Edwina, recalled the arrest as among the worst experiences in her life:

When I got up here, they had handcuffed him, and he was wanting me to find him some shoes and some pants. He had on shorts, and he was telling me "Bring me a pair of jeans. Bring me a pair of jeans," and I couldn't find those jeans. They were waiting on me to bring a pair of jeans, so after I couldn't find no jeans, they just took him on out, you know [without his pants]. And that just, when they handcuffed him, that just does something to you.⁸⁸

⁸⁷ According to the only testimony and physical evidence presented at trial. Physical evidence also indicated that his assailant was probably using crack cocaine at the time of the incident.

⁸⁸ Interview with Edwina (Aug. 10, 2000). Police often arrest suspects at night or in the early morning, when they are likely to be home with their families. As a result, many are taken away with whatever they happen to have on, and in the summer this can be underwear or, in extreme cases, nothing at all. The shock combined with the image of one's naked or nearly-naked father or son lead away in handcuffs is particularly upsetting to family members who have experienced it. As one mother told me:

You know, the worst part about it was — and I still don't like it and every time I think about it, you know, it hurts me real bad — is that when they come and get my son that morning, it was my son, his girlfriend, and they had a small baby up there. They come in my son's bedroom and got my son, the police did this now, they go in my son's bedroom and get my son out, get my son out and he doesn't even have any clothes on at all. They was going to take him outside with no clothes on! His girlfriend got to raising things, "at least let him put some clothes on." [...] I wasn't here that day, but every time I think about that day, it really hurt me, that day. [...] In a way, I guess it's good I wasn't been here. Probably if I had of been here, probably I would be fighting them, or either I would have had a heart attack or something. [...] They called me and told me the police had came and got him, then when I got there they were describing to me and when they were

Familial Networks

One way to look at Kenny's predicament is that he killed a man in an argument over a cigarette and now he is paying the price for violating the law. This is fairly close to the standard legal model of "just deserts,"⁸⁹ and it is a way of telling his story that Kenny does not dispute. As he says

I broke the rules. You can't just go and do what I did. That's what I'm trying to tell my sons, now. I grew up thinking that if someone hit you, you hit back. But if you hit someone, that's assault. If you pick up a stick and hit someone with it, that's assault with a deadly weapon. Now I know the rules and I'm gonna make sure my boys know them, too. Follow the rules. Otherwise, you break the rules and you get put in jail — that's justice. [...] You may say you want justice, but justice is not what you think it is. Justice is what the law says it is.⁹⁰

Among offenders and their families, very few suggested otherwise. Many critiqued the criminal justice system as it operated or felt that their own case was exceptional for any number of reasons, but few actually challenged the of mainstream understanding of justice and punishment: society makes rules and individuals follow those rules; if they do not, they are punished.

Even so, that is not the whole story. Like most incarcerated men, Kenny is a father and, like most incarcerated fathers, an active family member.⁹¹ Because of this, the effects of his incarceration on his family extend far beyond his own predicament.

describing what they had did to me, you know, tears just started to roll down my face, the way they did it. I know, everybody does things wrong, but you're still a human being.

Interview with Betty (Jun. 29, 1998).

⁸⁹ See, e.g., GEORGE SHER, *DESERT* (1987).

⁹⁰ Interview with Kenny (Mar. 1, 2000).

⁹¹ Christopher J. Mumola, Bureau of Justice Statistics, Special Report, *Incarcerated Parents and Their Children 5* (2000) (estimates from 1999 prison survey indicate that 1,372,000 children have a father who

Kenny's case is typical in that he not only drew from, but also contributed to a number of familial resources. One of the distinctive characteristics of families is that members are often called upon to distribute their assistance and, if they have it, wealth. Now that Kenny was incarcerated, those who had once depended on him were finding it hard to get by.

At the time of Kenny's arrest, Edwina had just returned from visiting with family. She had retired that year and was planning to move back to Alabama where she grew up and where most of her relatives live. Edwina had been looking forward to her return for a number of reasons. Her primary consideration in relocating was her mother. "My mother's coming down with Alzheimer's, and that would be closer for me to help my sister care for her. [We take turns caring for her], and it's very confusing for her, because once she gets situated here [in DC], then it's time for her to go back [to Alabama]."⁹² Her mother was visiting and, when Kenny was arrested, they "were packing up to leave, right, until this happened."⁹³

Because they had lived frugally and had inexpensive housing, Kenny had been able to help pay the mortgage on his mother's house, and they had planned to sell it to finance her retirement. Kenny was also able to contribute to his niece's college education at Howard. Having lost one of their major providers, however, his family is finding it difficult to make ends meet without him. Without his help, his family is quickly losing

is incarcerated; a majority (667,900) of prisoners are fathers; and over sixty percent of incarcerated fathers have at least monthly contact with their children.).

⁹² Interview with Edwina (Nov. 13, 2001).

⁹³ Interview with Kenny (Mar. 1, 2000).

many of the practical and symbolic rewards earned by years of hard work, a fact that vexes Kenny a good deal.

They're trying to fix the house up to get it ready for sale, and things of that nature. It's slower now because I'm not there to do the work. So, you know, you have to try to find the income to do this or to do that. [...] Because by me being the only man — I'm from the South — and you know, you're the man, and you're supposed to take care of all the females, and there's just a lot of things around the house that goes wrong, and you need somebody there to take care of them. I fix the car, and I fix all the plumbing and, you know, and when nobody's there and nobody has finances to pay a outside person to come in and do that, it becomes a strain sometime when you have to find money to fix things.⁹⁴

Pulling out receipts from a recent trip to the mechanic, Edwina describes her shock at the cost; Kenny had always repaired her cars for her. "He used to work in an auto shop," his mother told me. "He definitely could have repaired that car for a lot less."⁹⁵ Kenny concurred: "It was a brake job, and that's just — I could get new calipers for about \$20 a piece and do it myself. It's a lot of things like that. They're trying to sell the house, so yard work, digging up trees, repairing the wall where they broke it, all that stuff you can't do while you are incarcerated."⁹⁶

Indeed, instead of selling her home and entering retirement, Edwina has found herself caring for Kenny's sons, assisting his daughter, and helping make up the part of her niece's tuition that Kenny used to provide. She hires a baby sitter when she has to, and the children's maternal grandmother helps out once in a while, but it has been

⁹⁴ *Id.*

⁹⁵ Interview with Edwina (Aug. 10, 2000).

⁹⁶ Interview with Kenny (Aug. 12, 2000).

disruptive and costly. To make ends meet, she has taken out a second mortgage on the home that was her nest egg for retirement.

“You just have to hope something will work out,” she says, “but it’s not easy.”⁹⁷ Adding to her difficulties, Edwina fell and injured her knee, and she has had a good deal of difficulty getting around as a result — something that makes caring for the boys especially hard. “It’s hard to keep after them, and I just can’t keep the place like I want to. That’s another reason I need Kenny back is that he did all that when he was here. I never had to keep on the boys because he would handle them.”⁹⁸

Finances were also an issue. “By me being retired, it wouldn’t be quite as expensive as it is here.”⁹⁹ She also looked forward to seeing all her family, “I’ve been away since ‘62, and I have got plenty of friends, but it’s not like family, especially when the holidays come, and you can’t spend holidays with your family.”¹⁰⁰ Edwina decided to stay in the area “until [Kenny] is out and situated,”¹⁰¹ since she now had the boys. While it would be far less expensive to care for them in Alabama, she thought they needed to be near their father.

While the financial costs of Kenny’s arrest and incarceration have been great for his family, the emotional costs have also been significant. Kenny’s greatest worry was for his sons. They were getting to be the age where he felt they most needed a father

⁹⁷ Interview with Edwina (Aug. 10, 2000).

⁹⁸ *Id.*

⁹⁹ Interview with Edwina (Nov. 13, 2001).

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

figure. Kenny had signed them up for basketball camp the year before and had been spending a lot of time with them.

The biggest problem is really the children, because they're used to me being there. [...] Sometimes they get mad because I'm not there. I can sort of sense they're getting a attitude when I talk to 'em on the telephone. [...] Usually, they're very well mannered, you know, and like, it's that they display this attitude, when they can't have their way, or something is out of the norm, then they show up for attention, and I can see it. My mother, now she does as well as she can but she's a grandmother to them, so she spoils 'em. They start to think they can just get away with things, you know, just skimping by on their homework or talking back.¹⁰²

It's not disciplinary problems that worry Kenny the most, though. The hardest moment for Kenny and his mother was when the Washington Post ran a story that appeared to suggest that Kenny had stabbed the victim because the man wouldn't give him a cigarette, effectively reversing the facts and making him out to be far more callous than his family knew him to be. While Kenny does not defend his actions, the story, he feared, would have repercussions for his boys.

That's what I worried most about, because people read that and the next thing you know, "your daddy's a murderer!" And when you're alone in your cell, that's what you think about. I cried a lot over that story, thinking how they will grow up and what it will do to them.¹⁰³

Kenny definitely does not fit the stereotype of the ruthless sociopath, disconnected from kin and community, that most would imagine reading the story, but he is not, as he told me, without blame.

Of course, I feel terrible about it. But I was raised that if someone comes at you, you don't back down. That's not right, just that's how it is. Now a

¹⁰² Interview with Kenny (Jul. 12, 2000).

¹⁰³ *Id.*

boy is dead because of me, and my boys have to deal with the fact that their father is a murderer behind bars. I'm not proud of it.¹⁰⁴

When I ask Kenny if he thinks the boys talk to anyone about it, he says he doesn't believe so. "The boys, no, they don't speak to no one about it. My family wears it more as a badge of shame. It's not like we're proud, so we just keep it to ourselves."¹⁰⁵ Edwina agrees. "No, I don't think they'd tell a person. They get real quiet when people talk about fathers. They have a coach who I told, and I think he looks out for them a bit more. But I think they are shy about it."¹⁰⁶

Kenny was worried about his sons seeing him in jail, but his mother felt that they needed to see their father. They wanted to know where their father was, and she did not feel she could defer telling them much longer. She told Kenny that he would have to tell them over the phone what was going on, and, eventually, she convinced him to let the boys visit.

I told him [...] "I just want the boys to see you, and they need to see you."
The only problem I have when I go see him is the youngest one — he gets

¹⁰⁴ There was no inmate that I spoke with who said he felt proud about being incarcerated. While there are undoubtedly some inmates who do feel this way, all indications from this study are that they are a small minority. Even the youngest and least abashed drug dealer that I interviewed described the difficulty he had confronting the impact of his incarceration on his family:

I mean every time I talk to my family on the phone, I can hear it in their voices that they want to cry. Then sometimes they do breakdown and cry. [...] That's why I don't really like to call them all time, because it gets to me. It gets to me very deeply And I have to stay focused. I have to stay on track, because I'm on the path whereas though I'm doing what I have to do to get out of here and me listening to them grieve and all that on the phone, it kind of like break me down. And it kind of like knock me off balance and have me very depressed. So, I kind of like you know, I might send them a card every now and then or a letter. I'm doing fine. I'm okay. Tell everyone I love them and stuff like that. And um you know, that'll be that. 'Cause I, have that respect. I don't want to send them through too much pain. Which I've already done. I want to try to like end it, you know?

Interview with Stevie, (Aug. 25, 1999).

¹⁰⁵ Interview with Edwina (Aug. 10, 2000).

¹⁰⁶ Interview with Edwina (Aug. 10, 2000).

upset and he wants to know, “Why you can’t go home with us? How much longer you gonna be here?” You know? [...] Because they had a bond between them where they were very close to him, you know. It was Daddy, Daddy, Daddy. [...] They keeps on saying — I think it was just last night, the youngest one asked me, “Grams, how many more years Daddy got to do,” you know? And I say, “I don’t know.” I say, “We just praying every day that it don’t be too much more longer.” And then they worry about, you know, how old they’re gonna be when he comes. I said, “Regardless of how old you are when he comes, that is still Daddy. Your Daddy still has the right to tell you what’s right and wrong.”¹⁰⁷

* * *

Though Kenny was uncertain about what his real chances were, he thinks he has a good case and was happy that his lawyer seemed both competent and hardworking — a rare stroke of luck with court-appointed attorneys in the District. Judges often assign cases to underpaid and overworked attorneys who take court-appointed cases to make money for their own private practices. Because the compensation for court-appointed cases is usually a low flat fee, many attorneys take on far more cases than they can responsibly handle. The result, as many inmates and their families attest, is that the attorney’s first priority becomes looking for the quickest way to settle a case rather than fully and fairly representing their clients. Generally, the quickest way to settle is to make a deal with the prosecutor and cop a plea. Kenny’s attorney, however, while court-appointed, was from the District’s Public Defender’s Office, considered by many to be the best public defense attorney’s in the nation.

Kenny’s primary concern has been getting to trial quickly so he could get out, something he felt was the likely outcome of a trial because he believed he had acted in

¹⁰⁷ Interview with Edwina (Aug. 10, 2000).

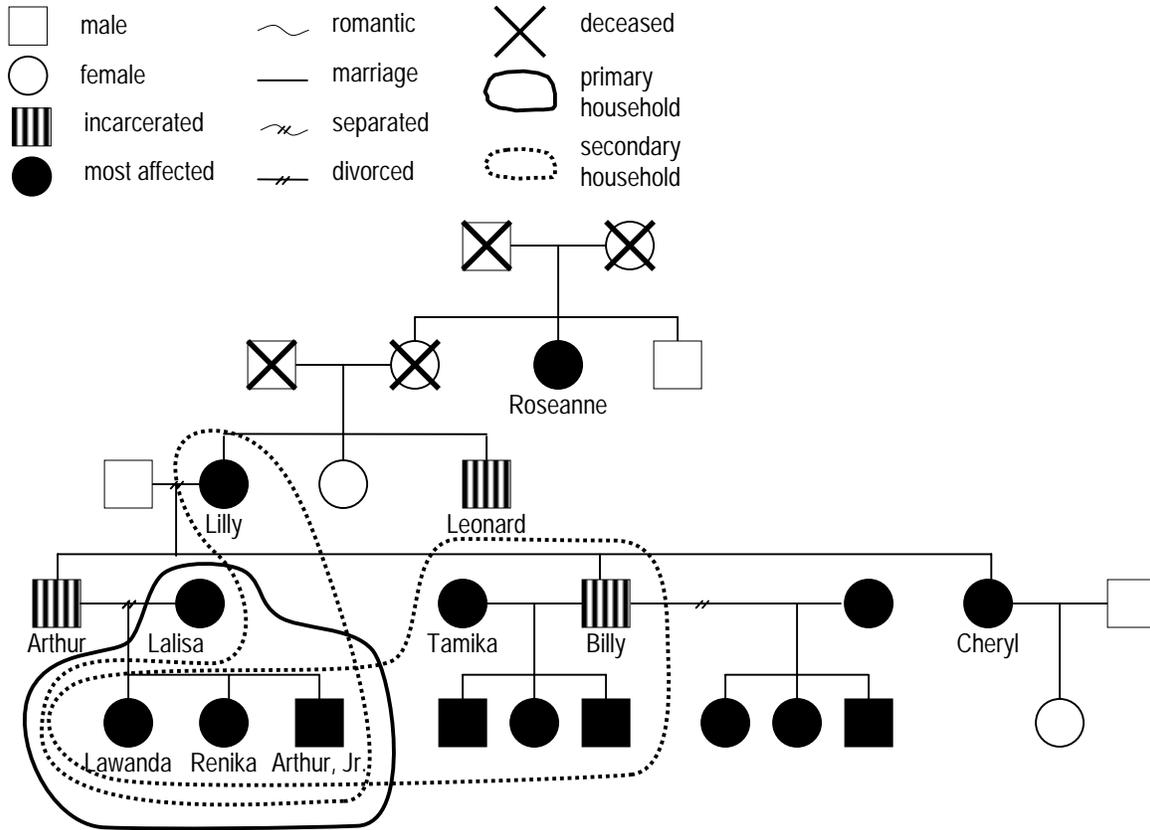
self-defense. The man he stabbed, it turned out, was known around the neighborhood as a crack addict who aggressively panhandled. With further testimony from local residents and a witness to the incident confirming his version of events, Kenny felt his case was a good one. But while Kenny waited for trial, his mother's life was put on hold. "Everybody is sticking around, you see, to see what was my outcome going to be."¹⁰⁸

* * *

Kenny's case shows what can happen when a family first encounters incarceration. It did not take long for his family to feel the effects of his absence, and the effects have been extensive. Even in this brief period, Edwina has had to put off moving, return to work, re-mortgage her house, and assume responsibility for the care of Kenny's children. While she bears the most of the burden, her ailing mother and the sister who looks after her also are feeling the consequences. Of course, the impact of Kenny's incarceration is not only material, but emotional as well. And what is perhaps the greatest impact is also the most difficult to gauge: the effect on Kenny's boys.

What Kenny's story begins to illustrate is how the very relationships that sustain families in the course of everyday life can also drain them in times of crisis. While it is common for family members to help one another out in times of need, the long-term, open-ended reciprocal relationships that family members have with one another spread the impact of incarceration so that it touches far more than simply those who are

¹⁰⁸ Interview with Kenny (Mar. 1, 2000).



imprisoned. The next case describes the impact on families that can occur over the course of years.

Doing Time: Arthur's Family

Arthur has three children: one son, Arthur Jr., now eighteen, and two daughters, Renika and Lawanda, ages fifteen and thirteen, the younger of whom has cerebral palsy. Like many prisoners, Arthur relies on his family for support in many ways. In addition to emotional support and acceptance, he relies on them for financial assistance and to care for his three children. The most supportive people in his family are his mother, Lilly, his sister Cheryl, his brother Billy (and indirectly, Billy's girlfriend, Tamika), and his great aunt Roseanne.

Figure 6: Arthur's Family

Arthur has been incarcerated since the age of eighteen for beating a man in a fight over a girlfriend. Of all the accounts I heard of the incident, Arthur's son's account is the most direct:

He went up there to see a girl and, in the process of him seeing the girl, the people jumped him. They jumped him one time, he let it go. He told his brothers, "Naw, it's all right, it was a fair shake. Boom! One of them tried to hit me, I hit him, beat him up, and they jumped me, and I left. That was that." But then when he back up there, and, like, they ain't say nothing or do nothing. Then he went up a third time, and they jumped him again. But this time they put him in the hospital, so his brothers and them was, like, "Man, when you get out, we gotta go take care of them, because they...they're playing around." So then they went back up there. Then they got to fighting or whatever, and then my [father's] uncle Leonard pulled out a gun, and it was, like, "Man, I ain't...I ain't fighting no more!" Boom! He just started shooting. And then once that happened, they went home.¹⁰⁹

Arthur was arrested and, when he refused to turn in his uncle,¹¹⁰ the prosecutor decided against cutting him any deals. The judge sentenced him eight to twenty-four years.¹¹¹ The conviction was for assault with intent to kill. Arthur is serving additional time for an assault while in prison which he claims was in self defense.¹¹² He has just successfully appealed additional charges for an altercation with a guard but has another year before he is likely to be considered for release. Arthur was held in the DC jail during

¹⁰⁹ Interview with Arthur (Jul. 18, 2000). In many families, family members call extended relations by names that imply closer ties. Larry calls Leonard — his father's mother's brother — his "uncle."

¹¹⁰ While the victims knew both Arthur and his brother, they were unfamiliar with and unable to identify his uncle.

¹¹¹ Arthur Jr. doesn't hold it against his father's uncle, though: "I love him dearly. I ain't changed. It was like, he protecting his family. How can I expect him to sit there and let something happen to his family?" Interview with Arthur (Jul. 18, 2000).

¹¹² See *infra*, note 115 and accompanying text.

November and December of 1999, while his appeal was heard, but is now being held in the privately contracted facility in Youngstown, Ohio discussed in Chapter One.

Arthur's mother, Lilly, is fifty-one. She was married with three children by the age of nineteen when her husband left her. A single parent without a high-school education and functionally illiterate, she has worked as a beautician, a construction worker, a cook, a daycare provider, and at a host of other odd jobs to support her family. She is Arthur's closest family connection and provides the most emotional support and monetary assistance to him, though his sister and aunt also help out. His mother also helps to care for Arthur's children.

Prison Worries

Arthur's incarceration has taken an emotional toll on Lilly. While she can be upbeat and optimistic (often unrealistically so), she often cries and becomes depressed thinking and talking about her son. While difficult to measure, the pain of losing a loved one to prison is the most palpable cost to many relatives. When I asked Lilly to describe what it was like to have a son in prison, she told me,

It's like a loss. It's a loss that if you ever had something, a favorite something, and you lose it, that's how it is for me. I got him, and I'm glad I got him, but I miss him tremendously because I can't talk to him all the time. Just not knowing if he's okay, you know, something could have happened to him. No words really can describe it when you take somebody away, and they're not dead. You can talk to them sometimes, but it's a big miss. It's a big part of your life, of the kids' life, the family gathering. My son used to play Santa Claus. We haven't had a Santa since then. He would put on the outfit and my sister would be the elf. My

sister's husband put the Santa Claus outfit on and the kids just started crying. And my son was helpful to everybody. He was a helpful person. And that's what's missed. His kindness. The way he was. That's the main thing.¹¹³

To this feeling of loss is added what she often refers to as her "prison worries."¹¹⁴ When I asked what she worries about, Lilly described the various problems her son has had while inside:

He was beaten over the head with a pipe, and when he protected himself, they gave him more time. And then there's the guards. He's got a skin condition and needs medical showers. Well, the guard wouldn't bring him, so he lit some paper on fire outside his cell, as protest. The guard turned the extinguisher on him. All those chemicals made him sick for weeks with breathing problems. Then they dragged him to the shower and put a fan on him to dry him. This is in winter. They trying to kill him. That's my worries.¹¹⁵

Lilly produced affidavits from other inmates and guards describing these events in detail and a letter promising an investigation. After she tells me about the various injustices she believes he suffers on a daily basis, from hidden beatings to segregation and denial of visitation, she begins to cry, saying that she is afraid to say or do anything because she fears her son will be mistreated as a result.

Her son's experience while incarcerated may be more complicated than Lilly knows or describes, but her anxiety is real and persistent. To her it is devastating and unjustified, and she feels powerless to help.

¹¹³ Interview with Lilly (Jan. 27, 1998).

¹¹⁴ Interview with Lilly (Mar. 23, 1998).

¹¹⁵ Interview with Lilly (Jul. 1, 1999).

Familial Frustration

As incarceration places additional demands on the extended networks of kinship that sustain people while outside prison, it can result in heightened tensions as well. For example, Arthur's incarceration has created problems between his mother and other family members. Lilly has lost respect for many of her kin, who she feels ought to do more to help Arthur. When asked if her relationship with the rest of her family had changed since Arthur's incarceration, Lilly told me that her siblings avoid talking to her because she reminds them of what they are not doing, questioning their religious "righteousness":

If you got family members that don't participate like you do, it will be a conflict, and that's what it is for me. I just tell 'em the way I feel. "You running to church and you got your own people that need you. Only the good Lord knows the way it will come out in the end, but it looks to me like you should start with your own house before you try to clean up everybody else's house."

I have to hear "Well what did he do for me? He's costing me more now than when he was outside on the street." They tell me, "Oh, he used to help me out," but that's it. They promised to write and send money, but that's it. They started out visiting and sending money, but the longer it is, the less it is. It's a dedication when you got a loved one that's incarcerated. It is a dedication. They too busy, but it's their own flesh and blood.¹¹⁶

Lilly is upset with her family because they have, in essence, begun to see her son as no longer deserving of the kind of open-ended relationship in which participants can call

¹¹⁶ Interview with Lilly (Jan. 27, 1998).

upon one another according to their needs.¹¹⁷ “That,” she asserts, “is what family is about. It’s what you there for.”¹¹⁸ She knows that her son has been demoted in the eyes of other family members, and it is something she cannot stand. She chides them for giving to non-family when “one of their own” is in need, but her son has been prevented from reciprocating for so long that, until he can do so, he is, in effect, punished, treated worse than the strangers his relatives help through their church.

Keeping the family intact is something that Lilly works on every day, as she encourages her grandchildren to write their father and regularly includes them on phone calls from him.¹¹⁹ The reason for her efforts, she tells me, is simply that her son and her grandchildren need each other:

From the time that he knew that the girl was pregnant with his first child, a son, and the boy was six months old, I gave my son — I won a case — I gave my son a hundred dollars, and my son spent the whole hundred dollars on his son. He got a fifty-dollar suit on and a fifty-dollar pair of shoes, and so that’s how much he loved him from the beginning. The daughter, she was born with cerebral palsy. She was born weighing three pounds. The nurse, when I went to the hospital, the nurse told me she had never seen a father come to the hospital and take care of a baby better than the mother did. She said my son stayed at that hospital ‘til his daughter

¹¹⁷ This is precisely the kind of relationship that Marcel Mauss describes in his classic study of reciprocity and exchange. MARCEL MAUSS, *THE GIFT* (W. D. Halls, trans., Norton 1990) (1925). As David Graeber has noted, the type of “total prestations” described by Mauss

create[] permanent relationships between individuals and groups, relations that were permanent precisely because there is no way to cancel them out by a repayment. The demands one side could make on the other were open ended because they were permanent; nothing would be more absurd than for a member of the member of an Iroquois moiety to keep count of how many of the other’s side dead each had recently buried, to see which was ahead. [...] Most of us treat our closest friends this way. No accounts need be kept because the relation is not treated as if it will ever end.

DAVID GRAEBER, *TOWARD AN ANTHROPOLOGICAL THEORY OF VALUE* 218 (2001).

¹¹⁸ Interview with Lilly (Jan. 14, 2000).

¹¹⁹ She does this either when they are at her home or by calling them using three-way dialing when they are not. The use of three-way dialing is prohibited but widely used by families. For further discussion, see notes 149 and accompanying text.

came home, more better than the mother did. They were shocked. But he loved his kids, and see, that's expensive. Living on a fixed income, going to see them because you got to keep that family for them. They need their daddy.¹²⁰

When I asked her what it was they needed from their father, Lilly stopped for a moment, then told me:

Lilly: It's always the love of that male. We can't give them that. We can only give them female. We're not men. It's impossible. It's impossible. And they miss it. Their behavior. They talk about him, but the behavior problem — the big kids are having behavior problems. My granddaughter. Okay my granddaughter because anytime you just put yourself where you... She's like... Okay a boy can say: "I like you." And she'll say "Oh I got a boyfriend." Why? Because he say he like her. It's like she starving for male affection. That's what it is. All of them girls is...they starving for it. For male companionship, male bonding. Why else would a young girl 17 stay in the doctor's office for infections? And I try to tell her "Honey. Because you give a person your body don't make them love you."

Don: Are you saying that your granddaughter is sleeping with whoever her boyfriends are, because she misses her dad?

Lilly: Yep. That's what I believe. It's that she thinks: "Well, I'm accepted."¹²¹

The worst times for Arthur are when he starts thinking about his kids growing up without him. While some guys are able to "get into their time" — that is, do their time without thinking too much about the outside world — Arthur couldn't believe that he had lost his relationship with his children's mother and that his kids were growing up without him. Arthur Jr. remembers how his grandmother used to spend hours on the phone trying to calm his father down:

¹²⁰ Interview with Lilly (Aug. 19, 2000).

¹²¹ *Id.* This is a central argument of Janetta Rose Barras's recent memoir-cum-essay. See JANETTA ROSE BARRAS, *WHATEVER HAPPENED TO DADDY'S LITTLE GIRL* (2000).

[My grandmother] be like the whole soul right there for that side of the family. She be trying, you know, to keep stuff intact 'cause sometime.... He used to call her and stuff, and it'd be, like, he about to kill hisself, or he about to kill all the guards and break out, and she would try and keep him under composed, 'cause he, like he used to call her saying, "I can't believe my kids will grow up without a father, so I got to get up outta here." And she was, like, "Wait 'till you come up for parole." He come for parole, and they set him back. They were, like, he ain't going. So that's when he used to start talking crazy, and my grandmother talked to him or tried to get my uncles to come and see him, and my uncles would be.... Most of the time, my uncle would be, like, "Naw." He ain't trying. He ain't trying to go out there to see him.¹²²

Arthur Jr. was also quite critical of other family members for not wanting to help his father — something that he also sees .

It's just stupid stuff. Stupid stuff. Like, one day I called my uncle and I asked my uncle to go because I was, like, "Man, it's about to be Father's Day again let's go out there." "No, no. I'm checking with my girl." That was that. Then my grandmother, she'll tell me call my grandfather. My grandfather would usually be busy because he be on the road, so...that'd be that. Out of the whole family, a handful of them be supportive. They'll start off, but they didn't wanna finish up.¹²³

The extended family's withdrawal of support over the years visibly upsets Arthur Jr., as it does Lilly. When I ask him who he turns to now when he needs help, he says, shaking his head, "Nobody. Me, myself and I."¹²⁴

Arthur Jr.'s and Lilly's efforts to bring even loyal family members to visit her son are further frustrated by the correctional system's poor handling of visitors. Indeed, most family members I spoke with could rattle off a list of what they consider to be needless indignities suffered during visitation, the most common of which is flat refusal of entry

¹²² *Id.*

¹²³ Interview with Arthur, Jr. (Nov. 1, 1999).

¹²⁴ Interview with Arthur, Jr. (Nov. 1, 1999).

on any number of grounds but which often extend to cavity searches and the offhand insult.

The grandmother went to see him, and they wouldn't let her in because she had on a sweatshirt that was the wrong color. Can you believe, a sixty-three-year-old woman, and they wouldn't let her in. And she didn't want to go in the first place. So there I am, that's what I have to deal with, a family that doesn't want to go see their own in prison, and who would? But I got to try to bring them because he needs them, and the kids need him. And that's what I got to deal with. They stop you at any time, nothing you can do. Don't matter you're his mother, grandmother, whatever. And they search you like you nothing, very embarrassing, I don't need to tell you that it's not very private and the ladies is searched in the worst ways.¹²⁵

The need for security is clear, and, as Lilly admits grudgingly, it is probably necessary to search every individual in a "thorough fashion" to prevent the smuggling of weapons or drugs into a correctional facility.¹²⁶ However, this does not void the humiliation that she and other family members experience when visiting facilities and makes visitation very unappealing to many relatives.

Arthur Jr. is ambivalent himself about his father, alternating between forgiveness and anger over his own feelings of abandonment. Remembering the times that he was able to see his father, he recalls being upset when his father tried to play a role prevented by his incarceration:

¹²⁵ Interview with Lilly (Jan. 14, 2000).

¹²⁶ I have heard detailed descriptions of how drugs and weapons are commonly smuggled into facilities, generally with the tacit or full cooperation of a corrupt member of the correctional staff. What upsets so many of the family members is not so much that they are searched, but that not everyone is, and that the standards vary from day to day. In particular, many family members feel that guards are responsible for the majority of contraband inside the facilities and should be subjected to the same procedures. It is thus not simply an issue of personal objection, but of procedural fairness.

I never got to do a father-son moment with him. I never, ever got to do father-son stuff with him like go to the movies, go go-cart riding, go shoe shopping and stuff like that. I never go to do none of that with him. [...] He used to be asking me questions, like “What’s going on in the world? What you doing?” I used to feel insulted. “Don’t ask me that. You ain’t there. I understand it ain’t your fault, but if you ain’t there, how can you help me? You right here. You can’t help me. No matter how much you try, you cannot help me. I’m out here on my own.” But then...then when they started shipping people out, they started shipping people, like, to Ohio and places like that, we couldn’t go all the way out there, so it was less talking. And he would call, and he’d be, like, “Man, I miss y’all. I wish I could make up for the time.” But, like, man, you can’t make up for no time. Time passes. Time lost.

Thinking back to when his father was first locked up, Arthur Jr. mostly remembers being angry.

While Arthur Jr. acknowledges that his father’s incarceration has made the family’s life harder in material ways, he is less concerned about the monetary issues than he is about the loss of human contact, the loss of his and his sisters’ childhood with a father. When I asked him about the effects of his father’s incarceration on the family, he told me he felt that the children have borne most of the emotional burden:

No matter what they do, they can’t hurt him. They can’t hurt him, they’re only hurting us. ‘Cause as a result of that, my little sisters came up without a father, I came up without a father. And without a father in the household, that’s like having a half of your support, ‘cause the male supposed to be the soul of the family, and that’s like half of your support right there is gone. Now, your mother got to try to play mother and father, which she can’t do. Now, some mothers like mine be saying they can, but they can’t, ‘cause all of the stuff that she could ever do for me, it couldn’t compare. It’s just crazy for her even to try to say she been my mother and my father. The only thing she did was be a mother. Can’t nobody be my father ‘cause he ain’t here. He ain’t here.

Arthur Jr. doesn’t understand why his father had to do so much time. He has seen three people killed, and as far as he knows “nothing much was ever done about it.” One victim, his cousin, was “killed from trying to talk to a female, killed in front of a police

station — shot dead.”¹²⁷ The perpetrator was only sentenced to three to five years, something that galls him as his father got a much longer sentence for a lesser charge: “Three-to five! The system...” he says pausing and shaking his head, “the system messed up. How you gonna kill somebody at point-blank range and get three to five?”¹²⁸

Dealing with the system, the system is just backwards. Some people will get past, and some people just don't. Some people just get a bad shake, and by that I'm saying, like, some people can go to jail for murder, and they come in three to five years, and there are others that go in for something less dramatic, and they get way more time, and it's just not right. It's like there ain't justice in the system.¹²⁹

Like many inmates and family members, Arthur's family feels that he should have done some time — he did break the law — but they do feel that there is something seriously wrong with their experience with the criminal justice system.

Arthur, Jr.: Some things you just can't replace. Like money can't replace everything, and time is one of them, 'cause some, like.... You know how when you go to school and they have father-son things, you just can't replace that. You can't even replace that with money, 'cause the time is gone. I'm grown now. It's, like, the cycle just repeats itself.

Don: Why do you say that?

Arthur, Jr.: Right after [my father was incarcerated], that's when my attitude just started going haywire...*haywire!* I wasn't always like that — when I was little, I wasn't. But as I got older that's when I started developing a real bad attitude. 'Cause as a kid you've gotta remember, all of this stuff happening, and I don't really know how to show my feelings. My first way was hit somebody in the face and knock them out. I remember one day I was playing a basketball game, and they just kept cheating. I just...I just...phew, I went and beat them down to the ground.

¹²⁷ Interview with Arthur, Jr. (Nov. 1, 1999).

¹²⁸ *Id.*

¹²⁹ *Id.*

That's when they started giving me them little pills and told me if I ever feel like taking and lashing out, just take one of them little pills, and they just calm my nerves down, 'cause the stupidest thing would get on my nerves — the stupidest thing. Then [my grandmother] took me to the doctor, and he was, like, he gave me some little pills to control my temper. But at first nobody couldn't control my temper. If I was in a room and they started talking some mess, I'd kirk off. [...] Or when somebody would try to come to step to me, like, all of that rage, mad about that, mad about this, and I'd just kirk off on them. I just hurt them real bad. I remember, one time I put this boy in the hospital. I broke his face. I broke his jaw and his nose.¹³⁰

So, while Arthur Jr. doesn't plan on following in his father's footsteps, he feels that he could have, and quite easily. But he has his medication and, as he reminds me, the lesson of his father to keep him in check. Now that he's eighteen, he knows that if he were to get into a fight, "they're gonna give me a record off the top...and I can't get rid of it, so I just try to stay out of harm's way."¹³¹

As many criminologists have noted, one of the best predictors of involvement in the criminal justice system is the incarceration of a parent.¹³² Among the reasons usually provided are that the child emerged from the same social setting as the parent or that the parent modeled the criminal behavior for the child. Both are plausible, backed by

¹³⁰ *Id.* While Arthur Jr. admits to getting into a lot of fights when he was younger, he feels he is generally justified in his anger, if not his actions. In this case, for example, he relates:

I ain't get in trouble 'cause he started it. I was over there sitting down, and he came past [makes a smacking noise and slaps his head hard] did that. And the lady...the teacher it just so happened saw him, 'cause I wasn't gonna say nothing about it. I was, like, "Well, there ain't no sense in me talking cause they're gonna do what they wanna do, regardless." She, like, "What happened?" I was, like, "I don't know." And then when we went in the office, she was, like, "He walked past, hit him, then he got up and defended hisself."

Id.

¹³¹ *Id.*

¹³² According to a recent Senate Report, "children of prisoners are six times more likely than other children to be incarcerated at some point in their lives." S. Rep. No. 106-404, at 56 (2000). *See also*, Denise Johnston, *Effects of Parental Incarceration*, in CHILDREN OF INCARCERATED PARENTS, at 80 (Katherine

significant studies, and echoed by statements of other families in this study.¹³³ But Arthur Jr.'s story suggests two other reasons why parental involvement in the criminal justice system may increase the likelihood of incarceration. First, he feels considerable generalized anger about what he perceives as the injustice of his father's lengthy sentence,¹³⁴ and second, he feels that he has been largely left to his own devices in figuring out how to handle life as a teen.

Sometimes I get the feeling if I had a father figure around coming up, some of the stuff that I went through I probably wouldn't have went through. Like, my going places by myself, because your mother can't go everywhere with you. I mean, and places...like when I used to go to the basketball court, 'cause I was playing basketball I'd go there. Like in one instance I was at the basketball court, and this dude was, like, "Man, I'll give you a hundred dollars to take that over there." I was, like, "A hundred dollars?" And so I was, like, "From here to here?" And on Paine, the basketball court where he was talking about, it wasn't even a block, it was, like, a couple of steps, and it's over. So I went from there to there, and I got a hundred dollars.

I ain't actually set down and realize what I was doing, 'till I was, like, "Damn! He just gave me a hundred dollars." Then I went home, and my grandmother was, like, "Where you get some money from?" And I was, like, "Some dude on the basketball court he just told me to take this over there and I took it." And she was, like, "You sure?" I was, like, "Yeah." She said, "Let me see the money," and I showed her the money. And she was, like, "Boy, you could have got yourself in some trouble!" I was, like,

Gabel & Denise Johnston eds., 995) (Noting that "children of offenders are far more likely than other children to enter the criminal justice system.").

¹³³ See *infra* notes 335-344 and accompanying text (discussing the case of David's son, Charles).

¹³⁴ In his trilogy on attachment, separation, and loss, John Bowlby describes anger as one of the most common responses to separation, particularly childhood separation. See, generally, JOHN BOWLBY, SEPARATION: ANXIETY AND ANGER 245-257. Bowlby describes separation as often leading to "aggressive and/or destructive behavior during a period of separation," behavior that is sometimes directed "towards all and sundry." *Id.* at 248. He also notes that children "who have experienced long and/or repeated separations" are far more likely to have "angry and fault-finding responses" than are children raised in stable families. *Id.* at 253. This is, of course, significant given that many poor inner-city children do not grow up in "stable" families and are far more likely than average to be moved from one caretaker to another.

“I ain’t know. Ain’t nobody never tell me.” And like I’m gonna go, “Oh well, what’s in the bag?” I’m on the basketball court, we’re playing. It’s supposed to be my friend. I ain’t...I ain’t know the tables was gonna turn like that. I seriously sat down and thought: “I probably wouldn’t have had to go through that door if my father had been around, ‘cause I would have knew.” But you ain’t never think it could happen, ‘cause ain’t nobody never tell you about it, ‘cause you don’t got that male figure to sit down and tell you this can go on.¹³⁵

Without help from his father, though, his mother couldn’t afford to buy him new clothes for school or provide spending money to hang out with his friends. When he asked, she’d just say “get a job.”

She always figured that I was supposed to be making my own money. Basically, what I’m saying is she try and put me on the scale whereas though I was already a man. Once I hit about thirteen or fourteen, I was supposed to be making my own income, so I was, like, “Man, I got to get me some funds. She ain’t giving them to me.”¹³⁶

So, he started earning money on the street, though, as he said, “it weren’t legal.” He knew he could get in trouble, so he sought out his father’s mother again.

So then I went to my grandmother, and my grandmother was, like, “Instead of doing that, it’d be a better way.” And I was like, “What’d be a better way?” And that’s when she took me down to where she worked and got me a little job down there. But at first, I used to stay on the block. But the point was if I would have got caught doing it, it would have been something different, so she got me my first legitimate job.¹³⁷

Without counseling, medication, and the concern of his grandmother, Lilly, Arthur Jr. might well have been through the juvenile and into the adult correctional system by now. How good a father would Arthur have been had he not been incarcerated? It is impossible to know, but clearly his absence has been keenly felt.

¹³⁵ Interview with Arthur, Jr. (Nov. 1, 1999).

¹³⁶ *Id.*

Stress and Health

Lilly has her own set of personal problems. She walks with a cane because she suffers from chronic back pain that runs down her left leg (“my disability,” as she refers to it), a physical problem her doctors tell her is aggravated by stress and hypertension. She is certain that her condition is as bad as it is, at least in part, from the stress her son’s incarceration has caused her. It is not uncommon for many of the older relatives I have spoken with to talk about the way stress has contributed to their health problems, a bit of folk wisdom about the relationship between stress and health that has received significant scientific support in recent years.¹³⁸ Back pain, strokes, heart conditions, migraines, and depression, particularly among older participants, are commonly included in descriptions of health problems brought on or made worse by the incarceration of a family member.

The problems that Lilly and other relatives of prisoners face are difficult to negotiate. They know that their anxiety about their incarcerated relatives and their frustration with the bureaucracy of the criminal justice system are hurting their mental and physical health, but alternative coping strategies are not clear to them. If they believe the sentence is unjust, the appropriate reaction is anger and frustration, something that is debilitating in the long run. To react otherwise runs counter to a powerful instinct to show

¹³⁷ *Id.*

¹³⁸ See, e.g., Ronald Glaser et al., *Stress-Induced Immunomodulation: Implications for Infectious Diseases* 281 *JAMA* 2268 (1999) (describing the effects of stress on susceptibility to and recovery from infectious diseases). See also Michael L. Blakey, *Psychophysiological Stress and Disorders of Industrial Society*, in *DIAGNOSING AMERICA* (Sheperd Foreman, ed. 1995); *HANDBOOK OF HUMAN STRESS AND IMMUNITY* (Ronald R. Glaser & Janice Kiecolt-Glaser, eds. 1994). For an illuminating example of the influence of emotion on the body, see Linda-Anne Rebhun’s description of “nerves” in Northeast Brazil. LINDA-ANNE REBHUN, *THE HEART IS UNKNOWN COUNTRY* 19-35 (2001) (describing the sometimes unexpected physical effects of emotional responses).

loyalty to their family member and would be to signal that, in their minds, justice was being done. So, to give expression to their perception of injustice, family members have to accept the emotional and physical costs of holding on to and living with their anger and frustration.¹³⁹

Lilly's criticism of her extended family highlights the tensions that arise between family members over incarceration. While Lilly is critical of family members who do not demonstrate what she feels is adequate concern for her son, the costs of showing that concern are significant in time and emotional energy. For families already struggling to make ends meet in less than ideal living environments, the added burden of an additional non-reciprocal relationship can be great. As Lilly told me:

It seems like I'm always rippin' and runnin' these days, just to make ends meet. I've got my back and my blood pressure, but I still have to get out to the church to get my groceries to help feed these kids, they have all kinds of expenses, medical bills, shoes. You just can't believe how much shoes costs for these kids. But it's a burden like you a parent all over again, but you're ready to retire and you watching your money go. My money's all gone now. I thank god for the church with those groceries. But living week to week it just keeps you stressed out.¹⁴⁰

Increased stress — whether related to the safety of the incarcerated family member, frustration with the criminal justice system, or increased financial burdens — is related to a host of health problems, from increased risk of heart disease and suppressed immune response, to behavioral outcomes such as increased likelihood of alcohol and drug use and increased likelihood of child abuse.¹⁴¹ The issue of abuse, discussed in more detail in

¹³⁹ I discuss this coping strategy in more detail in Part IV.

¹⁴⁰ Interview with Lilly (Jan. 27, 1998).

¹⁴¹ HANDBOOK OF HUMAN STRESS AND IMMUNITY, *supra* note 138.

Chapter 4, is particularly serious, as millions of children of prisoners are left in the care of a single remaining parent or other relatives — conditions that are already strongly correlated with an increased incidence of abuse.¹⁴² Indeed, as our empirical understanding of the effects of stress grows, the implications for the kind of strain that incarceration places on personal health and family life become all the more evident.

Lilly's Other Son

The issue of childcare has also required extensive negotiation. Initially, the mother of Arthur's three children, Lalisa, visited Arthur in prison and depended a good deal on Lilly for help with the kids. When she found another boyfriend, however, Lilly was less inclined to help her out. Lalisa works full-time as a beautician and struggles to make ends meet. Although she is their primary caretaker, Arthur's extended family often care for his three children in addition to their own. Arthur's brother, Billy, lives with his girlfriend, Tamika, and works several odd jobs for friends of the family that pay under the table. While Lilly and Arthur's great aunt Roseanne do help out on occasion, generally on weekends, the burden of childcare also falls on Billy and Tamika.

This is particularly difficult as Billy has had trouble with the law himself and is unable to find a job in the formal economy. Billy already faces many of the difficulties that await Arthur, should he ever be released, most of which stem from the social stigma

¹⁴² For further discussion of abuse & neglect, see *infra*, note 342 and accompanying text.

of a criminal record. A former drug dealer, Billy pled guilty to a murder he didn't commit to avoid the long sentence he would get for a third drug offense.¹⁴³

As Lilly relates the incident, it became clear that she was shaken by the experience of Billy's case as much as by Arthur's.

[The lawyer] came to me and told me that he had to plead guilty. I had, me a mother, had to make my son say he was guilty for shooting when we knew that he really wasn't, but we had to do a plea bargain because this is what the lawyer said, because we're uneducated and we don't know. But I know it was not right. I know my son didn't do the shooting, but I knew that she said if I... She said she could win that case, but she would lose the other case, and if we put all both cases together, the judge would give my son four to twelve, and the judge gave my son four to twelve. And in two years, my son was out.

He lied and said he shot.... The judge knew he didn't shoot, because when the judge asked him what type of weapon it was, how far was he from the shooter, he didn't know anything. He didn't know anything because he wasn't even there. He copped a plea, and that's something else about the system. He copped a plea for one thing, because he did another thing, and the judge told the lawyer.... His lawyer told me that they would give my son twelve...I mean, ten to thirty years for selling drugs. I didn't want him to go ten to thirty years, so we had to tell a lie and say, guilty. You see what I'm saying? I mean, you can see the right and wrong of it. Because like I said, by me not even having an education, I still have the common sense God gave me in letting me know that it hurt to tell your child to tell a lie and say he did that.¹⁴⁴

While Billy's choice seemed like the lesser of evils at the time, the murder rap has proved a serious impediment in his subsequent efforts to enter the formal economy.

¹⁴³ The murder was actually committed by Billy's uncle, who is now serving time for another murder. Billy was faced with the choice of 10 to 30 years for a third drug offense, or four to twelve for murder. He pled guilty to manslaughter, the drug charge was dropped, and he was released in two years. This appears to be a not-uncommon occurrence; police and DAs are under tremendous pressure to "solve" murder cases in DC, and exposés of the mounting unsolved murder cases in local papers have been met with rapid resolution of what appear to be an improbable number of cases.

¹⁴⁴ Interview with Lilly (Mar. 23, 1998).

Explicitly denied apartment rentals and work in the private sector on the basis of his violent criminal record, he regularly voices an opinion that reflects a personalization of the general effect of carrying a criminal record. Describing what he considers to be a general social conspiracy against black men, he reflects: “They want me to sell drugs, but I can’t do that cause I got my own kids now and my brother’s kids. So I work. For what? Minimum wage sometimes. You know they want me back in prison, but I’m not going. I resist that path.”¹⁴⁵ Tamika has a good job at an insurance company and is able to get by with the help of her family, but it is not easy. “It’s the bills, it’s the kids, it’s work, all of it just gets to me. I thank God I have family to help.”¹⁴⁶

While Billy has gained much from the support his family, relations with his former wife are not always good. Billy’s ex-wife is generally disliked by the family for having left him while he was in prison for another man. The icing on the cake for Lilly was that, after her new boyfriend left her, she began receiving public assistance which mandated state-involved child support from Billy. Though he often cares for the children and buys them clothing and food, the state required him to pay them child support, which he didn’t do, preferring to spend the money on them directly, because he finds it more flexible and more satisfying. Failure to pay child support violated the terms of his parole, and he was rearrested. Thankfully, his ex-wife helped him beat the charge once she realized that his support would stop entirely while he was incarcerated.

¹⁴⁵ Interview with Billy (Jan. 14, 2000).

¹⁴⁶ Interview with Tamika (Jan. 14, 2000).

She dropped it. She wasn't aware that it was gonna go down like that, and she dropped it. She ended up having to come to court, and we got it all taken care of, you know. I ended up having to pay nothing. They just took time out of my life again. That, you know, that's where they were wrong on that one. But, they did it, and it's a done deal.¹⁴⁷

Ironically, the children were staying with him for the weekend when his warrant for evading support was served, and they watched as police handcuffed their father and lead him away. His family was understandably upset, as Billy was unable to assist his current wife or family at all while he was in jail.

This was a particularly difficult time for Tamika, who was forced to turn to family for more than the usual help. As she said, "You know I hate to ask, because none of them have monies, but I really had no choice, I couldn't just not feed the kids."¹⁴⁸ Billy's children have been told that their father's incarceration was unjust, particularly his conviction for a murder he didn't commit. In some ways the adults in the family feel this helps them cope with what might otherwise be a more shameful status for their father. However, this understanding also leads them to believe that the criminal justice system is corrupt, to have little respect for police or government, and to fear that they are also at risk for similar unjust treatment.

Direct and Indirect Costs

As a result of Arthur's incarceration and Anthony's trouble with the law, Lilly has experienced a number of practical financial difficulties. Reviewing Lilly's various

¹⁴⁷ Interview with Billy (Jan. 14, 2000).

¹⁴⁸ Interview with Tamika (Jan. 28, 1998).

expenses related to Arthur's incarceration, it is clear that her worries about money are directly related to her son's imprisonment. She lives on a fixed income of \$530 a month, a good portion of which is spent on Arthur. "Lord, just look at my phone bill," she exclaims, pulling out her bills and cancelled checks from the last year. "You know the only people this helps is the corporations."¹⁴⁹ One of the more unpleasant surprises to many families is the high cost of phone calls from prison. Inmates can only call collect, and additional charges for monitoring and recording by the prison phone company add up quickly — indeed, many families have their phones disconnected within two months of an incarceration.

Rather than risk another disconnect and a subsequent hefty reconnect fee, many families block calls from the prison because they cannot bring themselves to say no to the collect call. In an arrangement that is not unusual, Lilly is the main conduit for all her son's calls; because no one else will accept collect calls from prison, she patches him through to whomever he needs to talk to.

¹⁴⁹ Perhaps the most costly regular expense that families complain about are phone charges. Most correctional facilities contract out phone services, and phone companies compete with each other to give what can only be described as kickbacks to the Department of Corrections in each state. Because phone conversations are often time-limited, many families are required to accept several calls to complete a single conversation, with connection charges applying to each call. While there are no data on overall phone costs for DC inmates, the costs are high locally and nationally, as several news accounts have noted:

In Florida, where the state prison system collected \$ 13.8 million in commissions in fiscal 1997-98, a legislative committee found that big prison systems in 10 other states took in more than \$ 115 million in the same budget year. New York topped the list with \$ 20.5 million. In Virginia, MCI gave the state \$ 10.4 million, or 39 percent of the revenue from prison calls. Maryland receives a 20 percent commission on local calls by inmates, which must be made through Bell Atlantic, and gets 42 percent of revenue from long-distance calls, all of which are handled by AT&T. Paul Duggan, *Captive Audience Rates High; Families Must Pay Dearly When Inmates Call Collect*, WASH. POST, January 23, 2000, at A03. As a result, collect calls from prisons can be as much as twenty times as expensive as standard collect calls.

That's the main thing I have to make sure I keep going. It's for him and his kids to keep the contact. That's why it's so hard for me. I have to pay for a three-way on the telephone so I can hook him up with the kids, hook him up with the lawyer. That's what I'm always doing, hooking him up. That's like six dollars a month extra too, for the three-way.¹⁵⁰

Families with loved ones incarcerated out of state have shown me years of phone records that average well over two hundred dollars a month.¹⁵¹ Lilly's most recent bill is just over a hundred and thirty dollars, over a hundred of which are for prison calls — about average for her since Arthur was transferred out-of-state five years ago; in effect, prison-related phone costs have taken up 20% of her total income.

Lilly also spends money on regular visits to Ohio — every three months or so now, though when she was younger and in better health she would visit every month or, when he was in the District or Virginia, every week. For each visit to Ohio, her mother, her aunt, and her sister pool resources for car rental, food, and a motel for a two-day trip. There are also the regular postal money orders and the twice yearly gifts allowed at the prison that are sent by Lilly, Arthur's sister, Cheryl, and Arthur's great aunt, Roseanne.

* * *

Arthur has been incarcerated for just over the average time served in DC, about eight years. As is the case with many inmates, over time many of his once-supportive family members have fallen by the wayside, leaving only part of his immediate family still involved. In part, the reluctance to assist an imprisoned relative may stem from the

¹⁵⁰ Interview with Lilly (Mar. 23, 1998).

¹⁵¹ For example, calls from some out of state prisons cost \$10 per ten minutes. Families try to time their calls, but are often cut off after ten minutes and then accept another call from the incarcerated relative. Five calls a week quickly becomes \$200 a month.

lack of return on the investment. Before Arthur was incarcerated, he was a contributing member of a familial social network, but for ten years he has been a drain on that network and, as his less loyal kin have distanced themselves from him, his closer relations have had to pick up the slack. These are far from trivial matters, as none of Arthur's contributing relatives earns more than \$20,000 a year, and any sacrifice for them is a large one.

Expense Category	Lilly (mother) ¹⁵²	Billy & Tamika	Cheryl (sister)	Roseanne (gr aunt)	Other Family	Total
Telephone	\$1200				\$200	\$1400
Travel	\$200		\$200	\$200	\$200	\$800
Money	\$480		\$240	\$240	\$180	\$1140
Gifts	\$100		\$50	\$50	\$240	\$440
Child Care ¹⁵³	\$1580	\$1200	\$120	0	\$6000	\$8900
Total	\$3560	\$1200	\$610	\$490	\$6820	\$12680

Figure 7: Direct Annual Expenses Related to Arthur's Incarceration

The financial costs of Arthur's incarceration to his family tallied above include only those costs that were clearly identifiable and simple to calculate. There are a number of additional expenses that are difficult to quantify, such as Arthur's lost income (he was employed full-time prior to his incarceration), the value of his assistance around the house, stress-related medical expenses, or what now amounts to years of effort to aid him in his legal battles by a host of friends and family members. While the monetary costs might not be hard for some middle class Americans to bear, the costs are clearly substantial given the limited resources available to Lilly.

¹⁵² This includes costs that Lilly covers, but which other family members help with. These costs are not included under other headings.

¹⁵³ This figure reflects out of pocket expenses (e.g. for baby sitters or professional child care), not time spent.

The costs to families like Lilly's have been largely absent from discussions about incarceration. Unfortunately, these costs bear down disproportionately on families that are least able to absorb them. The effects of incarceration are particularly devastating to these families because they generally have the highest marginal costs — that is, their above-subsistence resources are already severely taxed, so any additional expenses or burdens are more keenly felt. When states collect tens of millions of dollars in kick-backs from collect phone calls to prisoners' families, they disproportionately burden poor and minority families that are struggling not only to keep their families together but also simply to keep their heads above water financially. When these families lose their family member's income or the childcare that the incarcerated family member provided, the loss is significant.

* * *

As significant as they may be, in the end the financial sacrifices of Arthur's family don't compare with the less tangible difficulties the family faces. When Lilly says "It's like a loss," she is describing the emotional investments that people make in relationships. The "big miss" is not the money; it is not even the childcare or the favors done. What is lost is the sense of caring and companionship that make everyday life worth living. The small favors that people, especially family, do for one another cannot be reduced to cash equivalents because, even when they take the form of lending money or other material goods, they are, in a much deeper sense, about the relationship itself. As Arthur's son says, "you can't even replace that with money."

Cycles of Release and Reincarceration: Clinton's Family

Clinton is one of thirteen children, although he is in regular contact with only two of his sisters and is close only to the younger of the two, Zelda. He has one daughter, Janet, and is still close to her mother, Pat. Janet recently gave birth to a baby boy who she named after her father.

Figure 8: Clinton's Family

Clinton was paroled two years ago after a long string of drug-related arrests and prison terms, and he moved in with Zelda. Both saw his release as an opportunity for him to go straight after twenty years of selling drugs on the street. He had previously stayed with Pat, but the neighborhood where she lived presented too many opportunities to get involved again in hustling. Of the families described so far, theirs inhabits the economically most marginal neighborhood, one in which incarceration is especially prevalent. In this respect, Clinton's story is comparatively typical.

Hustling from an Early Age

While most of their siblings were raised in Virginia, Clinton and Zelda spent most of their childhood with relatives in the District. After Clinton was born, his parents hit financial difficulties, and, when their fourth child was born, they sent Clinton, then five years old, to live with two of his mother's sisters in DC.

Clinton's extended family had troubles of their own. The older of his two aunts was blind and diabetic, the younger was an alcoholic, and together they had responsibility for their elderly, housebound grandmother. The only person whom Clinton remembered developing a significant relationship with was his uncle, whom he began to see as a father figure during his first few years in the District. In Clinton's mind, the decisive turn in his life was his uncle's arrest for a murder in the early 1960s, when Clinton was about eight years old.¹⁵⁴

Largely unsupervised by his two aunts, he came and went as he pleased, quickly getting into trouble:

I was in Simmons, Simmons Elementary, and I got to smoking marijuana....and one thing led to another, you know. It's like, once I got high off of it....whatever the guy said to do, I was ready to go do. And I graduated from Simmons, and I went to Terrell [High School, though I didn't graduate from there.] I started playing hooky at the age of eight, and started smoking marijuana, and I wanted.... I wanted to go stay with my mother and my father, and I felt ostracized.¹⁵⁵

Clinton started his relationship with the criminal justice system early and has been in and out of correctional facilities since he was twelve. He managed to parlay his first

¹⁵⁴ During our interview, Clinton recalled being about six years old, but subsequent discussions with him and other family members indicated that he was closer to eight at the time.

arrest at the age of eleven into a short return to his family in Virginia, which he remembers vividly:

The officers caught me, and they [sent me to] Junior Village was what it was called, and I stayed there for about a week. Then I got the longing for being home. I missed home, so I ran.... I left and I came back home, and my aunt and them sent me to my Moms and them, so I felt better.... So when I got in school my grades got to picking up — I had more focus then. My focus was broken by being in Washington, but when I got back there, my focus was better because I felt better. I felt good. I was back with my family, my sisters, and my brothers, and my mother, and my father, so I felt good.¹⁵⁶

While it may have felt good to be with his family, for his parents it meant more expenses than they could manage, so they sent him back to DC at the end of the school year. As he told me, even though his mother and father explained that it was a financial decision and that they still loved him, “at a young age....you’re not concerned about that.”¹⁵⁷ Instead he felt the sting of rejection. Thinking back on his return to DC, he told me, “I just couldn’t maintain a focus, a concern for myself, because I felt as though my parents didn’t have a concern for me.”¹⁵⁸

Back in the District, things went from bad to worse. Throughout his teens, Clinton was selling drugs and spent time in and out of juvenile facilities. At the age of nineteen, he was able to land a job. Because all his previous arrests had been as a juvenile, they were erased from his record, and he thought he might be able to make a clean break. He

¹⁵⁵ Interview with Clinton (Apr. 27, 1999).

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

obtained a job at an emergency shelter for the homeless and started making plans for applying to become a police officer, a lifelong dream of his:

See I had these fantasies, and that's what I wanted to be. I had moments when I used to just see how the crimes and everything — I said, "If I was a police officer, that wouldn't go down.".... So as I got older, I wanted to be one, but....I got caught up with the law, and I was smoking marijuana, and I kind of deteriorated from that.¹⁵⁹

After other people on the jobsite found out that he had a record, however, Clinton began to get snide remarks about his criminal past, and some coworkers began to complain openly about his being hired. Pretty soon he was told that he wasn't needed.

He found another part time job right away. "I went and got to working at Columbia Maintenance, because I started with the CETA Program, and that was pretty good, but I couldn't get hired permanent."¹⁶⁰ The pay was low, there were no benefits, and he saw little opportunity for advancement. Clinton, like many people trying to enter the workforce, found that part-time work, while available, had many drawbacks.¹⁶¹

Into the Adult System

Frustrated with his lack of income and prospects, Clinton was considering what to do next when his mother died giving birth to his youngest sister. Clinton returned to the streets again at the height of the heroin boom in the U.S., doing what he felt he knew how to do best: selling heroin. By his mid twenties, Clinton had a rap sheet, and he and Pat

¹⁵⁹ *Id.*

¹⁶⁰ *Id.* (Construction Education and Training Authority.)

¹⁶¹ For discussion of the problems with part-time work, see Jeffery Wenger, *The Continuing Problems with Part-Time Work*, Economic Policy Institute Issue Brief # 155, April 24, 2001.

had a daughter, whom they named Janet. By Pat's and Janet's accounts, he was a good partner and father. The new drug laws hit the books in the early 1980s, though, and he found himself, at the age of twenty-seven, at the beginning of a six-year minimum sentence for distribution in Maryland.

Six years is a long time, and Clinton decided early on to try to cut his time and turn his life around. He started "programming" — participating in whatever educational or job programs were available — and taking on a new attitude about what he would do with his life. He credits his change in attitude, at least in part, to the different approach to corrections that he found in Maryland.

[Compared to the District's facilities] the Maryland system is very professional — I'll have to admit that. And they're very respectful.... You want a skill, we got this. You want education, we got this.... And it makes you want it.... Whereas opposed to I may have had that attitude, "Man, anybody mess with me, I'm gonna do something to 'em. They violating me!" Now I got a responsibility. And you done obligated yourself to that responsibility, and you like it. You get to studying more, you get to focusing more, so when a guy you would normally jump on when he says something....you go ahead and ignore him. "My fault." It's not your fault, it's his, but....you're letting him, know, "Man, I don't want no trouble." See....because of the fact that when you get something that you want, you tend to want to hold on to it. And each time that I was programming, that's how it was.¹⁶²

Repeat offenders are keenly aware of the differences between correctional facilities, and there is considerable agreement on the social atmosphere that characterizes the various institutions.

¹⁶² Interview with Clinton (Apr. 30, 1999).

When prisoners talk about the characteristics of a prison that they like or dislike, they often sound like middle-class family men talking about a neighborhood they'd like to live in or a company culture that they appreciate. Federal facilities are described as quiet, professional, and productive. The most common complaint about them is that they were often far from home, so inmates lose touch with their families.

State-run facilities run the gamut depending on who was in charge and the history of the facility. Central Facility at Lorton,¹⁶³ for example, was often described as “summer camp for criminals,”¹⁶⁴ and filled with corrupt and inept officials. While these types of facilities offered an opportunity to interact with friends and family, this was combined with in-facility violence, crime, and seemingly arbitrary enforcement of rules and regulations that changed frequently. The private facilities often combined the worst of both worlds: usually located in distant states, but staffed with underpaid and under-trained correctional officers. The ideal prison, for most inmates, is one where the staff and management are professional and consistent and where prisoners can obtain drug treatment, job training, and maintain some contact with family.

Clinton, like many inmates, was interested in more than just getting an education. He knew that the parole board would look to see what he had done while incarcerated and was hoping to impress them with his achievements. As he described it, at first he was

¹⁶³ Central facility, now closed, was the largest DC correctional facility.

¹⁶⁴ Interview with Clinton (Apr. 30, 1999).

serious about his programming not because of the value of the education in and of itself, but because, as he told me, “I was serious about my freedom.”¹⁶⁵

Clinton’s involvement in programs also made a difference to his family. As he told me,

[In Maryland,] when you go to school, they know you don’t got time to work at a detail, so they [paid inmates a dollar a day while they were in classes]. So you go 21 days, you got 21 dollars. It helps. It’s not a lot, but it helps, and especially if you’re really concerned about your education, you’re not really concerned about the finance. And, say if you go to auto mechanics, they give you \$45.00. If you took up printing, I think they were giving them \$55.00 to \$100.00 a week, and this helps to better their skills, and then while they [are in the program] it helps them focus. Now, you don’t have to worry about no money, you know you’re working, and getting money. You’re earning while you learn, and that was lacking in the D.C. Department of Corrections, which they called it the “D.C. Department of Corruption.”¹⁶⁶

While Clinton had been relying on help from his family to buy basic toiletries and clothing while he was incarcerated in the DC system, the \$21 a month he made in the Maryland system attending classes allowed him to provide those things for himself. His relationship with Zelda, Pat, and Janet improved because he didn’t have to ask for money when he called them, so he felt better about staying in touch.

Clinton never earned enough to send money home, having chosen the educational route, but it was not unusual for men, particularly parents, with good jobs on the inside to send home extra money.

A friend of mine, he has a daughter, so he was sending home \$100 every month. So that \$100 is helping his daughter, and she...the mother would take the \$100 and go buy her some little clothes, and she’d come down

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

and he would feel pleased. She was four years old. And it made him feel good that he was able to do something for his daughter while incarcerated.¹⁶⁷

This perspective on the value of a prisoner's gainful employment to his family during his incarceration is one that was shared by nearly every family member. In particular, those who were caring for one or more of the prisoner's children emphasized the burden of raising a child without assistance from the father.¹⁶⁸

The importance of some assistance from prisoners to their families is not simply financial, but also symbolic. By sending money home, fathers are able to give material expression to their love for their child and the mother. As one mother described it to me, the hardest part of coping with the incarceration of her children's father was bringing up children alone:

Doing birthdays for my kids by myself. Inviting children that come with their father and their mother, seeing the two parent...the two parent thing. Even now for [my daughter] with her classmates, for her it sometimes becomes difficult when she goes on a field trip and I come along, and some of the children have their mother and their father come along. Or the first day of school, I'm the one that shows up, and it's not her father and me, it's just me.¹⁶⁹

But, because her husband was incarcerated in a federal system, he was able to send home a little money to help out, or to buy some gifts, and this made a huge difference to her and her daughters. "Even though it's not a lot of money, being able to send fifty dollars home,

¹⁶⁷ Interview with Clinton (Apr. 27, 1999).

¹⁶⁸ Interview with Clinton (Apr. 30, 1999).

¹⁶⁹ Interview with Zelliah (Feb. 20, 2000).

or being able to save up enough where he can send \$100 home is a lot. It means a lot to them. Whenever my daughters really needed something, he'd try to help."¹⁷⁰

The issue of prison labor is a controversial one, however, and with good reason. Although the symbolic and material benefits of sending money home are readily apparent to families of prisoners, the line between employment and exploitation in a prison setting is often difficult to discern. With African Americans disproportionately represented in the prison system, the prospect of exploited labor echoes earlier types of exploitation once exercised within the institutions of slavery and share-cropping.¹⁷¹ As the same woman told me:

Now I have heard, or read, how different items are made by people in prison, and companies are selling the stuff. I don't know where the money is going to, whether the money is going back into the prison, because I know that the prisoners are not getting paid. If the prisoners are doing that type of work for companies, I think the companies should be paying a fair wage....if they did pay them like six, seven, or eight dollars an hour, for the work that they're doing, maybe they do give [the inmate], like, two dollars, and the rest of it goes to where it needs to — whether it goes for child support or a [victim compensation] program or whatever. That's what they really need to do instead of paying them less money and then making all the profit off of it.¹⁷²

Drug treatment, job training, parenting classes, and actual employment can clearly help prisoners and their families. But, as Clinton explained, where a minority of the

¹⁷⁰ *Id.*

¹⁷¹ The criticism of prison labor as a modern-day form slavery, while not prominent, has been a regular criticism of both over-incarceration in general and prison labor in particular. *See, e.g.,* Graham Boyd, *The Drug War is the New Jim Crow*, 35 NACLA REPORT ON THE AMERICAS 18 (“Slaves were forced to work in inhuman conditions with no control over their situation and no remuneration. Public authorities today, intimidated by the rising costs of building and maintaining prisons, have introduced an innovative program as the panacea of incarceration: prison labor.”); Kim Gilmore, *Slavery and Prison — Understanding the Connections*, 3 SOCIAL JUSTICE 27, at 195 (2000) (“Built into the 13th Amendment was state authorization to use prison labor as a bridge between slavery and paid work.”).

prisoners have access to these programs, they can present prisoners with a serious dilemma. On the cell block it becomes immediately clear who is “programming” and who is not, and those who are have more to lose. To begin a program in the correctional setting is thus not only matter of making an effort to better oneself or to please the Parole Board, it also gives other less scrupulous inmates leverage. When Clinton had his belongings stolen out of his cell, he was sure it was because the thief knew he was motivated to go home:

They felt that, being that I was programmer — that I was trying to go home, and I wasn’t gonna let nothing stop me from going home — they felt as though there were certain things they could get away with....I think that....a separation needs to be drawn between people that program and don’t program, ‘cause, see, that’s where being taken for granted comes in. If you take a person that you see that’s not trying to program and put him around people who are programming, you’re designing catastrophe is what you’re doing.¹⁷³

Mixing various populations — a practice avoided in federal facilities, but which prisons in the District and many states often do — can have deadly consequences, even leading to riots.¹⁷⁴ Still, he felt that his education was important enough for him to continue because it would help him find employment when he returned home.

¹⁷² Interview with Zelliah (Feb. 20, 2000).

¹⁷³ Interview with Clinton (Apr. 27, 1999).

¹⁷⁴ One of the major factors leading to a near-riot in a prison contracted by the District was the mixing of populations that were supposed to be segregated. Two inmates were killed. *See* John L. Clark, Corrections Trustee of the District of Columbia, Report to the Attorney General Inspection and Review of the Northeast Ohio Correctional Center, November 25, 1998.

Zelda's Story

Zelda, seventeen years Clinton's junior, was three when her mother died. She too was sent to live with her extended family. Her childhood was, as she described it, "rough."¹⁷⁵ Physically and later sexually abused by men in her extended family,¹⁷⁶ she ran away at the age of sixteen, then found she was pregnant. "It was hard, very hard. [I was staying] on the street, basically, then with my sister's foster mother. And then I eventually went to my godmother's house before I had my child, and I got help once I got there, but my first child passed [soon after she was born]."

Zelda's boyfriend at the time was badly affected by their daughter's death. He went "crazy," she told me. "It's bad for him....He was a good father, but [because of his mental breakdown] we just broke up. I see him and talk...you know we're still friends."¹⁷⁷ Still, she says, even though it was years ago, "mentally, he hasn't been the same since she passed away."¹⁷⁸ Without anywhere to go, she tracked down Clinton, who had looked out for her when he was not incarcerated. When she found him, he had just been released from prison and was living with Pat. Clinton and his girlfriend took Zelda in, and ever since she has seen Clinton as her protective older brother and Pat as her adopted mother.

Zelda looks back on that as the period that turned her life around. For two years, from 1988 to 1990, she lived with Clinton, Pat, and her niece, Janet, rebuilding her sense of who she was and what she would do with her life. As she told me, "Ever since that's

¹⁷⁵ Interview with Zelda (Jul. 02, 1999).

¹⁷⁶ *Id.* For further discussion of sexual and physical abuse, see notes 200 and accompanying text.

¹⁷⁷ Interview with Zelda (Jul. 02, 1999).

¹⁷⁸ *Id.*

who I've been with [as family]."¹⁷⁹ In 1990, however, Clinton was again arrested and charged with distribution, and Pat was forced to move in with her sister. Zelda moved into a local shelter, where she met up with an old boyfriend and became pregnant again. Her relationship with him was, as she says, "unhealthy — and I'll just leave it at that,"¹⁸⁰ so she didn't stay in touch with him after he was arrested a few months into her pregnancy and hasn't told him about their daughter. She believes he is still serving out a lengthy sentence.

Zelda has had another daughter since then, but the father disappeared before finding out she was pregnant. She found an apartment, stopped dating altogether, and struggled to raise her two girls on her own. Her experience of abuse is one of the things that makes her especially devoted to the care of her own daughters.

You know, I just don't want to take them or let them go through the things that I've been through when I was growing up....I don't want them to have to be abused. No. And I've had a lot of that growing up, so I don't want to take them through it.... I just keep it on the inside. I may think about it every now and then and, you know, cry about it, but, I just don't want my kids to go through it....I just keep them here. I know they're safe here. I keep them close. [starts crying] I let them know that I do love them...always. I've been doing okay. I'm just trying to make it.¹⁸¹

Many of the single mothers I spoke with struggled with a feeling of inadequacy in their role as a parent.¹⁸² It hasn't been easy for Zelda, because neither of the fathers nor their

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*

¹⁸¹ *Id.*

¹⁸² In extreme cases, the mothers I spoke with described suicidal ideation on a regular basis, and connected this with their self-perception as a poor parent:

I don't care if I die, really, it would be peaceful, really. I know you think that's crazy, but that's how I look at it. His father need to get out here soon and take care of him, because I can't do it. I mean, I'll want to see him, I'll see my son again, but... [crying.] [...] But I'm not a good mother.

families are providing support. When I asked why the family of the father that she could locate wasn't helping, she told me that it was because she didn't want to introduce her daughter to them just for support.

I know his father stays up on Kennedy and Georgia, but it's, like, how can I go to him and introduce him to his granddaughter, someone who he has never seen, so, you know, it has been kinda hard.... I let her know that he does stay up there, and she has been asking to go see him. And I always tell her, "Yeah. Well, I'll take you," but, you know, I just can't pop it in on his father that this is his granddaughter. And I don't want him to think that, well, I want something from him, because I don't, but I would like her to know the other side of her family. It's just been hard.¹⁸³

Without the involvement of the families of her children's fathers and unwilling to return to the extended family that abused her, she relies mostly on Pat.

Pat, Janet, and Janet's baby son live together in a small row house, part of an expansive Section 8 housing development in Southeast DC. The neighborhood is notorious for the amount of drug-related crime there, including shootings nearly every night.

It's bad here at night, you can't really go out because of the shooting. We just, kinda, stay inside. The police come here for little stuff. It takes them forever if somebody was getting hurt, somebody was shot, you know. They have shoot-outs with the police around here. It takes them forever to get here, you know. They don't do too much around here.¹⁸⁴

If [his father] had never gotten locked up — if he wouldn't have never gotten locked, [my son] wouldn't have went through what he had to go through with me. I ain't always made the best of choices. God forgive me, but it is all I knew. Sometimes, I just can't do it no more.
Interview with Dennise (Oct. 5, 1999).

¹⁸³ Interview with Zelda (Feb. 22, 2000).

¹⁸⁴ Interview with Janet (Mar. 16, 2000). I had trouble finding Pat's house at first. Her neighbors looked concerned and came over to help. "You know where you going? I don't think this is where you want to be. This isn't a good place to be lost..." When I told them I was looking for the house number, they shook their heads and asked who I was looking for, then pointed to the row house. It turned out that most of the numbers had been torn off the doors, so that the address I had asked for was fairly useless. The incident

When I ask Pat and Janet how they are dealing with the incarceration, they talk mostly about the emotional impact:

Janet: Well, my mother's been right there whenever he was in, so it really has affected her — and like if I might cry or something, she'll cry too. She always says, "I'm lonely" or "I miss him" or something like that.

Pat: Janet doesn't talk about it much. [To Janet] Well, I don't know. I guess the hardest part is being lonely, and him being there. And like I say, I get in my little spirits dropping without him. But that's part of my whole thing being here by myself and not having him here.

Janet: But it's hard when your father is in. Like, I remember we had stuff at school, like plays, or, you know, one time they had a father and daughter dinner. I didn't go. Stuff like that. Just seeing other kids there with their mother and father made me wish that I was not there at the time. It was pretty tough.¹⁸⁵

But there were financial consequences as well. Janet was trying to stay in touch, but the phone and travel expenses were difficult to manage.

The calls now, you know, and spending money getting back and forth. Time, because of how much time you spend. It becomes a real burden. Now he has a grandson, so that's something he really thinks about. But staying in touch, keeping that bond... Hopefully — he don't want his grandson to see him in prison, so hopefully he'll be out to see him before he gets too big.¹⁸⁶

Pat also noted that even minor contributions from Clinton did make a difference. "Not that I depend on him, but his little monies do help. Like when I had to move — because he was helping with rent, then he got locked up."¹⁸⁷

raises the issue of how police and emergency services would be able to locate the building and serve residents in the neighborhood. As both Janet and Pat told me later, the lack of good police and emergency services is one of the major complaints that residents in the area have: "Police never come here. They have shootings all the time, but I think the police is scared, truly I do."

¹⁸⁵ Interview with Pat & Janet (Jun. 12, 2000).

¹⁸⁶ Interview with Janet (Mar. 16, 2000).

¹⁸⁷ Interview with Pat & Janet (Jun. 12, 2000).

Released

Clinton was released last year, and moved in with his sister. Things started out well for them. Clinton got a job at a department store where a friend of his worked and, while it didn't pay much, it was enough while he looked around for other work. With two children, Zelda's annual income from Public Assistance is \$4,656. Even with the money she made cutting hair on the side, after rent, food, and the phone bill, she had little left over to buy her growing daughters shoes, clothing, and school supplies. Her brother helped out with these expenses while he had his job, often making the difference between having a phone, having clothes for the kids, or not. "I was on PA [Public Assistance]. So he would pay my phone bill, take my kids shopping, give me a little money here and there to buy something for myself. So he helped me out."¹⁸⁸

In addition to providing some financial help, Clinton also helped out by picking up the kids or taking them out on weekends while Zelda cut hair. That worked well for about six months, until the store where he worked closed, and his income vanished with it. According to Clinton and his family, he applied for a number of jobs, but no one wanted to hire him. He blames his lack of success in part on his candor about his criminal record, something he is up front about because of his previous experience of being "outed" at his first job.

I couldn't lie. I feel as though that if...if I lied and the next thing you know it came out, it's embarrassing. I can't be on a job and then when you work a job, and you get used to the job, you get competent at that job. You and your peers start to clicking together like a family, you start to liking the

¹⁸⁸ Interview with Clinton (Apr. 30, 1999).

peoples on the job you're associating with. Man, this is your second family. And all of the sudden, the man walk in one day and say, "You're fired. We have to terminate you because we found out that you had a record and you did not mention it on your application."¹⁸⁹

Whether his lack of success had to do with his record or something else, his experience is one that many ex-offenders can relate to. For Clinton, his lack of employment shook his confidence in his ability to earn a living by any means other than hustling.

You do everything you can, and when it gets so bad that when you go and apply for a McDonalds' job and you don't get hired, now that's really bad, and McDonalds used to hire everybody. Six dollars an hour. It shows....Even at times I would go over to the market over there in Northeast off 56th Street and try to help people — try to work around the loading dock areas and everything. I'd get there. They'd tell me, "We got enough."¹⁹⁰

The loss of his job and his inability to provide for any of the people in his family the way he used to while he was hustling weighed heavily on him. He was seeing Pat and his daughter often and wanted to help pay her expenses.

I was staying with my sister [Zelda]. She's a younger sister, and she always wanted me to come stay with her, because, you know, I'm her older brother. I used to always look out for her, and take care of her when I was coming up, so she felt obligated to that. But I would tell her that I might not get another job right away, but I'm gonna keep trying. But I felt good, 'cause I know I got this...I'm looking at this degree. I'm looking at these certificates. All my accomplishments, all of the things I achieved while I was in there, and I think about how I eventually pursued them to achievement, so I feel good. So when I go and apply for a job I'm feeling good. Then when it get around to about the fifteenth or twentieth application and no one calling, now I go into a slump. I don't have no finance. My family keeps giving me money. Then, now, they short, 'cause

¹⁸⁹ *Id.*

¹⁹⁰ *Id.*

they're saying that the bills is catching up on them because they have to provide for me.¹⁹¹

He also knew that Zelda was having difficulty supporting herself and her two daughters, let alone her now unemployed older brother. After a few months without pay, he went back to his old neighborhood and decided to start hustling again, telling his family he'd gotten work as a day-laborer.¹⁹²

See, it's....just certain things just don't sit right with you. If you know you accomplished a certain degree, you feel as though "I'm supposed to be able to give my child some money from working on a job from the experience that I learned." And it's like going backwards, because every time I would sit there and look at that degree, and look at all of my certificates, all of my accomplishments, and look at 'em — I was outstanding in English. English was one of the best, one of my major subjects, and it was my best subject 'cause I loved it. And even in American literature I was pretty good — so I would look at [my degree], and it made me feel good. And then when I looked around [after losing the job at the clothing store] and said, "But I can't get a damned job!" Back to basics. And what that does, it makes you resort back to what you do best — what you feel as though you do best, what you know, and that is to break the law....You know, even though you can try and try and try and try and try not to, there you are.¹⁹³

Clinton had gotten an education — even a bachelors degree — while inside and a job, however brief, when he came out. So why did he return to hustling? For Clinton, despite his family's desire for him to stay straight, it was the feeling of obligation to them

¹⁹¹ *Id.*

¹⁹² Many unskilled laborers pick up work on a daily basis at places like the market in Northeast that Harold visited. However, there are generally more workers than jobs, and the regulars are usually picked first because they are known to the employers. A recent crackdown on day laborers in the area caused a minor furor, as the only source of legal income that many men felt they had was effectively cut off. See Nurith C. Aizenman, *Laborers Ousted From Gathering Spot*, WASH. POST, June 01, 2001, at B01; Nurith C. Aizenman, *Day Laborers Seeking Gathering Place; Owner of Current Site Vows to Bar Them*, WASH. POST, Prince George's Extra, June 07, 2001, at T03. Nurith C. Aizenman, *Day Laborers in Search of New Place to Seek Work; Mall Owner Moves to Make One Gathering Spot Off Limits*, WASH. POST, Montgomery Extra, June 14, 2001 at T07.

that weighed on him and made him decide to look for “easy money.” But even while he made good money selling drugs, he felt bad about that, too: “I started selling drugs, but then, when I started to take the proceeds from that and go give them little things, buy them little things, I didn’t feel good about it, because I knew I was not doing it right.”¹⁹⁴

Related to these reasons are, of course, issues of identity. What does it mean to be a father who can’t support his children? How does a father square his dependency on his sister with his conception of his proper role in his family and in society?¹⁹⁵ When does humility become socially untenable humiliation? These are questions that families struggle with as they attempt to grapple with incarceration.

Clinton is like many petty drug dealers — no gold jewelry, no fancy cars, no automatic weapons.¹⁹⁶ There is little of the popular fantasy depictions of drug dealing in the lives of most young men in the inner-city who join the informal drug economy. Instead, their lives consist mostly of scraping by, attending family picnics, thinking vaguely about how they can leave the street life but never seeing a clear path out. Despite his unease with his return to hustling, it gave Clinton cash with which to help out his family, and they dearly needed it. For Clinton, the idea that he had supposedly been “rehabilitated” made him shake his head when he thinks about his return to hustling:

¹⁹³ Interview with Clinton (Apr. 27, 1999).

¹⁹⁴ *Id.*

¹⁹⁵ Incarcerated fathers face a more extreme and stigmatized version of the fears about not providing enough for and not spending enough time with their children that middle class fathers face. *See, generally*, NICHOLAS TOWNSEND, *THE PACKAGE DEAL* (2002).

¹⁹⁶ Philippe Bourgois found similarly meager income and lifestyles among low-level crack dealers in New York City. BOURGOIS, *supra* note 8.

What settles in the mind is this: Your tax dollars paid for this education that I have. It paid for these vocational skills that I've accomplished, but they're not amounting to a damned thing because I can't...I can't get a job with them.¹⁹⁷

Within a few months of his return to hustling, Clinton was rearrested.¹⁹⁸

Inside, Again

Financially, Clinton's reincarceration has had significant consequences for Zelda. She had been depending on Clinton's added income and assistance with her daughters. Although Zelda was clear that she never wanted him to sell drugs again, the two fathers of her children were not helping her to raise them, and Zelda acknowledged that her brother felt pressure to earn money to help her out. Zelda is not pleased that Clinton gave up on going straight, though — not only because she loves her brother and wants to see him free, but because she was depending on him to get a job and help out with the kids. Clinton had promised to take her daughters shopping for notebooks, pencils, and back-to-school clothes but was arrested just before the school year began.

Zelda knows that Clinton's commitment to help out is part of what drove him to hustling again. His desire to help his younger sister and her desire to provide a decent living environment for her children were both powerful, and helped push Clinton back into the informal drug economy. Now Clinton's incarceration is pushing her to turn to the

¹⁹⁷ Interview with Clinton (Apr. 30, 1999).

¹⁹⁸ Clinton's point provides a useful supplement to the work of William Julius Wilson. Wilson argues that, as formal sector jobs disappear for young men, they are more likely to enter the informal economy, including illegal trafficking in drugs. WILLIAM JULIUS WILSON, *WHEN WORK DISAPPEARS* (1996). What Wilson does not account for, but which is clearly a major concern in many poor urban neighborhoods, is the

family which abused her. This is particularly painful for her and gives some indication of the social consequences of financial difficulties. In times of need, people are often forced to make use of resources they might otherwise refuse. While this is true for everyone, most Americans have a far wider and more attractive array of options than Zelda.

One of the most striking findings of recent research into the consequences of welfare reform is that while an increased number of marriages remained intact, the price for many women has been increased exposure to abuse.¹⁹⁹ The reason for this is that, by removing material resources from the lives of poor mothers, welfare reform forced them to make use of other sources of support that were available to them, usually family and friends. While in many cases this is an effective way of spreading the added burden of child support, it also forced many women to maintain or reopen relationships that they had left with good reason. Incarceration can produce a similar effect. Zelda's case is analogous to this except that it wasn't simply her material resources that were diminished, but her pool of available social resources as well. She is left with two

effect of incarceration both on the employment prospects of ex-offenders and on the available labor pool for prospective employers.

¹⁹⁹ See, e.g., KATHRYN EDIN & LAURA LEIN, MAKING ENDS MEET: HOW SINGLE MOTHERS SURVIVE WELFARE AND LOW-WAGE WORK 158 (1997) ("Mothers who relied on boyfriends for income sometimes had to choose between danger and destitution. [...] [M]any mothers reported that they or their children had been physically or sexually abused by their domestic partners at some point in the past. [...] Some] ignored the abuse because they were so desperate for their boyfriends money."); Eleanor Lyon, Welfare, Poverty, and Abused Women: New Research and its Implications (2000). National Resource Center on Domestic Violence; Randy Albeda, *What Has Happened to Those Who Left the Massachusetts Welfare Rolls?*, BOSTON GLOBE, Oct. 30, 1997, at A23.

undesirable options: returning to her abusive family or making do on her own. For many of the women I interviewed, the choices they were left with were few.²⁰⁰

This is the flip side of social capital — the inverse of the positive aspects of sustaining relationships. Now, instead of receiving Clinton's help, Zelda is working extra hours to send him money until he gets a job inside. The private prison he is in prohibits receiving personal items through the mail; underwear, undershirts, soap, toothpaste, toothbrushes, anti-fungal powder,²⁰¹ and deodorant must all be purchased at the private canteen operated by the corporation that owns and manages the facility. The prices are high, but inmates have no alternative.

Perhaps most significantly, she feels that even if she had to reach out to her extended family while Clinton was outside but unemployed, she wouldn't be nearly as fearful of doing so with him around. Clinton is not just a material resource that she has lost, but one of her closest friends, the person she feels can understand her complicated family situation best, and someone who will protect her and her daughters when they need protection. Collect phone calls from Clinton's facility are a flat rate of nine dollars

²⁰⁰ More typical examples of this pattern involved reliance on abusive boyfriends or ex-boyfriends for support while a current partner, brother, or father was incarcerated. As one woman told me,

In January I was with one of the abusive guys I was with, and he gave me money and bought [my son] stuff. It was my boyfriend but I didn't like him, but I needed him for a reason to — I needed him to buy my son his stuff. So I dealt with. Did what I had to do. [My son] ain't have no Christmas last year. He had it in January last year. He had it had in January this year. [...] I always end up getting a boyfriend and then they'll be somebody abusive. Then I have to deal with their problems and what they throwing at me.

Interview with Dennise (Feb. 4, 2000).

²⁰¹ In the correctional setting, foot fungus is a significant problem. "In this type of environment you got people coming from the street....they got all kinds of fungus because they been smoking crack." Interview with Clinton (Apr. 27, 1999).

for ten minutes.²⁰² While Zelda doesn't send much, and Clinton limits his calls to once a month, the cost is still more than she can afford.

* * *

When I last saw Zelda, it was late winter, and was fairly cold for DC. The downstairs door had been irreparably broken open since I last visited. She didn't sound so great over the phone, and I was worried about her but not feeling like there was much I could do. She was still waiting for her brother to get out, but was less hopeful since he was denied parole and shipped out of state. When we start talking she tells me she feels tired, and that she doesn't leave the apartment much any more, "just to shop, really."²⁰³ During this, our last interview, she seems exhausted and overwhelmed. While talking, she slowly lowers her head down into her hands and stares through her fingers at the floor, speaking more and more quietly until she is barely audible. She spends most of her days dressing hair in the middle of her living room and cleaning. The apartment is immaculate. She says the reason she works so hard now is so she won't have to rely on her family; she's determined not to go back to them for anything. Her goal, she says, is to get enough money together that her daughters will have "all the things that they can have, you know, once it's over for me."²⁰⁴ When I ask what she means by "over," she just shrugs and puts her face down into her hands.

²⁰² See supra note 149 and accompanying text for discussion of phone rates.

²⁰³ Interview with Zelda (Oct. 10, 2001).

²⁰⁴ Interview with Zelda (Oct. 10, 2001).

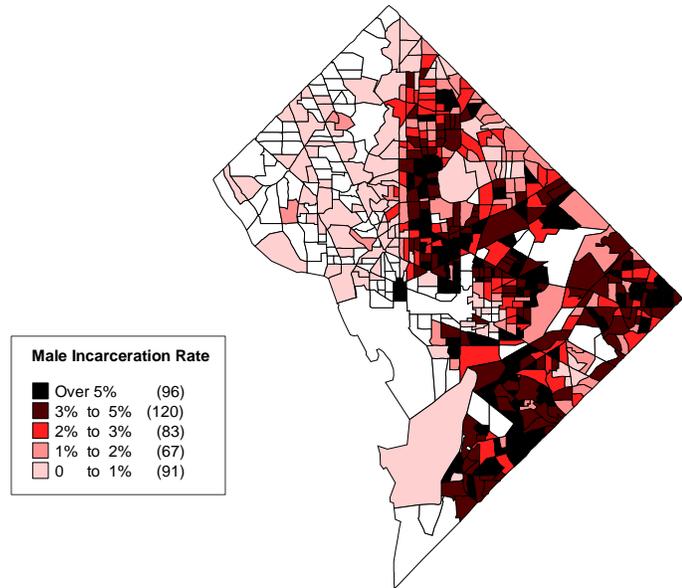
Material and Social Capital

Many of the families in this study face significant obstacles in day-to-day life that are not directly related to incarceration. Many of the women I interviewed are survivors of physical and sexual abuse, struggle against poverty, and work hard to raise their children without much help. These are not troubles that only family members of prisoners face, but they are problems that they face disproportionately and with added difficulty. These are problems that incarceration, while not necessarily causing, compounds.

By the Numbers

How do we assess the aggregate impact of incarceration on families like those described above? Traditionally, studies of the criminal justice system have reversed the question; that is, they have tried to understand the extent to which material and social conditions increase involvement in the criminal justice system. While this sort of analysis is useful, the difficulties that the families in this study face indicate that incarceration is both a consequence *and a cause* of material hardship among families. By examining census data from the District and comparing the rate of incarceration with average household income, we can get a rough sense of how the two compare. The maps below show the distribution of incarceration rates and average household income among census block groups in the District.

Locating Incarceration



Locating Disadvantage by Income

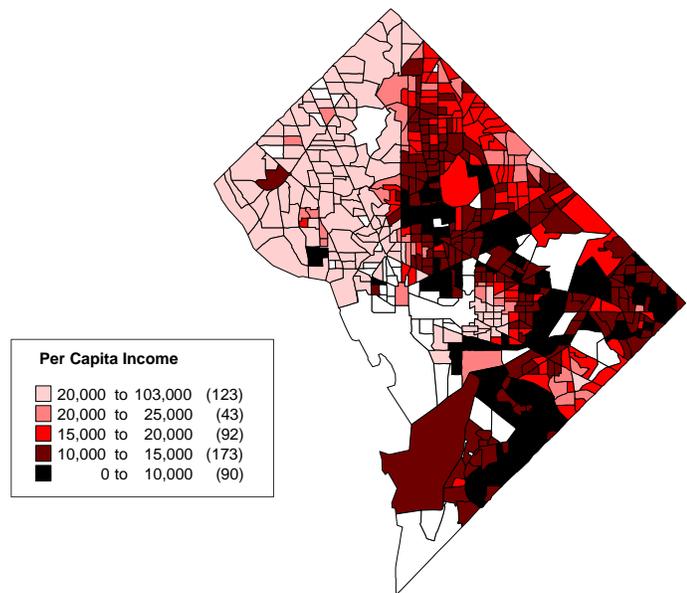


Figure 9: Distributions of Incarceration and Income

Visually, the distributions in the maps are strikingly similar, showing lower household income coinciding with higher incarceration rates. By plotting the incarceration rate and average household income of each census block group, as in *Figure 10* below, one can see the relationship between the incarceration rate and median household income represented by a fitted polynomial line.²⁰⁵

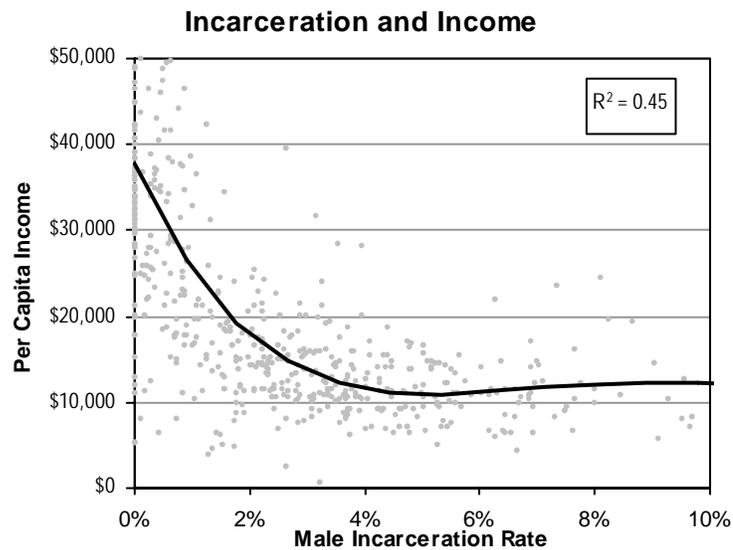


Figure 10: Income Differences and Incarceration

One way — the traditional way — of interpreting these data would be to infer that, as people have less money, they are more likely to engage in criminal activity. Indeed, this is the explanation that Clinton gave for his return to hustling heroin: he needed money and couldn't find work.

As the cases described above indicate, however, there is also good reason to think that incarceration contributes to significantly lower per capita income in families and

²⁰⁵ Plotted line represents best fit polynomial regression. Data for incarceration rates over ten percent not

neighborhoods that prisoners are taken from and return to. From this perspective, the relatively steep slope of declining income related to an increase in the male incarceration rate up to two percent is particularly significant for two reasons. First, the District, like many metropolitan areas, has a great number of neighborhoods in which male incarceration rates have reached or exceeded that point in the last decade.²⁰⁶ Second, the relationship between incarceration and household income can be dramatic.

Incarceration places immediate and significant material burdens on families of prisoners, none of which are anticipated by standard legal theory or mitigated by standard correctional practice. The most obvious cost is lost income: Kenny's mother is forced to put off her retirement, take out a second mortgage on her home, and travel to Alabama to care for her own mother instead of moving there; Lilly is left assuming many of the childcare duties for her son's children and drawing on familial funds to support their relationship with their father through telephone calls and visits to the out-of-state prison.

On top of these are the additional indirect costs that family members described in terms of lost assistance around the house, help with car repairs, and assistance in running errands. These are difficult to quantify, but no less important.

shown.

²⁰⁶ For example, during the year 2000, the District's male incarceration rate was approximately 2.2%; Baltimore, Maryland had a male incarceration rate of approximately 2.3%; and New Haven, Connecticut had a male incarceration rate of approximately 1.7%. Data from the offices of communication in DC, MD, and CT Departments of Correction.

Reciprocal Relationships

More disturbing than the effect on material resources, however, is the effect on the familial relationships that enable the pooling and redistribution of resources, time, and concern. A wealth of studies, following Carol Stack's work with families in Chicago projects in the late 1960s,²⁰⁷ indicate that resource-sharing networks play a crucial role in helping poor families cope with personal and structural economic fluctuations.²⁰⁸ These studies demonstrated that networks of kin and substitute-kin were essential to the ability of those who were otherwise resource-poor to survive hard times by providing both material and emotional assistance. It should come as no surprise that people often help others in need, particularly those they know well. The bonds of reciprocal exchange exist not only in our inner-cities, but around the world across cultural and class differences.²⁰⁹ As one reviewer of the anthropological literature on exchange noted over thirty years ago, the norm of reciprocity appears to be "no less important and universal as the incest taboo."²¹⁰

²⁰⁷ STACK, *supra* note 8.

²⁰⁸ Johnnetta B. Cole, *All American Women: Lines That Divide, Ties That Bind*, in *WOMEN AND POVERTY* (Gelpi, Hartsock, Novak, and Strober, eds. 1986); Rayna Rapp, *Urban Kinship in Contemporary America: Families, Classes, and Ideology*, in *CITIES OF THE UNITED STATES: CASE STUDIES IN URBAN ANTHROPOLOGY*, (Mullings, ed. 1987). I should note that they also help wealthy families, though there has been less emphasis on this in the literature.

²⁰⁹ The classic text on reciprocity in varied cultures is, of course, Marcel Mauss's *The Gift*. Mauss, *supra* note 117. For a review of the anthropological literature on exchange since then, see DAVID GRAEBER, *TOWARD AN ANTHROPOLOGICAL THEORY OF VALUE* 151-228 (2001).

²¹⁰ Alvin W. Goulner, *The Norm of Reciprocity: A Preliminary Statement*, 25 *AMERICAN SOCIOLOGICAL REVIEW* 161 (1960). Goulner is, one can assume, referring to Levi-Strauss's suggestion that the incest taboo itself is an effect of the norm of reciprocity. See Levi-Strauss, *supra* note ? at 144 (describing both dual organization and the prohibition against incest as "two extreme types of reciprocity.")

There are numerous explanations for the ubiquity of reciprocal exchange networks and their importance to people's well being. Some of the most commonly noted are simple material reasons. Reciprocal exchange networks, for example, are often described as "pooling risk," the way that people who buy insurance pool risk.²¹¹ The likelihood of any one person experiencing hardship during their life is fairly high, but the likelihood of everyone experiencing it at the same time is much lower. By entering into long-term, open-ended relationships of exchange, people increase the likelihood that they will have someone to call upon when they are in need. One can see how important this type of reciprocal exchange can be for people like Edwina, Lilly, and Zelda, who may not always have enough food to feed the children they care for or enough money to pay the rent.

Sharing what one has in abundance — whether that be money, food, or simply time and energy — also makes sense because it can help others in need more than it can help the person who has it in excess of their need.²¹² While this kind of logic can move people to donate money to fight hunger in drought stricken countries, the pull is far more powerful when those with less are already part of one's own personal network of friends and family. People often simply "do favors" for one another — watching the kids, fixing a leaky sink, or picking someone up from school. Within families and among close

²¹¹ See, generally, Elizabeth A. Cashdan, *Coping with Risk: Reciprocity Among the Basarwa of Northern Botswana*, 20 *MAN* 3 (1985).

²¹² This is a friendlier reading of the same logic behind Smith and Parkers conception of "tolerated theft." See J. Maynard Smith & G. Parker, *The Logic of Asymmetric Contests*, 24 *ANIMAL BEHAVIOR* 159 (1976). See also T. INGOLD, D. RICHES, & J. WOODBURN, *HUNTER GATHERERS: PROPERTY, POWER, AND*

friends, these forms of assistance are so fundamental that they are often not even considered favors. It is simply taken for granted that Kenny will help his mother with her mortgage and she will help him raise his children, that Clinton and his sister will help each other, that Lilly will help her son.

One of the great puzzles of recent studies of urban life has been the diminishing of extended open-ended networks of exchange over the last two decades, particularly in poor and minority urban communities.²¹³ These fluid and extended relationships were widely documented among the urban poor in the 1960s and '70s, but with far less regularity during the 1980s and '90s. One recent national study found that, by the late 1990s, these networks of friends and family were far less extensive among poor, minority families than had previously been observed.²¹⁴

The stories of these families and those that follow suggest that incarceration has had and continues to have a significant corrosive effect on the reciprocal relationships

IDEOLOGY (1998) (Describing the same type of behavior as “demand” sharing that occurs based on perceptions of inequality and need).

²¹³ See ANNE R. ROSCHELLE, *NO MORE KIN xi* (1997) (Describing empirical findings that “informal social support networks typically found in minority communities are not as pervasive as they were in the past.”); Mary Benin and Verna M. Keith, “The Social Support of Employed African American and Anglo Mothers,” 16 *Journal of Family Issues* 275-297 (1995); R. Kelly Raley, “Black-White Differences In Kin Contact and Exchange Among Never Married Adults,” 16 *Journal of Family Issues* 77-103 (1995).

²¹⁴ ROSCHELLE, *supra* note 213. While Putnam, *supra* note 18, argues that the recent decline in social capital has occurred across racial and class divides. However, he also acknowledges that social capital (both the extent of social networks and the material resources available through them) has been and continues to be much lower among poor and minority families and communities. He fails to make the crucial inference that, because these families and communities already had far less to spare, the loss of social capital is experienced in entirely different ways. What may mean more headaches from watching TV or frustration with commutes for middle and upper class families can mean lack of clothing, food, or shelter for others. This, of course is exacerbated because the resulting increase in physical stress, emotional frustration, and potential for violence is also less mitigated by the ties that hold extended family and communities together. Social capital, as Putnam measures it, may be declining across the board, but that decline also means

that play an essential part in the development and maintenance of familial well-being. As kith and kin are removed from such networks to prison, the consequences can be far reaching. Often lost along with the family member is the income, child care, and household help they provided, as well as less tangible benefits such as parenting, physical companionship, and emotional comfort which, while not always precluded by incarceration, are severely taxed.

The reciprocity that incarceration prevents is not simply material, it is deeply moral and social as well. As individuals fail to meet their own normative obligations, their being prevented from doing so upsets other networks of exchange and fosters further conflicts between social norms and social practices. For many of these families, the norm of reciprocity is frustrated by the material conditions of their lives. Think of Kenny's distress at his inability to support his sons or assist his mother. Think of the struggle in Arthur's family as he fails to return their generosity and some relatives pull back. Think, finally, of the moral consequences of Clinton's inability to help provide for his family legally.

The immediate material consequences of enforced non-reciprocity can be seen as Kenny's mother struggles to raise his boys, takes out a second mortgage on her home, and forgoes retirement in her hometown. The long term consequences can be seen not only in the material hardships that Lilly faces, but in the familial strain as Arthur's relatives pull back from their relationship not only with him, but with Lilly as well. His

something very different across the board. *See* EDIN & LEIN, *supra* note 199, 215-217 (describing the

and, consequently, her inability to reciprocate not only diminishes their common resources but creates considerable friction in the family as well. Clinton's case makes clear how the consequences of a criminal sentence extend beyond incarceration itself. As prisoners are returned to their families and communities, their experience and status often makes them less capable of contributing to the social networks they were a part of prior to incarceration, further taxing material resources and straining emotional ties. This, of course, is precisely what happened to Clinton as he attempted to reenter his family. In addition to straight-forward material hardship, then, incarceration places significant burdens on broader reciprocal relationships — relationships that are crucial to the well being of all families and communities, but especially to those who are materially disadvantaged.

Looking Beyond Material Consequences

So, what does incarceration cost? Can we add the costs of incarceration borne by Edwina, Lilly, Zelda, and all the other family members like them into a sum total? Although we could try, a good deal would be lost in the translation of people's experiences into such an equation. How do we account for financial contributions to a household from illegal activities? How do we understand the value of lost childcare or lost assistance with household chores? Because families exchange goods and services at frequent but irregular intervals, how would one determine the balance of these exchanges,

importance of cash resources to support networks among poor women.).

how they are altered by incarceration, and over what time period? While it is clear from individual accounts that incarceration frustrates these informal exchange networks by removing and impoverishing participants, there is simply no unambiguously accurate metric for capturing the full extent of the impact.

There are also many meaningful indirect costs that are difficult to quantify: what is the “cost” of the death of Kenny’s father? How should Lilly’s stress-related disability or Zelda’s depression be quantified? These are each of some consequence, and every family I talked to can list many such indirect effects, but what proportion of them are attributable to incarceration, and what to other factors? How can we truly “account” for them in dollars as we try to assess incarceration’s impact? Consider, also, that the same cost related to incarceration is felt more dearly by families and communities with fewer resources available to them.

Ultimately, understanding what incarceration means requires knowing the families themselves. Describing families of prisoners as disproportionately “poor” or “minority,” however accurate such descriptions might be, places families into categories that dull our interest and understanding. For as much as we might say that we are concerned about the disproportionate burdens these populations bear, the repetition of the categories removes us from the people and relationships that we are, in fact, talking about.

How can we quantify the added weight of each additional burden on families trying to cope with incarceration when, as Clinton described it, “finances are lacking”? There are economic models to address many of these issues, each of which has its own attendant set of debates. But even if all the cost estimates could somehow be far more

precise and uncontroversial than they currently are, we might still resist using them in place of more fine-grained understandings of how costs and benefits affect real people in their everyday lives. This replacing of people with numbers is not simply an abstraction; in the cases that need to be understood most — those of families in poor and minority communities — the transformation of real people into econometric measures to be bartered away in political calculations can be seen as yet another form of the broader symbolic violence already visited on them. This is not to say that economic assessments are necessarily counterproductive, but, if we are to attend to how our social institutions affect families and communities, we must insist that they be present in our minds as families and communities first, rather than as abstract victims or beneficiaries of one or another policy option.

Numbers alone do not tell the whole story. Families and communities are more than census blocks or dots on a graph. Rather than spinning an explanation from statistical analyses, it is better to see such estimates as part of a larger story in which families and communities struggle to cope with institutions that are often beyond their control. It is only when we know that Edwina is left alone to raise two sons on a small fixed income, or that Lilly gets most of her groceries from a local shelter so that her grandchildren can talk to their father, or that Zelda's daughters will go to school in last year's clothes and without school supplies, that we begin to gain some sense of what these figures signify in human terms.

The rippling effects of incarceration on the economy of a household or on the reciprocal exchange networks of a family are far more than the distributed costs of prison

construction or even direct costs to families of offenders. In policy-making, abstraction and statistics are a necessity; but more important than fiscal estimations is an understanding — and a detailed one — of how policies affect human relationships and the individuals involved in them. If we can shift our understanding of criminal sanctions from one based on isolated offenders to one of material and social relationships in the lives of real people, the nature of the problems and solutions we consider will change significantly.

CHAPTER FOUR: KINSHIPS

FAMILY FORMATION AND DISSOLUTION

One important lesson from nearly a century of anthropological studies of family and kinship is that, while family life in various locales around the world does not always look the same, the norms related to kinship usually rank among the most powerful in any culture. This is because, as we began to see in the last chapter, they not only structure life in ways that are essential to material well-being, but they lend emotional meaning to people's lives. Materially and symbolically, families model the reciprocal relationships that are found throughout a society, often providing both the essential form and substance of political and jural institutions.

Materially, family members often help one another by spreading both costs and resources in predictable and reciprocal patterns, so that families are able to enhance their own well-being far more effectively than if individual family members simply acted out of their own narrow self-interest.²¹⁵ Socially, families also serve as symbolic resources, through which not only love and heartfelt advice are distributed, but norms and modes of interaction are modeled as well. In particular, family life allows parents to express what

²¹⁵ Of course, families can also be draining and oppressive, modeling selfish calculation and exploitation of others rather than reciprocal concern and support. This, essentially, is the point that Bourdieu makes in discussing kinship. *But cf.*, MARGARET TRAWICK, NOTES ON LOVE IN A TAMIL FAMILY 135-139 (1992) (criticizing Bourdieu's reliance on selfish-calculation as a universal explanation, seeing only the "hypocritical, oppressive side" of family relationships. *Id.* at 139.); *also cf.*, Hans Medick & David Warren Sabean, *Introduction*, in INTEREST AND EMOTION: ESSAYS IN THE STUDY OF FAMILY AND KINSHIP (1984 Hans Medick and David Warren Sabean, eds.).

Erik Erikson has termed “generative” concern — a care that extends beyond the self to the next generation, most typically through one’s children.²¹⁶

A second lesson from anthropological studies is that, while many forms of family organization are adaptive to the material conditions that families encounter, because these conditions are varied and changing, the powerful pull to participate in family life can conflict with material necessities. When the cultural and material conditions of daily life are misaligned, as they are for many people in neighborhoods where incarceration rates are high, people are often required to transgress the norms of kin relations that inhere in the broader culture, and the costs — both emotional and material — can be immense.²¹⁷ Over time, the norms of familial relationships themselves can change and come into conflict with one another as people strive to meet some expectations only to fall short of others.

The primary goal of this chapter is to give some greater definition to the effect that incarceration is having on the structure of families that experience it firsthand. Because incarceration is so common and because its effects are so pervasive, this chapter will also describe some of the aggregate effects that incarceration has on local norms that influence family formation and structure. As we saw in the last chapter, criminal sanctions can have a significant effect on the generative aspects of concern, caring, and

²¹⁶ Erik Erikson & J. M. Erikson, *On Generativity and Identity*, 51 HARVARD EDUCATIONAL REVIEW 2, 249 288 (1981) (describing generativity as “the link between the life cycle and the generational cycle.”). *See also, generally*, JOHN SNAREY, HOW FATHERS CARE FOR THE NEXT GENERATION (1993).

²¹⁷ The effects of impoverishment and reduced options on family life is, of course, not simply an American phenomenon. Parker Shipton has described how, in many African nations, “when reserves run

reciprocity among kin, both immediate and distant. Because criminal sanctions directly and indirectly affect the ability of family members to engage in these types of reciprocally supportive and socially generative relationships, they have a powerful influence not only on the material well-being of inner-city families, but on the structure and norms of family life in the inner-cities.

On the Ropes: Derrick's Family

Londa is a married mother of three.²¹⁸ She broke her ankle a few weeks before we met, and had just had her cast removed, but still uses crutches to walk. Worried about the impression the disarray in her apartment will give, she is quick to apologize about the mess in her apartment. But, with her ankle broken and her husband Derrick gone, she has trouble keeping the place as clean as she would like.

What really messed me up [is that] because Derrick's gone he's not helping, he can't contribute anything financially, and I broke my ankle, so I'm, like, "What am I gonna do?" I don't like asking nobody for anything. Even when I had my cast on and everything, I just started hopping to the store, I started cooking myself, and doing whatever. The only thing I hate, 'cause I had the crutches, I couldn't really carry anything, so that was really hard. [...] Oh, I can't stand to ask anybody to help me do anything, so I really hate asking my mother now, but I can't walk, I can't get around. So it's just really, really hard right now.²¹⁹

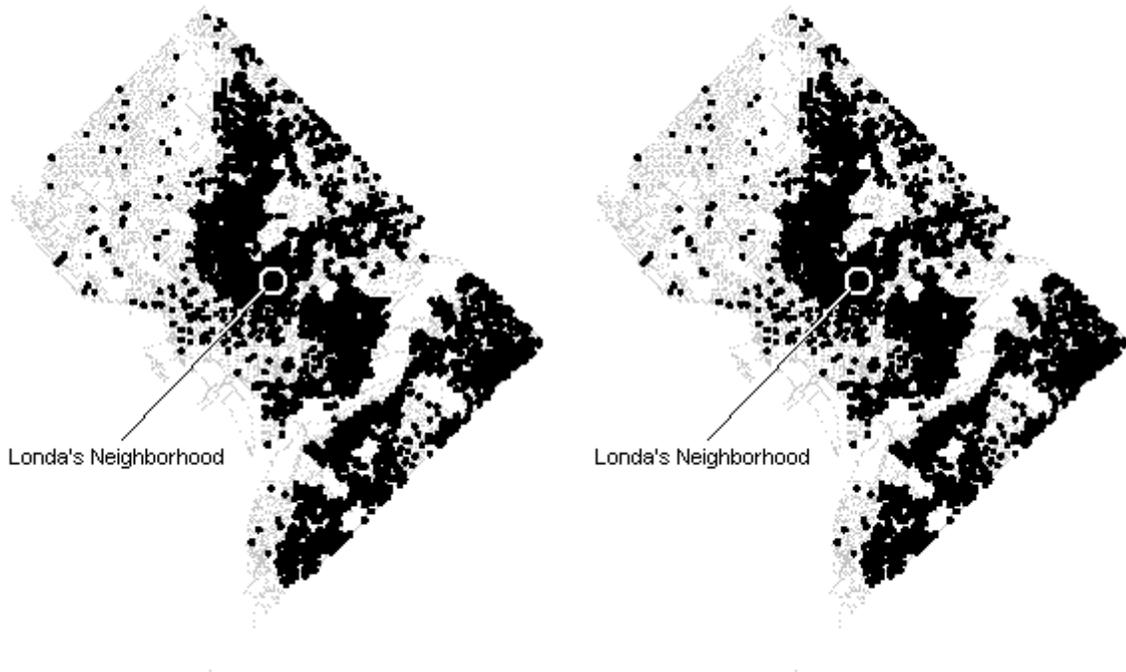
Londa and her three children — Sharon who just turned eleven, Cooper who is two, and DJ who is one — live in a small row house that is part of a housing project in central DC. The neighborhood was devastated first by the 1968 riots, then by the heroin

low [...] family may change radically in meaning, or lose meaning." Parker Shipton, *African Famines and Food Security*, 19 ANNUAL REVIEW OF ANTHROPOLOGY 353, 357 (1990).

²¹⁸ See *supra* note 43 (introducing Londa).

epidemic in the 1970s, declining public investment during the 1980s, and crack cocaine during the 1990s. Despite the efforts of numerous city and neighborhood organizations, the block she lives on is known today, as it has been for years, as a place where crack and heroin can be found on any street corner and at any hour.²²⁰

During 1999, there were sixty-four arrests for drug possession and distribution within a two block radius of her residence.²²¹ Over 120 men living within the same two block radius were admitted to the DC Correctional system during that time, about one quarter of them on drug possession or distribution charges. Many others, like Derrick, were incarcerated on other charges related to drug addiction.²²²



²¹⁹ Interview with Londa (Jun. 7, 1998).

²²⁰ For a history of this neighborhood, see Jenell Williams Paris, *"We've Seen This Coming": Resident Activists Shaping Neighborhood Redevelopment in Washington, D.C.*, manuscript, on file with author.

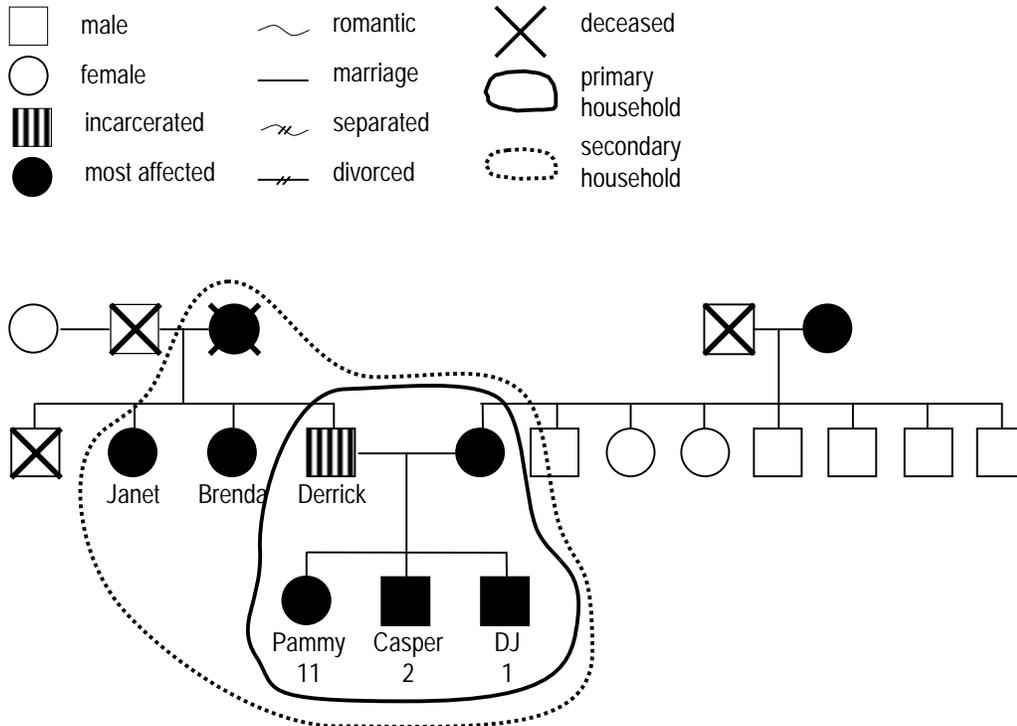
²²¹ DC Police Department Data, on file with author.

Drug Arrests (1999)

Residences of Male Prisoners (1999)

Figure 11: Arrests and Incarceration in the District

Though the apartment is convenient to public transportation, Londa despises the drugs



that permeate the area and has been waiting for a transfer to another Section Eight apartment in a better neighborhood for four years now.

Figure 12: Derrick's Family

²²² Usually fugitive, larceny, burglary, or robbery charges, on file with author. DCDC Data.

Over the three years that I have known her, Londa has struggled with her commitment to her husband Derrick. She sees their current relationship as the culmination of fifteen years of struggle with Derrick's drug addiction and incarceration, a struggle that has left Londa feeling utterly drained and Derrick with years ahead of him in prison, both of them unsure of what kind of father he'll be able to be to his children. Their story is useful because it is neither a story of flagrant injustice nor triumph against the odds. Instead, their story shows a family facing addiction, the criminal justice system's response to it, and the mixture of hardship and relief that incarceration brings to many families of drug offenders.

A Family Takes Shape

Londa and Derrick grew up near one another. Londa was from a large family, with four girls and five boys; Derrick's family was smaller, with two girls and two boys, but he had a large extended family in the area with whom he was close. Londa, who was shy as a teenager, was won over by Derrick, her brother's bright and outgoing friend. He was spontaneous and generous, "a little over the top," but she liked that: "We use to just act silly and everybody would look at us like we crazy." Looking back on how they started, she remembers getting to know him during their long walks around the neighborhood, talking and joking. Soon they were in a full-fledged romance, and by the time they were out of high school, they were together nearly all the time.

Derrick was a hard worker, making good money performing manual labor: laying carpet, working construction — any job that he could get to help them along. In many ways, Derrick and Londa had a lot going for them. Despite Derrick's wild streak and

partying on the weekends, he kept himself in check and made it through his teens without any serious problems. Unlike many young men in the neighborhood where he grew up, Derrick knew that he could earn a living if he worked at it and that Londa was a good partner and would make a fine mother. Londa knew that Derrick, though a little wild, cared about her and was able to help support their children.

Londa also developed positive relationships with Derrick's mother and his two sisters, Janet and Brenda. "His family, his sister, they're like close family to me. You know, I wouldn't call them my sisters-in-law, I would say they're my sisters."²²³ They spent a lot of time together, living the kind of family life that many people hope to be part of. They would cook for each other, watch each other's kids, help out with money in a pinch.

Londa related one example:

When [Brenda's] daughter got ready to graduate she was upset — she was hurt. I know she was because you know, she had always said "When my daughter gets ready to graduate, I'm gonna have a car waiting for her with a bow." You want to have so many things, and I understand that. I want all those things, too. At the time she was out of a job. You know [her boss], he didn't care. I took my car. Waxed it, washed it, did everything. And I let her use my car for her graduation. I mean there was just a lot of things we did for each other.²²⁴

Londa and Derrick's sisters also agree that Derrick was a great family man early on and used to take care of his sister's kids before he had any of his own. As Derrick's sister, Brenda, told me:

We was like a big family. He used to take the family and they'd go to the park. Derrick liked to play with kids. He's better than me, I don't have the patience for it. He'd take the kids. They'll just go and hang out. I mean,

²²³ Interview with Londa, (Jun. 7, 1998).

²²⁴ Interview with Londa, (Sep. 3, 1999)

it's a thrill to him. I'm like, uh-uh, not me. [But] Derrick is a kid person. I mean, he just... He must have got it from our mother, our mother was like that, too.²²⁵

To Londa, at the time, their prospects seemed exceptionally good. As she told me, "When he first came around [I thought] it's going to be me and that person forever, you know? And I guess I've always thought that about me and Derrick."²²⁶

Looking back on the same time, Derrick now sees that his perspective on family life was neither equal to Londa's nor what he now thinks it should have been:

Thirteen years ago, before I had my daughter, [I said] "I want a child." I wanted a child, but I wasn't prepared for the child. I didn't save up anything. I didn't prepare a home, a stable home or anything. I didn't prepare that me and Londa go ahead and be marrying, and she have her job, and I have a nice job. I didn't prepare for none of that; I was just living life on life's terms. I was living, listening to...I grew up with my uncle and them, around them all the time, and I thought the way that they was living was a way of life. That you go out here and work, and you got your wife at home, then you got a girlfriend over here. Then you can go stand over there on the corner, you know, how guys hang on the little block together? Go over there, and that's where they drink at and all that. Then I figure that you can come on the block riding on your car all cool, got your girl over there. You know, I thought this was a way of life, and...and also going down the parks and all. I really thought this was a way of life. Now that I look at it, I was following the wrong crowd — even my own peoples now — the wrong crowd. And I see this now.²²⁷

At the time, though, it seemed to Derrick, Londa, and their families that they would make a good couple. Both Derrick and Londa wanted a child, it wasn't long before Londa was pregnant. He was twenty-two, and she was twenty-one.

²²⁵ Interview with Londa, (Jun. 7, 1998).

²²⁶ Interview with Londa, (Sep. 3, 1999).

²²⁷ Interview with Derrick, (Mar. 15, 2000).

Family, Addiction, and Incarceration

Around the same time that Londa became pregnant, Derrick's drug use became noticeably more serious. By the time their daughter was born in 1987, Londa could see changes in Derrick as he started covering for his growing addiction. Anyone with an addict in the family will know the litany of problems that Londa encountered: lying, erratic behavior, late night disappearances, pleading for money, and eventually stealing. Pretty soon the stealing was so bad that Londa would stay awake all night.

As far as the drug addict, you can't really sleep around them because you're scared that when you wake up something is going to be missing. So you generally stay awake to try to keep them there or to make sure that things that you value or that you took your time out to get or spent your money on are still there when you get up in the morning.²²⁸

Derrick remembers this time, shaking his head. He had started selling drugs to support his habit: "I was out there at that time basically using — selling in order to use. [...] I was running and staying up all the time. I'd come in the house any time because of the addiction getting worse and worse."²²⁹

Today, Derrick makes no excuses for his behavior or his addiction. He acknowledges that his father was never around and that many of his family members — especially his male relatives — were hard drinkers and occasional drug users. But, on

²²⁸ Interview with Londa, (Sep. 3, 1999).

²²⁹ Interview with Derrick, (Mar. 15, 2000).

balance, he believes that his family was a positive influence. Given his family's stance, Derrick told me, his continued drug use was a result of his being "hard-headed."²³⁰

I was basically making my own decisions instead of listening to what they was trying to tell me. They always told me, "Derrick, don't be going out there. Don't be doing this. Don't be.... I want you to stop using drugs." And they always stood a battle for me with the drugs, but I chose to do what I wanted to do.²³¹

When Londa realized how serious things had become, she tried to hold Derrick accountable as a parent, something she felt like she deserved and their daughter needed. Londa was feeling more responsible now that they had a daughter, and she thought that Derrick should do the same:

I felt like if I was going to grow up because I had to "be a mother" [then] he had to do it too. And I felt like that was only fair. He didn't have to be there all the time, but he just needed to grow up. And at the time he never got any help because he never felt like he had a problem. [...] I guess everybody [in his family] was upset because I wouldn't let him see our daughter. [...] But I felt like if I'm going to be sober and clean to see him, he has to be too.²³²

When Derrick did not go straight, she told him he could not come home and could not see their daughter until he did. "You get yourself together [and you can see her, but] I don't think she should get less from you and more from me.... The best you can do is to come over here like that? No. I'm sorry, she deserves more than that."²³³ And she cut

²³⁰ While the phrase is sometimes used to describe a person who is intelligent and clear-headed, many prisoners and their families use it to indicate the reverse — someone who is hardened *against* good advice — and use it to explain illegal or self-destructive activities.

²³¹ Interview with Derrick, (Mar. 15, 2000).

²³² Interview with Londa, (Jun. 7, 1998).

²³³ *Id.*

him off. Shortly after that, Derrick was arrested for possession and sentenced to eighteen months.

Cycling Through the System

Although Derrick did not enter drug treatment while he was incarcerated, he managed to stay off of drugs and felt like he had recovered from his addiction.²³⁴ Londa was surprised to see that Derrick once again seemed like the person she'd fallen in love with. At the height of his addiction, she had thought that his personality had permanently changed and that they would no longer be able to relate to each other in a meaningful way. But to her surprise, "the old Derrick was back," and he was promising to reform his ways, writing long letters of regret, talking about his religious reform in prison, and suggesting that they get married on his release.²³⁵

²³⁴ While it is not impossible to get drugs while incarcerated, it is both more difficult and riskier. For these reasons, many drug offenders either get clean or significantly reduce their drug habit in prison. It is worth noting that one participant in this study, Tyrone, died of a heroin overdose while in prison. Tyrone was housed in Lorton's Central facility. He had been, after extensive discussion of his habit in court, sentenced to drug treatment while incarcerated, inpatient treatment after release, and three years probation for robbery. He was awaiting transfer (to be sent out in the next "load" of prisoners") to a federal facility where treatment was available when he died. Just before his death, he told me he knew he needed to get help soon:

Right now, I'm just goin' through problems. I just wish they'd go ahead and send me on a load somewhere I can go somewhere. [...] They act like they don't want to send me on no load. I don't know. I'm just...I'm just here. I have never received any type of treatment. [...] This is gonna be my first time, so hopefully, I'll get something out of it. I need it. I need it. I really do need it. Interview with Tyrone, (Mar. 8, 2000). He was survived by his mother, sister, and son.

²³⁵ Prison correspondence is, perhaps, the last great stronghold of the handwritten letter. Many of the men and women that I spoke with described letter writing as crucial to their relationships while dealing with incarceration. This is, in part, because the collect phone calls are so expensive, see *supra* note 149, but also because it allows men to say things they wouldn't normally say aloud. Letters are also semi-permanent objects that family members collect and read over several times, whereas phone calls, while allowing a different kind of communication, are ephemeral.

Letter writing is part of a broader pattern of relationships that men and women enter into, however, and the moral and emotional quality of letters is colored by those patterns. Although prison is a remarkably

Derrick's family also pressured Londa to give Derrick another chance. Concerned about Derrick's morale, they were worried that his isolation from Londa and his daughter could push him back into his drug use. Eventually, Londa submitted to their pleas. "His mom and everybody has always felt like I could make a difference [in Derrick's recovery]. And I guess they had me at the point where I was believing that I could too." Won over, Londa accepted Derrick's proposal of marriage when he was released. Looking back, she says she feels like she married two people:

I think when I got married I was thinking, too, that I really, really wanted this person that I knew. Not necessarily he had to be the same as that person or act the same way. I didn't want that person where the demons had taken over. You know? I just wanted my Derrick back.²³⁶

Once Londa had seen that Derrick could be responsible when clean, she wanted to help him beat his addiction, but she had little idea how hard it would be.

Trying to gain control over an addiction can be all-consuming for family members as well as addicts. Londa felt that in order to understand how Derrick could change so

public and social environment for men, one of the privileges afforded by incarceration is the relative privacy from female partners that men have in their correspondence and associations. The restrictions placed on when and how women can contact and visit with inmates allows incarcerated men to pursue relationships with several women at the same time, often with none of the women being the wiser. As one described it:

The letters that they write you.... All of them got their jail line, their first line, it's like they teach them that line in a class or something: "How are you doing emotionally and physically?" All of this shit. But the letters that they write you and the cards that they send, I mean, if you don't know no better.... Me, in my younger days, I didn't know no better. I was, like, "Oh, this man is sure enough in love with me." And the same thing he doing to me, he doing to the next woman! And I mean, they got it. The letters and the cards, they just make you feel like you everything. But all the time, you ain't everything. The next woman ain't everything. It's all of y'all. Interview with Carlita, (Jul. 12, 1999). This kind of behavior, however, runs the risk of discovery and loss. Many people I interviewed for this study described the emotional scenes that ensued when an inmate failed to manage who visited when and more than one of the women he was pursuing showed up for the same visitation slot.

²³⁶ Interview with Janet, (Jun. 24, 2000).

much, and to help him get off drugs so that they could stay together, she needed to become an “addiction expert:”

I had to learn about drugs. I *had* to learn. I had to study all of that and try to figure out “Why did he do this. Why does he do that? What makes him do this? What would he do if I did this?” So I learned about it. I studied tapes, and read books, and went to the meetings, and I studied everything. I was maybe twenty-two, but I was old enough where I could be sick and tired of it myself. I could be sick and tired of being sick and tired!²³⁷

During the following years of Derrick’s cycling through active drug abuse and recovery, Londa would work with him every time he returned to their home, accompany him to his Narcotic Anonymous meetings, and keep on him about avoiding his old friends. Derrick did kick the habit each time he was incarcerated, but his recovery never lasted longer than a year after being released from prison. He would attend NA meetings for a while, work hard, pay the bills, and then one day he would stop off to see some “friends” on the way home and it was all over — another binge and another set of broken promises.

Family Aspirations

Addiction alone can strain and sour familial relationships, but incarceration adds an additional wrinkle to the problem that families struggling with addiction face. While incarceration can — and in many cases does — save addicts from losing their families or their lives, it can also extend the impact of addiction on families. Each incarceration allows the offender another chance to reestablish relationships that had been curtailed by

hurt family members. But, because most drug offenders do not receive treatment, the likelihood of relapse is high; and because many offenders are released to their relatives, the influence on family life can be drawn out and devastating.

Londa coped with the cycle of incarceration, release, and relapse by learning to identify clues in Derrick's behavior and to protect herself whenever she saw signs of drug use. As soon as she found him backsliding, she took away his keys, hid valuables, and kept an eye on him whenever she allowed him in the house. After Derrick spent one of her paychecks, she also developed strategies for handling money. Whenever either of them got paid, she would guess at the amount of next month's bill and send in her payments in advance. This way she got rid of all their money immediately and made sure the heat, electricity, and phone stayed on.

* * *

The pull of "normal" family life is powerfully attractive. What surprised me in my interviews was the degree to which that dream, against all odds, remained intact among families of prisoners. Londa, after all, acknowledges that few (indeed none) of the families she knows live in this arrangement, and her dedication to her marriage raised significant difficulties for her:

I always thought that, "Okay, we want to raise our kids together." There's not too many [families], there's not any that I can think of at this time that's not a single a parent family. I never wanted that for my kids. I wanted them to have something that I didn't have. So you try to give them this and you try to give them that. But to me it is more important to have

²³⁷ The phrase "sick and tired of being sick and tired" runs through the literature on recovery, particularly twelve-step programs. See ALCOHOLICS ANONYMOUS (1976).

both your parents there. And I've always thought, you know, "Okay, that will happen." I always thought that would happen.²³⁸

Londa was not making a simple evaluation of Derrick as a potential partner in a narrow economic sense; her hope that Derrick would eventually recover from his addiction was also based on her extensive history with Derrick, their three children together, and that both of them valued the institution of marriage itself. Divorce was not something that Londa took lightly, and her adherence to that norm cost her dearly.

The Last Time

The last time Derrick was out, Londa, his sisters, and mother were close to cutting him off from the family altogether. His sister, Brenda, recalling this time, looks down and frowns; things were worse than she had ever seen before, "He just didn't care no more. And he said he didn't care, and, he wanted to die." Londa recalled that time, and her daughter's reaction:

It just really got worse. My daughter, she couldn't stand to be around him. She couldn't. She didn't want to be in the same room. And she loved her aunts, her grandmother, everybody over there. But she just didn't want him, you know. She was just having fun as long as he wasn't in her face. I know one particular time she was just hitting on him and kept saying, "Leave my mommy alone!" She was just screaming and she was hitting. All of that swinging. And she kept saying, "Leave my Mommy alone! Leave my Mommy alone! Leave my Mommy alone! I don't want my Mommy to cry no more." I...it just, it shocked me. It really shocked me.²³⁹

²³⁸ Interview with Londa, (Sep. 3, 1999).

²³⁹ *Id.*

Even his mother, Derrick's most tireless advocate, had had enough. As Londa, recounted: "I could see that his mother was really, really upset."²⁴⁰ Derrick's sister, Janet, remembered what she thought was the tipping point, a night when Derrick brought a "friend" back to the house and started smoking crack in the basement with her. "My mother, she came downstairs with a knife, and me and my sister had to hold her back and hold him back."²⁴¹

But just when things seemed to get so bad that Derricks' family gave up hope, he finally turned a corner and decided to check into a residential rehab program. Brenda recalled, for "the first time ever after all the years, he was just able...he was just able face it. He got three kids, a wife, and he wanted to raise the kids and everything, and he seen what he was doing to us. He was tearing us apart."²⁴² Derrick acknowledged that the threat of destroying or losing his family, particularly his mother, was what finally turned him around. "They could just cut me off, and they won't have nothing else to do with me. It was almost to that point."²⁴³ For the first time, he stopped using drugs on his own and made arrangements to enter an inpatient drug treatment program.

The day before Derrick was supposed to start his program, however, his mother died. Londa cries thinking back on it. Derrick had just left to pick up some food that his mother had prepared for her, Derrick, and the kids. Londa called to let her know that Derrick was on his way.

²⁴⁰ Interview with Brenda, (Oct. 11, 1999).

²⁴¹ Interview with Janet, (Jun. 24, 2000).

²⁴² Interview with Brenda, (Oct. 11, 1999).

²⁴³ Interview with Derrick, (Mar. 15, 2000).

We were talking on the phone she was telling me that he had called a drug treatment center himself, and that he was going that next day, how he finally went through with everything. She was saying, "I'm so glad," you know. And she was saying how glad she was that he was finally his old self. And it was just...she was so happy about that. And she passed out while I was on the phone.... She just collapsed.²⁴⁴

Derrick's mother had a heart attack and died a few days later. Londa and Derrick's sisters were doubly devastated. Not only had they lost their mother, but they also knew that, despite his promises the week before, their mother's death would send Derrick back to crack. As Brenda put it, "Usually we'd be the ones trying to get him to a program. But this time, Derrick did it because he seen that we would have had... We had just had had it with him. [...] And then my mother, she died that weekend, I knew right there, forget that, it won't go nowhere."²⁴⁵ Derrick abandoned treatment and went on a month-long binge that lasted through the funeral and alienated most of his family. Londa recounted a litany of outrages:

He used drugs. He drank alcohol. He...I don't even know. Come to find out he was having money wired to him from somebody — everybody — and he was spending it on drugs. I mean, I had the kids down there. It was really bad. He cursed me out. We went to stay in a hotel that my mother paid for. Now, at the hotel he stole my father's car that night. He borrowed money from the hotel manager. He said, "My wife and kids are stuck. They don't have gas and I don't have no money on me. Can I borrow some money so I can get them some gas?" I didn't know any of this until I was sitting in the room and the guy says, "Well he told me that um he was waiting on you to get back with the money." And I'm looking at him like, what are you talking about? He borrowed money from his aunt [and] his uncle. They're married, but one was outside, one was on the inside, so he took from both of them. I mean it was just... I have never seen nothing

²⁴⁴ Interview with Londa, (Jun. 7, 1998).

²⁴⁵ Interview with Brenda, (Oct. 11, 1999).

unfold like it. It was so frustrating. It was so upsetting. I mean I have never had so many hurtful things in one time just come at me like that.²⁴⁶

Londa knew Derrick was not headed towards recovery, so again she cut him off. It was not long before Derrick was back in prison, not only for violating parole, but with new larceny counts in both the District and Maryland.

Several families in this study described the cycle that drug offenders who don't receive treatment go through: the addicted family member would be incarcerated on some minor charge (usually possession or larceny), given a year or so in prison without drug treatment, and then released on parole. As was the case with Derrick and Londa, the parole board would contact the family to make sure that the offender has a place to live and a supportive environment. Families, knowing full well that their loved one received little or no drug treatment and that he was thus likely to relapse, are in a bind. If the family does not agree to take him in, he would simply spend more time in jail or prison without treatment. If they do agree, they do so knowing that he is likely to relapse and re-offend. Unsurprisingly, most families — urged on by the pleadings of the incarcerated family member, and ever hopeful that they will be able help him through recovery — agree to have him released to their care. Thus the cycle of good intentions and promises, followed by relapse, deeper addiction, and then reincarceration goes on.

The cycle usually ends in one of two undesirable ways. That which families fear most is death, and many drug offenders do die — victims of a drug overdose, an illness secondary to their addiction, or violence. Over the three years of this study, three of the

²⁴⁶ Interview with Londa, (Jun. 7, 1998).

fifty offenders that participated died drug-related deaths. But a fair number survive, and their cycle of abuse and incarceration without treatment ends another way: they commit a more serious offense or wear out the patience of a judge, garnering a lengthy sentence and, if not dying in prison, are released late in life. While it is too early to say for sure, this appears to be what is likely to happen in Derrick's case. After receiving several sentences for which he served less than two years a piece, Derrick found himself in front of an unsympathetic judge who simply saw no reason why this time would be any different from previous times. He had his second, third, and fourth chances, the judge told him, now it was time to take him off the streets for a long time. What might have garnered a suspended sentence or parole as a first-time offender got him eight to twelve years.

There are also, of course, far more desirable but also far less common ways of breaking the cycle. Fortunate offenders will be sentenced to mandatory inpatient drug treatment, followed by transitional treatment in a halfway house and then outpatient services. As a number of national studies have now demonstrated, this approach is highly effective when the quality of the treatment is high and the duration is reasonably long.²⁴⁷ Despite the widely held belief that treatment must be voluntary to be successful, this same research has demonstrated that mandatory treatment is at least as successful as voluntary treatment.²⁴⁸

²⁴⁷ The National Center on Addiction and Substance Abuse, Columbia University, "Behind Bars: Substance Abuse and America's Prison Population," January 1998.

²⁴⁸ *Id.*

One would think that mandatory drug treatment would be a popular sentencing option among judges and offenders alike. The chances of being sentenced to treatment, however, are slim. While some judges are discerning enough to sentence drug offenders to drug treatment, historically many have not been. And even those judges who support treatment have to confront the practical reality that treatment — both in the correctional setting and in the community — is frustratingly scarce. As Faye Taxman, a University of Maryland professor who studies the District observed:

[P]robably half of the sentences for probation have drug treatment required, but probably only ten percent get any type of services, and I use the word ‘services’ lightly. The system has been structured to provide the minimum. We provide something less than the minimum and say we are providing services.²⁴⁹

While it is estimated that 65,000 District residents need drug treatment, well over eighty percent cannot be placed because of lack of treatment facilities.²⁵⁰ Over forty percent of the District’s offenders test positive for illegal drugs, and over seventy percent report current or recent drug use.²⁵¹

The lack of available drug treatment also creates unintended incentives for inmates to avoid admitting to a drug problem and to submitting to drug treatment as part of their sentencing. Because inmates can wait months or even years to gain entry into a drug treatment program that is a requirement of their release, many inmates try to avoid sentencing that includes treatment even if they believe that treatment would help them.

²⁴⁹ Peter Slevin, In D.C., Many Addicts and Few Services; Lack of Treatment Programs Keeps Substance Abusers in Jail or in Trouble, *Washington Post*, A01, August 25, 1998.

²⁵⁰ *Id.*

²⁵¹ DRUG STRATEGIES, FACING FACTS 1 (1999).

They would rather just do “straight time” and be released than sit on a waiting list for a non-existent slot in a drug program.²⁵²

Although Derrick was in and out of correctional institutions for over a decade on drug-related offenses, he was never sentenced to or completed a correctional drug treatment program. For the years that Derrick cycled in and out of prison without serious drug treatment, Derrick’s other family members were trying to get him into a program, but with little success. Derrick resisted seeking treatment at trial both because he thought he could kick his addiction on his own and because he knew that it could add significant time to his sentence. Once he was released, he also had bills to pay. As he told me “I just thought I could kick it on my own. I was hard-headed that way.”²⁵³ His sister, Brenda would try to talk him into going to a residential program, but had no success:

Derrick is a workaholic when he’s not on drugs. And he told me why he does it: to keep his mind off drugs. He wants to stay busy, because that’s what he needs when he’s first out. And like he told me, he also...he’s scared of society. [...] He says, “It’s scary out here.” because he don’t want to go back to jail. That’s why, like I told him, I said, “Well, you need to get in a program, a real program that you can be there for awhile and take care of this sickness.” He said, “Yeah, I know.” But the point is getting there, getting in a program.²⁵⁴

²⁵² See Slevin, *supra* note 249 at A01 (“Because drug treatment is so scarce in the District, prisoners who need help routinely spend extra time behind bars, just waiting.”).

²⁵³ Interview with Derrick, (Mar. 15, 2000).

²⁵⁴ Interview with Brenda, (Oct. 11, 1999).

Small People and Big People

Derrick will likely spend at least another eight years in Maryland and DC facilities, and it could easily be as much as twenty. While he is not happy to be separated from his family, he acknowledges that there are some benefits to his being incarcerated in Maryland where there are drug treatment and job training programs available.

I look at [my incarceration] as taking a burden off of them and look at it as giving me back my life.... Because if it had not been for this incarceration, either one of two things could have happened. First of all, I could have lost them completely first. It already got to the point where I was not living with my wife and kids before I came in here. And it was almost to the point that my sister and them was ready to let go. And also, now, I could have been sleeping in the grave and be dead. But through this incarceration...it's been a blessing to me. I'm not saying that I want to be here, but it was good that I came here.... because I never in my life want to do that again — to take my family what I took them through. And I made promises to my sister and them when my mom passed that I never held to. I promised to be there and help them, but now that I look at it, it seem like I made a promise to destroy them, because that's what I was doing.²⁵⁵

It is hard not to agree with Derrick that his current incarceration is, on the whole, better for his family than when he was out and using drugs. But Derrick's sister Brenda, views his predicament with less equanimity than he does, and her lament was one I heard from many family members of drug offenders. The cycle of release, relapse, and reincarceration is one that she thinks could and should have been avoided:

It's hard when people don't have the income or know how to find people that you can talk to, to know how to get into them [a drug treatment program], because a lot of people don't want to listen to smaller people like us. And you just kneel down, and you pray, and you just ask God to lead you in the right way, and just watch over us. Well, it's hard. And you're trying to survive for yourself. And my kids, my family take care of

²⁵⁵ Interview with Derrick, (Mar. 15, 2000).

my income and everything with my household, and it's difficult. Then he has a wife and his kids who are on the other side of town, and they're suffering, too, you know. [Wealthy people] got people, big people, helping them, pulling them out of situations. And when people, little people, get like that, that's a different story. For them, they get thrown away in jail and locked up, while people that's on in high places, they'll take them somewhere privately to a program, and then they get clean. Then they're around positive people and live in positive areas. But they don't do the same thing for people that's small people — they just throw them away in jail instead of them trying to say “Well, I can make a deal here. If you spend such and such time in jail, and then you go from jail to a program out somewhere, until you feel like you got it mentally together, until you prove to me that I can trust you to go from step one, to step two, to step three.” You know? That's what I believe. That's what I see. I mean, why they don't see that? I mean, they deal with us every day, I don't know why they doesn't see that. It's...it's simple.... especially if they really want to.²⁵⁶

Clearly the efforts of police, judges, correctional officers, wardens, departmental administrators, congressmen, and citizens — all of which have produced our correctional system — are not conspiracies against poor families and communities. And yet, one can see why, from the perspective of many families dealing with the criminal justice system, it seems more like part of a calculated design to destroy and injure than a collective social attempt to help or protect.

Both Derrick and Brenda's perceptions seem right. For many drug offenders, arrest and conviction *does* offer them chance at sobriety and a chance to reestablish the family relationships that they damaged while they were free. But, as with all the times that Derrick went through the system, incarceration without treatment gives drug offenders yet another chance to pull their families back into the cycle of addiction. As more and more offenders are incarcerated on drug-related charges, the disparities in the

²⁵⁶ Interview with Brenda, (Oct. 11, 1999).

criminal justice system become ever more tightly bound up with the disparities in drug treatment. In both cases, people get the best their money can buy, and for those without money, for “small people,” that is often nothing at all.

Straining Family Ties

Despite Derrick’s gratitude for being alive, his family life is a mess. While he is finally in a drug treatment program, for many in his family, it is too little, too late. The first time that I met Londa she was worried about how the rest of the family was thinking about Derrick.

He has an aunt now that, she’s at the point where she doesn’t talk to him, she don’t want to see him, you know. She was like “He needs to stay where he is” and, you know, not thinking about a turnover or anything like that. She just. She’s just really, really bitter about it. And, I didn’t know this until I spoke with her awhile back. And, I didn’t know she felt like that. But she was really, really head strong about him. “He needs to stay where he is and he better never come see me again.” It’s hard. Like he tells me a lot, he tries to make amends with people, and, he can’t..... And it’s because, most people don’t understand addicts. They just know that they are addicts and they don’t want to have nothing to do with them.²⁵⁷

While she had long been a supporter of Derrick’s, Londa’s mother was very upset by the Derrick’s behavior at his mother’s funeral and would berate Londa any time she talked about Derrick. “I couldn’t just say ‘well I still love him’ anymore [to her]. She’d be like, ‘You...Are you crazy?’”²⁵⁸ So Londa stopped talking about Derrick to her extended family, except for Derrick’s sisters.

²⁵⁷ Interview with Londa, (Sep. 3, 1999).

²⁵⁸ Interview with Londa, (Sep. 3, 1999).

One of the hardest issues for family members to talk about is the way that children are affected by their parent's incarceration. The most obvious difficulty is simply figuring out how to help the child deal with the absence of the parent. For Derrick's daughter, Tanya, that he was occasionally a good father made the times that he wasn't all the harder. Londa described their relationship as a close one that slowly deteriorated. But Londa doesn't think that her daughter ever forgot what it was like when Derrick was sober. "She really misses that, because when she was little they were really, really close."²⁵⁹

Beyond simply missing her father, though, Tanya has had to navigate the social world of a young girl while managing the information about her father in her encounters with friends and teachers.²⁶⁰ Londa believes that Derrick's incarceration has led her daughter, already a quiet girl, to become increasingly private and withdrawn.²⁶¹

It bothers her because, you know, everybody is dealing with their fathers and school and their mothers. They come see them in show and stuff. [...] You could see the hurt. I mean its not more or less she's gonna come out say it. But she's real quiet like me. She's gonna keep everything in 'til she can decide "Okay, who do I want to talk to?" You know. Other than that

²⁵⁹ Interview with Londa, (Sep. 3, 1999).

²⁶⁰ This, for Londa, was the hardest part, and led to several arguments with Derrick about how to describe the situation to her. Londa wanted to keep Derrick's incarceration a secret while Tanya was young, and let her know as she got older. Derrick, on the other hand, initially wanted to tell Tanya but, as Tanya grew more and more frustrated with him, began pleading with Londa not to tell her.

²⁶¹ The reaction of children to incarceration is deserving a great deal more study. One of the common responses that I found was that children generally guarded information about their incarcerated parent carefully, even when they knew that other people had full knowledge of the situation. As one aunt raising her nephews son told me:

He and I don't talk about it very much but it does have an affect on him. It makes him kind of — when it comes to talking about his father — withdrawn. He has this "I don't want to talk about it" attitude. When his father calls he always talks to him on the phone, but anybody else, if you ask him, "well, what did he say?" He won't tell you anything. It's like it's between him and his father. But otherwise he doesn't talk about his father.

Interview with Barbara, (May. 12, 1999).

she really is very. She is very private. But I could see it. She has girlfriends and stuff but they don't know.

He told me that he was sending her a watch or something, and I didn't tell her. And when it came in the mail, I said "You got a package in the mail." But I wasn't really thinking about it. [...] She said "Oh it's from my father." I said "Um-hmm." And she opened it up. She said, "Oh look what he got me!" She was really, really happy about it. Then her friends came along and they were saying, "What's that?" "This is my new watch." and [her friend] said, "Oh that's cute. Where'd you get that?" She said, "My father gave it to me." [Her friend] said, "Your father gave it to you? When?" And she said, "Yeah. What you think, I don't have no father?" No father. You know?

And then her school work. It showed in her school work. And my daughter is a brain. You know. "A's" ever since she made kindergarten. She's never gotten a "C". Never. Fifth grade everything just went [downhill]. He went to jail and everything just...she just really went down this...I kept talking to her. "What's going on? What's wrong." "Nothing." You know. She will not say it. Sometimes I sit and talk to her and I try to pull it out of her. She'll say "Yeah." Sometimes. You know. And I know that in the fifth grade year and I receive her report card and they said she had to repeat a grade, I cried, I...I hurt. It bothers me now. It still bothers me. You just think, you know, there is nothing that you can do. What can you do?²⁶²

Londa is both exhausted from years of trying to work it out with Derrick and furious with him for backsliding at his mother's funeral. She still cares for Derrick, but is long past putting his desires before her own, let alone the needs of their children.

I think now I'm wiser. I know a lot, a lot more than, you know, than more average thirty-three-year-olds as far as dealing with drugs and kids, and I know where to draw the line. I know how to say, 'So long,' [instead of] "Okay, I'll give you one more chance," I know how to say, "No, that's it. You had your chance."²⁶³

After the funeral, Londa began considering filing for divorce, but still reluctantly.

²⁶² Interview with Londa, (Sep. 3, 1999).

²⁶³ Interview with Londa, (Feb. 10, 2000).

We have spent 18 years together and I'm thinking, "Okay, I can't mess up now!" [...] The only kids he has are mine, you know. I...I think about all of that, and I think about, you know, why did I get married? You know, was I so blinded, and the fact that I wanted to get married that I didn't look past that he-man stuff and doing drugs. Or [rather, that] it hadn't been that long since he had stopped doing them. I mean, [...] all the other times that he went back, and why did I think this was so different, you know? And I think about all of that, and sometimes I get mad at myself, because I look back, and I see all these things.

I mean, at first when we was dating, I could just walk away. But now, you know, I put a ring on my finger, and I'm married, and so it's more difficult now because I'm married to him. And I have more kids. I already had one, but I have more kids now. It would be a lot less pressure on me to stay, by me not being married to him.

* * *

The last time I interviewed Derrick in person, he knew he was losing Londa. He was struggling to figure out how to cut his time down or be relocated near DC so that he could avoid losing touch with his family altogether.

My problem now is this. I got to choose between the treatment route, the education route, and the job route. Now on the treatment route, I'll get nothing. Doing school, maybe just enough to cover cosmetics, but that's it. I go the job route, and I can send home some money and, see, that helps out Londa and keeps the family intact. The point is, though, that they ain't coming to see me here and ain't taking my calls 'cause they can't afford the collect. But if I take the job, I don't get the drug treatment. So I'm trying to focus on the family, but I'm also kinda trying to get out of here. But it's also to, I want to get back with them, even though I know I have to get the treatment first. But I just don't know. I know Londa's drifting away now.

And now I have two boys. One of them knows me but the other one was born while I was in here, and when I got out I only picked him up one time when he was a baby. And he's named after me, you know, but he don't know me, from Adam. His mother may show him some pictures and things and say, "This is your father," or whatever. Maybe, I don't know. But I think my oldest son, he do know me a little bit. He's four years old now, so he may not know me was well, or maybe my face or something, you know, remember it. Well, now since I'm in here, I try to be a father to them, sending them money, you know, to be able to help the mother out.

[...] I try to do that, you know. So if I keep up the job, I can send back money, keep Londa a little more happy, keep the kids knowing me. But then I just go in circles. The judge said I have to do the treatment here before I go for parole. [...] I mean, I look at it and it would have been so easy to be a father out there. Maybe not easy, but it's like it's impossible here. You know Londa's talking about divorce.²⁶⁴

* * *

I have often been surprised by the number of people who, while seeing their immediate world in terms of home, family, and community, shift their framework of understanding to one of radical individualism when discussing criminal justice. By conceptually stripping offenders of all their social relations, we are able to affix blame and mete out punishment. The atomized offender is a useful fiction in that regard, but a fiction that has come to dominate our analysis of what our criminal law should and can do.

Sitting in the office of a conservative congressman on Capital Hill, I recounted an abbreviated version of Londa and Derrick's story to a congressional aide. I was surprised by her response: "Why did she stay with that loser for so long? What these women need is to get out of these bad relationships." At the time, the aide's response seemed to contradict traditionally conservative "family values:" here was a low-income African American woman living in the one of the most drug-ridden neighborhoods in our capital city making significant sacrifices to keep her family intact against all odds — and a white, politically conservative member of the middle class wondering why she bothered. That the Congressman had publicly decried the casual attitude towards divorce

²⁶⁴ Interview with Derrick, (Mar. 15, 2000).

encouraged by our culture had lead me to think that the aide would be a sympathetic advocate for this family.

Now, however, her reaction makes more sense. It is not that the aide did not value family; rather, it is that Derrick's status as an offender prevented her from seeing that he was part of a family and that, in our society, it is considered *immoral* to abandon a family member. "For better, for worse, in sickness and in health," are the traditional vows of marriage, and many of the wives of prisoners that I spoke with recited them to me when I asked why they chose to stay with their husbands. The stereotype of the offender is that of an individual isolated from all social relations. The aide's suggestion stemmed from a misunderstanding of the strength and meaning of family for the rest of Derrick's relatives. Had it been her own brother or husband addicted to drugs and in prison, I suspect that she would have felt differently.

Extended Families: Roberta's Family

The form that American families take — even middle class and affluent families without involvement in the criminal justice system — rarely resembles the model presented in 1950s sitcoms: the upwardly mobile husband and housewife with two or three children with a freestanding suburban home to themselves, only occasionally in touch with other relatives.²⁶⁵ When an adult child cares for an ailing parent, when same-sex partners choose to live together and support one another, or when relatives step in to care for the child of kin, the bonds that they create, and the ties of reciprocity and care

that they develop are no less meaningful or important than those that exist in families that more closely resemble the suburban ideal of the 1950s.

But if the American family is a highly flexible resource, it is one that incarceration, substance abuse, and poverty can stretch to its limits. With that in mind, it can be said that Charlene, Roberta, and Junior are all part of one very large, very complicated, very American family.

²⁶⁵ This is the central point of Stephanie Coontz's work. *See* COONTZ *supra* note 9.

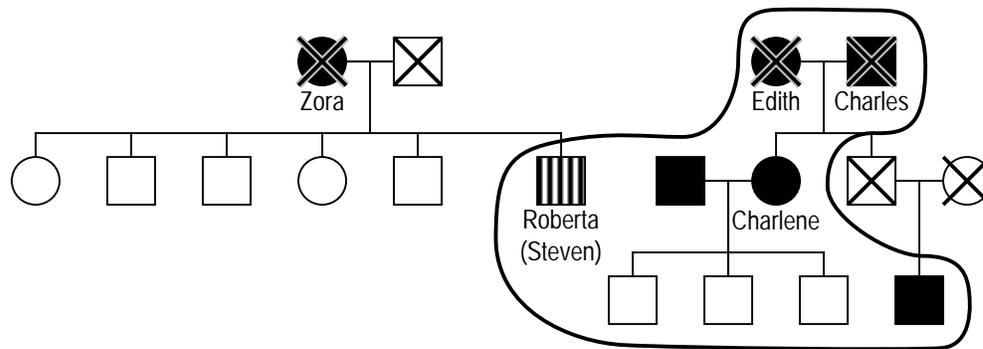
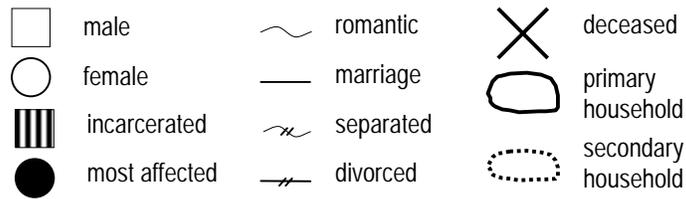


Figure 13: Roberta's Family

Charlene

Charlene grew up in Northwest Washington, the younger of two children in a small household, but with a large extended family. Her parents were, as she puts it, “simple people” who met and had children late in life. She seem like the sort of person who is unlikely to feel the effects of incarceration: a quiet and careful woman who grew up in a conservative family.

It's different now, but we grew up sharing everything. It's like if one person got up and started cooking breakfast, the other one would come in the kitchen start in another task without any words of do this or do that. And the next one would could come in and do something else that that person does better. And then somebody smells something from upstairs and the next person that come in, you know, even the men. Before it was all over we were in the kitchen cooking something different. But we always had breakfast together. And, before I was old enough to be cooking

although I started cooking like about five years old. Before I started cooking as little as I can remember, my mother would cook everything for everybody, you know? If one wanted pancakes? She'd cook pancakes. Other the other one wanted waffles? She'd cook waffles. Homemade syrup and homemade everything. You know. So, it was like that. We were a pretty close family.²⁶⁶

Growing up, her parents stressed education, and Charlene enjoyed school and looked forward to college. "My parents, they always worked very hard, and the neighborhood that we grew up in was, at that time, middle class. But it started to change, and I saw a lot of stuff that made me grow up quick, made me cautious." As her high-school years progressed, her parents health deteriorated: with her father who had already developed kidney problems suffered a stroke; her mother developed both lupus and hypertension. Not long after that, her older brother and his wife were killed in a car accident, leaving their disabled son in the care of Charlene and her parents

Charlene was young, and the burden of managing the growing responsibilities of her family life began to take its toll on her schoolwork.²⁶⁷ Concerned for her, Charlene's aunt suggested that her cousin, Roberta, who had just finished a degree in education, move in with and help care for Charlene's parents. Charlene, looking back on that time, is particularly grateful that Roberta did come to help the family. A student in high school, she recalls that her parents needed more help than she could realistically provide. Both

²⁶⁶ Interview with Charlene, (Apr. 23, 1999).

²⁶⁷ While Charlene confronted this burden earlier than most, it is one that many adult children now face. More than one out of every four adult working women now takes care of an elderly parent. *See* JODY HEYMANN, *THE WIDENING GAP: WHY AMERICA'S WORKING FAMILIES ARE IN JEOPARDY AND WHAT CAN BE DONE ABOUT IT*, at figure 7.2 (2000). The impact is especially great on low-income working adults, over 20% of whom spend over thirty hours caring for an elderly parent, over twice the rate of wealthy adults. *Id.* at Figure 6.4.

her mother and father were on dialysis, and had to be driven to the local clinic three times a week, and from there, if they needed it, to the hospital. Her mother was also having trouble getting around and needed help with transportation, cooking, and housecleaning. Her brother's son had cerebral palsy and also lived with her parents.

With Roberta looking after her parents, Charlene was able to leave home to pursue her own education and start her own family. Looking back on that time, Charlene emphasizes how much Roberta helped:

Anything Mom needed, all she had to do was ask Roberta to do this. If she wanted to go — my Mom liked to go play bingo — she'd leave Roberta in the house. Roberta would take care of this, cook the dinner, and, you know, because my brother's son was there and he's handicapped, so Mom would always tell Roberta to feed him and Roberta knew what to do. Roberta would clean the house. So, I mean, Mom didn't have to do a thing if she didn't want to.²⁶⁸

Roberta, a strong advocate of education, also helped Charlene's mother to learn how to read, something that was increasingly important for her as both her and her husband's health conditions, dietary regimens, and medications became more complicated.

With Roberta's assistance, Charlene was able to refocus on her schoolwork, doing well in high school, and becoming increasingly excited about college. There were, of course, other things on her mind as well.

I think was beginning to think that I was getting ready to start having sex and I wanted to move to my own place to do things that my father really didn't understand at the time. But, it wasn't like that. It's just that I grown as much as I could with them and I just wanted to leave. You know? Because a lot of things, that although they were parents, I seen a lot things

²⁶⁸ Interview with Charlene, (Apr. 23, 1999).

in the street. You know my parents they always worked very hard and didn't know a lot about street life and, I did.²⁶⁹

She moved in with a girlfriend and started attending college locally at Howard. By second semester, however, she was pregnant, the father a foreign student who left her behind when the year was over. Still, she was determined to stick it out and get her degree. She would help at home sometimes, coordinating her visits for prenatal care with her parents' visits to the hospital. The arrival of her baby made Charlene appreciate Roberta's help all the more.

Roberta

Steven was born on the fourth of July to a large family in New Jersey. Like many children of the 1950s, he remembers it as a simpler time, when most fathers had good paying jobs, and most families were closely knit.²⁷⁰ His mother had remarried after his father's death, and had three children by each marriage.

But the truth of the matter was, we were all bonded together. There was no such thing as a step-sister or step-brother in our family. [...] We had our ups and downs as children, but we still had that harmony and unity that most families didn't have.²⁷¹

Still, he is not overly nostalgic:

I came up in the '50s. It was poverty. It was hard times. They still had racism going on and, you know, it wasn't like you could go to the supermarket and stand in the line and get groceries. You go to a little storefront, go down there and buy your two pounds of rice in a brown

²⁶⁹ Interview with Charlene, (Apr. 23, 1999).

²⁷⁰ For an extensive discussion of life in the 1950s, see COONTZ, *supra* note 9 at 33-50 (Describing "what we really miss about the 1950s.").

²⁷¹ Interview with Roberta, (Apr. 13, 1999).

paper bag. And so much of this and so much of that. And we didn't have a refrigerator like you have today; we had ice boxes. You had to buy a big cube of ice and put it in there to keep the food cold. Life was by no means easy for my family, so I appreciate how things have changed from then, too.

From an early age, Steven and other family members told me, they “knew that Steven was gay,” something he doesn’t feel diminished his relationship with his siblings or his parents. He is slight and dresses as effeminately as prison regulations will allow, and is usually very upbeat and outgoing; it is easy to imagine him forty years ago as a happy child. His family members call him Roberta and have done so for his adult life, though they still use the masculine pronouns when referring to him in the third person. As Roberta himself recalls, looking back, his family life was good: “We had a very close bond and relationship. When something affected one, it affected us all because we were collective, a whole.”²⁷²

Roberta did fine in high school and went on to a local junior college. At the age of twenty three, with his bachelor degree in hand, he moved from New Jersey to the District to take care of his ailing aunt and uncle.

My mother asked me if I would go and I told her yes, I'll go. [...] For my first job while I was waiting to get into the school system, I worked at Howard Johnson's over on 21st and Virginia Avenue as a short order cook. I stayed there about for a year. Then the D.C. school system called me and I went in, then from there I taught elementary school for seven years.²⁷³

²⁷² Interview with Roberta, (Apr. 13, 1999).

²⁷³ *Id.*

Roberta got along well with his extended family in the District, and was excited to be in the center of what was, at that time, not only a thriving black metropolis, but an emerging gay metropolis as well.

Complications

Roberta and Charlene's family had rearranged itself in the way that many healthy American families do when they encounter crises; they were constrained by the bonds of kinship, but were able to respond flexibly. But their lives were about to become far more complicated and difficult. The District in the early 1970s was both socially radical and economically depressed. The neighborhood where Roberta and Charlene's parents lived was devastated by the riots of 1968. By the mid 1970s, unemployment, drug use, and crime in the District, as in many urban areas, had become rampant.²⁷⁴

Roberta recalls struggling with his dual life, one as a teacher during the day, the other as a gay man in his private life. The circle of friends he met at the local gay club he frequented when he first arrived was "more into the whole scene, doing things that seemed dangerous but also kind of exciting." Roberta was not a hard drug user, but he did start smoking "lovely,"²⁷⁵ which was popular in the District at that time. He also started hanging out with people who used harder drugs — people who were often involved in

²⁷⁴ Family members blamed the rise of drug use on a number of causes. One of the most prominent was Vietnam. As one woman told me "My uncle and them came back and, like, we might have a bottle of wine or smoke a little reefer, but they was like, I need to find some heroin. Where the real stuff at? And it was just a shock to see the whole dependence come in. It wasn't just drink anymore, it was real hard stuff that happened at that time." Interview with Pamela, (Apr. 27, 1999).

²⁷⁵ *Supra* note 83.

other criminal activities. At the behest of his friends, he started passing bad checks to help them pay for their drug habits. At first, the risk seemed exciting, and the material benefits were a powerful draw. “Where you cash a check for \$1,000 with somebody, you wind up getting four hundred dollars off the thousand.”²⁷⁶ For the first time in his life, he could buy whatever clothes he liked, “go eat at the best places, travel, you go take yourself a couple of days you want to go visit friends and family or something like that out of town.”²⁷⁷

At the age of twenty-six, Roberta was living multiple lives — a school teacher in DC, a live-in care-taker for his aunt and uncle, and a party-hopping gay man on the weekends. He remembers feeling “overwhelmed and lost.”

I was young and somewhat childish for my age, so that worked both for me and against me. I was very humorous, but also I would get into trouble. I was always very responsible to my family, but I would get into things in the street that, though I’d never bring them back home, were not what I should have been doing.

His life became more complicated the next year when he was arrested and charged with passing checks.²⁷⁸ His aunt and uncle posted bail and, given his age, employment, and lack of previous record, he accepted a plea bargain and was sentenced to one year’s probation.

Although he was not incarcerated, he did lose his job as a teacher, and he was forced to look for other work. Roberta stayed clear of his former friends for that year, and entered nursing school. But being a student again meant that he was not working and had

²⁷⁶ Interview with Roberta, (Jun. 29, 1999).

²⁷⁷ Interview with Roberta, (Feb. 15, 2000).

little income. While he managed to earn his degree as a registered nurse, after his probation ended he also returned to passing checks. He was arrested again and this time was sentenced to prison time. For a gay former school teacher who'd dabbled in passing illegal checks, life in Lorton was a traumatic eye opener:

I did the first seven months of ever being incarcerated down at Lorton. During that time, I learned how people rob. I learned how people rape. I learned how to forge. I learned how to cut drugs. You know, you learn all these things.

You see, the correctional officers very seldom came on the tier, and they would come through, they come to make a count, they walk by and do a security check and then they sit on the outside of the bars. So that means we were virtually in there on our own — and whatever happened, it just happened.

I seen so many things happen during the period of seven months that I was there the first time. I seen three individuals get killed. You come and they tell you, “you see nothing and you hear nothing and you say nothing, because the same the thing that happened to that individual can happen to you,” I just lived in a state of fear.²⁷⁹

Roberta found “a boyfriend” inside who would help protect him. “But is wasn’t like I had a choice. It was him or it was everyone on the block.”²⁸⁰

²⁷⁸ The legal term is “uttering,” indicating an attempt to cash a stolen, forged, or bad check.

²⁷⁹ Interview with Roberta, (Apr. 13, 1999).

²⁸⁰ Prison rape is a longstanding problem, and the literature on the problem is extensive. See, e.g., HUMAN RIGHTS WATCH, NO ESCAPE: MALE RAPE IN U.S. PRISONS (2001); WILLIAM F. PINAR, THE GENDER OF RACIAL POLITICS AND VIOLENCE IN AMERICA: LYNCHING, PRISON RAPE, AND THE CRISIS OF MASCULINITY (2001); DON SABO, TERRY KUPERS, & WILLIE LONDON, PRISON MASCULINITIES (2001); MICHAEL SCARCE, MALE ON MALE RAPE: THE HIDDEN TOLL OF STIGMA AND SHAME (1997). Most students of prison rape relate it to an attempt to overcome intense stigma and shame on the part of the perpetrator. See *infra* notes 397 for further discussion of clinical literature on male reactions to stigma and shame.

Unintended Consequences

Charlene and her parents were devastated. Their primary concern was for Roberta's safety, but they also had problems of their own as well. With Roberta gone Charlene had to pick up the slack, and it was not easy. All the care for her parents was essentially up to her. As she told me, her father was the most affected at first because Roberta would take him to and from his doctor's appointments. Charlene remembered that "he depended on [Roberta], and I think that kind of like hurt him because he wasn't there to do that for him." Before Roberta was released, Charlene's father had a stroke, and was confined to the hospital full time.

And I had kids, too. And so, and when my father had his stroke — I was in school when my father had his stroke — so I would go to school, and when I would leave school, I would go straight to the hospital, and I sat in the hospital with my father and I sit up there doing my homework and I would sleep and they would tell me to go home, then I would leave and come home. So it was — I will never forget those days because it was a strain on me. It really-it hit me and then when you get sat down with a cold, it takes a lot out of you. You just can't believe it sometimes, you be so tired and you just have to keep going. It's like, I was still young then, but I was not prepared to take care of your children, be in school — I had to drop out of school — and you don't realize how much time kids take, first, then you have parents that need you on top of it. It was very hard, and very demoralizing. But what can you do? They are my parents and, God rest their souls, I love them.²⁸¹

After a year in the hospital, her father passed away.

When Roberta returned home, he was far more wary of interacting with people, very concerned about his physical safety, and far more aggressive in his responses to any comment that he thought would make him look vulnerable. "It was like I got the

message, ‘you get them before they get you,’ because threats are not idle. Whereas you may deal with someone normally, who says something, when you are in a situation where there is raping and stabbing, you have to consider the consequences.”²⁸² Witness to several rapes and two murders in prison, Roberta’s experience left him “feeling on edge” and as though his perspective on life had changed.

Roberta returned to living with his aunt and uncle, but had lost his job at the school. He began looking around for work and, because he was an excellent housekeeper, one of his friends offered him a job as caretaker for a house they owned that had fallen into disrepair. The house was located in central Shaw, about two blocks from one of the largest and longest standing open-air drug markets in the District, something that Roberta didn’t really consider prior to taking the job.

When I first went into the house [the owner] didn’t tell me exactly what was going down in the house and I met her at her door, and she just said we needed somebody to clean the house up and run the house for us. I said, “well, okay, I’ll do the honors.” But I didn’t know at that particular time that it was drug infested, where everybody was shooting drugs and what have you. When I started cleaning and I found so many used syringes, so many soda tops that had been burned, so many bottles with water and blood and cigarette butts in it, urination in beer bottles and what have you. And when I looked I said “I see what it is,” you know.²⁸³

Cleaning out a “shooting parlor,” as these houses were called, was not an easy task. It required not only cleaning out the house, but clearing out the residents, and then convincing the narcotics officers who regularly raided the building that it was no longer a place where drugs were sold. Thinking back and shaking his head, Roberta recalls:

²⁸¹ Interview with Charlene, (Apr. 23, 1999).

²⁸² Interview with Roberta, (Feb. 15, 2000).

“After I got the house cleaned up and started renting the rooms out, the police from the Narcotics Squad would come. [...] On the third time that they came they had really dismantled the door. I had to get the man to come and re-case the door.”²⁸⁴

Roberta was able to resolve the matter after a discussion with the police at headquarters. But, while Roberta was putting the house in order, his own life took a turn for the worse. He got into a fight one night at a party with someone who, he says, disrespected his friend. The man, apparently drunk and humiliated at being taken to task by Roberta, went to car, got a gun, returned and shot Roberta. Already skittish from prison, he vowed it would never happen again: “And I always said I would never let anybody do anything else again in life to hurt me because I almost died there in D.C. General. And I had made up my mind from that point on, no one going to do anything to ever hurt me again in life. You know, before you get me I’m gonna get you. I had really...from prison and then this, it just changed my whole perspective.”²⁸⁵

While Roberta was happy to be out, he was not feeling comfortable with his old friends who had “escalated from just smoking marijuana, drinking liquor, to tabs of acid, LSD, and snorting coke.”²⁸⁶ He knew that if he continued to hang around his old haunts, eventually he would “escalate and move on into the lifestyle as well.” He became particularly close with his friend Stephanie.

I broke away from that and then I just started mellowing out to myself for a while. But my friend Stephanie, her and I, we had a real close

²⁸³ *Id.*

²⁸⁴ *Id.*

²⁸⁵ *Id.*

²⁸⁶ *Id.*

relationship, you know. She was like the next thing to my mother or my grandmother to me. And I think that I really grew close with her at that time because when her son was born, Ricky, I was there. And every time she moved I'd go and help her clean up, move her stuff and set it up. On her birthday and my birthday, as a matter of fact, all the holidays, her and I and Ricky, we would always spend those holidays together, it was a tradition to us.²⁸⁷

Stephanie was there when Roberta's mother passed, sealing their friendship in Roberta's mind. "It was like she was there for me when it was hardest." Still, Roberta felt his mother's loss deeply.

And that just took everything away from me. I was just like, speechless. I was lifeless. Like I said, I was very attached and very close to my mother. My aunt and the rest of the family, they took it kind of hard also, but I think it affected me more because that's how close we were. And everybody was saying, "You know, you got a lot of your mother's ways." "The chip off the old block didn't go but so far." But then in a way I'm glad I did take on some of the traits of her. But the effect that [her death had] on me, it was a hard pill for me to swallow. And to this day, you know, I often think about her and after she died, and we laid her to rest, I think that's when my troubles really began.

Stephanie had started smoking crack cocaine, and tried to get Roberta to smoke it with her to get him out of his depression. Roberta doesn't blame his friend, in fact, at the time he saw it as a gesture of kindness. "She would always try to help me, but she didn't push it because she know that was not my thing."²⁸⁸ When Stephanie died a few months later from a stroke, it was more than Roberta could bear.

When she died, you know, that really hurt me, too. That did something to me and I went off into a drinking spree. I'd drink and it seemed like I couldn't get drunk. I couldn't get intoxicated. I couldn't get anything because it was such a harsh blow. I said well, damn it now, I have to do this here, and I went off and I bought some crack. Something that I said I

²⁸⁷ *Id.*

²⁸⁸ *Id.*

would never do, and I tried to see, well, maybe this here would escalate, boost this thing up, and it did.²⁸⁹

Roberta, while still functioning as a nurse, was struggling with depression, alcohol, and a growing crack habit. “It wasn’t like I take my whole paycheck to buy a twenty dollar rock now. It wasn’t to the point that I just forgot about my responsibilities. But I hurt so bad. But I guess that’s not here or there. I’m not one to make excuses.”²⁹⁰

A little over a year later, Roberta was visiting his ailing sister, who had just had a cancerous ovary removed at Howard University Hospital. Roberta was helping to take care of her while she recovered.

I just left from her house, and I had come down 11th Street. I caught the bus, the 11th Street bus from my sister’s house and I come on down and one of the girls in the neighborhood, Chandelle, her son and her were down a friends house on 11th Street — on 9th Street — and so, but I saw them so she hollered, “Where you going? There’s something going on down in there.”²⁹¹

They began talking, Chandelle complaining about her boyfriend beating her children. The story was particularly upsetting to Roberta because she had helped to take care of Chandelle’s boys as they were growing up. “Chandelle and I had a real friendship relationship, you know, and I kept her two sons for her while she went out of town and we, like I said, it was just, we had an understanding. We were close.”²⁹²

When they returned to Roberta’s house, it happened that Chandelle’s boyfriend was there, drunk, and starting to get people in the house riled up. Seeing Chandelle

²⁸⁹ *Id.*

²⁹⁰ *Id.*

²⁹¹ *Id.*

²⁹² *Id.*

talking with Roberta, Chandelle's boyfriend got upset. "He wants to intervene and jump out there and talk about that he would slap the shit out of me — excuse me for putting it that way — and I looked at him like, you not gonna do anything to me, you know."²⁹³

And I don't know where that thought came in at, but I guess acting on impulse and having impulsive feelings, emotions, I went to the gas station and bought 49 cents worth of gas in a quart bleach bottle. I looked at him and the whole time that I was there with the quart bottle of gas in my hand, I'm wondering, "What's gonna happen? What's gonna happen?" And I thought, "Oh, you like hitting other people's children? You want to beat me up?" He looked at me like, "what are you saying?" He went to say something and I just turned the bottle up on him. And I went into my pocket, the shirt that I had had a pocket on it on each side, and I reached and pulled out a book of matches and it was my intention to ignite him, you know. And it so happened, in 98 degree weather, a cool breeze came through and blew the matches out and today, I thank God that it happened like that, because, see like, when I stroked the match and put it toward him, it just whuh, went out like that, you know. [...] So then he went down to the traffic division on New Jersey Avenue. They ran a water hose on him which calmed him and took him to Howard [University Hospital].²⁹⁴

Roberta was arrested and admitted to wanting to kill the man. He was sentenced to sixteen years with the possibility of parole after six. This time, he tells me, he decided to go it alone, which meant fending off regular harassment at first, often violently. The cost of such independence, however, was a long list of disciplinary "tickets" for altercations with other inmates, all of which counted against Roberta when he came up for parole. While Roberta has not had any disciplinary infractions in six years, he has been declined parole twice, each time with a set-off of two years. However, because of the massive increase in the prison population, the parole board was unable to keep up the workload

²⁹³ *Id.*

²⁹⁴ *Id.*

and Roberta waited three years in each case. As a result, he has been in for over twelve years.²⁹⁵

Hard Times

While Roberta's arrest and incarceration helped him in many ways — he is now clean and sober, he quit smoking, and he attends church regularly — it made life significantly more difficult for his family. Charlene's mother was having a particularly hard time with Roberta gone.

Roberta would always cook for her, because Roberta knew that Mom was supposed to eat certain things and Roberta would make sure that she would eat those certain things. And a lot of times Roberta would go to the doctor with her, make sure whatever the doctor would tell her, so that Roberta could, you know, make sure that Mom followed [the doctors directions] — even though my Mom was stubborn at times.

Roberta would go to the store and he would walk to the Safeway which is like eight blocks away from the house, so she depended on her being there doing that. She used to go play bingo at some of the churches around the neighborhood. Roberta would go and sit there with bingo, play bingo with

²⁹⁵ One of Charlene's frustrations with Roberta's incarceration was managing the complexities of the parole process. Prisoners are assigned points based on factors that are indicators of dangerousness, and if a prisoner has a low "score" going into a parole hearing, they can often be overly optimistic about their chances for parole. During and after a parole hearing, parole board members often mention or highlight positive or negative aspects of the parole applicant's record. Many of the prisoners I spoke with felt misled by overly positive parole hearings that were followed by denial of parole. And, because family members are often dependent on prisoners to describe their situation, families are often surprised by the outcome as well, sometimes having made extensive plans for the release of their family member.

Whenever he tells me that he's coming home soon, now, you know, I just now, I just say "Okay," you know, because there's something in the system that's going to stop him, either way. So I just sit back and I say, "Well, Roberta," because he did it once, he said he was on his way home and then next thing we know, he wasn't. And they had told him that he was coming, but then somewhere with the paperwork, they told him it was stopped. So, you know, and I told my Mom because my Mom was really expecting him to come and then when I told her he wasn't coming, and then she asked me and I told her, I couldn't tell her why because I didn't know. It was so frustrating.

Interview with Charlene, (Apr. 23, 1999).

her and so forth and so on. She would go play cards, Roberta would take her over there, drop her off, go on and when you get ready call, Roberta would come back and get her. And these are things that they really depended on, and that really took something away from them.

Of course it wasn't just that Charlene and her parents missed his help, they also missed his companionship. Families need each other both materially and emotionally, and Roberta had become an integral part of the their family's emotional life.

It was a thing where we all really missed Roberta. Whenever we had family gatherings, Roberta was always there. I mean, Roberta is a lot of fun, a lot of fun. And that's the way he is. He's just a lot of fun, you know. Roberta keeps in touch with everybody in the family because he always wants to know how the family's doing, you know. So he writes letters, and what can I say? Roberta is a family person and he loves being with the family. He does things for the family and if he can help you out in any way, he will.

One of their greatest concerns was for Roberta's well being while incarcerated. While he would call regularly, they also had to worry when he didn't call. When they did hear that Roberta had been beaten up, they felt helpless. "My Mom was upset. I mean, she was physically upset, shaking, breathing hard, crying. But what could we do?" For Charlene and her mother, this was the a particularly difficult time: worrying about Roberta while caring for mother.

I had to make sure that Mom was comfortable, and then every day from work, I stopped by their house first to make sure that she had her food, and then I had to make sure when she was on dialysis, she had to catch a bus, so I had to make sure she had her money, and her medicine and everything straight, and her food and everything, before I left to go home. And when I got home, then I had to do my job at home. So, you can see, I was like back and forth, and then, if something was wrong with Mom, she wasn't feeling good, I had to go there, so I was going, it was back and forth.

Mom would always say, "I wish Roberta was home." Cause she knows it's a strain on me, too. I do know that Mom really missed Roberta. I know that for a fact. And Mom always kept saying, "I'm going to hold on. I'm going to hold on," because my Mom was in the house by herself and she

said, “That’s all right, Roberta’s coming home. Roberta will take care of everything.” And she really believed that because my father had passed away and after he passed away it was like Mom was in the house, you know, and she couldn’t really do things that she used to.

If Roberta were out, I wouldn’t have had to do anything. Roberta would have did it all, because Mom always said, she said, “I know you’re tired, Baby,” she said, “If Roberta was here you wouldn’t have to do it.” But Roberta wasn’t there. And Roberta always told Mom, “I’ll be there, don’t worry, don’t worry, I’ll be there.” But, you know, it never happened, so, what can you say? You know, we have to continue on.

Perhaps the hardest part of his recent incarceration for nearly everyone in the family came with his aunt’s death. Charlene was surprised that she would not be allowed to see Roberta, or be with her while she paid her respects.²⁹⁶ “It was hard, I was able to catch a glimpse of him there, with the chains and everything that they make people wear. But we couldn’t talk or anything.” For Roberta, her aunts death came as a rebuke. She had been trying to make parole for four years without luck.

My aunt passed on in ‘97. I was incarcerated at the time. That was the time that my father actually came into DC to view her body, but I couldn’t mingle with the rest of the family. I had come before the funeral started and — which was kind of, I only got enough time to go in there, sign the book, touch the body and walk back on out the door. We left about nine

²⁹⁶ According to families, this is quite typical and is often one of the most emotionally trying aspects of incarceration for families. As one woman told me:

The correctional system can lose a prisoner because his mother died on the 21st of November and it took me almost four days to find him. First he was in D.C. jail, then he was in Lorton. Then I was referred back to D.C. jail. Someone even told me he might be in Ohio. I had to keep searching, searching until I found him and have them let him know that his mother had passed away. When they did bring him to view his mother’s body the day of the funeral, they brought him and took him out before any family members could get there or see him or anything, which I don’t think was very good because when your mother dies you need someone, you know, to comfort you and they could have let one of us, if not all of us, be there with him. That’s what families are for. To be there for one another. And they didn’t allow that. They took him in and out before we even got there. We don’t know what his reaction was, we don’t know anything. All we know is that they brought him, they let him sign the guest registry and they took him out. We don’t even know what time they brought him.

Interview with Barbara, (May. 12, 1999).

something that morning, I was back by the count for lunch. And it was kind of devastating for me because, I just took it really hard. She had been holding on and holding on for so long. I had kept thinking I would be released and then something would happen: “Oh, we didn’t know this rule,” or “regardless of what they said during the hearing, the decision is different.” And it was just, thinking back on all the plans we made, all the times I know they needed me.

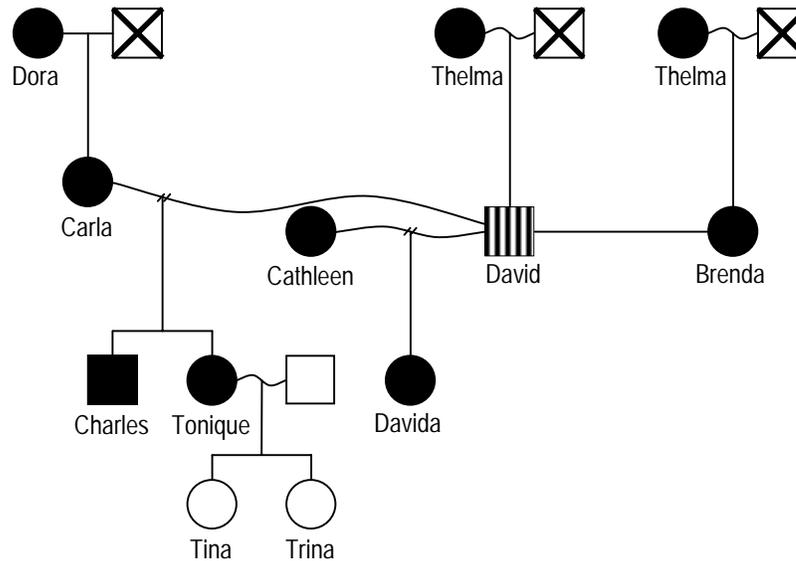
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In many ways, Charlene and her parents are the last people one would imagine to be touched by incarceration. She is a college-educated professional from a small, nuclear family. And yet, the effects of Roberta’s incarceration were borne by Charlene and her parents as much as by Roberta himself, and the “non-traditional” family structure that he was part of was no less a broken family in his absence. Indeed, compared to many, Roberta’s family life was full of care and cooperation.

Falling Apart: David’s Family

Thelma is sixty two. While she never married, she had five children by a man who, though she doesn’t like to talk about it, had a wife and another family with whom he spent most of his time and nearly all of his money. Although the two families never spoke to one another, their long-term affair was in many ways an open secret, as they all attended the same church where Thelma’s father was minister. While her children describe their youth as hard-scrabble living, often without enough food or clothing to go around, she remembers the family church more than anything else.

All my kids were baptized and belonged to the church, of all them. And my son, Charles, he was a usher in the church, a junior usher. All his sisters had a group, they sang. I sang with a group for 36 years, though I’m stopping now. And his father had a group, The Gospel Singers, a gospel group. And they went to Sunday school and church every Sunday. The bus picked them up at the roadside school, and when they came back, I was



ready to go church. All my children belong to the church. My father was the preacher, and my mother was the organist at the church at the age of six until she died.

While most of her children moved across country, her youngest two, her daughter Rachel and her son Charles, stayed in the District and helped to care for her as she got older.

Figure 14: David's Family

David is a young looking man in his mid-thirties. His father abandoned his mother soon after he was born, so David remembers seeing his father only briefly, he says, “maybe eight times in my whole life.” He used to drive up to his father’s house and park in the convenience store across the street, watching his father’s legitimate family, wondering what life was like for his other kids. He says that he wants to be there for his own children, to provide for them so they can grow up knowing they have what he didn’t, a father that cared.

Because I think that had my father been there to at least try to do more, that a lot of that stress that mother had to bear, the responsibility, it

would've been less of a burden. She could've did a lot of other things with her life. And so that's why it's just like, since that I've been gone, things are real hard for her. See, in my father's absence, my mother had to do everything. But at some point I got tired of asking my mother to do this and do that. Because as you see her do so much for you for so long, and her taking everything that she get, trying to pay rent. She worked six days a week. Traveling from D.C. to Springfield, Virginia everyday, getting so to the point now, she don't have – she working six days a week, but she don't have nothing for herself. She taking her drawers, raggedy drawers, putting them back on the sewing machine, stitching them up just to put them back on just so we will have something to wear.

But then it came a point in, like junior high...but then I said, "Damn. I got to help my mother." I mean things got so bad for my mother, she started defecating on herself. Bowels breaking, she putting too much pressure on herself. At some point I say man, "Fuck this, man." I started getting with these little dealers — at the time they was older than me, but they was still young — hanging out, where I wasn't doing it at first. Once I started hanging out and somebody showed me \$20,000 I cash. "Where you get it from?" He said, "Shit, I got this in a matter of minutes." That's all it took.²⁹⁷

David's claim that he got involved in drug dealing to help out his mother was a theme that ran through the stories of many petty drug dealers I spoke to.²⁹⁸ As one told me:

Look, man, every dude in here had the same dream: "Make a little money and get my mamma out of the projects." Some dudes need drugs, some do basically, you know, they want the clothes and all that, but you don't

²⁹⁷ Interview with David, (Apr. 24, 1999).

²⁹⁸ Even the few who stressed the financial rewards for themselves admitted to spreading their money around the family.

When I was selling drugs I would always take care of my family. I would make sure that they had money. Bills get paid. "Well, I'm going to the grocery store. Would you like anything?" "No. Here, here's two hundred more dollars to put some food in the house." Stuff like that. It was a lot of times that they would not accept the money But me just keep forcing it and forcing it. Forcing it and forcing and forcing and forcing it. And the large family we have, the money could be used. Even though people knew that the money was drug money, but still, it helped out. So when I got locked up, my family they support me to the fullest When I need money order, they'll send me. When I need clothes package, they'll send me. But a lot of times they don't send it right away when I ask for it, because there are a lot of things that they have to take care of out in society that...I really have to understand that they are out there, and they have to take care of their bills and their living quarters.

Interview with Stevie, (Aug. 25, 1999).

realize how much it mean to a lot of these guys to buy something for his
momma.²⁹⁹

David's mother, Thelma, agrees that David did help her out regularly when he was not incarcerated, although she claims ignorance about his drug dealing.³⁰⁰

While David may help justify his entrance into drug dealing this way, as he later told me, there were other factors involved as well. He had started using heroin in high school, and dealing helped him to support his growing habit. At first, it seemed like just part of the lifestyle, and for many years, even though he was had a regular and growing habit, denied that he had any drug problem at all. From junior high on, though, David was in and out of juvenile facilities and, later, prison, using and selling heroin and a few other drugs up until three years ago, when he turned thirty.

While he says he's tired of the fast life now, at the age of seventeen, having just graduated high school, he felt like he had turned his life around. David was not only able to help out his mother, but to dress sharp and buy a nice car with the money he earned. Although he was in and out of juvenile detention, there was no question in his mind that he was doing what he was supposed to be doing: "I thought everything was cool, for real, but I didn't know what was coming my way. I thought I was slick." That was just before his first adult conviction, which, as he put it, "turned my head a little bit, for sure."³⁰¹

²⁹⁹ Interview with David, (Apr. 24, 1999).

³⁰⁰ As I discuss in the next chapter, most family members did not claim ignorance. *See infra* notes 456-462 and accompanying text.

³⁰¹ Interview with David, (Apr. 24, 1999).

David & Cathleen

Right after he started serving time for that conviction, David found out that one of his girlfriends, Cathleen, was pregnant. They'd met at a local club, and David knew she was out late every night of the week. As much as he like the fast life himself, David worried that Cathleen wouldn't be able to care for their baby, and convinced his mother to take in the baby while he was in prison. As David's mother, Thelma, tells is, Cathleen agreed to the arrangement and took their daughter, Davida, from the hospital straight to her house. The arrangement became permanent as the relationship between Cathleen and Thelma deteriorated. Because Cathleen rarely visited or offered to help support her daughter, Thelma accused her of abandoning her daughter.

Well number one — her mother never wanted her. Her mother brought her home from the hospital and dropped her in my lap. Here's your granddaughter. Last month, I think it was, she told Davida that my son wasn't her real father. After sixteen years. You know it hurt him. My son is the only father she's ever known. And as far as she's concerned, he's still her father. I haven't gotten five cents from her since I had that baby. That baby has been with me for sixteen years. She hasn't given me five cents. And she ask her mother something, the boys got to have something. She still doesn't give it to Davida. You know.³⁰²

Cathleen, already a reluctant mother, simply stopped visiting altogether: "Why would I want to put up with all that abuse. I had my own problems at the time. If they want to keep telling me how bad a mother I am, well they can just do without me."³⁰³ Another reason for her absence, one that Thelma does not know about, is that about a year after Davida was born, Cathleen found out that an older man she was seeing was HIV positive.

³⁰² Interview with Thelma, (Apr. 7, 1999).

³⁰³ Interview with Cathleen, (May 12, 1999).

She tested positive and, in her depression, withdrew from many relationships. According to David, Cathleen later justified her absence by saying she was afraid of infecting Davida. “It was a time back then, people didn’t know much about the virus. So, I do believe her in that.”³⁰⁴

David & Carla

While David was incarcerated, Cathleen stopped visiting him as well. Two and half years later David had a son by another girlfriend, Carla. Carla had already had a child at the age of fifteen, a daughter named Tonique. But after convincing her not to have an abortion, the father moved across country, leaving Carla to raise their daughter alone. Carla moved in with her ailing grandmother and grandfather to help care for them. “My grandmother’s wish on her dying bed, you know. She was, like, ‘Just finish school and get you a job and take care of your baby.’ Tonique was my only child at that time, so that’s what I did.”³⁰⁵ David’s family lived right around the corner from her grandparents and, when she heard that Cathleen and David had broken up, Carla convinced David’s mother to bring her down to the jail to visit.

Then I took care of my baby *and* David, because every Friday when I got paid I went to Caverday’s for him. And I mean, that’s how it was for, like, 10 years, but the first five years [during his first adult sentence] ... then another [during his second]. At first, I was under age, so his mother would take me down there to see him. Then after I was going long enough until I turned of age to go by myself, and I started going by myself. Then he came home for a home visit one day, and I got pregnant with Charles. I stopped going down the jail, ‘cause I was having morning sickness, and he

³⁰⁴ Interview with David, (Aug. 24, 1999).

³⁰⁵ Interview with Carla, (Oct. 25, 1999).

got mad. Things changed right there when I stopped going down the jail to see him. But my child and my health was more important to me then, you know, but I still stuck by him, you know. I still took care of me, my two children, and him. You know, I worked from... Okay, I got both of my jobs the same day, at the National Zoo and Sears, August 1st, 1985 I started both jobs. I was at the Zoo from 8:00 to 4:00, and I was at Sears from 5:00 to 9:00. Then Sears wanted me full-time, so I did that for a year at the Zoo and Sears, then I went to Sears from 8:00 to 4:45, and then I went to Wendy's from 5:05 until 2:00 o'clock in the morning.³⁰⁶

During his incarceration, David's mother and Carla's mother helped to raise both Charles and Tonique, sharing childcare responsibilities while Carla worked. Both families treat David as the father of both children, though everyone is aware that he is not Tonique's biological father.

Although Carla sometimes denies and sometimes admits it, by the accounts of other family members, they were engaged just before David was arrested again. But Carla eventually broke off the engagement with David, in part, she says, because he wouldn't give up using drugs. "Yeah, he was on drugs, you know, and he wouldn't admit it, you know. That's what I don't like, because the ones in denial are the ones that's on it real bad — where you deny that you on drugs."³⁰⁷ But the drugs were not all that it amounted to. She was also upset by how little he helped her when he was released from his first five year term. Not only did he not pay her enough attention, but all the promises he made about turning his life around and making a legitimate go of it amounted to nothing:

Between my grandfather and me working, you know. My grandfather. I worked two jobs. I wasn't nothing but seventeen years old, but my

³⁰⁶ Interview with Carla, (Oct. 25, 1999).

³⁰⁷ *Id.*

grandfather still gave me a allowance, plus paid my thousand-dollar phone bills that David ran up, plus used to send David money down the jail that I didn't even know he was sending David. My grandfather liked David. My grandfather passed away before David got out. David was hurt behind it, but at the same token, all the stuff that he told my grandfather, them promises he made my grandfather he still renegeed on them, too. You know, that's why I say he will never have no good luck, and I still believe that. He's never gonna have no good luck.³⁰⁸

Eventually, she just grew tired of spending so much time and money on a relationship that gave her little in return.

I'd go way down there. I was down there every day. He was down Central Facility. They used to have where you could come seven days a week, and I went there seven days for him. That was a lot. Think about all the money I spent doing them buses — \$1.25 going down, a \$1.25 coming back — or the days I caught the van for \$2.50 and stuff, all of that. The hot dogs that I ate and all that stuff going down there. Man, when I think about all the money I spent going down there every day. And I made sure I got money orders to send him money to put on his account, you know. I done so much for that boy, and the little bit I took from him on the street don't even compare.³⁰⁹

When David was getting ready to come out the second time, Carla rekindled her relationship with him, but by that time he was already seeing another woman he knew from high-school, Sandra. When David was released, he married Sandra, much to Carla's chagrin. Still, he would visit Carla and the children, and help pay for pampers and occasionally groceries. Still, Carla feels that he neglected the children when he was out:

But as the years went on, I was still working, so it really didn't matter to me, you know. The only thing that got me, because Charles had to have these bars put in his shoes from Boyce & Lewis. Children's Hospital would give me the prescription, and I would take the shoes to Boyce & Lewis, and I never put cheap shoes on Charles feet anyway. Charles...I was on materialistic stuff, too, but I worked to get my kids the things that

³⁰⁸ Interview with Carla, (Jun. 5, 2000).

³⁰⁹ *Id.*

they wanted. I didn't sell drugs. I worked for everything that I wanted. If that meant for me to work two jobs, you know that's what I did. But it hurt me more when David got out, and David knew that I had to have these prescriptions in Charles's shoes, and them bars cost a hundred dollars for each pair of shoes, you know, and he couldn't help me with it. Yeah, that did start to hurt. You know, that was...that was a hurting feeling right there, you know. But as time went on, I was like, "Forget it, you know." I'll buy this for my child. I'll do this for my child." And I was just to the point where I don't need him.³¹⁰

David argues that he tried to help Carla as much as he could, but that he didn't have money right after he got out. "My thing is always to help out my family, so I'm always running by with something, or I drop it off for my moms to give her, when they was living next door." In fact, David feels that part of the reason he went back to dealing was because there was such intense pressure from his family to provide.

It seem like every time I come home, I'm gone to get this, that or the other thing for someone. Everyone need me for money. But it's not them really. I say "I want y'all to understand it's nothing that y'all done. These are my faults." I say "I'm out there trying to do the wrong thing for the right reason. And the best thing that I can do – where I can rectify is to come over there and do the right thing, for the right reason."³¹¹

Carla doesn't deny that Thelma helped to support the kids, she just doubts that David had much to do with it. Still, she says that she still cares for David, and that she hopes he is okay.

I mean, I still love him to this day, you know, I still love him. And my children know that. I just wish he'd get hisself together, and, you know, that's what I tell my children. "Your father just need to get hisself together." When I criticize him, I criticize him to hisself, you know, when it's me and him. I don't criticize him to them.³¹²

³¹⁰ Interview with Carla, (Jul. 12, 1999).

³¹¹ Interview with David, (Oct. 15, 1999).

³¹² Interview with Carla, (Jul. 12, 1999).

David believes that Carla isn't so much upset about money as she is about him marrying Sandra after she stuck with him for so many years. "The whole thing with her is that we're not together like she want us to be."

I told her "Regardless if I've got a wife, I don't like to treat our relationship any different from when we came to be parents. When we came to parents, we shall always be that. And more so it's important that we maintain a good relationship for the benefit of the kids. And whether you and I are together or not, we still have to get married to teach our kids marriage is a positive things. Teach them the right way."³¹³

Carla's mother, Dora, although she dislikes David intensely, corroborated his account. "Carla's still angry at him for leaving her and marrying that other woman. That's the second man run off on her, so she don't like that. She still won't talk to his wife. I think she takes some of that out on the kids and everyone. She can get very nasty about it."³¹⁴

After his second five year sentence, David did one more short sentence, and then got into rehab. By all accounts, this last time out, David had finally turned himself around. While he didn't have much money, he was drug free, visiting his parole officer regularly, and had a job as an insurance salesman, making about twenty thousand dollars a year. He joked about finally being able to put his hustling skills to use, and it may well have been true that he has some transferable skills. Still, after being out a year and a half, he was again incarcerated on a possession charge.

³¹³ Interview with David, (Oct. 15, 1999).

³¹⁴ *Id.*

David & Sandra

David's latest charge was the only one he contested. He claims that he leaned on by a police officer who wanted information about a gun dealer in the area.³¹⁵

They kept on about, "This is a gun recovery unit. Or whatever. All we want – all we want is guns. Do you know where we can get guns from or do you know who owns this shops? Or who. Do I know these certain people." And I say "No. I don't know nobody." So from that point, they took my driving license from me. They ran my name through the joint. Find out I was on parole. "Shit. You on parole." "Yeah." "Okay. I tell you what, you help us we can help you. We can call your parole officer." I said "Man I can't help you do nothing." "Okay, that's the way you want it."³¹⁶

He was assigned an excellent lawyer from the public defender's office. His lawyer laid out all of the evidence, describing his case as a fairly easy one.

Basically, number one, officer Ramdan has a record of lying. Number two, you have the fact that his account of what occurred in the street directly contradicts his partners account: officer Ramdan says he saw David put something into his pants, his partner saw nothing; officer Ramdan says he didn't search David until he got him back to the station, his partner says that he strip searched him on the street — and we have witnesses. Number three, I have pictures and measurements from the area where the officer was located and time of day where he says he saw David put something in his pants, and it's a physical impossibility for him to have seen anything. Number four, officer Ramdan's account of what occurred in the station directly contradicts the account of his supervisor. officer Ramdan contends that he strip searched David in the presence of another officer and found a vial of heroin. His supervisor testifies that officer Ramdan removed David to a room with no one else present and returned with the vial. Considering all these factors, David's description of the events seems more plausible.³¹⁷

³¹⁵ Murder and felony weapons counts are high-prestige arrests for police officers, so those hoping to move up in the ranks are more interested in homicide and weapons charges than drug charges.

³¹⁶ Interview with David, (Oct. 15, 1999).

³¹⁷ Interview with David's attorney, (Apr. 19, 1999).

The judge dismissed the case but, because David was on parole and any arrest is a violation of parole, he also had to pass a hearing before a Parole Examiner, where the standard of proof is the preponderance of the evidence, a much lower standard than that of reasonable doubt which prevails at trial. At the hearing, the examiner found the officer's story plausible and, over the recommendation of David's parole officer, revoked his parole.

Since that time, David has been moved from the DC Jail to the Lorton's Central Facility, and then to a private facility in Ohio. While David is very upset about his recent arrest, he is just as worried about how Sandra will handle it. Because she is his main connection to the outside world, he's very concerned about whether she will stay by him. But he is also worried about her becoming depressed, and about her health in general. When I press him on why he is so concerned, he eventually discloses that he, his wife, and Carla are all HIV positive, and that he is worried about the effects of stress and depression on their health. The three of them have agreed not to tell anyone else:

My mother, when she gets upset, she goes wild. I can't worry about that. Maybe if I was outside, taking care of things, but I can't tell my kids or my mother. No. I can't be worrying about how she'd react. I already got enough to worry about. And Brenda, hell, she's working two jobs, and trying to stay positive, but it's hard. She tells me she don't worry, but I know she do. I know she do. And when she come to visit me, she telling me I look so down. A lot of the time she just puts her head down, looks down, because she don't wan to see me like this.

But it's made me more thoughtful about the humanity of other people. I really am about helping other people now. In here, I'm trying to stop these guys from killing each other. It's crazy though, because I try to break up fights and get people to reason, but I been stabbed twice for stepping in between. Here on my hand. It's healing up, but last week, I had a fever, and the doctor just gave me Tylenol. I got no idea what my t-cell count is. I get medication, but it may not be working. I'm very worried what may happen if I'm in for long, you know, both in terms of my health and my

mental state, my...my outlook is hard to keep up, and being positive, staying stress free is important to people in my condition.³¹⁸

According to all three, Sandra was infected, then transmitted it to David. David, who had an affair with Carla, passed it on to her.

This, too, colored Carla's relationship with Brenda. Even though she says "I don't hold no grudge against him," Carla is clearly furious about it:

That boy done gave me gonorrhoea — What else? — chlamydia and then denied the shit. And now look at him. Married the bitch what's killing him with HIV. I just do what I'm supposed to do, you know. I keep my bleach in here. I keep my ammonia in here. If I cut myself, I wipe that up real quick. I don't play that shit, 'cause of my kids. I don't sleep around or nothing. But like I told Tonique, "I don't give a shit who you with, you use a condom." I can't stop her 'cause she might want to sneak around, but most of the time she in the house, so I know she ain't out there like that. But I worry about Davida, because she might have it, because they say it's in the younger crowd now.³¹⁹

Brenda was barely able to speak about it with me, beyond indicating what happened and her basic routine:

I usually go to the doctor every two months, but now I went last month and she told me come back this month 'cause they wanted see if they gonna switch the medicine because my count is up. November I have to go to their medical clinic, 'cause usually every six months or whenever the medical clinic they like they check up on you too. So it's like you go to the ID clinic – medical clinic and both of them somehow work together. So I'm going to both of them in November. I have to go to be certified with the social worker up there. So I have to call her when I get my letter from 645 H Street use to send me a letter that they deny your Medicaid. And they'll have to take it to Washington Hospital Center where they'll pay for my medicine.³²⁰

³¹⁸ Interview with David, (Aug. 24, 1999).

³¹⁹ Interview with Carla, (Jul. 12, 1999).

³²⁰ Interview with Sandra, (Oct. 26, 1999).

Being HIV positive also adds complications to how much Brenda can earn. While she has a job at a fitness center which is on the books, she only works there part time so that she doesn't lose her medical benefits. She also has a part-time to full-time job at a beauty salon braiding hair. While that pays less, she works longer hours there because it is off the books and won't interfere with her health coverage.

Clearly, David, Carla, and Brenda are struggling. But what about David's children?

Davida

When Davida was born, David was seventeen and serving his first adult sentence. While he has been in and out of prison for her entire life, for all the anger and disappointment that come with having a father who is addicted to and sells drugs, she still loves him. Her first memory of her father's return home from prison is a happy one. Her father was waiting by the gate at her grandmother's when she came home from school. "I just looked, and I was, like, 'Daddy!' And I just ran." "At that time," she says crossing her fingers, "we was like this, you know?"³²¹

David remembers this time being out and looking out for her. For the few months that he was out of prison, he did what he thought a father should: prepared her breakfast, drove her to school, bought her new clothes, and took her out to the movies. Looking back on this time, Davida looks off into the distance, slowly shaking her head: "I mean, it

³²¹ Interview with Davida, (Apr. 21, 1999).

was just so much that me and my father did, and it's like I missed that when he got locked back up."³²² Her father's subsequent arrest remains a vivid memory:

I remember the night the police came. They chased him in the house, and I was sitting there screaming "Daddy! Daddy!" ... They came and pulled my father from under the car and started beating him. And I was standing there looking at them beating my father with night sticks, and they dragged him through the alley and put him in the paddy wagon.³²³

For Davida, though she was only twelve at the time, the arrest began a difficult period for her. "I was *upset* by that. I started hanging out more, started drinking. I wasn't going to school. I was, like, 'Forget school.' In sixth grade I dropped out of school completely, I didn't want to go no more."³²⁴

Davida's reaction is not an uncommon one; many families have described the negative affect of incarceration on the attitude and school work of children in strong terms.³²⁵ In Davida's case, however, her father and her grandmother, Thelma, convinced her to return to school, telling her that if she didn't her grandmother would be cited for neglect and would lose custody of her. Like many children of prisoners, Davida had been raised largely by her grandmother. Her grandmother was not only a surrogate-mother figure for Davida, but by accepting David's collect phone calls and by bringing Davida to visit the prison, she was Davida's point of contact with her father.

³²² *Id.*

³²³ *Id.*

³²⁴ *Id.*

³²⁵ See *infra*, notes 102 (discussing Kenny's boys), 262 (discussing Derrick and Londa's daughter), and 426 (discussing the Kinney's second oldest son). There are also descriptions of the behavioral and academic consequences of imprisonment on children in the social science literature. See, e.g., T. A. Fritsch and I. D. Burkhead, *Behavioral Reactions of Children to Parental Absence due to Imprisonment*, 83 FAMILY RELATIONS 88, at 30 (1981); L. Ales Swan, *Families of Black Prisoners*, in SURVIVAL AND

Davida completed the sixth grade the next year, and her father was released just before the end of the school year, surprising her at graduation. Davida remembers it as the best day of her life:

My sixth-grade graduation came. I say about a month before that my father came back home. He was there. I didn't think that my mother was gonna be there either, because me and my mother had distanced...we wasn't around each other no more. I remember walking down the aisle at my sixth-grade graduation, and my mother stood up to take a picture. All I could do was cry. That's all I could do. I just cried. And she was, like, "Why are you crying?" and wiping my face. She was, like, "You know I was gonna be here." So I was, like, "Well, where is my father. Where's my father at?" And so I was walking and walking. I got to the end of the aisle, and my father was down on the stage, and I was, like, "Wow!" You know what I'm saying? "That's my father up there giving me my diploma from sixth grade." I was, like, "How'd he do this?" The principal, my father, and my stepmother...so I got on the stage or whatever. I said my little words, and my father gave me my diploma, gave me a hug.. I ran off the stage. I ran outside. I was just so happy that whole day. Me and my father went out to the movies, we went skating. It was just me and my father, it wasn't nobody else, just me and my father.³²⁶

The next year, though, just after she started junior high, her father was incarcerated again. She and her grandmother had moved into her father's house, but without his income they couldn't make the payments.

They took the house and we moved to Morse Road in Southeast. I was supposed to go to Douglass [Junior High]. I enrolled, but I never went. I never went to school. I started hanging out more now that I was in Southeast; I knew a lot of boys out there, so I was hanging out with the boys, leaving home like for weeks at a time. So finally, I got locked up for truancy. Then send me down to Spruce Cottage [a juvenile facility for girls].³²⁷

PROGRESS (1981); and A. Lowenstein, *Temporary Single Parenthood: The Case of Prisoners' Families*, 35 FAMILY RELATIONS 79, *passim* (1986).

³²⁶ Interview with Davida, (Apr. 21, 1999).

³²⁷ Interview with Davida, (Aug. 18, 1999).

At Spruce Cottage Davida got into a serious fight, and was sent to the Psychiatric Institute of Washington. Her grandmother, suffering from a stroke, was unable to visit her. Davida, without anyone she felt she could trust, panicked.

I said, “Man, if my grandmother die, I’m gonna die right with her—I’m gonna kill myself.” That’s exactly what I told her, and that’s what I meant. “I’ll kill myself. If I see my grandmother die, I’m gonna die with her.” I was screaming, kicking, punching, fighting everybody. I was throwing stuff everywhere. I broke the glass. They sent me into the room, they locked me in there, and they gave me a needle to make me pass out.³²⁸

After a few days, the Institute was able to locate her grandmother. “And when she came, I held her for, like, an hour and a half straight, crying and just holding her. ‘Cause I mean, they had me in there. I didn’t know where she was at.”³²⁹

Soon, though, Davida’s grandmother was re-hospitalized, and she was essentially living by herself. She would visit her grandmother every day, and her grandmother would tell her how to take care of the house, giving her money to buy groceries and instructions on how to pay the bills. When it became clear that her grandmother would need extended care, though, Davida was packed off to stay with her mother.

Davida had a poor relationship with her mother, and she knew she would have to tread lightly in her mother’s household, a fifth wheel to her mother, her mother’s boyfriend, and their two sons. “My mother told me over the break, ‘We don’t want you, but by your family not wanting you, we gonna let you stay.’”³³⁰ Davida started back in

³²⁸ *Id.*

³²⁹ *Id.*

³³⁰ Interview with Davida, (Feb. 28, 2000).

school, but as soon as she felt like she was settling into a routine, her mother's boyfriend sexually assaulted her.

I was, like, "What am I gonna do? If I tell my mother, she not gonna believe me. 'Cause she already tell me if it come down to it, she choosing him over me anyway." So it was, like, "I could hurt myself and tell my mother and get put out on the street, or I could just...don't say nothing." I decided not to say nothing. I didn't want to hurt my mother.³³¹

But after a few weeks, she wasn't sleeping well, and she became moody and started failing out of school. Finally, she did tell a teacher, who told the school counselor. The counselor contacted her mother and Child Protective Services. When Davida told her mother about the incident, as she had anticipated, her mother sided with her boyfriend, saying she didn't believe Davida. The upshot was that she was removed from her mother's home.

They sent me to DHS, so I stayed there for two days, and they took me to this group home in Northwest. All that I know is I couldn't stand it there. [...] I didn't hear from my grandmother. I didn't know where she was at. I called and called. [...] So I was, like, "Fuck this shit," and I ran away from the group home. It was me and this girl named Shayonté. We ran away. It was March 13, on a Friday, Friday the 13th, we ran away. Coldest as I don't know what all.³³²

She made arrangements to stay with her godfather, but her mother found out and called DHS. When the DHS agent showed up at her godfather's, rather than return to the group home, Davida decided to run, and her cousin ran with her. The police were called in, including a K-9 unit, and the dogs eventually chased the girls down:

They had blocked the whole street off. I was, like, "Damn!" We was holding each other, crying, crying, and crying, and then it started raining. I

³³¹ Interview with Davida, (Aug. 18, 1999).

³³² *Id.*

was, like, “No, get off me. Get off me!” Because they was trying to take us apart, and Ayesha was, like, “Get off of my cousin. Get off of my cousin. Get off of her. Get off of her!” I was, like, “Let her go! Let her go!” And we was just standing there, and it was just pouring down, it was pouring down raining.³³³

Davida bolted from the group home again. When her grandmother had recovered sufficiently to move into an apartment of her own, Davida moved back in with her. Davida tried to hold down a job to help out her grandmother, but at sixteen, trying to attend school to avoid more truancy charges, it was not working out. Describing her frustration with her father’s absence, she told me: “he needs to be here. I can’t buy food. I can’t take care of this bill, I can’t take care of that bill. He needs to be here to do this.” But her grandmother’s fixed income could not cover the rent, groceries, and other bills, and they were evicted.

In Davida’s mind, her father’s incarceration was a significant contributing factor to her predicament. As she told me on the day of the eviction, as the landlord moved all of their belongings out onto the street:

My father is very important to me and grandmother, because by me not being old enough to get a regular job that maintain a stable place for us to stay, and my grandmother’s retired, she only gets one check a month, we don’t have much money to do this, or, you know, food or whatever. She’s not with Section 8 yet, public housing, food stamps, so it’s, like, my father needs to be here.

The last time he was home, he wasn’t hustling, he had a job, he was working 9:00 to 5:00, you know, making me happy, ‘cause that’s what I made a deal on. When I wrote him when I was in PIW [the Psychiatric Institute of Washington], I said, “All I want you to do for me is when you come home, do what you need to do, and I will do what I need to do.” I

³³³ *Id.*

kept my word on that. When he came home, I was doing what I needed to do. When he came home, he was doing what he needed to do.

You know, and it's, like, in order to keep the phone on for me to keep on talking to him, and for my grandmother not to be worried, I mean, I actually went, as low as to where, like, one time I actually slept with a man for \$300 to pay for the phone bill. That's the lowest I ever went in my life, and it's, like, I didn't ever tell my father that. But I'm bending over backwards trying to keep everything intact while he's not here, and by me being my age it's hard, you know? I'm going through a hell of a life while he's not home.³³⁴

Charles

David's half-brother, Charles, hasn't fared much better in his father's absence. Charles is thirteen, and gets straight A's in school. Like his sister, Davida, he's clearly intelligent, but is small for his age, and more soft-spoken than Davida. But Charles also has a host of problems, having been arrested three times for auto theft and once for shoplifting. His mother, Carla, took him to a psychiatrist when he stole his first car at age six. "[The psychiatrist] told me that his badness was inherited. She didn't say it in front of Charles. She said 'Charles has the trait of a bad child, but it was inherited from his father.'"³³⁵ At first Carla did not believe the psychiatrist, but over time she has become convinced that she was right, and that her child is a "bad seed". "Because in my heart [I think] he really do act like [his father], and I don't want him to act like him, because David been incarcerated from the age of twelve. And his son moving in the same

³³⁴ Interview with Davida, (Apr. 21, 1999).

³³⁵ Interview with Carla, (Jul. 12, 1999).

footsteps, just that Charles started off six years earlier.”³³⁶ As another piece of evidence that Charles’ problems are mostly because he is David’s child, she notes that Davida is having problems, too.

All of them got big issues, you know. My son got the main problems. He running ‘round here just doing any and everything. He think the world of David. He already act like David, stealing cars, stealing bikes. I had a three-story; he burnt that house to the ground. That’s why I’m over here in this apartment. He took some matches and lit his curtain on fire, and then the curtain fell onto the bed, and he shut the bedroom door and by the time the smoke detector went off the fire was already spread. You know, I have a lot of problems out of Charles. He do, he act just like his father’s family, he act just like them.

Another one of his children running around selling her body. I be real worried about her. She’s not my child, but I be worried about her, you know, ‘cause.... I used to buy her stuff when she was a baby — birthday cards and stuff and sign his name to them, you know, and stuff like that. They act just, all of them act just alike, you know.³³⁷

At the same time, she sees that Charles acts up every time that his father is reincarcerated. “If his father was here he wouldn’t be acting like that. Because when David is on the street, he don’t act like that because he know that you could page David, and David going to be right here.”³³⁸ David, agrees. “A lot of things he get into, it’s probably only because I’m not there. [...] The problem is he want to be like his daddy, but he don’t listen to what I tell him about it. He don’t see that it ain’t right. But I tell him, and I hope he listen.”³³⁹

³³⁶ *Id.*

³³⁷ Interview with Carla, (Jul. 12, 1999).

³³⁸ *Id.*

³³⁹ Interview with David, (Jun. 22, 1999).

David's incarceration can also be linked to her loss of custody of Charles, but Carla avoids talking about that. After David's arrest, Carla found a new boyfriend who became increasingly violent, beating Carla regularly and sometimes Charles as well. Carla said she wanted to report him, but "I was scared of him for real."³⁴⁰ When Carla's daughter could not stand to see them beaten any more, against her mother's wishes, she informed the grandmother who then called the police. When Child Protective Services found out that Carla had failed to report the abuse of her son, she lost custody. "I know how my son was hurting, you know," she tells me crying. "I think about that. My son took a ass whipping for me, and I should have been in here for him."³⁴¹

It is impossible to know whether the possibility that David would intervene would have been a deterrent to Carla's boyfriend, but there are many indications that it would have been. The absence of a biological father is one of the strongest predictors of abuse.³⁴² This is due in no small part to strong norms against disciplining the children of other men. As one father told me:

The thing is, that the child isn't yours. I don't want no one laying a hand on my child, so I'm not going to lay a hand on no one else's child. You're not supposed to lay a hand on that child because that's that parents responsibility. But, now, that may be true, but when the parent is not around, you might have to take that role.³⁴³

³⁴⁰ Interview with Carla, (Jun. 5, 2000).

³⁴¹ *Id.*

³⁴² Several studies have found the absence of a biological father to be a strong predictor of abuse. *See, e.g.,* Leslie Margolin, *Child Abuse by Mothers' Boyfriends*, 16 *CHILD ABUSE AND NEGLECT* 541-551 (1992); Margo Wilson and Martin Daly, *Risk of Maltreatment of Children Living with Stepparents*, in *CHILD ABUSE AND NEGLECT* (Gruyter, Gelles & Lancaster, eds. 1987).

³⁴³ Interview with Irving, (Jul. 13, 2000).

David's absence may well have diminished whatever risk Carla's live-in boyfriend perceived in beating her and Charles.

For now, Charles and Carla's eleven year old son, Anthony, live with their maternal grandmother, Dora, who has custody of them until Carla completes a parenting class. Carla's seventeen-year-old daughter, Tonique, and her one-year-old twin daughters, Tina and Trina, also stay there most nights, though they also stay some nights with Carla.

Dora has her own theories about why Charles gets into trouble:

Well, with Charles, that wound up after she come out of school she wound up living in Northwest with my father because my father was sick. And that was in '83 and I guess that's when she got to know Charles and his family then, because they live right round the corner from my daddy. Next thing I know she was pregnant and after my daddy passed she moved on back here for a while, then she had Charles. Now Carla said that she wasn't on drugs but can't nobody tell me that Carla was not using drugs when she pregnant with Charles, because she was, oh, she was some kind of nasty on me. Nasty. I mean, just ornery, you know. You couldn't say nothing, you couldn't tell me she wasn't using drugs. And, to me, like I told her, I think she was using that love boat, but she claimed she wasn't. She claimed she wasn't doing nothing, but she had to be doing something for Charles act the way he act. I just can't see it.

But she has trouble explaining his behavior at school. "He can go to school, be an honor roll and model student, and then he goes over to his friend's house and he's just like a model person to them. Yet, when he get home, he wants to act crazy."

When I ask Charles what he wants to be his answer is immediate: "I really want to be a surgeon. I'm not saying I want to be a doctor for the money, I just want to do what I like and make good money for it, too." His other dream is to have a car, "one like my Dad's." Most of the time that he spent with his father, in fact, was in his father's car. When he was younger, David would let him steer, and when he got old enough to reach the pedals, David would give him driving lessons in an abandoned parking lot.

Charles: My father said I'm a good driver for my age. And, plus, I asked one of my friend's father do they think that's wrong that my father let me drive at a early age, and he said, "No." My uncles said it meant he was showing confidence in me. And plus, it's showing me that I could do stuff that I think I couldn't do.

Don: Tell me more about your father.

Charles: He can be fun when he want to. I really don't hate him, but I just don't like the fact that he's not around. I can't really say that I hate him 'cause he never did nothing but not be around for me to hate him. He never, like, hurt me or nothing, and he is protective of me. He don't let nobody hurt me.

And really, if I ask he give me everything I want...if I ask. It's just that I don't have the guts to ask for stuff. He's funny at times...silly. And he let me drive his car. I think I used to use up his whole gas tank, 'cause I never wanted to get out. And the car he used to have it used to take thirty dollars to fill up the gas tank, but he never had no problem with it.

When I ask him what his father does when he gets in trouble, he tells me that he only gets in trouble when his father is locked up, so the only thing he can do is call home and talk to him on the phone. Charles used to go visit his father in prison, but his grandmother won't take him down there anymore.

Don: Did you ever think you might end up in jail?

Charles: Uhm-hum.

Don: And what did you think about that?

Charles: That's when I started thinking about him. I always thought about how would I look if I was in the jail cell with my father, if I was behind bars with my father.³⁴⁴

³⁴⁴ Interview with , (Jul. 21, 2000).

“The Ratio” & Gender Norms

David has been married twice, but his daughter Davida and his son Charles were both born outside of those marriages. While father absence and out-of-wedlock births are not uncommon in American society in general, they are particularly common among families of prisoners. Residents of areas where incarceration rates are high relate the phenomenon to a number of factors, including the transformation of gender ratios resulting from incarceration. As one woman told me, her options were limited because “it’s just less men out here for the women.”³⁴⁵

Putting numbers to the perceived disparity, we can see that perceptions reflect a real gender imbalance in the District — particularly in areas where incarceration rates are the highest. For about one half of the women in the District — those living in areas with relatively low incarceration rates — the gender ratio is about ninety-four men per hundred women. The other half of the women in the District — those living in areas with relatively high incarceration rates — live in areas where the gender ratio is under eighty men per hundred women. And, within this population, as the incarceration rate increases, so too the does the imbalance. One quarter of all women in the District live in areas where the incarceration rate exceeds six percent, and where there are approximately seventy-five men per every hundred women. And for the ten percent of District women who live in areas where the male incarceration rate is the highest — about twelve percent

³⁴⁵ Interview with Charlene, (Apr. 23, 1999).

of adult men in these areas are incarcerated — there are fewer than sixty two men per every hundred women.³⁴⁶

The fact that men and women both perceive a significant shortage of eligible men shapes the way they approach relationships in troubling ways. David, for example, found the perception of the “male shortage” widespread and influential:

Oh, yeah, everybody is aware of it. ... And the fact that [men] know the ratio, and they feel that the ratio allows them to take advantage of just that statistic. “Well, this woman I don’t want to deal with, really because there are six to seven women to every man.”³⁴⁷

As with David, the perceptions of many of women and men in these neighborhoods exaggerated the actual gender ratios: “It’s easily three women to every guy.” “As they say, there are a lot of women — it’s five women to a man, or something like that.” “It’s like it’s all women and no men out here.” This perceived imbalance in the ratio of available women to men affects how women approach relationships as well.³⁴⁸ David described his own perception of the way that women look at men:

A lot of the women, they just willing accept the lower things if they can get it from you, because they know that there’s a hell of a ratio. And it seem like everybody is aware of it. All the men is locked up, so they’re

³⁴⁶ Figures are for men and women over the age of eighteen, and are based on DC Department of Corrections and US Census data. Figures were obtained by examining incarceration rates and adult male and female populations by census tract. Incarceration is one of many contributing factors that lead to such a high ratio of women to men, including higher male mortality rates. Unfortunately, at the time of this writing, separate population data for men and women in the specific age groups most affected by incarceration (ages eighteen to thirty-five) were not available.

³⁴⁷ Interview with David, (Jun. 22, 1999).

³⁴⁸ Compare ARLIE HOCHSCHILD, *THE SECOND SHIFT* 51 (1989) (describing the way that men and women perceive a “going rate” for gendered behavior — that is, men need not behave as their wives do, just as well or better than their partner’s perceptions of other men); and Willard Waller, *The Rating and Dating Complex*, 2 AM. SOC. REV. 5, 727-734 (1934) (arguing that the person who has the least interest in continuing a romantic relationship can demand more from the relationship).

willing to put up, or to make sacrifices for you, if they can get certain things in return, and they do it.³⁴⁹

Women were painfully aware of the ways in which the “endangered” status of the eligible black man in the District affected women’s behavior. As one prisoner’s ex-wife lamented, women often had to lower their standards to find a man to date or marry, something that she found common and disturbing:

Women will settle for whatever it is that their man — even though you know that man probably has about two or three women — just to be wanted, or just to be held, or just to go out and have a date makes her feel good, so she’s willing to accept...I think now women accept a lot of things. The fact that he might have another woman or the fact that they can’t clearly get as much time as they want to. The person doesn’t spend as much as time as you would [like] him to spend. The little bit of time that you get you cherish.³⁵⁰

The increase in the gender imbalance is only part of the larger picture. Incarceration also furthers the dissolution of pre-marital and marital relationships by making it harder for men to find legal employment upon release.³⁵¹ In this respect the men in prison and in the community, while accepting some of the blame, also argue that women don’t want to be in long term relationships with them because of their diminished financial standing. As one young man, recently released from prison, told me:

You know, it’s like women looking for, you know... Like this dude here might not have everything, but he a good man. He ain’t no good-looking guy. He got a little job, he ain’t got no car though. And they don’t want him. See, they’re asking for too much in a man. That’s what that is. See, I

³⁴⁹ Interview with David, (Jun. 22, 1999).

³⁵⁰ Interview with Murielle, (Feb. 23, 2000).

³⁵¹ See Bruce Western, *Incarceration and Employment Inequality among Young, Unskilled Men* 16 (visited Feb. 20, 2002) <[ftp://opr.princeton.edu/pub/western/papers/employ.pdf](http://opr.princeton.edu/pub/western/papers/employ.pdf)> (finding a “pervasive influence of the penal system on the life chances of disadvantaged minorities”).

know these things, ‘cause I be around ‘em all the time. I be around ‘em all the time, every day.³⁵²

This reflects the impact of incarceration on the second part of what many social scientists have argued is a deepening “eligibility gap” between men and women in inner-city communities. Not only are there fewer men than women, but there are even fewer with an income sufficient to attract a spouse. Women and men in this scenario, as William Julius Wilson has famously argued, can’t find and can’t afford marital partners.³⁵³

Incarceration works against marriage in more subtle ways as well. For example, by making marriage more difficult, incarceration lowers the likelihood that men and women will see marriage as a viable option in the first place. This pre-marital effect is apparent in the dissolution of relationships prior to marriage, even where children are present. Carla, the mother of Charles’ son Anthony, for example, eventually tired of the time and energy that went into a relationship with Charles while he was incarcerated. The bonds of reciprocity only extend so far. Men in facilities where there is no employment are essentially dependent on their families to help them. For Carla, the obligations eventually became too much.

Carla’s anger at the imbalance she perceived in their relationship was also common among many of the accounts of ex-girlfriends and ex-wives of prisoners. Most inmates do not earn much money and are unable to reciprocate many material sacrifices that their partners must make. Girlfriends and wives often send money and care packages, accept expensive collect phone calls, spend money traveling to visit inmates, and support

³⁵² Interview with Irving, (Jul. 13, 2000).

their children. For poor women, the marginal costs are quite high because they have less disposable income and time; as a result, incarceration has an especially corrosive effect on the relationships that poor women enter into.

But the imbalance is not only material to them, they also felt it to be symbolic. To visit inmates, partners also have to make significant personal sacrifices and accept a lot of stress. To visit, most must drive, bus, or fly many miles to visit, wait on line, being strip searched, and so on. Inmates, generally, make lesser sacrifices (some are strip searched and in maximum security facilities, some are required to wear shackles to visitation). Families, especially romantic partners, also feel the symbolic imbalance in the way phone calls are structured: while inmates can call collect when they need emotional support, girlfriends and wives always have to wait for the inmate to contact them. As David's wife, Sandra, told me, "You just feel it when something happens. You know, you need to call them, to hear their voice, and you can't do anything about it. You don't know if they, like, just have forgotten, or maybe they in lock-down, or what. But I feel like, it's like, it make me feel helpless."

And, of course, children by multiple partners implies unprotected sexual activity with multiple partners. Indeed, one of the hidden secrets of correctional systems is that they are often the largest physical health care providers in any given municipality,³⁵⁴ and one of the major health crises in nearly every correctional settings is the high rate of HIV infection. But by undermining family formation, incarceration not only indirectly

³⁵³ WILSON, *supra* note 14, at 63-92 (1987) (discussing the impact of poverty on family structure).

contributes to the spread of HIV and other sexually transmitted diseases, it also alters the emotional relationships of those who transmit the virus.³⁵⁵ As Brenda, David, and Carla can attest, HIV infection alters one's whole worldview. Certainly HIV has not only angered, but significantly injured Carla and, by extension, her children. Carla's outlook on life, as many in her family have noted, has become increasingly dour, coloring her interactions with others.

This raises the issue that many families struggled with during incarceration: the extent to which each family member felt that others cared for them. During incarceration, many prisoners and family members alike regularly questioned the extent to which the other cared about them. By undermining not only the material ability of prisoners to reciprocate, but the sense of caring that inhabits reciprocal relationships, incarceration can increase the perception that individuals really do need to look out for themselves first, that others are inherently selfish, and that all relationships are inherently exploitative. While many wrestled with these perceptions and were able to maintain a trusting and caring relationship, others were not. The broader impact of that diminished trust is difficult to measure, but it may well outweigh all the material costs combined.

³⁵⁴ The psychiatric unit in Los Angeles county jail, for example, is the largest mental health facility in the United States.

³⁵⁵ See, e.g., CANADIAN PSYCHIATRIC ASSOCIATION, HIV & PSYCHIATRY, <<http://www.cpa-apc.org/Publications/HIV/HIV.asp>> (describing the loss of trust that clinicians encounter in counseling HIV positive patients.). HIV status also affects other relationships in other ways. David, Sandra, and Carla, for example, were all concealing their HIV status from their parents, siblings or children.

Damaging Families

Though rarely mentioned in discussions about family integrity or family values, there is a growing body of evidence that over the last twenty years incarceration has been pulling apart the most vulnerable families in our society.³⁵⁶ The present study strongly supports and extends these findings. Incarceration not only altered family structure in ways that traditional studies measure, increasing the number of single female headed households; it also significantly impacted family members living in a variety of arrangements, straining resources and diminishing both physical and emotional health. Running through the impact on household composition, legal ties, and health outcomes, was the affect of incarceration on the norms of trust and reciprocity that families share and model for succeeding generations.

By the numbers

Men, women, and children in poor neighborhoods value family no less than do other Americans, but they face considerably greater obstacles in maintaining familial integrity. Among the foremost of those obstacles are incarceration and its sequelae. A

³⁵⁶ See Bruce Western & Sara McLanahan, *Fathers Behind Bars: The Impact of Incarceration on Family Formation*, in *FAMILIES, CRIME AND CRIMINAL JUSTICE* 309, at 322 (Greer Litton Fox & Michael L. Benson, eds. 2000) (citing evidence that the incarceration has a “large destabilizing effect” on low income families). See also, Mark Testa and Marilyn Krogh, *The Effect of Employment on Marriage Among Black Males in Inner-City Chicago*, in *THE DECLINE IN MARRIAGE AMONG AFRICAN AMERICANS* (1995, M. Belinda Tucker & Claudia Mitchell-Kernan, eds.); and Robert J. Sampson, *Unemployment and Imbalanced Sex Ratios* (same volume) (Describing the influence of incarceration on joblessness and sex ratios). These findings logically reverse the causal relationship implicit in many other studies that describe familial environment as influencing rather than being influenced by involvement in the criminal justice system. See, e.g., Robert Joseph Taylor, M. Belinda Tucker, Linda M. Chatters, and Rukmalie Jayakody, Recent

significant effect of incarceration is that marriage and co-parenting are far less common and single female-headed households are far more common in areas where incarceration rates are high. In the District, for example, in neighborhoods where the male incarceration rate exceeds two percent, fathers are absent from over half of the families.³⁵⁷

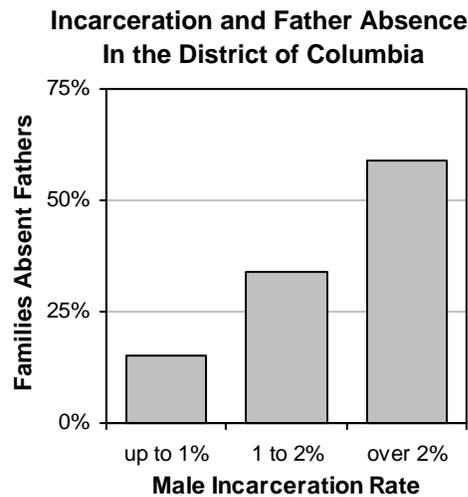


Figure 15: Incarceration and Father Absence

Demographic Trends in African American Family Structure, in *FAMILY LIFE IN BLACK AMERICA* 46 (Robert Joseph Taylor et al. eds., 1997) (Reviewing the literature on female headed households and crime.).

³⁵⁷ Among the ten-percent of District families living in the areas with the highest incarceration rates, we find that fewer than one in four of these families has a father present. Of the 6,181 families living in areas with the highest male incarceration rates (averaging sixteen percent), 4,842 — over 78% of those families — were without fathers. Figures are based on Study Data Sets, *supra* note ?. Unfortunately, the data does not distinguish between biological fathers and step-fathers. However, because women with lower incomes are both more likely to remarry and more likely to live in areas with high-incarceration rates, it seems likely that not only are there fewer fathers present in areas with high incarceration rates, but that a disproportionate number of the fathers who are present are step-fathers. See Chandler Arnold, *Children and Stepfamilies: A Snapshot*, Center for Law and Social Policy (1998). The issue is a significant one because, as Cynthia Harper and Sara S. McLanahan have noted, controlling for income and other demographic factors, “while children in single-mother households, particularly those born to single mothers, have higher chances of incarceration, those in stepparent families fare even worse.” Cynthia Harper and Sara S. McLanahan, *The Bendheim-Kenny Center for Research on Child Wellbeing, Working Paper 99-03: Father Absence and Youth Incarceration* 33 (1999).

The ethnographic data provide strong evidence that family structure is powerfully shaped by the experience of incarceration; the statistical relationship is also strongly suggestive. While it might be argued, for example, that it is not incarceration but differences in income or education that affects family structure, controlling for these other variables in a regression analysis shows that incarceration has a statistically significant and independent relationship with family structure. Using census data, the results of the analysis (provided below) are striking.

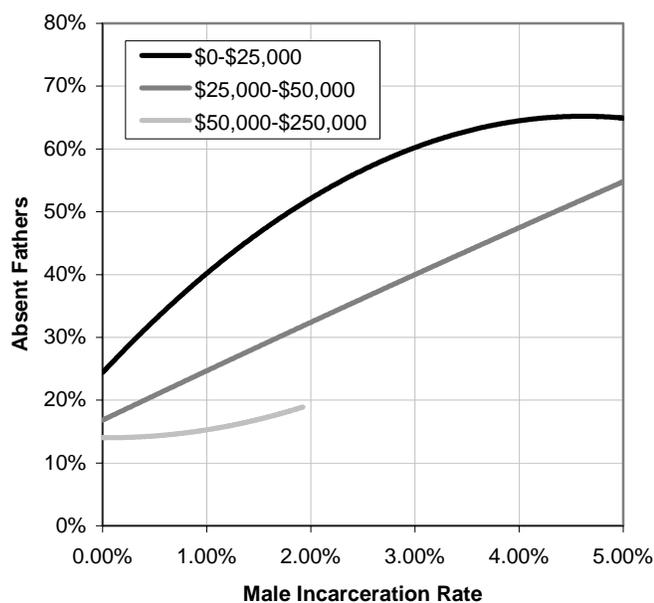
Relationship with Father Absence			
	Standardized Coefficients	Coefficients	Standard Errors
Constant	0.127***	1.26	0.000
Male Unemployment Rate	0.024	0.070	0.108
Median Income	-0.164***	0.000	0.000
Average Educational Achievement	-0.410***	-0.099	0.018
Gender Ratio	0.109***	0.000	0.000
Race (Black=1, Non-black=0)	-0.001	0.000	0.047
Male Incarceration Rate	0.190***	2.157	0.506
R ²		0.446	
Observations		576 Block Groups	

*Figure 16: The Relative Impact of Other Variables on Father Absence*³⁵⁸

In this analysis, as indicated by the relative size of the standardized coefficients, the influence of male incarceration is highly statistically significant and large in magnitude, second only to the relationship between educational levels and father absence, and

accounting for nearly twice the variance that community gender ratios do. It is also very interesting to note that in this analysis, after controlling for incarceration and other variables, race has no significant relationship to father absence.

An examination of the relationship between incarceration and father absence in different income groups, shown as three fitted polynomial lines in *Figure 16*, illustrates the extent to which income may mediate the impact of incarceration on family organization.



*Figure 17: Incarceration and Father Absence by Median Household Income*³⁵⁹

For all three income groups, where incarceration rates are at their lowest, father absence is fairly similar: occurring in fewer than twenty-five percent of households with children. As the incarceration rate increases among lower income families, father

³⁵⁸ Analyses using 1999 DC Department of Corrections and 2000 US Census data, on file with author.

absence increases at a far greater rate than it does among middle income families, among whom father absence increases at a greater rate than among upper income families. (Note that no upper-income census tract has an incarceration rate of over two percent.) So, as the incarceration rate increases to two percent, the percentage of families absent fathers in upper-income neighborhoods climbs about five percent; in middle income neighborhoods, it climbs about fifteen percent; and, in lower income neighborhoods, it climbs over twenty five percent.

Beyond the Numbers

The statistical data, of course, do not tell the whole story. The failure is, in part, a matter of precision. First, the statistics fail to capture a significant portion of the influence that incarceration has on non-nuclear familial structures. There simply are no census data on the strength and number of non-household ties that individuals have. The statistics also fail to account for the out-migration of many children who are sent to live with extended family. As a number of studies have shown, a significant portion of the out-migration from the inner-cities during the last twenty years has been that of children and parents returning to the rural and suburban areas where some of their extended families remained during the in-migration of the previous twenty years.³⁶⁰ So, as times get hard

³⁵⁹ Analyses using 1999 DC Department of Corrections and 2000 US Census data, on file with author.

³⁶⁰ See CAROL STACK, *CALL TO HOME* (1999) (describing reversal of the “great migration” from rural to urban America); Isaac Robinson, *Blacks Move Back to the South*, 8 *AMERICAN DEMOGRAPHICS* 40 (1986); Isaac Robinson, *The Relative Impact of Migration Type on the Reversal of Black Out-Migration from the South*, 10 *SOCIOLOGICAL SPECTRUM* 373 (1990).

and families struggle in the cities, some of the consequences are borne by relatives elsewhere.

Second, the statistics cannot tell us about the causal relationships between variables of interest. The relationship between incarceration and father absence is a two-way street. Children like Davida and Charles, made fatherless by incarceration, are not only more likely to be abused, live in poverty, and burden their extended family, but are also more likely to be involved in the criminal justice system themselves,³⁶¹ contributing to a cycle of abuse and neglect across generations. And, while the considerable costs of incarceration and incarceration's effects on gender norms do contribute to family fragility, precisely how much, is harder to say.

But most important, the statistical data fail to capture the meaning of family life and its dissolution for family members. What is it about letters and phone calls that sustains relationships? Why do marital vows keep wives with their husbands despite the economic costs? When Derrick sends his daughter a watch, it is not simply a material transfer, it is a deeply symbolic one. This is why, as Mauss and so many others have since pointed out, people's identities and relationships are intermingled with the exchanges they have with one another; gifts and letters help to establish and maintain social

³⁶¹ According to a recent Senate Report, "children of prisoners are six times more likely than other children to be incarcerated at some point in their lives." S. Rep. No. 106-404, at 56 (2000). *See also*, Denise Johnston, *Effects of Parental Incarceration*, in CHILDREN OF INCARCERATED PARENTS, at 80 (Katherine Gabel & Denise Johnston eds., 1995) (Noting that "children of offenders are far more likely than other children to enter the criminal justice system."). Recent studies have also shown that generative parenting also improves the quality of life of fathers, increasing not only father's occupational mobility, but also their marital success, and contributions to society at large. *See* SNAREY *supra* note 216 at 105-119.

relationships that give life its meaning. Capturing the meaning of a child's relationship with her father is clearly not a statistical undertaking.

That meaning, as the children themselves tell it, can have dramatic consequences in their personal lives. When Arthur Jr. describes “all that rage” and his impulsive violence as connected with the loss of his father, his frustration at his uncles for not helping him to stay in touch with his father, his confrontational interactions with his father when he does try to reach out to him, we gain some sense of what it can mean. And, when Davida describes the happiest day of her life as one spent with her father, when she talks about being sexually abused while he is incarcerated, and when she describes secretly selling her body so that she and her grandmother can stay in touch with him, we gather some sense of the meaning of the consequences of a parent's incarceration.

Marital contracts and spousal exchanges are also far more than simple agreements between consenting adults. Establishing and sustaining long-term trusting relationships — relationships where the balance sheets are never fully closed or disclosed — helps people to get through hard times financially and emotionally. But they can exert a strong normative pull on those who are in them, spreading the harsh realities of addiction and incarceration far beyond criminal offenders. The meaning of family to Londa is powerful; but, given her fifteen year struggle with her husband's addiction and her unrelenting desire to achieve the middle class dream for herself and her children, that meaning came with a heavy price. Before asking whether, in hindsight, she was wise to bear the costs of that commitment, we might ask what the costs, both public and private, would be were

she and others to decide that their commitments are too heavy to bear and withdraw their support, concern, and care.

None of the women and few of the men I met expressed a negative attitude towards marriage; in fact, most had marital ambitions but low expectations of achieving them. While there are many factors involved in the increase of divorce and out-of-wedlock births over the last thirty years, the people I interviewed generally described marriage as not only a desirable goal, but a serious commitment. Indeed, many wives of prisoners said that they would have left their partners had they not been married to them.³⁶² Charles' current wife, Sandra, for example, told me that what was held them together through his three most recent incarcerations was "the fact that I took my vows." For her and for many wives of prisoners, she says, "marriage makes a big difference. The marriage is probably holding us together."³⁶³

While some commentators describe the inner-city as a socially unstructured domain, the lives and choices of the family members in this study appear to be highly structured — just not in ways that they or other Americans find particularly appealing. Indeed, the choices of families in the neighborhoods where incarceration rates are highest are far more constrained than are those of Americans whose lives are richer in material and social resources. But there is nothing *intrinsically* different about families in the District that sets them apart from other families in our nation. While every family is unique, on the whole the families in this study are families like most others, adapting

their lives, their reasoning, and their behavior to the social institutions that structure everyday life. The question that policy makers have failed to ask in a meaningful way is how the powerful social institution of incarceration has shaped family life, and in this regard the experience of families in our nation's capital is instructive.

Looking over the experiences of these families it becomes apparent that incarceration not only draws on racialized understandings of black men, but goes a fair distance towards enforcing these stereotypes by separating black men from their families and placing them in the non-familial and non-community space of the prison. At the same time, incarceration places profound burdens on the female relatives of prisoners by increasing their individual responsibilities to family and at the same time effecting the very stereotype of the black woman as the solitary center and bedrock of black families.

* * *

Clearly, life can be chaotic for families in the inner-city and incarceration can exacerbate that chaos. Sensationalist media accounts aside, this is not because these families are impervious to the value-system to which other Americans adhere. Most of the families that I have come to know are painfully aware of the diminished status that they are afforded because they are poor, because there is no husband or father present, because he is in prison, and because all these attributes bring them into close proximity with the ever-present stereotypes of failure and moral decay in modern America. As a result, information about incarceration is often carefully guarded by relatives. The next

³⁶² This is consistent with the findings of the only statistical study to date of incarceration's effect on

chapter explores some of the consequences of these normative concerns, and the role that stigma plays in shaping urban family life.

family formation with individual-level data. *See* Western & McLanahan *supra* note 356.

³⁶³ Interview with Sandra, (Oct. 26, 1999).

CHAPTER FIVE: PRAYING ALONE

SOCIAL NORMS AND SOCIAL SILENCE

Talking with families of prisoners, I found that they hold many of the same opinions about law and punishment as do members of the general public. “If you do the crime,” many told me, “you should do the time.” However, in nearly every case, this kind of statement was followed by qualifications distinguishing their own case from the cases of others. Yes, families told me, people should be punished, but not the way that their family member was. Their relatives, nearly every family told me, were different because they weren’t hardened criminals like the others, they were part of a family, they helped other people, they were missed. None of the families I spoke with felt that they were “one of those families” where incarceration was an accepted way of life. There is good reason to suggest that this is true not only for the families of offenders in this study, but for the vast majority of families of prisoners.³⁶⁴

The last two chapters described some of the difficulties that families of prisoners encounter. Their experiences are, one would think, more than enough to prompt many to protest the current regime of criminal sanctions. Yet, most of the participants in this study told no one outside of the immediate family about their relative’s incarceration, and many were hiding the incarceration even from extended family members.³⁶⁵ The silence of

³⁶⁴ See Mumola *supra* note 91, at 1 & 10 (Noting that a “majority of state and federal prisoners reported having children under the age of 18,” and that over two thirds were employed prior to arrest.) Only two out of the fifty prisoners in this study could not refer me to a relative who helped to support them while in prison. Both had lost touch with families after years of addiction.

³⁶⁵ While the hearing over the private prison described in Chapter 1 provided a forum for discussion about prisons and prisoners, very few family members (none in this study’s sample) actually testified.

these families is, in many ways, counterintuitive. If incarceration in the District and in many urban areas is the statistical norm, why isn't it socially normative as well? As the previous chapters have shown, the collateral effects of incarceration on families and communities are not only material, but deeply social. This section describes how the moral concerns about criminality influence other aspects of familial and community relationships. Perhaps the most unexpected finding of this study is that the stigma related to incarceration is visited on the families of prisoners as much as — if not more than — it is on prisoners themselves.³⁶⁶

This finding complicates recent popular and theoretical accounts of shame and criminal sanctions considerably. Over the last five to ten years, legal scholars and policy analysts have rediscovered social science and, more specifically, social norms.³⁶⁷ It is a rediscovery which has had a great impact on discussions about criminal law in general,³⁶⁸ and about shame and criminal sanctions in particular.³⁶⁹ Dozens of politicians, academics, and prominent critics on TV and radio shows have discussed how we might restore the criminal justice system's ability to stigmatize and induce shame. Because many perceive

³⁶⁶ Unexpected to me, anyway. For several months I was puzzled by and frustrated because my interviews were not confirming one of the central hypotheses I had originally formulated for this study — that high incarceration rates would generate significant political resistance and community sympathy for offenders.

³⁶⁷ See *supra* note 21 and accompanying text.

³⁶⁸ It has been argued that the last decade will be remembered as that “in which criminal law...rediscovered...the power of social norms as a regulatory device.” Kahan, *supra* note 73, at 591.

³⁶⁹ See, e.g., JOHN BRAITHWAITE, *CRIME, SHAME AND REINTEGRATION* (1989).

Paul H. Robinson & John M. Darley, *The Utility of Desert*, 91 NW. U. L. REV. 453, 457 (1997); Dan M. Kahan & Martha C. Nussbaum, *Two Conceptions of Emotion in the Criminal Law*, 96 COLUM. L. REV. 269, 356 (1996); Katharine K. Baker, *Sex, Rape, and Shame* 79 B.U.L. REV. 663 (1999). Ellen M. Bublick, *CITIZEN NO-DUTY RULES: RAPE VICTIMS AND COMPARATIVE FAULT* 99 Colum. L. Rev. 1413,

contemporary urban culture as outside or resistant to the moral system of social norms they would like to promote, these discussions have an unusual public saliency.

For example, in areas where incarceration is commonplace, one might imagine that little stigma would be attached to a prison sentence. Worse still, many fear that incarceration might even be taking on a positive connotation, an association with masculinity — a “rite of passage,” is the phrase often coined in the press. As a result, many would like to enable the criminal justice system to stigmatize more effectively and induce shame more consistently and to thereby both express public moral condemnation and reduce the likelihood of offense. Shame and stigma emerge in these debates both as expressions of pent-up public disapprobation and as cost-effective deterrents, deterrents which are underutilized.

While it is encouraging that prominent analysts of law and policy are interested in how law shapes social meaning, and how social meaning shapes human experience and behavior, there is reason for caution. In discussing and promoting policies based on law’s “expressive function”,³⁷⁰ few analysts have actually taken time to observe the effects of the expressively harsh statutes that have been implemented. That is, those making the law

1464 (1999) (“Ultimately, the message courts express about women and rape depends on the norms that we want as a society.”);

³⁷⁰ See, e.g., Lawrence Lessig, *The Regulation of Social Meaning*, 62 U. CHI. L. REV. 943, 957 (1995). (describing how governments shape “social meanings to advance state ends”); Cass R. Sunstein, *On the Expressive Function of Law*, 144 U. PA. L. REV. 2021, 2036-43 (1996) (discussing the ways in which the “statement made by law” can be compared with the “consequences produced by law”); Cass R. Sunstein, *Incommensurability and Valuation in Law*, 92 Mich. L. Rev. 779, 820-24 (1994) (discussing how social norms are affected by the “expressive power” of law; Cass R. Sunstein, *Problems with Rules*, 83 CALIF. L. REV. 953, 970 (1995) (“We might say that the expressive function of law includes the effects of law on social attitudes about relationships, events, and prospects, and also the ‘statement’ that law makes independently of such effects.”).

and talking about it don't know whether what they want to have happen actually has happened or will.

The findings of this study suggest that the symbolically harsh statutes being advocated and enacted do not correlate with their intended effects, and that many of their consequences are both unintended and undesirable. Rather than simply deterring potential offenders from future crimes, this study suggests that the most significant impact of the stigma related to increased incarceration has been the silencing and isolation of families of prisoners, an effect that few legal analysts anticipate.

Missing the Mark: Louisa, Robert, and Jimmy

Louisa and Robert are in their mid-thirties and are married with one son, Jimmy. Their small family, like many working-poor families in the District, is deeply religious. Aware of the odds against their staying together, family is not something they take for granted; it is something they have worked hard for. Ten years ago, when their son was three, Robert started using crack and was soon addicted, leaving Louisa and Jimmy for the streets. After being incarcerated and completing a drug treatment program, he sought them out, and, after a period of reconciliation, their family was reunited. For the next three years, they attended a local church and, in Louisa's words, "kept on the straight-and-narrow,"³⁷¹ both of them working full time at entry-level jobs, trying to save up enough money to make the down payment on a house.

³⁷¹ Interview with Louisa, (Nov. 11, 1999).

Louisa looked beyond Robert's earlier abandonment and criminal activity, focusing on his return and recovery: "You know unfortunately, we were separated. That happened. And when we reunited, he had to pay the penalty. I accepted his wrongdoing, because I just wanted our family to rejoin and reunite."³⁷² Robert's criminal history cast a permanent shadow, however, as they both knew he was still wanted for a robbery he had committed during his addiction.

He was telling me, "It's inevitable," because he did do it. He said "Well, I've got a bench warrant out on me and the inevitable might come." But he was running because he knew what it was like [in prison]. He didn't want to go back. And he wanted his life. So he got a job. We remained being a family. But he was always conscious. "Okay, we can't go that way. Too many police." Always being conscious, trying to avoid going back.³⁷³

Robert cleaned himself up and stayed off drugs for two years, got a job, started attending church, and — of great significance to Louisa — began praying with the family. Then, one afternoon he was pulled over for a traffic violation, and it was over.

For Louisa, her husband's arrest and re-incarceration has been particularly hard in light of the changes she saw in him and the aspirations they had developed. They had the enthusiasm of converts for family and community life and had come to think of and present themselves as morally upstanding citizens and churchgoers members. For this, Louisa felt the stigma of her husband's most recent incarceration all the more intensely. She began to avoid friends and family, not wanting to talk about Robert's incarceration and lying to them when she did.

³⁷² *Id.*

³⁷³ *Id.*

You isolate yourself because, you know, even though the other person don't know what you going through, you really don't want to open up and talk to them about it. You don't want them knowing about your business. Or it's a certain amount of respect you want them to have. I just don't like the idea of people knowing that he's incarcerated.... You know. So I live a lie.³⁷⁴

While Louisa is able to distinguish between her husband's actions and his identity (as she put it, "he did commit a crime, but he is not a criminal"³⁷⁵), she feels others are unlikely to make the same distinction. As a result of her withdrawal, her old friendships have suffered, and she has held back from making new friends. "I just stick to myself. It's a lot less problems that way."³⁷⁶

Louisa has a number of reasons to remain guarded. Concerned for her husband's reputation when he returns, she said, she hides his incarceration so that, "when they look at him, they won't slap all these labels on him and have to be afraid of him."³⁷⁷ She also feels the possibility of people judging her and her son. "It's how people look at you. The respect you want and they don't respect you because your husband is incarcerated."³⁷⁸

Louisa is very wary of discussing the matter not only with her co-workers and church members, but with other family members as well. She has told her family that he

³⁷⁴ *Id.*

³⁷⁵ *Id.* This distinction is at the heart of many other debates about identity and action. For example, many people would understand someone stating that a married man, while never having engaged in sex with another man, is *really* a closeted gay man. Or conversely, that a man who had sex with another man, but subsequently dated women, is not gay. Or, as the debate over Clarence Thomas's nomination to the Supreme Court made apparent, a single person can be described as not only black, ashamed of being black, or harming blacks, but as someone who's actions render his identity *as a black person* suspect. The relative durability and contingencies of sexual orientation, race, and criminality illuminate how complex identity and stigma can be.

³⁷⁶ *Id.* Cf. Claude Steele and David A. Sherman, *The Psychological Predicaments of Women on Welfare*, in *CULTURAL DIVIDES* 422 (? And ? eds., 1999) (Describing the emphasis that women in a shelter in the South Bronx place on self-reliance.)

was re-incarcerated because of a serious traffic violation instead of an armed robbery charge. It is a story that was, at least at first, believable given that a serious traffic violation would violate the terms of his parole. As she said:

I don't talk to them. I evades the subject. They evades the subject. They, like, pleases me not to say anything about it. They pleases me not to question me about it. Every now and then my oldest sister asks. "Well when is he coming home?" And I'll just evade the question – "He'll be home soon." She said "Oh, well didn't you say he had a traffic violation or something? Well, why are they keeping him so long for such small thing?" And I'll go and say, "Well did you go shopping and get the pink or purple blouse?" And they'll pick up. Oh she don't want to talk about that. That's how I keep it.

Many spouses and parents of prisoners that I have spoken with will not tell the extended family about the incarceration of a loved one or will lie about the type of crime committed.³⁷⁹

Unfortunately, Louisa's withdrawal from friends and family has had an indirect effect on her ability to cope with her increased parenting duties, as she does not want to open herself up to discussions about her husband. As was apparent in previous chapters, families — and low income families in particular — are often dependent on networks of relatives and friends to cope with poverty and hardship.³⁸⁰ The fluid households and expansive exchange networks that these families maintain are, while not necessarily their

³⁷⁷ Interview with Louisa, (Nov. 11, 1999).

³⁷⁸ Notes from discussion with Louisa, (Nov. 11, 1999).

³⁷⁹ Other family members explained that they withheld information from extended family for reasons varying from "I don't know what it would do to his aunt. She just thinks so highly of him." to "Somebody's business is nobody's business."

³⁸⁰ Carol Stack's description of the inner-city environment still fits: "the social-economic conditions of poverty, the inexorable unemployment of black women and men, and the access to scarce resources of a mother and her children." The decline of extended networks of exchange in inner-cities makes the social supports that families do have all the more important.

own ideal image of family, adaptive necessities for making ends meet in the long run.³⁸¹ Perhaps the most significant consequence of stigma among families of prisoners, then, is the distortion, diminution, and even severance of these social ties.³⁸² Stigma related to incarceration is powerful, in part, because the families know that the same relationships on which they have come to depend can be turned against them, as social networks that provide resources are transformed into social networks of approbation. It is little wonder, then, that many family members carefully guard information about incarceration.

As a result, many family members are forced on a daily basis to choose between sacrificing the honesty of their relationships or the relationships themselves. The result can be draining and painful. For Louisa, in addition to her concern about potential labeling by the people she knows, she feels the pull of her evasion and deception at her own conscience. As Louisa describes herself lying, her voice quivers with disappointment in herself, and she begins to cry. While she does not want her husband to be branded a criminal, she does feel guilty about lying. “[I feel] terrible because I’m

³⁸¹ Or, as Stack writes, the “black urban family, embedded in cooperative domestic exchange, proves to be an organized tenacious, active, lifelong network.” *Id.* at 124. Opal Palmer Adisa also puts a fine point on it, writing in her poetic essay *Rocking in the Sunlight*:

Truth be told, black women would cease to exist if we didn’t have each other....For who but a sister can you call up at 2:00 a.m. in the middle of the week and ask, “Do you have time to talk?” Who but a sister can you go to on payday to borrow twenty dollars to tide you over?...We use each other’s strength and tenacity to fight the stress that would put us in our graves before our time.

Opal Palmer Addisa, *Rocking in the Sunlight*, in *THE BLACK WOMEN’S HEALTH BOOK* (Evelyn C. White, ed.) 12 (1990).

³⁸² Indeed, there has probably been no greater institutional change among families like those that Stack studied than the dramatic rise of incarceration rates in poor urban neighborhoods over the last quarter century. The incarceration rate in major metropolitan areas is nearly five times what it was in 1970.

living a lie. I'm living a lie. I'm not normal. I'm abnormal. Being a God-fearing woman, I have to repent and ask forgiveness from the creator, from God."³⁸³

* * *

While Louisa describes crying often,³⁸⁴ depression, and a growing sense of isolation from family and friends, Robert's reaction to his incarceration is strikingly different. As is the case with many of the incarcerated men I interviewed, Robert is coping far better with his incarceration than is his wife. While occasionally depressed, he more frequently feels angry at the criminal justice system that has incarcerated him, and his anger and indignation are voiced in political terms that help him cope. His ability to articulate this anger in terms of the race and class bias of the criminal justice system, and the supportive network of offenders around him, are both tools that enable him to reframe his punishment in terms that are less stigmatizing than they might otherwise be. In fact, he often receives sympathy and encouragement from other prisoners, who sympathize with his bad break and recognize him as a basically good and decent person.

Robert's ability to cope well is in part due to his perspective on the social and political context in which his incarceration takes place. In a letter, he laid out what he saw behind his own incarceration and that of many other black men in prison.³⁸⁵

Even though an annual study at the University of Michigan confirms that the overwhelming majority of drug users, abusers and sellers in America

³⁸³ Interview with Louisa, (Nov. 11, 1999).

³⁸⁴ See *infra* note 445 and accompanying text.

³⁸⁵ Robert was located at a Virginia facility under contract to the District. While I met with Robert and interviewed him there, the Virginia Department of Corrections prohibited me from recording the interview. Although I did take notes while interviewing inmates there, Robert's quick speaking ran well ahead of my ability. For that reason, I quote sparingly from my notes. Thankfully, he is a good writer and correspondent.

are white, even though the 1992 National Household Survey on Drug Abuse revealed that 8.7 million whites used drugs in one month versus 1.6 million blacks, the drug problem, which is an American problem has been conveniently depicted as a black problem. The war on drugs essentially is a war on black men, America's favorite bogeyman. Then in their misguided logic they attempt to deal with this problem from a perspective of criminality rather than a public health perspective; so countless numbers of petty drug users end up in penal institutions rather than treatment facilities where the problem could be appropriately addressed.

In 1990 thirty-two thousand more young whites were arrested for murder, forcible rape, robbery and assault than [were] black juveniles. Even so, three hundred more blacks than whites were tried as adults. In 1991 more than 70 percent of young males arrested were white, 25 percent were black. Yet a strange thing has happened between arrest and trial: only 35 percent of whites were held in custody while 44 percent of the blacks were held. Racism? Of course not; more like an outgrowth from a durable and time-resistant bedrock of stereotypes.³⁸⁶

While Robert makes greater use of statistics about the criminal justice system than most of the prisoners I spoke with, his general argument was a refrain that ran through my interviews with many inmates. Robert, like many offenders, feels that he is being treated unjustly, and his ability to develop an explanation for his incarceration that extends beyond his own moral culpability is one of the things that helped him to cope with his isolation from family and community.

* * *

If Robert's wife is bearing the brunt of the moral burden for his incarceration, the literature on stigma and shame give some indication as to why this is so.³⁸⁷ First, stigma

³⁸⁶ Letter from Robert, on file with author.

³⁸⁷ While there is some debate about the social and psychological models that explain shame, there is a broad agreement in the literature on shame's most basic characteristics and effects. *See generally* MICHAEL LEWIS, SHAME, THE EXPOSED SELF (1995); HELEN MERREL LYND, ON SHAME AND THE SEARCH FOR IDENTITY (1958); HEBERT E. THOMAS, THE SHAME RESPONSE TO REJECTION 16-17 (1997); ERVING

is, in many respects, “sticky” — associated not only with those who offend a social norm, but also with those associated with them.³⁸⁸ As the sociologist Irving Goffman has noted, stigma travels through relationships, tainting those associated “with” the stigmatized.³⁸⁹ The implications for families of prisoners is clear: the stigma of criminality associated with incarceration marks them as well as the person incarcerated. One family member described what he considered to be the biggest misconception about families of prisoners: “basically....that if there’s one criminal, there’s another, and another....a consistency within every family.”³⁹⁰

A second reason is that stigma is experienced in relation to the judgment or perceived judgment of a social group.³⁹¹ So, whereas Robert lives among other offenders, Louisa, on the other hand, remains in the community and is subject to the attendant social pressures that apply there. While many offenders may experience stigma related to their incarceration, unless their offense is considered particularly disgraceful by their co-offenders (as in cases of child sexual assault) their experience will be mitigated by the

GOFFMAN, *STIGMA* (1963); *THE ROLE OF SHAME IN SYMPTOM FORMATION* (Helen Block Lewis, ed.) (1987); ANDREW P. MORRISON, *SHAME* (1989); *THE MANY FACES OF SHAME* (Donald L. Nathasan, ed.) (1987).

³⁸⁸ See LEWIS, *supra* note 387, at 200 (“The impact of stigma is wide: it not only affects those who are stigmatized, but those who are associated with the person so marked.... Stigmas are contagious: they impact on members of the family and even the friends of the stigmatized person. Like an infectious disease, the stigma not only affects the victim of the stigma but all those who are associated with him or her.”).

³⁸⁹ GOFFMAN, *supra* note 387, at 48. Goffman writes of this contamination through association: [I]n certain circumstances the social identity of those an individual is with can be used as a source of information concerning his own social identity, the assumption being that he is what the others are. [...] In any case, an analysis of how people manage the information they convey about themselves will have to consider how they deal with the contingencies of being seen “with” particular others.

Id. at 47-48.

³⁹⁰ Interview with Lonnie, (Jun. 22, 2000).

³⁹¹ As Goffman puts it, stigma is related to one’s “social identity.” GOFFMAN, *supra* note 387, at 2.

tacit acceptance of their peers, at least while they are incarcerated.³⁹² Family members, on the other hand, live and work outside the prison setting and are exposed to the judgment of their neighbors, churchgoers, co-workers, supervisors, employers, and other community members. As a result, female members of nearly every family that I have spoken with have experienced shaming and humiliation related to the incarceration of a loved one.

Most of the women I spoke with recounted specific instances in which they felt that they were looked down on by another person because of their family member's incarceration. As I will discuss below, those who had a positive experience of acceptance and sympathy after disclosing the status of their loved one to a close friend or family member were able cope better. Significantly, however, even these family members attempted to manage who knew and who did not. None had "come out" completely in their extended families and at church and work.

Female relatives of prisoners also bear a significant burden as a result of gender differences in their reactions to stigma.³⁹³ While men and women can experience shame in many ways, and gender differences do not hold true in every case, there are gender

³⁹² Of course, once they leave prison, the stigma of criminality is significant unless they associate with other ex-offenders, creating an incentive for them not to associate with "straight" society. But among the released prisoners that I spoke with, their inability to earn a decent living and support a family was far more shameful than their criminality. So, the stigma of criminality leads to the shame of being unable to support one's children, to help one's mother, etc.

³⁹³ Of course, men and women can experience shame in many ways, and gender differences do not hold true in every case. It is also quite true that, when discussing broad social effects like shaming, "gender difference neither explains how the difference got there nor what maintains it." Stephanie A. Shields, *Thinking About Gender, Thinking About Theory*, in *GENDER AND EMOTION* 18 (Agneta H. Fisher, ed. 2000). What gender differences do help us appreciate (at least in this case) are the specific and differential influence of incarceration on the social and psychological lives of many men and women.

patterns that are well documented in the clinical literature. Generally speaking, women are more likely to “attribute their success to others and to blame themselves for failure” and, when they do blame themselves for failure, “are more likely to make global attributions of failure than males.”³⁹⁴ As a consequence, they are more likely to experience shame than males are.³⁹⁵ When women do experience shame, the most common sequelae are depression and withdrawal;³⁹⁶ when males experience shame, they are more likely to respond by deflecting blame, by becoming angry, or by threatening violent action.³⁹⁷ As a result, women relatives of prisoners, like Louisa, often feel the brunt of the expressive function of punishment.

These general variations in reactions to shaming, as I will discuss in greater detail below, also help to explain some of the unanticipated effects of incarceration; most notably, the surprisingly non-submissive (even defiant) reaction of men to their sentences as well as the relative silence of poor inner-city women who bear the burden of incarceration’s costs.

Stigma and Race

The issue of race hovers over and flits through the nightly news, discussions of the inner-city, and arguments over rights and responsibilities, often quietly, but sometimes

³⁹⁴ See LEWIS, *supra* note 387, at 69. See also discussion at *Id.*, 103.

³⁹⁵ *Id.* at 72 Men, on the other hand, are less likely to blame themselves for failure, and when they do are more likely to experience guilt than shame, given the same circumstances. See *Id.* at 103 (Discussing studies supporting this finding).

³⁹⁶ See *Id.* at 143-149.

³⁹⁷ See THOMAS, *supra* note 387 at 29-34 (describing general effects of shame) and 156-161 (describing link between prolonged shame and violent or criminal activity). See also JAMES GILLIGAN, *VIOLENCE* 110 (1997) (Arguing that, in his work with male offenders, “shame is the primary or ultimate cause of all

erupting into explicit and noisy confrontations. It surfaces when, on rare occasions, someone like Mark Furman makes the mistake of publicly airing his views on “niggers,”³⁹⁸ when someone like Dr. Frederick K. Goodwin, the nation’s top mental health official, compares inner-city males to “hyperaggressive monkeys,”³⁹⁹ or when New Jersey police admit to profiling black drivers.⁴⁰⁰ In each case, the symbolic connection between race and criminality runs both ways, not simply indicating societal bias, but also helping to create the meaning of race itself.

While studies regularly document racial bias in the criminal justice system, this is only half of the story, and perhaps the less important half. The other half of the story is that being black today in America signifies, in no small part, because of the mass-incarceration of young black men. As was apparent in the account give by Louisa’s husband, Richard, many black Americans are keenly aware of how criminality shapes white American’s conceptions of race. Race would not mean what it means today if it were not for the mass incarceration of men from poor minority families and communities. This point is an important one because it helps to explain why so many black Americans are concerned about negative depictions that reinforce stereotypes.

violence.”).

³⁹⁸ See Defense Amended Offer of Proof re: “Furman Tapes,” *People v. Simpson*, No. BA097211, Aug. 22, 1995, 1995 WL 516132, at 1.

³⁹⁹ David K. Shipler, *A Country of Stranger* 262 (1998) (describing the incident and racial stereotyping in general).

⁴⁰⁰ See *The Profiling Racial Page* <http://www.nj.com/news/index_narrow.ssf?/specialprojects/racialprofiling/main.html> (a collection of news coverage from the New Jersey Star Ledger on racial profiling).

Ruth, whose younger brother is incarcerated, told me she would never discuss the matter with her coworkers or supervisor.

You know, I talk to [my supervisor] about stuff, but not this. This was too much, and it definitely made, well, it was just harder to talk to him. He wants to know how my brother is. I just can't tell it to him. What does he know about prison?⁴⁰¹

When asked to explain why her white coworkers and supervisors would have more trouble understanding her brother's incarceration, Ruth said it was not just incarceration, it was "everything." As an example, she described nights when she works late:

I tell my boss all the time, I say, "If you want me to take a taxi you go down there and flag one for me. I'm not going out there and stand 20 minutes for a cab when they'll run over me to get to you." [...] He's white and, see, he don't know the difference because he's from Seattle, Washington. He looks at me real strange like, "What are you talking about?"⁴⁰²

Given the "sticky" nature of stigma, and the abundance of stereotypes about black families, how, Ruth wonders, could her supervisor possibly understand her brother's incarceration when he cannot even understand her difficulty catching a cab? "His picture would be all wrong. He would just think... I don't know, but it wouldn't be good."⁴⁰³

For many Americans, particularly white Americans, acknowledging race at all is seen as a dangerous strategy — better to just ignore race altogether.⁴⁰⁴ In this regard,

⁴⁰¹ Interview with Ruth, (Apr. 19, 1999).

⁴⁰² *Id.*

⁴⁰³ *Id.*

⁴⁰⁴ Many scholars have documented the ways the race-consciousness is submerged in people's daily lives. See, e.g., RUTH FRANKENBERG, *WHITE WOMEN, RACE MATTERS* 23 (1993) (describing how the subject of race caused prompted "memory lapse, silence, shame, and evasion" among her informants). Paul Sniderman and his colleagues have gone to great lengths to discern perceptions of race that are normally hidden from public discourse. See, e.g., Paul M. Sniderman, Thomas Piazza, Phillip E. Tetlock, and Anne Kendrick, *The New Racism*, 35 *AM. J. POL. SCI.* 2, 423-447 (1991).

many white Americans see incarceration in terms that are race-neutral: if someone gets locked up, it is because they did something bad and broke the law. The logical corollary — that black people are bad more often than white people — is less neutral, however. For Ruth and other family members, this perceived divide led to lies or evasion, and the eventual diminishing of personal relations between them and their coworkers and supervisors.

While it may make intuitive sense that black women would hesitate to discuss their relatives incarceration with a white supervisor or coworker, many family members were also at pains to point out that the stereotypes exist not only in white communities segregated from majority black neighborhoods (as they are in most of northern Virginia), but pervade African American communities and culture as well, and are as close as the next door neighbor. “Blacks feel the same way about blacks,”⁴⁰⁵ one aunt said, pointing up the street, “And right in this block here, the lady across the street over there, she does not particularly like any Black folks, or many, in this neighborhood. She downgrades them....and there are Black people that will tell you they don’t want to move where Blacks are.”⁴⁰⁶

Arthur’s mother, Lilly, saw race as a significant factor in keeping families of prisoners from talking to one another. “People of color, they’re so...number one, they’re embarrassed. They don’t want nobody to know that their family is incarcerated.”⁴⁰⁷ The reason, she said, was obvious: “Well, if I would say my son is incarcerated, they would

⁴⁰⁵ Interview with Myrtal, (Nov. 16, 1998).

picture him as a killer, a cutthroat, a murderer, vicious. They would have come to that conclusion, number one, because I'm black. That's the first reason why they would come to it; they wouldn't even come to it if I was a white woman setting up there saying it."⁴⁰⁸ For Lilly, the issue is not simply stereotyping, but a broader problem of racial self-disrespect that she worries about, and which she sees affecting the ability of relatives of prisoners to speak openly about incarceration:

All you life you been taught that you're not a worthy person, or something is wrong with you. So you don't have no respect for yourself. ... See, people of color have — not all of them, but a lot of them — have poor self-esteem, because we've been branded. [...] We hate ourselves, you know. We have been programmed that it's something that's wrong with...we hate ourselves. When I see a black person and I got to deal with business with them, I pray. I mean, it's no lie, and I feel bad, I hate to do it, but I start praying.⁴⁰⁹

Kenny's mother Edwina had a similar reaction when her son was incarcerated. Even in her nearly all-black neighborhood, she worried about what the neighbors would think: "It's hard, because, like I say, you understand and I understand, we've been labeled all our lives that we are the bad people."⁴¹⁰

The stigma and social isolation that these families face is bound tightly with the racial and class stereotypes of criminality, making the intersection of race and incarceration doubly devastating. Not only does being seen as black mean that a person stands a greater chance of being detained, arrested, convicted, and the recipient of a

⁴⁰⁶ Interview with Myrtal, (Nov. 16, 1998).

⁴⁰⁷ Interview with Lilly, (Mar. 23, 1998).

⁴⁰⁸ *Id.*

⁴⁰⁹ Interview with Lilly, (Sep. 9, 1998).

⁴¹⁰ Interview with Edwina, (Aug. 10, 2000).

longer sentence, as studies have demonstrated.⁴¹¹ But once being black is combined with criminality, it means losing a fair measure of whatever social solidarity and support one's community might provide.⁴¹²

Stigma, race, and incarceration are related in more subtle ways than common discussions of racial bias in the criminal justice system would suggest. The very problems that incarceration exacerbates — from diminished income to undesired single parenting — are deeply embedded in stereotypes of black families in America. These racially constitutive aspects of our criminal sanctions, the extent to which our criminal justice system continues to create the social construct of race and reinforce our understanding of it, are linked to the stigmatization of black Americans in general. As families of prisoners confront incarceration, they also confront a widespread set of assumptions about their loved ones and about themselves, not only in the eyes of society at large, but also in the communities where they live. For African Americans, the stigma of familial criminality is colored with racial and class overtones that make it particularly powerful.

Problems at Home

Jonathan and Constance have six sons and live in a small house in a working class section of Anacostia, in Southeast Washington. Anacostia is often described in general

⁴¹¹ The most comprehensive summary of these data is presented in Randall Kennedy's *Race, Crime, and the Law* (1997). The perceived divide between the "good" and "bad" black in America has been discussed extensively, David Shipler has discussed this aspect of stereotyping. DAVID K. SHIPLER, *A COUNTRY OF STRANGERS* (1997). This good/bad division is paralleled in public policy discussions of "deserving" and "undeserving" poor, described by Herbert Gans. HERBERT J. GANS, *THE WAR ON THE POOR* (1995).

⁴¹² Survey data suggests that blacks, like most Americans, do not support many of the rights that protect criminal suspects. Since 1987, for example, eighty percent of black respondents to the GSS have felt that the courts are not harsh enough with offenders. GSS 1987-2000.

and unflattering terms.⁴¹³ Anyone who has spent time in Anacostia, however, knows that it is made up of many smaller neighborhoods that vary, often dramatically, from block to block. The Smith's house is located on a residential section of one of a major thoroughfares in Southeast. The neighborhood resembles — at least for the dozen houses or so that surround the Smiths — one of the small suburbs outside of the District: small houses on small plots, surrounded by shrubs and trees on carefully manicured lawns. It is by no means a wealthy block, or even comfortably middle class, but it does not fit the stereotype of urban blight that many people would connect with the level of incarceration found there.

Jonathan and Constance are both regular churchgoers and express the earnest aspirations of upward mobility that their house symbolizes, aspirations they managed to attain in steady, careful steps. The obligations they meet are not small. Constance works a full day as a data processor, then works the “second shift” as homemaker,⁴¹⁴ shopping, preparing meals, and caring for the children. Jonathan works long hours as a bus driver

⁴¹³ The local City Paper recently took the Washington Post to task for their over-the-top characterizations of Southeast DC:

[A recent story in the Post] described Ward Eight's main drag just as it is always imagined by those who never go there: bleak, depressed, and violent. Beneath subheads like “Death and the Avenue,” the story had all the requisite Ward Eight touchstones: teddy-bear murder memorials, idle men, and empty storefronts. Reporter John Fountain wrote: “[MLK Avenue] is public housing, boarded abandoned buildings, winos and drug addicts who linger from dawn to dusk....Bulletproof partitions in small corner convenience stores and carry outs. Iron bars on schools and houses of God. Sirens blaring. Poverty. Conspicuous young men on corners.” The ward was described as a place where “poverty and peril sometimes gush like rainwater down a gutter.”

Stephanie Mencimer, *When Hell Freezes Over*, WASHINGTON CITY PAPER, November 5-11, 1999.

⁴¹⁴ See HOCHSCHILD 348.

for the city, is president of the PTA at the local high-school, and is a hard-working promoter of education in their church and community.⁴¹⁵

Like many parents, when their eighteen-year-old son, Jackson, was hanging around the house, they pressured him to go out and get a job. Instead, he simply moved out, staying at a series of his friends' apartments. Constance was confused by his response.

I said, "Well, what did you do? Did you move out? I haven't seen you in two days?" "Oh, yeah, yeah, I moved out." Right? So I felt like a dummy, because I felt like I gave him those words. You know, maybe he wasn't thinking that, but I might have planted the little seed [in his mind] and he said, "Oh, yeah, yeah, that's a good idea." So he decided to move out. Well, when he moved out, so to speak, I was troubled. You know, I just wasn't comfortable with him being gone.⁴¹⁶

Constance knew he didn't have his own apartment, so she would drive around the neighborhoods where she thought he might be. One Saturday night, it was just starting to rain, and she saw him. She stopped and picked him up, and brought him back home. They went to church together the next morning, but again he insisted on leaving.

You know, I had to really come to grips with myself in reference to that he was 18. I had to let him go because, by law, I couldn't really hold him, you know, so I brought him back home, and I said, "Well, I won't take you there, but I will pray with you and ask you to keep in touch with me, you know, when you do leave here. At least call me and let me know that you're okay."

So, you know, he left, and when he left, I mean, it was like a...it...it was bad. I cried for hours when he...when he left here. You know, I was...I was frustrated. I actually felt like I wanted to run away from home myself,

⁴¹⁵ Jonathan organized a number of educational outings for the school, and encouraged his son to enter the Street Law program offered through the Georgetown Law Center, hoping his son might become a lawyer.

⁴¹⁶ Interview with Jonathan & Constance, (Jul. 30, 1999).

because I felt like my child is going in the street and he's not ready, you know. He doesn't have a job. He doesn't have a place of his own.⁴¹⁷

She and Jonathan now feel that if they had not pushed him, he would not have felt the need to leave. But having an adult child sit around the house did not suit their conception of responsibility either. At the time they felt bad about pushing him to do something with his life, but they also knew that he was not fitting into the life they had envisioned for him.

Jackson did not find work and was living off the goodwill of friends. As he described it to me, he felt he needed to do something to make some money and get an apartment. "It's just embarrassing to have no money and like that. When you're hungry you're mooching off people. Pretty soon you're not welcome. People start telling you, 'hey, remember that money I gave you?' and asking you 'When you gonna get some money?'"⁴¹⁸

Jackson borrowed a gun from a friend and held up a woman outside a convenience store. He was bewildered after he did it and wandered around for a while in a daze. He realized he was hungry and went into a store to buy a soda and some chips, and was arrested almost immediately. He was one block from where he had held up the woman less than a half hour previously. His arrest was a shock to his family. As his father related,

That was a crushing blow....It was horrifying, you know, to get that call from him that I didn't want to get, because I knew, I kind of knew...You know, when a kid, when they're not ready to go, but when they go out on

⁴¹⁷ *Id.*

⁴¹⁸ Notes of interview with Jackson (Jan. 12, 1999).

their own, it was, like...he wasn't on his own, but he was...he was out there, you know, just...I felt bad as a dad that my son had to call me and tell me that he was locked up.⁴¹⁹

Both Jonathan and Constance were devastated by Jackson's arrest. They felt that they had failed as parents, and that their son's incarceration placed their family in a poor light. Where they had been a proud, upwardly mobile family, they felt like all their hard work and careful parenting was now in question. As Constance described it:

Regardless of what you feel like you've done for your kid, it still comes back on you, and you feel like, "well maybe I did something wrong. Maybe I messed up. You know, maybe if I had a did it this way, then it wouldn't a happened that way." You know? So...and I think a lot of people may feel that way. They may not say it, you know, but they think it a lot of times.⁴²⁰

Theirs is a family with what are often described as "working class values" and aspirations, values not generally associated with the inner-city.⁴²¹ They both work at stable jobs that allow them to own a small house with a mortgage and two cars (even if the cars are old enough to be a bit unreliable). While the jobs are just enough to get by on, they provide the security and a sense of comfort that many families strive for. They are not wealthy, but they can provide a decent home and take a vacation once a year. They attend church often, usually more than twice a week, and are at every school function throughout the year. They are the type of family most communities hope to have, and they are conscious and proud of their reputation as such.

⁴¹⁹ Interview with Jonathan & Constance, (Jul. 30, 1999).

⁴²⁰ Interview with Jonathan & Constance, (Jul. 30, 1999).

⁴²¹ There are, to be sure, diverse attitudes in any city. What is striking in the ethnographies of inner-city families during the last decade is the diversity of findings on behaviors and attitudes. Jonathan and

Most parents can understand the feeling of parental pride and responsibility. Feeling shame is the other side of claiming that pride, taking partial credit not only for your children's achievements, but also for their failures. Acutely alert to public perceptions that families — and parents in particular — are at least in part to blame for the behavior of criminal offenders, many parents of prisoners, even the elderly parents of adult prisoners, were quick to tell me that they “didn't raise him that way,” and that they were not sure what went wrong.

With Jackson's incarceration, they felt the unflattering and omnipresent stereotypes of criminals in a new way — the daily barrage of crime and justice in the news and popular culture became a constant reminder of the stigma they themselves felt. As Jonathan noted, “Until your son, or daughter, or somebody that is close to you goes into the court system...it's another world... It's not another TV program that you can pick up a remote and just cut it off.”⁴²²

Constance and Jonathan could not face friends or relatives, and stayed to themselves. The retreat from social interactions was difficult for both. Jonathan struggles with alcoholism, a problem he associated with his desire to, as he put it, “bottle up” his problems.

I think that for people who don't open up and talk sometime, those are the people that, in turn, end up with issues, personal issues, of their own. They may end up drinking, getting into drugs themselves.... I want me a

Constance's values clearly fall closer to those held by the men in Mitch Duneier's work on male respectability, *supra* note 8, than those described by Lewis, Moynihan, or Wilson. *Id.*

⁴²² Interview with Jonathan & Constance, (Jul. 30, 1999).

Singapore Sling right now! Because I know that that's gonna take the edge off.⁴²³

Constance had struggled with depression for years, and was nervous about relapsing, particularly as she felt that her family needed her more than ever. As a result of her past experience, more than most of the family members I spoke with, Constance was alert to the precursors and symptoms of depression. Knowing what they are and escaping them, however, are not one and the same.

I know what depression can do to you if you don't seek help right away, and I try to, you know, monitor myself and try and make sure that I'm not getting too out of touch with me as to where I don't realize that I'm not well, so to speak... Because a lot of times you feel like you can handle more than you can, you don't realize that you're at that breaking point until you break, and I broke before.⁴²⁴

Soon after Jackson's incarceration Constance was feeling the old haunting low of depression during the day, while feeling sleepless and anxiety ridden at night. She and Jonathan began fighting, and one of their younger sons began having problems at school. As Jonathan described it, the entire family was upset about Jackson, but they were unsure about what they could do.

We're tense and we argue whatever is going on. Initially, we will argue about him, you know, when we first...the pattern first started, you know, it would be a argument between me and [Jackson] about [Jackson]. Then it got to the point where when after Jackson got locked up, then with [his younger brother, Jarod] starting up, it got to be an argument with me and [Jarod] about [Jarod]. You know, it's been...it's been rough. We try to work on our relationship and try to keep things pretty solid, but it has not been

⁴²³ *Id.*

⁴²⁴ *Id.*

easy, you know. And I know it has had an effect on my 16-year-old, it has really been detrimental for him.⁴²⁵

Particularly hard for Jonathan was the almost immediate change in attitude and behavior he saw in his next-oldest son. Jarod, previously a model student and the most well-behaved of their sons, began having problems after Jackson's arrest. "They were like twins," Jonathan says clasping his hands together, "He would always follow Jackson. They were always really close. You know, people would get them mixed up when they were growing up. He looked up to his big brother, right? When his brother got in trouble, his behavior went like this," said Jonathan, making a steep downward motion with hands. "We started noticing trouble signs in him."⁴²⁶

The children, especially Jarod, did not want to talk about Jackson's incarceration with their parents either, and hated visiting him in jail. They stopped inviting friends over to the house, and their parents were increasingly discouraging them from going out, in order to avoid their getting mixed up with "the wrong kind of kids." They had effectively isolated themselves from the rest of the world.

Jonathan and Constance no longer had to worry about discussing Jackson with non-family members because they had stopped socializing. Jonathan relates their reluctance to reach out to other people to a concern about perceptions of their family after Jackson's incarceration:

Because if you see a child on the street and they're unkempt or whatever, the first thing I know that I see is, "Why did the mother let that child come of the house looking like that?" You know? I mean, you know, a lot of

⁴²⁵ *Id.*

⁴²⁶ *Id.*

times even though it could be people that know you, but they may not know you very well, and they might not know how you are as far as the way you raise your family. They might think that maybe you did something wrong in why your child got in trouble and whatnot. So, you know, it... it made me feel like that.⁴²⁷

It was not simply that Jackson had done wrong, but that his criminality cast an unflattering light on the entire family. As the father figure, Jonathan felt responsible for his child, even though his son was legally an adult. In this regard, incarceration can bring a sense of stigma that is related to a whole network of associations surrounding responsibility and respectability in the working class neighborhoods of the District. While the Kinney's are not the kind of family that is obsessed with their status in the neighborhood, they had always felt like good members of the community. They weren't rich, but they had the right values and worked hard — this simply wasn't something they could explain. For families like the Kinneys who work hard towards their aspirations, especially for families that have attained some measure of their goals, the incarceration of a close family member is a powerful secret.

The feeling is particularly intense when families are physically both close to poverty and hold a tenuous grip on middle class status. The threat of downward mobility for these families is ever present. Living in the District, one need only walk a few streets south of the Kinneys' house to witness what life could be like. Most parents ask themselves whether they do the right thing for their children. Families like Jonathan and Constance's are forced to ask themselves whether, despite having a son who is

⁴²⁷ *Id.*

incarcerated, they are still good parents and good people. Whether they are able to convince others of that is not something they had ever thought was open to question. They work hard, provide what they can, and hope it is enough. The weight of criminal stigma falls heavily on these families because the presumption inherent in the stereotype is that for them — a low-income black family in Southeast Washington, DC — criminality is not an aberration.

Work Worries

Tina is raising her own two children as well as two of her nieces, after their mother was diagnosed with schizophrenia. She rents a small row house that's part of a suburban public housing project just outside of the District of Columbia. Although she works full time in a furniture shop, selling upscale items she herself cannot afford, she is enrolled in a Masters' program in child development, and hopes to use it to get a better job in education or public policy. She is acutely aware of the value of education, and her children are all good students. She moved her family out of the District six years ago for her children's education. The housing project that she lives in is a small part of what is an otherwise fairly wealthy district, so the school her kids go to has excellent resources.⁴²⁸

Tina's husband, Reginald, was first arrested and charged for involvement in a drug-related shooting. Although he maintains his innocence, he refused to give evidence against the person responsible and received an eight-year sentence. Once incarcerated, he became politically active and was involved in a number of protests, two of which turned

into prison riots, earning him considerable additional time. His case is currently being appealed, and his family and his pro-bono attorney are all hopeful that his original sentence will be overturned. If that does happen, the subsequent offenses will also be voided because they will have occurred as a result of a wrongful incarceration.

Despite his claim to wrongful imprisonment, Reginald is philosophical about his incarceration. As he describes it, while he was not guilty of murder, he was wild in his youth and did a lot of illegal things. Prison allowed him to discover God through his Muslim faith, and to join a community of serious and thoughtful men, devoted to family, community, and justice. He believes his experience has made him a better father and friend. Indeed, he sees the difficulties he has had since his incarceration as related to his political activism and the protests that he led while incarcerated. This perspective helps him to cope with his incarceration, and he is a strikingly confident person, despite his incarceration.

Tina speaks quickly and with confidence and, at first, her manner suggests an optimism that is indefatigable. Her husband's incarceration for the last ten years, however, has taken its toll. Tina is proud of Reginald, valuing him as a partner and a good parent to her children. In part because of her pride in him, she did not tell any of her friends at work about his incarceration. When he was first incarcerated, she was new at her government job and her concern stemmed partly from her fear of risking her security

⁴²⁸ While one of Tina's main goals is to buy a house so that she and the kids can move out of the projects,

clearance. “I was at the Pentagon, so of course, I didn’t want them to know my business. So I would just always say he was in the military.”⁴²⁹ Office conversation, however is such that personal business is hard to protect.⁴³⁰

They would say, “Well, when are you gonna...” They could tell the weekends that I’d seen [him, even they didn’t know he was incarcerated].... It was hardest at the beginning of the week, ‘cause I’d have seen him [at the prison and would be missing him]. So my friends want to know, “Well, when are you gonna see him?”.... You have to lie about why you’re having a bad day.... So they’re like, “Why are you crying?” And I gotta lie.⁴³¹

Tina left that job at the Pentagon, she says, in large part because she could not handle the stress that came with maintaining the elaborate lies she had established.⁴³²

Her next job, working in an automotive services company, did not start out well either. After about a month on the job, she was promoted from sales to be trained as a manager. Just about the same time, she got some bad news:

One of my girlfriends called me at work. I’ll never forget.... She said, “you get the paper?” I said, “I’m at work. They always get the paper. I’m mean I’m at work...busy. I’m running the place. I’m, you know, manager trainee.” She said, “Reginald’s in the paper – picture is on the front page. It was a riot down Lorton.” I went in the bathroom. I sat in there for a long time. And I was reading it and crying.

She was able to collect herself and make it through the rest of the day, but she realized that she would not be able to handle coming in the next day to her job, knowing that her

she knows that it will mean moving to a community and school district with fewer resources.

⁴²⁹ Interview with Tina, (Oct. 14, 1999).

⁴³⁰ Arlie Hochschild has noted that Americans are spending an increasing amount of time at work, and increasing the level of social and emotional involvement there. As work relationships become more important in people’s lives, however, privacy becomes harder to maintain. ARLIE HOCHSCHILD, *THE TIME BIND* (1999).

⁴³¹ Interview with Tina, (Oct. 14, 1999).

⁴³² Tina has cycled through several jobs and feels that each departure was, at least in part, related to her

husband had been through a riot, and trying to hide it from everyone. “I had not let anybody know my circumstances or my situation. And how could I go to them and say, ‘Oh, my husband’s locked up.’” Given that his picture was in the paper, she could only imagine their reaction: they might “say they’re sorry, [but they’d] be looking at me like, ‘Are you crazy? Why are you even with this psycho?’”

After a day off, Tina returned to work, but her husband’s situation exacerbated a host of other job stresses that she struggled with every day. As she described it, she was “in a haze:”

It’s hard being under that type of stress and you can’t tell nobody at work. See I hadn’t been on the job long enough to feel secure or comfortable enough with anybody. I was their manager trainee at [the company]. I never even went far as managing at the job. And this job was like, some days you had to work thirteen hours.

And when I first got there it was really hard, because I was like one of the first women at [this company].... And what made it so bad, [was that] the guys laughed about it. They bet a wager that I wouldn’t make it.... Because, first of all, everything you do, you have to do on the computer [and] I was totally computer illiterate, okay, so I’m fighting with the computer.... And certain days that you have lines all the way out the door of people.... Being new on the job and then going through this, I’m not keeping my mind focused on what’s going on, because at this moment I feel like crying. People yelling at me. Then I’m thinking about I ain’t seen [Reginald] in weeks. It just was a mess.... So you know I’d get there okay. But I’d get there and by mid-day I was ready to just crack.⁴³³

For many family members, the topic of familial incarceration can be particularly difficult to manage at work. The work environment is one in which most people attempt to present a positive identity, and where stigmatizing information is especially fraught.

lying or desire to avoid disclosing her husband’s incarceration.

Many family members wondered aloud to me about what a coworker would do with the knowledge that their husband or son is incarcerated. And, having worked long and hard to overcome the barriers to employment and promotion, they are understandably cautious.

Most are attempting to live and be perceived as part of the modern upwardly mobile middle class, even if their income does not place them in it. They are all too aware of the historically intransigent caricatures of criminal, dysfunctional families that lie behind many public discussions about our inner-cities. Because of this, the stakes are high both in terms of perceived social identity and practical career aspirations. For Tina, the only solution to managing information about her husband was to leave for another job where no one knew she had a husband:

You know, one lie becomes too many lies. I actually...I think I actually left that job because of the lies. Because I'm not that person...I'm...I'm straight up. My sister always say, "You tell too much," because I just...I just can't do no whole bunch of lies, I can't even do it. So one lie leads to another lie, and I think I really left the job to start up fresh.⁴³⁴

By starting in a new job, she was able to conceal that she was married and actively avoid making friends with anyone at work. In this way, she thought she would not have to constantly reject or mislead the casual friends she had made at her previous job. But that, too, had its problems. "You know, for the longest time I wouldn't even keep

⁴³³ Tina Walker, October 14, 1999. Tina did eventually tell one person at work, but not until after a year. *See infra*, notes 463-466 and accompanying text.

⁴³⁴ Interview with Tina, (Aug. 17, 1999).

his picture up around here [her home], because someone would stop by and it's just obvious it's a prison picture."⁴³⁵

As work becomes a larger part of American life, both in hours spent there and the strength of social relationships that people develop there,⁴³⁶ the experience of workplace stress and anxiety is a common one, and most people can relate to feeling insecure about how they are perceived on the job, both by coworkers and supervisors. Most Americans take care to fit in where they work, and to present themselves well — after all, a considerable amount in both material and social terms is on the line. For employees who are new, who are seeking promotion, or who feel insecure about their financial status, the desire to maintain a positive image at work can cause significant anxiety.

These issues are often exacerbated as, in recent years, employers have become increasingly demanding of their employees' time, and employees are increasingly asked to blur their work and home boundaries.⁴³⁷ The care to manage information about familial incarceration and the personal anxiety experienced doing so is, in this regard, related to

⁴³⁵ Handwritten notes from interview with Tina Walker (May 3 2001). Tina did eventually put up his picture and "out" herself as married to an inmate. *See infra*, notes 463-466 and accompanying text.

⁴³⁶ *See, generally*, HOCHSCHILD, *supra* note 430 (describing both the increasing amount of time Americans are spending at work and the increasing role of personal relationships at work).

⁴³⁷ CHRISTINA NIPPERT-ENG, *HOME AND WORK: NEGOTIATING THE BOUNDARIES OF EVERYDAY LIFE* (1995). Nippert-Eng describes the "greedy workplace" as one that demands as much time as possible from employees, and thus requires either displacing personal life entirely, or an intense integration of personal and work life:

For the greedy workplace employee, work is liable to be everywhere, all the time. It infiltrates so much of life that it may be consciously activated when the employee least expects it and when it would be unthinkable for the vast majority of us. Nearly everything one does and everyone one does it with reverberates from and through the workplace.

NIPPERT-ENG, *supra* at 155.

the importance of the social aspects of the work environment in contemporary society.⁴³⁸ Because the social setting of the workplace defines significant aspects of who people are and how they feel about themselves,⁴³⁹ people's private lives are becoming integrated into the work setting — an integration that families of prisoners often view with great trepidation.

As each generation of Americans spends more time at work, there has also been a general trend towards integrating personal and professional lives. Colleagues expect one another to seek social activities with their peers⁴⁴⁰ and to include family and home life in their daily discussions.⁴⁴¹ As Zelda's brother, Clinton, described it, for many Americans work is like a "second family."⁴⁴² This daily mixing of personal and work-related discussions is an essential part of many workplaces and is particularly important to career success. Friendships and personal talk at work grease the wheels of workday interaction

⁴³⁸ The growing significance of work in people's lives bucks what Putnam and others have described a general trend of declining sense of belonging and community in other areas of life. In three recent national surveys, for example, adults born after 1964 were more likely than previous generations to report that they found a "real sense of belonging" among co-workers, but they were less likely to report getting that sense of belonging from family, friends, neighbors, at church, in the local newspaper, in the local community, or through groups or organizations. *See* PUTNAM, *supra* note 18 at 275.

⁴³⁹ This is particularly true in the United States where the average time spent on the job is higher than in any other country and where, every year, the average amount of time spent at work increases. An number of studies have made this point. *See, e.g.*, JOANNE B. CIULLA, *THE WORKING LIFE: THE PROMISE AND BETRAYAL OF MODERN WORK* (2001); JILL ANDRESKY FRASER, *WHITE COLLAR SWEATSHOP* (2001); JULIET B. SCHOR, *THE OVERWORKED AMERICAN* (1990).

⁴⁴⁰ NIPPERT-ENG, *supra* note 437 at 184 (noting that members of the more successful and productive workplaces she studied "actively seek occasional social activities with colleagues. These range from dinners together [and] attending out-of-town conferences together, to departmental parties and small, same-age gatherings at each others' houses. These [workers] are also more likely to eat lunch together, [etc.]").

⁴⁴¹ *See, e.g.*, HOCHSCHILD, *supra* note 430 19 (1997) (describing a Human Resource workshop encouraging employees to "piggyback" work on friendships). *See also* NIPPERT-ENG, *supra* note 437, at 186 (noting that families "form a regular, important part of conversations and plans [at work]").

⁴⁴² *Supra* note 189 and accompanying text.

for most employees.⁴⁴³ For families of prisoners, however, such discussions are a minefield filled with the potential for exposure.

* * *

Robert's wife, Louisa, like many of women I spoke with, felt the burdens of daily life all the more for having a sense that it might be otherwise. For her, thinking about work and her career is intimately bound up with her experience of her husband's incarceration:

I need my team player. I don't have a team player... I've been taking off too many times. The supervisor is really getting snotty about me taking off. It's hard...It's hard with one income when you're trying make advances and buy things. And you're in an entry-level position. It's so competitive. You're so limited. Your progress is limited materialistically, career wise. And those are the other things you've got on your plate, along with your mate being incarcerated.⁴⁴⁴

Louisa's and Robert's son, Jimmy, is growing up without his father. Robert and Louisa are getting older themselves. The life together that they had dreamed about and worked for grows smaller with every passing day. Like many family members, she knows that the family and the people in it will have changed significantly before Robert is released from prison.

After it became clear that Robert would be in for at least two years, Louisa also described herself as often overwhelmed and depressed. She said she viewed the outside world as oppressive and wearing.

⁴⁴³ As Kathryn Dudley has noted, these discussions and personal disclosures also help to build a sense of solidarity and teamwork that workers value. KATHRYN DUDLEY, *END OF THE LINE* (1994).

⁴⁴⁴ Interview with Louisa, (Nov. 11, 1999).

It's stressful. You go through periods of depression. You go through periods of feeling alone. You cry a lot. You get depressed. You get dispirited. I cry a lot. A whole lot. Especially at night. And sometimes even during the day and on the weekend, I get this blue feeling that comes over me on the weekend, because me and my husband use to, you know, either go to the movie or... We use to do so much together. And we were so right, you know, we just so emotionally bonded and physically bonded that we would go sit down and play a game of Scrabble or play games together. You know if we didn't have money to go out. It was just us — the family.⁴⁴⁵

For Louisa and other relatives of prisoners, the loss of this sense of family is just as painful as the actual absence of their loved one. They have lost more than a person, they've lost a whole dream of what life could be.

At work, where people knew she was married but did not know that her husband had been incarcerated, this sense of loss was particularly acute. But added to it was also a sense of the stigma that her husband's status might carry. Louisa tried to withdraw from the casual friendships she had made there, but her coworkers went out of their way to be friendly with her; what would under different circumstances be welcome friendships, she found threatening and frustrating. As she described it:

You can't...see, I'm distorting the whole picture for them. And then I ran into [a coworker] on the subway. "Oh! Where's your husband? How is he?" I said, "You're always asking me about my husband. Why? Are you interested in my husband?" You know I have to evade that. Oh, and always guys ask me, "why don't you and your husband come in to this restaurant? It's a nice restaurant." "Oh yeah. I'll tell him about it. We'll check it out." Lying.⁴⁴⁶

While many people find that work is an important source of support in difficult times (in one recent survey, more cited work as an important source of support than church or

⁴⁴⁵ Interview with Louisa, (Nov. 11, 1999).

family),⁴⁴⁷ the opposite is often true for family members of prisoners. Where other people at the workplace socialize together and include discussions of family in their day, many families of prisoners develop strategies to avoid any discussion of personal life as it can lead to uncomfortable questions. What is, for others in the workplace, a significant strategy for coping with life's travails, is turned on its head for Louisa, who described her workplace experience as a daily test of evasion and boundary guarding, having the greatest difficulty with people when they are sociable and friendly. As Louisa described it:

I try to be low keyed and I don't allow them to ask me about my husband. And sometimes you have to [lie]. My mother always told me "If you tell one lie, you gotta tell a thousand behind that one," And I was like, "Okay, but I'm just gonna live this one lie out to the end. I'm not gonna tell anymore." But it was impossible. Because they gave me a bridal shower for my anniversary. I told them my husband is in California. He travels. And they was like, "Oh. That must be a real great reunion when y'all come together."⁴⁴⁸

The lies became difficult to maintain not only because they became more complex, but because the stress of lying itself takes a toll. While hard to measure, this experience has clearly had an effect on her life. The extent to which she feels hidden and withdrawn extends from friends and neighbors to her work and career.

Louisa, like many of the women I spoke with, felt that her career was "put on hold" during her partner's incarceration. In our interviews, she describes crying often, a growing sense of isolation, and a recurrent sense of hopelessness. She feels terrible about

⁴⁴⁶ Interview with Louisa, (Nov. 11, 1999).

⁴⁴⁷ See PUTNAM, *supra* note 438 at 275.

⁴⁴⁸ Interview with Louisa, (Nov. 11, 1999).

her depression which she believes has a negative impact on their son, Jimmy. It is, sadly, an awareness of her depression which brings a greater sense of guilt and lowers her sense of self-esteem. While there are times when she is able to feel almost normal, for her this means putting her husband out of her mind — not something she wants to do. She wants to adjust to the degree that she can, but she cannot really get over the idea that her family is not intact. For her, all their plans and hopes, including her job, are at a standstill.

Our life is on hold. That's what I feel like.... And being as though our life is on hold, I really can't spread my horizons without my husband.... I accepted his wrongdoing, because I just wanted our family to rejoin and reunite. And all I ever do, Don, is hope that it's over.... All I can do is hope and dream. When is it going to manifest? When is it going to materialize? They just gave him another hit [denial of parole]. What if they [keep him for] the duration of his time? What does that leave me as a wife?

Committed relationships require both partners to make sacrifices for each other. Husbands and wives often put a career move “on hold” for a while so that they can have a child, so that one or the other can finish a degree, or because a family member becomes ill. For many partners of prisoners, as we saw with Derrick's wife Londa in the last chapter, incarceration can be a repeating cycle of waiting for release,⁴⁴⁹ stretching their commitment to the limit.

Coping

Although many the family members who were closest to prisoners struggled with stigma, isolation, and depression, most had also developed coping strategies. These

⁴⁴⁹ See *supra* notes 218-264 and accompanying text (discussing the difficulties that addiction and recurrent incarceration pose).

strategies, however, were often constrained in significant ways, and differ from the “typical” repertoire of coping strategies.⁴⁵⁰ The most common coping strategies, for example, did not make use of extensive social networks or involve disclosing information about a prisoner’s status. More often they were strategies that involved severing or diminishing relationships, whether with family, friends, or the incarcerated relative, or private strategies, like prayer.

Moving On

While many family members did reduce contact with their incarcerated relative as time went by, they usually did not break ties entirely, and some actually increased their contact. With all of the problems associated with maintaining a relationship with someone in prison, one might expect families to simply cut ties altogether. This was, among families in this study, surprisingly rare. Attending school or work was more difficult, their friendships and family ties were often strained, but most of the people who were closest to the incarcerated family member from the outset did not cut their ties completely.⁴⁵¹

While few family members cut ties altogether, a more attenuated version of diminishing social relations with the incarcerated family member was common. Prison

⁴⁵⁰ See KATHERINE NEWMAN, *FALLING FROM GRACE* 143-172 (1988) (describing the solidarity that can be found in a “brotherhood of downward mobility” when materially dispossessed individuals are politically organized).

⁴⁵¹ Out of the fifty families in this study, in only two did a relatives who was closest to an offender completely cut ties after they were incarcerated, and when they did so, they moved to another state. This “starting over” is one of the more radical coping strategies that a person might employ.

raises a number of impediments to maintaining close relationships. Murielle, for example, has been raising her two daughters on her own for some time. “Both fathers are incarcerated, both of their fathers. My oldest daughter’s father has been incarcerated for the least sixteen years, and my youngest daughter’s father has been incarcerated for the last thirteen.” She was married to Dale, the father of her second daughter, for the first 10 years.

To be honest, it has... I did not take and expose my daughter to that a lot, because I didn’t want her to see the environment, and I didn’t want her to see her father incarcerated. What I’d learned to do with my first daughter when her father became incarcerated, I told her that he was away at school to make it a lot easier for her to accept, and if anybody asked her, you know, “Where is your dad?”, “He’s away at school.” That pretty much worked for awhile, and then when the kids get older they become more inquisitive, and.... “Well, if he’s at school, why can’t he come home?” And the couple of times that I did take her down, she couldn’t understand why both...both of them pretty much the same, the same attitude, and I guess it’s the same with any kid. They want to know why they can’t come. And when you get to that door and you have to say good-bye, they want to know why you can’t get on the van or the bus. And they turn around with this look on their face. “Isn’t he coming, Mom?” “No, he’s not coming, he has to stay here.”⁴⁵²

As Dale’s wife, she felt obliged to visit him; she divorced him, in part, because she didn’t want her daughters to have to confront the criminality of their fathers so directly. For her, it was too much to manage both her own relationships with Dale and the threat of stigma for her daughters.

Now, that the marriage is over, believe it or not, Donald, when I called downtown last year to find out when the divorce became final, and the girl told me it was final on December 23rd, I took a deep breath and I said,

⁴⁵² Interview with Murielle, (Feb. 23, 2000). The issue is difficult for many women and, in some cases, for the judges. See Rachel Sims, *Can My Daddy Hug Me?: Deciding Whether Visiting Dad in a Prison Facility is in the Best Interest of the Child*, 66 BROOKLYN L. REV. 933 (2001).

“Thank you.” And she said, “Are all you all right Miss?” I said, “I’m doing just fine.” She said, “Are you okay?” I said, “You just don’t know how happy I am.” And it was almost as if a great burden had been lifted from my shoulders, because trying to be the wife of somebody incarcerated...it’s like you are not just you, you are you and them, and you can’t say “That’s not me. I’m somebody else.”⁴⁵³

As much as she was relieved to be divorced, she knows that she has really just made a transition into another kind of relationship with her daughter’s fathers. She, like many ex-wives and ex-girlfriends of prisoners, still felt that it was important to keep her daughters’ fathers involved in their lives. This was one of the most common sentiments expressed by women who had children by prisoners, and one of the reasons many women stay involved with their ex-husbands and ex-boyfriends.

Murielle did not move on entirely, then. And the impact on her daughters is a balancing act that is still hard for her to manage.

It’s hardest, I think, around about the holidays. My youngest daughter just celebrated her tenth birthday, and her father wrote her a letter, and she read it, and she started crying. Holidays — Christmas and Thanksgiving. I really see it now in Janise, you know. I used to see it in Chriselle a lot. I don’t see it in her that much anymore. But with her, I guess you can see the sensitivity in her, and she’ll look at me, and these big tears will be in her eyes, and she’ll go, “Mom, I really miss my daddy.” I said, “I know you do.” She’ll say, “I wish he was home.” And I say, “He’ll be home.”⁴⁵⁴

Murielle finds a middle ground that she and her daughters can manage, though it is not always easy, and requires ongoing negotiations. She now pays for the collect calls from their fathers, but has drawn the line at one call every two weeks.

From Sussex, Virginia it costs you ten dollars for ten minutes, so it’s a dollar a minute. So with Loren’s father I had to put my foot down, and I

⁴⁵³ Interview with Murielle, (Feb. 23, 2000).

⁴⁵⁴ *Id.*

told him that he couldn't call for awhile, because it become expensive for me. And I told him, I said, "I understand that you want to talk to her, but you know, you're gonna have to find another way of doing it. Call Loren just to say hello and how-you-doing and then pick up the pen and write her. You know, she can write. She has very good penmanship. She's gonna have to start writing you, because it becomes so expensive, and the cost become so enormous that it takes away other things that you could be doing with your money." And that's what I told him, I said, "I'm not trying to be mean. I'm not trying to be the B-I-T-C-H in this, but I have to look out for my well-being and my children's well-being, because I'm the only source of income they have."⁴⁵⁵

Many women are in the same predicament: they've moved on from their former relationships, but can't put them behind them entirely.

Claiming Innocence

Curtis and Liz, whose son has been incarcerated now for over five years, are insistent on his innocence, something that, as with Arthur's mother Lilly, has not made their lives any more peaceful. Liz lays right into the details of her son's case, getting more and more worked up as she does. As she describes her son's arrest, the trial, and the injustices she strongly believes have been committed, her eyes get wider and her voice is raised. Curtis nods, occasionally gesturing to remind her that she has left out a detail, or that he had something to say about an event when it happened. Finally her frustration breaks

So then you get in and you just talk to God. You cries out to God. And many a night, you know, I pull all my covers off my bed talking to Him. And, you know, "Why? Why me?" You know? Here I have raised seven children — Seven! Five boys and two girls! — and then they grab my baby son. You know, I think lightning striking them is too good. Lightning

⁴⁵⁵ *Id.*

striking them is actually too good for them, and I don't want nobody to die, because we all gonna die, but I just want them just to set down and think about "Would I want somebody to do this to me?" You know, that's what I want them to think about, but they don't think about that. [...] I just want somebody to listen. [...] And this is the thing that kills me! My husband raised seven children, grown ones, and when his golden days — here he is sitting and worrying . [...] And my son ain't did nothing!⁴⁵⁶

Liz strongly believes that her own stress and her husband's recent stroke and heart attack are related to her son's wrongful incarceration:

It was the trial that did it. I could see just looking over at my husband. We all cried, but he just got real quiet and looking sad. And he went back to work cleaning the church and school, and the minister did write a letter, but it wasn't a week before that stroke took him out. The stroke, his heart, my blood pressure. But I'm a keep fighting 'til I die for my boy and, God willing, I'll be alive when he come home. It just make me so angry.⁴⁵⁷

While many prisoners and families claimed that a sentence was unfair or that the treatment of the incarcerated family member was inhumane, very few claimed innocence. Asserting innocence might seem to work quite well as a coping strategy — effectively denying the premise of the charge and thereby undermining any potential attack on character or status — and a small number of women, generally mothers, did adopt this strategy. The relative infrequency of this approach was initially surprising, given the standard description of prisoner denials (as the character Red quipped in the movie *Shawshank Redemption*, "Everyone's innocent in here, don't you know that?"⁴⁵⁸). Why are family members so reluctant to make that claim?

⁴⁵⁶ Interview with Curtis & Liz, (Jan. 18, 1998).

⁴⁵⁷ *Id.*

⁴⁵⁸ *Id.*

There are a number of practical reasons why this might be so. First, family members quite often suspect or have knowledge of the criminal activity in which their relative was involved. With a large proportion of offenders convicted of drug-related crimes, many families considered incarceration a logical (if undesirable) result of a person's increasing drug use and the problems associated with it. Second, evidence presented at trial (where family members are often present) may undermine claims to innocence that offenders make.⁴⁵⁹ For this reason, some offenders will ask their families to not attend a trial, even though their presence is (in most cases) considered to be helpful to the defendant during the trial and particularly during sentencing. And third, claiming innocence may actually add to the difficulties that the family faces.

Why would a claim of innocence make life *more* difficult? As with Liz and Curtis, there are a number of reasons why the few family members who did claim their

⁴⁵⁹ There are also corollaries to this. One woman recounted to me how her daughter's father was arrested for raping a prostitute, possession of PCP, and a few other less serious charges.

There was a carnival over at the stadium, and I think a lot of John's problems came from the fact that he was smoking drugs. I think at the time he was smoking angel dust, or something...or lovely or something, or whatever they call it—PCP. He picked up a prostitute and took her over to the stadium, and they got caught by the park police, and the first thing that she said was the fact that he forced himself on her. So when the judge asked him did he accept the plea, because after talking to his mother and his sisters and brother, and then talking to me, he accepted. He said he would go ahead and accept the plea bargain. I'll never forget standing in front of [the judge], [the judge] asked him did he accept the plea bargain, and he said, "yes". He proceeded to explain to him an accepting of a plea bargain is an admission of guilt, and he said, "You have to show some.... Are you remorseful for the thing that you've done?" And Chris stumbled — I'll never forget that. He said, "I'm not sorry because I didn't do anything." And the judge said, "Well, then you can't accept this plea bargain."

Tawanda Mayfield, 2/23/00. Afterwards, the attorney told her that John didn't want to let his family down "And he looked at me, and he said, 'And especially you.'" *Id.* Had his offense not been so shameful, John might have admitted guilt. But having his family present in the courtroom — a tactic his lawyer thought would help diminish the perception that the judge may have of John as a risk — backfired. Instead, the judge now saw him as unrepentant. He was sentenced to life with the possibility of parole after fourteen years.

relative innocent were generally more emotionally distressed about and involved in their loved ones' cases. The demand for practical action and intense emotional involvement that a claim to false conviction demands of family members makes claims to innocence very difficult. Those who feel their loved one is wrongly incarcerated tend to spend more time and energy working on behalf of their relative, a draining process, as anyone who has been involved with the criminal justice system well knows. Further, working against a wrongful conviction continually highlights all of the issues that families feel about being categorized as criminal and the stereotypes that come with that label by placing them in direct contact with the criminal justice system itself.

Arthur's mother, Lilly, for example, told me that she was determined to fight what she perceived to be the wrongful conviction of her son: "When that judge said, "twelve to thirty-six years," I told my son, I said, 'You'll be out in two years. We're gonna fight this.'"⁴⁶⁰ Her willingness to fight was directly related to her belief that her son's sentence was unjust: "Because I know that my family been railroaded.... People believe that everybody who incarcerated is guilty which is not true, which is not true."⁴⁶¹ But her fighting the system has, she believes, made a mess of her life, straining her relations with other family members and aggravating her health problems.

Even when family members are willing to fight a conviction, their willingness to engage in the legal arena doesn't necessarily make them more likely to openly disclose their relative's status in other settings. As one woman related, she couldn't bring herself

⁴⁶⁰ Interview with Lilly, (Jan. 27, 1998).

to talk to her doctor about her son's incarceration, even though she believed it was a major source of her hypertension.

I don't discuss with, you know, with nobody. No, [my doctor doesn't know] because I lied to her. She doesn't realize it. She just thinks that it's just my pressure is always up and stuff like that. No I have not told her. I don't discuss this with anybody, because I'm not proud of it. You know. I mean even though I feel my son is innocent, and he is innocent as far as I'm concerned. I still...it's something that I don't want to discuss. I wouldn't discuss it with anybody. I don't want anybody to know anything like that.⁴⁶²

While there may be many reasons for inmates to insist on their innocence, the benefits to family members are often outweighed by the emotional toll that they bear as a result.

Reaching Out

While most family members had spoken to one or more people about difficulties related to incarceration, very few did so on a regular basis. When they did reach out, it was often tentatively and with caution. Tina, for example, had been on the job at the automotive services company over a year before she told anyone at work. She and a coworker had become friendly through a mutual interest in religion. She is a devout Christian and her coworker was studying to become a minister, "So we use to always talk about spiritual things." Eventually, she felt that he was trustworthy enough to tell him about her husband. It took her all morning to work up to it:

I said I've got to tell you something. And he was like, "wonder what she's got to tell me?".... And he said, "You know what? I am so happy," he said, "cause I thought you were going to tell me that you are attracted to me or

⁴⁶¹ *Id.*

⁴⁶² Interview with Dolores, (Apr. 9, 1999).

something.” And he was married and a minister.... He said that he was scared all day long. He said, [here, Tina pretends to be her friend, talking to himself in a nervous manner] “Okay. We’ll just go out to dinner and we’ll just talk about it then.... Please don’t let her be telling me that.” And we just sat there and cracked up. We had tears in our eyes. He said, “but I don’t know, this might be even worse.” He said, “So how are you doing with this? Because we always used to bet about...you know, everybody noticed that you wouldn’t [flirt] with nobody, but we knew you wasn’t gay. But we didn’t know really what your story was.” And I said, “Well don’t tell the rest of them, because I really don’t want them — everybody on the job — knowing.”⁴⁶³

In the years since then, Tina has told a few more friends, but she is still cautious. Tina is among the most outgoing, forthright, and politically active family members I have met, so her caution is instructive. She feels that she has changed enough over the course of her husband’s incarceration to tell some friends and relatives. “Still, you have to be careful about who you tell. I’m choosy about that, still.”⁴⁶⁴

Her careful approach to disclosure and friendship is designed not only to guard her husband’s status, but also because she noticed that his absence altered how many men viewed her. “Certain guys you tell them and then they come on to you even more....ones that are just, like, ‘Okay. This is my chance. He locked up — she got to get lonely!’”⁴⁶⁵ These men are half right, Tina is often lonely. But she would much rather avoid their attention, and she tries to carefully vet any person in whom she might confide.

⁴⁶³ Interview with Tina, (Oct. 14, 1999). I have reordered the three pieces of this transcript set off by extended ellipses to facilitate narrative flow.

⁴⁶⁴ *Id.*

⁴⁶⁵ *Id.*

After ten years, Tina has finally established honest and supportive relationships in her family, and has found dependable and discrete friends that she can rely on. Both, for her, are very important:

And my mom and my sisters, and them, it's a good thing I had the support I had from them. And most of the women I deal with their husbands are inmates as well, so it helps. It's like a support group. There's my hairdresser, her husband is locked up, and just about all the women I deal with, you know, on a close-knit basis, their husbands is a inmate...or their boyfriend, so it's easier to deal with.

It has taken Tina years to develop her network of friends, and it has not been easy.

One might imagine that their common difficulties would make women likely to befriend other women in similar situations, but even though prison visits put many women in close proximity to one another, these types of friendships are not easy to come by. When I asked Tina about why more women did not become friends through visitation, she said that there were good reasons not to make friends or socialize at the prison. For example, when she stopped driving and decided to ride to the prison in a van of visitors, her husband voiced concerns.

Now, after years of coming, I see why he didn't want me to meet some of the women, because they do get into a lot of "he said, she said." Okay, with what their ages are you would think they'd have outgrown that, [but] they have started a lot [of fights] between the guys, and you have some women that go down there and they man hop. Even though their men are in the jail, and they go from man to man to man, and of course, your man don't want you affiliating with such a thing.⁴⁶⁶

There was surprisingly little conversation or socializing between visitors during the dozens of visits I made to facilities housing DC inmates. Those who did talk often

drew critical glances or the less confrontational expression of rolling eyes from the other women present. As one wife said after visitation, “you know, that’s one of the things I hate about visiting — I just don’t like being around all those women that’s down there.”⁴⁶⁷

Women who visited prison, and most of the women I spoke with had visited, were fully aware of the stereotypes of “prison ho’s,” and many who had at one point visited themselves were disparaging of women who brought children into “that environment.” One grandmother who was caring for the children of her incarcerated son in law told me:

That's why I don't take them babies down there. I don't know what the inside of a jail, prison, anything, look like. And I don't even want to know. I don't understand these women ripping and running to jails to see a man. I just don't understand it. No. And then when you constantly going to the jail, no. I can't see it. I just can't see it. But I have watched women rip and run up and down the road, running down there. When Woodies was downtown, running down to Woodies to catch that bus to go up and down that road to see a man in jail. I just couldn't understand it. And then when you start dragging kids with you, that's just sad. That's really sad.⁴⁶⁸

Despite the stigma attached to incarceration and visitation, some of the women I spoke with did find it easier to relate to other women who had a boyfriend or husband who was locked up. As one woman told me: “Pretty much all the women I deal with now is in the same boat. I met them through my hairdresser, who is one of my closest friends. Her husband is locked up, so we can talk, and that helps a lot.” Of the women in this study, however, it was a minority who had an extensive set of friends with whom she shared her predicament.

⁴⁶⁶ Interview with Tina, (Apr. 20, 2000).

⁴⁶⁷ Interview with Carla, (Jul. 12, 1999).

In trying to understand why relatives of prisoners did not openly seek support related to the incarceration of a family member, it is worth examining one area where families find support mixed with approbation: in their faiths and in their churches.

Church and Faith

Dolores's son, Arthur, has been incarcerated for four years. As she is quick to tell me, he is the first person in her immediate family to spend time in prison. Although she lives in what is generally considered to be a bad neighborhood near one of the oldest open-air drug markets in the District, her life gives the lie to the notion that inner-cities are filled with people without a sense of community. She is an active member of her housing association, an officer in a prominent local lodge, proud of her work in eldercare, and often describes her life in terms of its contribution to the local neighborhood. She, like many mothers, brags about all of her children — their careers, their achievements in school or the military, how close the whole family is. Her son's conviction and incarceration stunned her. When I asked her to describe the experience, she told me "It just shattered my whole life."⁴⁶⁹

Dolores's experience of public exposure highlights the fears that many family members have about being associated with the criminal justice system, and how important social standing is, even in neighborhoods that many would write off as stricken with not only physical but moral decay. Prior to Arthur's arrest, a police investigator had placed wanted flyers around her apartment complex with his name and photo on them. A

⁴⁶⁸ Interview with Dora, (Jul. 28, 2000).

few of her friends helped her remove them, but she was, as she said, “devastated” by the experience and the exposure. While she thanked the people who helped her, she never spoke about it again with anyone in her apartment complex. “It is very humiliating...Friends of mine, if they ask me “How is the kids?” I say ‘Oh, they’re all fine. Everybody’s good.’ And I just hope that they don’t never bring it up.”⁴⁷⁰

In many ways, her reaction to her son’s incarceration is similar to those of the other family members described above, and she described the power of shame and stigma in her own life:

I just wish it would go away. I wish it would be a bad dream. And I would wake up and it would all be gone. My boss asked me just the other day, “How’s Arthur? Does he still cut hair?” “ I said “Mmm Hmm.” Kept right on walking. And it hurts when people ask about him. And I have to lie. I cut myself from my lodge sisters. Normally during the holidays I’ll have them over. And my family, they’d be here. This year I didn’t invite anybody over, because they would notice. They would notice that he was missing. And then they would start asking me questions. And I hate to lie to people. I don’t like to lie. You know I’ll do anything to keep from lying..... Rather than lie I’d rather say nothing. And people start asking you questions, what can you say? “How is Arthur? Where is he? How come he hasn’t been around?” And I’m like. “No I haven’t seen him lately.” “You haven’t seen him?” They’re gonna wonder “What in the world is going on? I know that your children are close to you. Why haven’t you seen Arthur?”⁴⁷¹

When asked if she talked to anyone at work about her son, she was quite clear: “No, no, no, no. Never. No. I didn’t want nobody to know. I would not want anybody to know.”⁴⁷²

⁴⁶⁹ Interview with Dolores, (Feb. 2, 2000).

⁴⁷⁰ Interview with Dolores, (Apr. 9, 1999).

⁴⁷¹ Interview with Dolores, (Feb. 2, 2000).

⁴⁷² Interview with Dolores, (Apr. 9, 1999).

Like many of the other family members I spoke with, Dolores was managing to keep up appearances pretty well, despite her initial exposure with the police flyer. When asked how she coped with the stress of her son's incarceration, her answer was immediate: "Prayer. Prayer. That's it. That's all."⁴⁷³

Dolores's reliance on prayer and faith is a thread that ran through interviews with many family members, few of whom failed to mention their faith as a resource and a supportive force in their lives. When asked how prayer helped them, most family members were able to cite numerous occasions on which prayer had given them some relief from anxiety and stress, and helped them to cope with the all the difficulties they faced. Dolores was no exception. She recalled, for example, when Arthur was first incarcerated, she would lie awake at night, unable to sleep, and eventually sought a prescription for sleeping pills so she could get some rest. She found that prayer helped her to get to sleep and eventually give up the sleeping pills:

It's a thing that you can't really explain. I've always prayed and given thanks. Every morning I give thanks when I wake up. Every night I give thanks when I lay down....It's just a thing, but when I do it I seem to relax, you know. I can't explain it. I just can't.... Sometimes I'll cry because it'll suddenly hit me that my child is incarcerated.... And then when I get ready to go to bed at night or I'm in looking at TV or something, it will hit me and I'll just start crying. Then I get — I have my Bible — and I read the 91st Psalm and then I'll say, you know, then I'll pray. And then I kind of relax a little bit.⁴⁷⁴

⁴⁷³ Interview with Dolores, (Feb. 2, 2000).

⁴⁷⁴ *Id.* The first verse of the 91st Psalm reads:

He that dwelleth in the secret place of the most High shall abide under the shadow of the Almighty. I will say of the Lord, "He is my refuge and my fortress: my God; in Him will I trust. Surely He shall deliver me from the snare of the fowler, and from the noisome pestilence."

The District is filled with churches — often with two on a block — and, by and large, is a city of religious faith, with a large number attending services on a regular basis.

It is not surprising, then, that many family members turn to prayer when they are in crisis. There is also a fair amount of data from recent studies demonstrating that prayer is effective in reducing stress.⁴⁷⁵ The role that prayer plays in the lives of many of the people that I talked to may help to explain this. Many family members described the most helpful aspects of prayer and religious faith as the relinquishing of control over their family's and their own situation.

Given that a large majority of African American families in the District have a family member who has been incarcerated at some point, that a large majority of these families find some measure of relief in their faith, and that most are active members of one or more congregations, one might expect the local church to be a place for support and solidarity. For the most part, however, this is not so. When I asked Dolores about how her church had been supportive of her, for example, she made a clear distinction between seeking help from God and seeking support from her church:

If I'm out on the patio grilling or something, or I'm going out we'll stand out and talk, because that's me. And I'm the same way at church. When I go to church on Sunday, we laugh, we smile, we shake hands and you know. And they know me by seeing me on Sunday. But other than that, they don't know me....No. I don't. I. No. No, I don't discuss it....with nobody other than my immediate family. Even the people who got those

The Holy Bible, King James version, Psalm 91, lines 1-3. While there are many biblical and Koranic passages that family members relate with incarceration, the 91st Psalm and the 124th Psalm are particularly common.

⁴⁷⁵ See, e.g., Judy Foreman, *Meditation Helps, But How Is a Mystery*, BOSTON GLOBE, November 16, at D1 (1998) (describing studies showing that prayer and meditation helps reduce stress and speed recovery from disease).

little posters. Some of them look at me strange like they want to say something, but I don't discuss it with them. I never will. As I said it, it shattered my whole life.⁴⁷⁶

Lonnie, Dolores's grandson and nephew to her incarcerated son, concurred with Dolores's perceptions of church community life. Growing up in a poor but deeply religious community, church was a nexus for discussion of moral issues. So while Lonnie sees the value of a spiritual connection with other people and of the deep self-reflection that can come with spiritual life, he also understands the limitations of acceptable discussion in church. As he described it to me, "the church is the biggest gossip hot bed in the world."⁴⁷⁷ Mentioning anything in a church setting is thus seen as an act of public disclosure and carries the tensions and the weight of that type of disclosure.

I've seen heated situations come out because someone wasn't supposed to say something to someone in church, and it happened, and it just blew up real bad.... Basically someone being incarcerated, I mean, it's news. It's just like the television.... What's gonna get the headline? The headline is gonna get the person that has....killed 20 people. It's the same thing within gossip circles. The gossip that little Johnny got a 4.0 grade point average is not gonna spread as quickly.... And with churches being a place where you are judged, definitely judged by your actions, by any and all, well...⁴⁷⁸

⁴⁷⁶ Dolores 2/2/2000. Many women had the same reaction. As another told me:

Linda: I never did mention anything in church, because it's something about me telling my business to people in church. And certain ones that you say well, I don't want them to know this. And I don't want them to know that. So I just kept it to myself. I didn't never tell my pastor or anything.

Don: Did it ever come up for other people in church?

Linda: We don't never hear anything about that. We know where some of [their] kids are, but it never comes up about their children being incarcerated or anything.

Interview with Linda, (Dec. 10, 1999).

⁴⁷⁷ Interview with Lonnie, (Jun. 22, 2000).

⁴⁷⁸ *Id.*

Describing himself as now “not religious, but spiritual,”⁴⁷⁹ he cited this as one of his reasons for leaving the church.

Dolores, Lonnie, and the rest of Arthur’s family are not alone in keeping familial incarceration a secret from the congregation. As in the case of Louisa, many have seen how painful disclosure, even in an ostensibly forgiving and supportive setting, can be. It is a finding that is consistent with recent empirical studies showing that religious beliefs can help sustain people through hard times,⁴⁸⁰ particularly African Americans. In a recent study of college students, for example, researchers found that belief in God’s love for them was significantly more important than any other factor to the self-esteem of black students, something that did not hold true for white or Asian students. What is striking about the study’s finding is not simply the importance of a belief in God’s love to the self-esteem and psychological well-being of African Americans, but that this belief was strongly and significantly correlated with negative appraisals by others in society, again only among black students. This led the researchers to suggest that in the absence of perceived approval of others, a belief in God’s love helps to sustain the self-esteem of African Americans.⁴⁸¹

⁴⁷⁹ *Id.*

⁴⁸⁰ See Peter Benson and Bernard Spilka, *God Image as a Function of Self-Esteem and Locus of Control*, 12 *JOURNAL FOR THE SCIENTIFIC STUDY OF RELIGION* 297-310 (1970); Bernard Spilka, M. Lillynshohn, *Parents, Self, and God: A Factor-Analytic Approach*, 6 *REVIEW OF RELIGIOUS RESEARCH* 28-36 (1975); Bernard Spilka, Phillip Shaver, and Lee Kirkpatrick, *A General Attribution Theory for the Psychology of Religion*, 24 *JOURNAL FOR THE SCIENTIFIC STUDY OF RELIGION* 1-20 (1985).

⁴⁸¹ See Jennifer Crocker and Jason S. Lawrence, *Social Stigma and Self-Esteem*, in *CULTURAL DIVIDES* 382-384 (1999) (showing the results of factor analysis); *See, also*, Bruce Blaine and Jennifer Crocker, *Religiousness, Race, and Psychological Well-Being*, *Personality and Social Psychology Bulletin* 1031-41 (1995).

While Louisa is hesitant to discuss the issue with family, she rejects outright the idea of disclosing Robert's status to members of the community at large. Louisa wished to hide her husband's incarceration, not simply to what would be a few comments, but to prevent what she believes would be a permanent change in the way he would be seen by others in their community. "I don't want Robert to have to hang his head low, because he's been in...in another subculture. It's enough that society says what he is."⁴⁸² By getting a regular job, turning to the church, and rejecting Robert's early life of crime, Louisa and Robert have embedded themselves in a network of people who regularly voice disapproval of and speak out against criminal activity in strong moral terms. In this context, disclosure is more highly charged and risks judgment of the family as a whole.

Louisa did finally come to trust one woman at her church. As they became closer, Louisa felt like she could confide in her. Both the intimacy and confidence of her faith allowed Louisa to open up to her new friend. "I felt she would understand because we used to pray together."⁴⁸³ The next time she encountered the woman in church, however, the woman called out "How that jail bird husband of yours doing?"⁴⁸⁴ The importance of acceptance at church, and the unexpected public disclosure from a person she trusted, made the incident particularly painful.⁴⁸⁵

It hurt my feelings to the point, I said, well that's just the reason why I don't tell nobody else. That's just the reason why, 'cause they can make fun of you. They can say things to hurt your feelings. Being sarcastic. You

⁴⁸² Interview with Louisa, (Nov. 11, 1999).

⁴⁸³ Interview with Louisa, (Nov. 11, 1999).

⁴⁸⁴ Interview with Louisa, (Nov. 11, 1999).

⁴⁸⁵ Each of these factors is discussed in more detail in the literature on shame. *See, e.g.,* THOMAS, *infra* note 387, at 16-17.

know. People do stuff. They mean.

You know. I don't want other people calling him an "old jail bird," "ex-jail bird," "ex-offender," you know? "Once a jail bird always..." I don't want that. So the less they know, the less critical they can be. And people are mean. They say stuff to you. Disrespect you. Don't care about you — don't even consider your feelings. Or you being human. If they know the truth, they rub it in your face.⁴⁸⁶

It is not simply that Louisa experienced a single act of derision, but that she feels the constant possibility of being made less human in the eyes of others because her husband is incarcerated.⁴⁸⁷

Louisa's experience of censure did not drive her from her faith; quite the reverse. She feels all the more strongly in the sustaining power of prayer. But her experience of faith is now less communal than it used to be, having become a far more private matter.

* * *

Most family members do not need to be publicly humiliated to understand that faith and public censure are not mutually exclusive — indeed the social organization of church life often defines the relationship of one to the other. For this reason, church is a setting in which many families in the District are made keenly aware of the tension between collective celebration of faith and the possibility of moral censure. As one

⁴⁸⁶ Interview with Louisa, (Nov. 11, 1999).

⁴⁸⁷ The experience of Louisa at her church resembles her experience in other areas of her life described in the beginning of this chapter: the very sources of social support that had nourished and aided her in the past were now painful and constant reminders of her husband's incarceration and, as a result, she withdrew from the significant aspects of her former life. And, in those relationships she maintained by covering up her husband's status, she felt that the quality of the relationship was altered.

woman responded when asked if she could turn to church members for support, “Church? I wouldn’t dare tell anyone at church.”⁴⁸⁸

The ministers I spoke with about this were surprised by the statistics indicating that many of their congregant’s families probably had a member that was involved in the criminal justice system. As one minister told me, “People don’t really come to me about that as much as you might think. Now, they could if they wanted to, but I suspect it’s hard for them to talk about.”⁴⁸⁹ Why would it be hard to talk about? Many family members gave me a response similar to this given by one mother of a prisoner:

The Reverend would be the last one I would go to. He going to get up there in church and tell everybody. I wouldn’t dare tell the reverend that. I had a friend who was over in D.C. Jail — and I went over there to visit this friend, and my girl — me and my girlfriend — so she said to me, she said, “Belinda, there’s the reverend.” I hid from him so he wouldn’t see me because he would have gone to Sunday service. “Yeah, I saw Ms. so-and-so in the D.C. Jail yesterday.” No. Uh-uh. Because he’s going to get up in church and tell it. Yep.⁴⁹⁰

It was not so much that the minister would be unsympathetic — just the reverse. She thought that he would be far more sympathetic than the rest of the congregation. Those who attend church regularly know that along with the many positive aspects of faith that can be found there, there can also be a competitive relationship between members that encourages emphasis on the positive and admirable aspects of one’s family life, and discouraging disclosure of less seemly details about family life.

⁴⁸⁸ Interview with Rochelle, (Oct. 14, 1999).

⁴⁸⁹ *Id.*

⁴⁹⁰ *Id.* Ironically, her church is lead by Reverend Fauntroy, one of the most politically active members of the District’s clergy, and a tireless activist for prisoner’s rights.

While churches have long been seen as havens in the African American community, they are also considered to be moral and spiritual guides, and both ministers and members of congregations help to develop what Cathy Cohen has termed the “indigenous constructed image of ‘good black Christian folk.’”⁴⁹¹ The relationship of families of prisoners to African American Churches is one that must be considered in light of the roles that these churches have historically been called on to play:

The dual and contradictory legacy of the African American church is that it has been among the most important instruments of African-American liberation and at the same time one of the most conservative institutions in the African-American community.⁴⁹²

African-American churches are put in a bind: they are expected to maintain the cultural capital that they currently have both within the black community and with American society at large, while at the same time they are expected to console and reach out to those who are associated with the worst stereotypes of black culture.

To the extent that church confers a collective identity on church members, the actions of a single member or family are seen to reflect on the entire community. Because church life presents people, families, and communities with an opportunity to put their best face forward, those involved are alert to the possibility of being associated with others they may not wish to be. This sense is only heightened by the preexisting concern about racial stereotypes. Members of black churches may be able to control or explain

⁴⁹¹ CATHY COHEN, *THE BOUNDARIES OF BLACKNESS* 287 (1999). The reaction of churches in African American communities to gay members and HIV/AIDS provides several striking parallels, not the least of which is a guarded familial silence on the subject of the incarceration or sexual orientation of family members, in relation to the moral judgment they perceive may be visited on them.

their own behavior, but they are always at risk of others behaving in a way that sheds a poor light on them by association.

Added to the social threat of stigma are the more personal and practical feelings of local parishioners. As the minister of a larger church said when asked about the role of Black churches in supporting families of prisoners:

You have to understand, many of these people are victims of crime themselves. It's not just that prisoners come from their neighborhoods, they're in prison for committing crimes in their neighborhoods. That's what prison reform activists don't get, and what I have to keep explaining to them. In my congregation people are crime victims, so sympathy for criminals is hard to come by. Even if it is their neighbor, or even their own family member.⁴⁹³

Indeed, in the services at local churches, there was a strong mixture of both concern for those less fortunate and a call to personal responsibility. It is this call to conscience that made black churches a logical place for civil rights activism in the last century, and which maintains the position of moral legitimacy from which ministers and congregants can address both the black community and the rest of the nation. However, this claim to high moral ground also contributes to a powerful silence around the issue of incarceration as it relates to people's personal lives.

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⁴⁹² Gail Walker, *Oh Freedom: Liberation and the African-American Church*, GUARDIAN, February 1992 at 10.

⁴⁹³ Interview with Reverend Carwell (Aug. 1, 1998).

There is a troubling aspect to this phenomenon that might be termed “praying alone.”⁴⁹⁴ One need not reduce religious faith to an abandonment of personal agency, nor belittle prayer as simply a therapeutic device, to note that the relinquishing of control through prayer and faith serves as an indicator of stress and difficulty — in this case, the stress and difficulty associated with less private coping strategies. Private prayer is common, at least in part, because the alternatives are both painful and ineffective. In this sense, giving up on one’s own ability to influence the course of events through practical public action is not simply a measure of faith, but also a useful diagnostic tool, indicating areas in people’s lives where they feel that they have little or no control and where attempting control would be draining, stressful, or depressing. This is a negative reading of what is often a positive force in the lives of many of this study’s participants — but it is a reading that is supported by many descriptions of the uses of prayer by family members.

Jackie, for example, has been struggling with her husband’s incarceration for nearly six years. While she and her husband were able to visit often at first, even paying guards so that they could have unofficial conjugal visits, he was moved to a facility in Sussex, Virginia that has much tighter security. She found that, after a while, she could not visit her husband anymore because the prison setting made her feel claustrophobic.

When you go through those gates at Sussex, when they enclose you into those two gates, it makes me feel claustrophobic, and I can’t catch my breath. And one time they had me in that gate for like five minutes or

⁴⁹⁴ The play on Putnam’s “bowling alone” is, of course, intended as a critical comment. While Putnam rejects the thesis that there is a “dark side” to social capital, it seems to me that his faith in the inherently beneficial nature of extensive social relationships obscures more than it reveals.

more.... I was about to crawl up on those gates. I was, like, somehow I was gonna get over those barbed wires even if I get cut with them!⁴⁹⁵

Even though she stopped visiting her husband, Jackie found herself unable to sleep at night, thinking about her husband being locked in his cell — on “lock down”, during which all inmates are required to remain in their cells, sometimes for weeks. “I used to put myself in a cell and imagine myself being locked down, and I couldn’t sleep.”⁴⁹⁶ Adding to her sense of claustrophobia at night, she recently developed a medical condition that requires her to wear a compression wrap on her right leg. She manages to get through these times, she told me, by reading scripture and singing hymns, “just to try to get my mind off of, you know, what’s making me feel the claustrophobia.”⁴⁹⁷

While prayer is useful to Jackie in this way, it also surfaced as a means of escape, one that is not necessarily beneficial. As she described to me, she used prayer in a similar way to cope with medical problems:

When I found out that this lump on my neck may be cancerous, I worried at first, and then I prayed....And then I just....stopped thinking about it. I was, like, “Well, Lord, I know you promised me a long life, and I’m not gonna worry about it.”.... Then my boss just kept worrying. “Well, have you been to the doctor yet?” I was, like, “I’m not worrying about that anymore.” And then I met somebody on the bus who told me his wife died from cancer in her throat, and I was, like, the Devil is trying to use that to make me start worrying again, but I’m not gonna worry.

It’s easier for me to have faith that this was healed than to go to that doctor and let them stick a needle in my neck. I couldn’t....I just couldn’t do it. I

⁴⁹⁵ Interview with Anni, (Aug. 24, 2000).

⁴⁹⁶ *Id.*

⁴⁹⁷ *Id.*

said, “I’d rather believe God. And if I die from this, then hey, it was His will as far as I’m concerned,” because I just couldn’t go through with it.⁴⁹⁸

While there is a significant Christian tradition of faith healing, it is unsettling to find that faith can abet, not only peace, but passivity. Jackie is far from a passive person in general — indeed she is among the small minority of family members who is, at least occasionally, politically active around prison issues; seeing that even she, a person who describes herself as very determined and practical person, had learned to stop worrying, makes the point all the more significant:

So I’m just learning how to not worry so much about him and just leave it in God’s hands to handle. And [my husband feels that this means that] I don’t want him, but I can’t just...if I didn’t have God in my life, I would...there were many times when he first got locked up that I just sat there and thought about ways to kill myself.⁴⁹⁹

Jackie is far from alone in citing prayer as both a means of coping with the stress of both incarceration and other serious problems. Giving up control over incarceration, like relinquishing concern and control over significant health problems, allows her to endure profoundly difficult circumstances. For this reason, the giving over of agency to faith is also diagnostic, indicating a social position that would otherwise be untenable. It is significant, then, that prayer, often the only strategy left when all others had failed, is by far the most common form of coping among families of prisoners.

⁴⁹⁸ *Id.*

⁴⁹⁹ *Id.*

Depression and Isolation

Robin, who is thirty four and has two girls, married her husband, Aaron, while he was incarcerated. He has a mandatory release date of 2006, and will come up for parole once before then, in 2003. They met in elementary school, and their families have known each other before that. After she had finished high school and had a job, she found out that Aaron was incarcerated through a friend who, while visiting an incarcerated relative, saw Aaron's mother. At first she was hesitant to start up a relationship with an inmate. She went to visit him a few times, but was really just thinking of him as a friend.

At that time, I'm like, I "I really don't have the energy to put into this. This is a relationship that's very complicated because you're there and I'm here, and any relationship is complicated regardless, but I really don't have the energy to get involved with someone in prison. It's just not for me. I need something that's permanent." At that point, I was feeling like I wanted something that's permanent, you know? At that time, it could have been with anybody that I cared enough for, or they cared enough for me both ways. So I was, like, "I just...you know, and I don't know if I can handle a relationship of this magnitude because, like, again you're not here." Even if it would have been just six months, that's a long time not to have someone to lay beside you or walk down the street with you, or things that we take for granted every day.

Eventually, though, she became closer with Aaron, and they developed a relationship that was close to what she had been looking for. While Robin had been secretive about his status, as she put it, "to the extreme,"⁵⁰⁰ she had been able to confide in her sister, a daily source of sympathy and support. After four years of "dating" she was surprised when Aaron proposed. After talking things over with her sister, however, she decided to accept his proposal.

After they were married, Robin visited Aaron several times a week while he was located at the Central Facility in Lorton, Virginia, half an hour's drive from DC. After four years, however, Aaron was moved to another facility and locked down for reclassification. Her sister's death soon after her husband's relocation was doubly devastating.

They wouldn't let me see him to explain to him the situation about my sister. So I had to tell him over the phone. You know, he was really torn up at that point because he couldn't be there for me in no shape, form, or fashion because he was still in lock down. So, he could barely even call.⁵⁰¹

We didn't see each other for a whole year. And, you know, we had never been really separated since we had been together. And this was like almost four years of being together. And it was terrible. It was really terrible. And I stayed...I stayed down. I never stopped praying the whole time, but I stayed down a lot. You know, grieving for my sister and just, you know for my friend that I had lost. It was just too much going on for me at that time for me to function like I should function.⁵⁰²

Robin's case illustrates a problem that many women face, particularly when the person they are most intimate with is relocated out of state: the loss of the companionship is added to the erosion of social supports, further isolation and increasing the likelihood of depression.

When Aaron was moved to New Mexico, Robin's income from informal child-care work barely paid the bills, making visitation nearly impossible. What money she made went to supporting her children and meeting basic necessities; traveling long

⁵⁰⁰ Interview with Robin, (Oct. 19, 1999).

⁵⁰¹ *Id.*

⁵⁰² *Id.*

distances was out of the question. She simply would not be able to see her husband.

Alone, devastated, Robin just couldn't face life.

It was starting to show in my kids. And they were like...you know my daughter would lay her face on me and cry because I wouldn't get out the bed. "Oh, Mommy, please get up. Please get up. Please get up." You know beg me to get up. And I couldn't...couldn't bring myself to get out of the bed. And my depression would just take over, you know. And I would pray, "God, please let me get up to be a mother to my kids," because I couldn't find the strength on my own, even when I tried it. I did get up [but] I was still wandering to like this state of just zombie. You know, I was like a zombie.⁵⁰³

The death of Robin's sister also illustrates how important social support can be; without her sister to talk to every day, Robin felt not only the loss of her sister and husband, but also the effects of being left alone to cope. Her sister and she were close, in part, because her sister had been the only person in her family who was supportive of her relationship with Aaron. With her sister gone, she had lost a friend and ally. And, while depression after a death in the family is not unusual, Robin's struggle with depression was compounded by her sense of failure as a parent, Aaron's absence, and her lack of social supports.

* * *

Nearly without exception, the women I have spoken with who were closest to a prisoner have experienced depression, and related their depression, at least in part, to the incarceration or their loved one.⁵⁰⁴ This has significant social consequences as well.

⁵⁰³ *Id.*

⁵⁰⁴ While not all of them have described themselves as "depressed", they described feelings and patterns of behavior consistent with the symptoms of clinical depression. These include: a persistent sad, anxious or "empty" mood; sleeping too much or too little, middle-of-night or early morning waking; reduced appetite

Suzanne Retzinger has noted that “[i]solation and shame are inseparable...In itself, unacknowledged shame creates a form of self-perpetuating entrapment in one’s own isolation. If one hides this sense from the other due to shame, it creates further shame, which creates a further sense of isolation.”⁵⁰⁵ Depression is also reciprocally related to the isolation that shame brings and, soon after the incarceration of a loved one, the three are often combined in a cascading effect.

As previous chapters described, in addition to the problems associated with separation and the stigma related to incarceration, family members often bear increased practical and material burdens as well, and these burdens often contribute to depression.⁵⁰⁶ Unfortunately, the clinical literature on parental depression, particularly

and weight loss or increased appetite and weight gain; loss of interest or pleasure in activities, including sex; irritability, restlessness; persistent physical symptoms that don’t respond to treatment (such as chronic pain or digestive disorders); difficulty concentrating, remembering, or making decisions; fatigue or loss of energy; feeling guilty, hopeless or worthless; thoughts of death or suicide. From THE NATIONAL MENTAL HEALTH ASSOCIATION, *DEPRESSION: WHAT YOU NEED TO KNOW* (1999).

One of the difficulties in discussing depression with African American women is that many are reluctant to use clinical language, or to admit that they were defeated by a psychiatric illness. This point is further supported by the recent Surgeon General’s Report on Mental Health:

Mental illness is at least as prevalent among racial and ethnic minorities as in the majority white population. Yet many racial and ethnic minority group members find the organized mental health system to be uninformed about cultural context and, thus, unresponsive and/or irrelevant. It is partly for this reason that minority group members overall are less inclined than whites to seek treatment, and to use outpatient treatment services to a much lesser extent than do non-Hispanic whites.

David Satcher, *Mental Health: A Report of the Surgeon General* (2000) (citations omitted).

⁵⁰⁵ Suzanne Retzinger, *quoted in LEWIS supra* note 387, at 188-189.

⁵⁰⁶ A recent study of income and depression shows evidence of a strong relationship between income and Depression.

Family Income	Parental Depression
<\$20,000	22.40%
\$20,000-29,999	16.80%
\$30,000-39,999	13.20%
\$40,000-49,999	10.70%
\$50,000-59,999	13.40%
\$60,000-79,999	9.80%

maternal depression, supports the fear that Robin and other parents share: that their children are likely to be negatively affected when this happens. A recent study estimated that children with parents who experience depression eight times as likely to experience a childhood-onset major depressive disorder themselves, and are at significantly increased risk of experiencing a number of other psychiatric disorders.⁵⁰⁷

* * *

Louisa, Robin, and Tina also described serious bouts with depression. For Tina and her family, depression hit home most acutely while she was working at the Pentagon, when her husband Reginald was transferred to a private prison in Ohio, effectively ending their ability to see each other on a regular basis, and dramatically increasing her phone bill.

I went through it so bad when he went to Ohio, but I kept saying the whole time that I wasn't stressed, because I was still functioning. It seemed like everything...because we all thought [his relocation] would be so temporary, so for the first couple of months you're doing okay. I mean, I struggled through school, because every week I was sick. And it's just... Mentally, I was making myself sick.⁵⁰⁸

For Tina, this was the time when she struggled most. She had isolated herself at work and avoided discussing problems with her family. Alone, a single parent, supportive

\$80,000+

6.20%

DAVID P. ROSS AND PAUL ROBERTS, INCOME AND CHILD WELL-BEING (1999) (Available at: "<http://www.ccsd.ca/pubs/inckids/>"). The relationship is probably so strong because it is bi-directional: depression makes lowered income more likely and lowered income makes depression more likely.

⁵⁰⁷ They are also five times as likely to develop an early-adult-onset major depressive disorder, five times as likely to develop a conduct disorder, and three times as likely to experience an anxiety disorder. Priya J. Wickramaratne and Myrna M. Weissman, *Onset Of Psychopathology In Offspring By Developmental Phase And Parental Depression*, 37 JOURNAL OF THE AMERICAN ACADEMY OF CHILD & ADOLESCENT PSYCHIATRY 9, 933-942 (1998).

⁵⁰⁸ Interview with Tina, (Oct. 14, 1999).

long-distance spouse, employee, and student, she struggled to gain the level of control she normally maintained over her life and, for the first time, began to fail. She began to get sick frequently and developed migraines for the first time in her life. While she could force herself to do everything she felt she needed to do, the emotional strain was beginning to have physical effects. “I started losing a lot of weight, and the doctor said why that was, I was having anxiety about our separation, because in our five years of being together, we had never been separated.”⁵⁰⁹

So, I started...when he first went to Ohio, I started losing a lot of weight, so when I went up there to see him. He told me to pick up the phone, I picked up the phone. He said, “Look at you.” He said, “I’m gonna tell you just like this,” he said, “as much as I love you and as much I want you in my life, this thing has taken a toll like the way I see you looking.” He said, “I want you to walk out that door and don’t come back in here. Get yourself another man, ‘cause you’re killing yourself.” He said, “Look at you. You’ve lost weight, your eyes all sunk, you look terrible.” [...] So I was, like, “I’m okay.” He say, “You’re not okay.” You know? Because everybody else was telling me, “Look at you. You’re losing so much weight, your face is so thin.” And I’m, like, “I’m okay. I’m okay.” That’s what I keep telling myself.⁵¹⁰

Tina does not have the appearance or attitude of a weak or vulnerable person; she is determined and outgoing, careful to take care of herself and fight for what she wants. But there was simply no part of her life or her family that she felt she could sacrifice. For her, and for many women like her, struggling for her family was wearing her down, even if she was not going down without a fight. Even when women identify and want to work against depression, as was clearly the case with Tina, a combination of isolation and increased responsibilities can bring on stress in ways that are hard to manage.

⁵⁰⁹ *Id.* (By “separated,” Tina means that he had always been held locally.).

* * *

Although stigma often accompanies incarceration, the relationship between incarceration and stigma is more subtle and complicated than simple causation would imply; rather, stigma and incarceration interrelate in diverse aspects of family life that are generally hidden from public view. A woman ashamed that she is giving up on her marriage, a son ashamed of his father's addiction, a daughter ashamed of selling her body to pay her grandmother's rent — these are things that do not make headline news, that are absent from stories of what prison and street life are “really like.” Far from being unconcerned about criminality, familial integrity, or honesty, families of prisoners wrestle with each of these issues every day in a setting that they often perceive as hostile and unforgiving.⁵¹¹ They are not shameless as some would have it, but deeply shamed and often significantly injured.

⁵¹⁰ *Id.*

⁵¹¹ This may be related to the fact that many relatives of prisoners are unaware of the full extent of incarceration, and of the similar experiences of their neighbors, friends, and fellow church members. For example, when I asked participants if they knew of other people in the neighborhood, many did know of one or two out the dozens of households on the block that had members incarcerated, but did not feel comfortable talking with them. This type of phenomenon is often described as pluralistic ignorance, in which people misjudge the norm. Perhaps the most well publicized example is found in studies of college freshmen who share a pluralistic ignorance of drinking norms, commonly overestimating the extent of drinking among other freshmen. See D.A. Prentice & D.T. Miller, *Pluralistic Ignorance And Alcohol Use On Campus: Some Consequences Of Misperceiving The Social Norm*, 64 *JOURNAL OF PERSONALITY AND SOCIAL PSYCHOLOGY* 2, 243-256, (1993). In the case of families of prisoners, however, their underestimation of the extent of incarceration exacerbates their sense of stigma by making the incarceration of their family member seem more abnormal than it is.

CONCLUSION: SOCIAL ORDER AND SOCIAL SILENCE

One often hears, in policy circles anyway, that incarceration no longer works because inner-city communities are places where shame has no hold.⁵¹² This is an understanding of social organization that makes theoretical sense given the models of social control that political analysts have developed. These models hold that shame inhibits crime and is a sign of social capital at work. Responses to crime are modeled on this understanding of inner-city “culture.” Liberals and conservatives alike now argue that the state must step in and enforce the norms that families and communities no longer support.

Shame’s silence constitutes, in its own way, a negative language that is closely related to and charged by our positive acts of political discourse and law making. In this respect, the policy makers have been successful in their attempts at shaping social norms through openly symbolic statutes. But in many respects, law’s expression is not what it appears to be, and its effects are not those we can intuit from the impoverished understandings of social order that have informed our legal strategies thus far. Rather, a

⁵¹² For example, Eric Posner writes:

The rule of law [...] can be understood as the appropriate legal response to dysfunctions of nonlegal enforcement mechanisms. Social norms keep a rudimentary sort of order, and are surely superior to chaos, but they provoke a longing for predictability, a longing that can be satisfied only by a wealthy and powerful government. So if a side effect of the rule of law is the loss of certain collective benefits that can be obtained only through nonlegal enforcement, that might seem a straightforward improvement.

ERIC A. POSNER, *LAW AND SOCIAL NORMS* 221 (2000). A less optimistic commentator, however, writes:

The social controls that deter most people from stealing — shame from peers and family members, being fired by an employer, the fear of incarceration — don’t exist for state-raised convicts who have a low investment in conventional society. Breaking the law and going to jail become what sociologists describe as “normalized” experiences. Criminal behavior loses its stigma; sanctions lose their sting.

JENIFER WYNN, *INSIDE RIKERS* 13 (2001).

fair understanding of criminal sanctions requires a closer attention to the silence and social estrangement that clusters around and within the language of punishment.

The historical anthropologist Gerald Sider once wrote that “[w]e can have no significant understanding of any culture unless we also know the silences that were institutionally created and guaranteed along with it.”⁵¹³ In part, descriptions of social silence are rare because people — whether they be politicians, social scientists, or judges — are usually more interested in speech and relationships, than the negative field of silence and estrangement against which they occur.⁵¹⁴ Similarly, the focus of most critical and popular literature on social institutions focuses on the development and regulation of interaction through them rather than the silences they produce.⁵¹⁵ But the stories — both the local, personal stories of the individual families and the broader stories told in policy

⁵¹³ Gerald Sider, *Against Experience*, in BETWEEN HISTORY AND HISTORIES 74-75 (Gerald Sider and Gavin Smith, eds. 1997).

⁵¹⁴ As Robin Sheriff, an anthropologist who has begun the difficult task of developing this area of work, recently noted, “[Silence] is, in a Durkheimian sense, a type of “social fact” long overdue for scholarly interrogation.” Robin E. Sheriff, *Exposing Silence as Cultural Censorship*, 102 AMERICAN ANTHROPOLOGIST 1, at 114. See also Robin Tolmach Lakoff, *Cries and Whispers*, in GENDER ARTICULATED 25 (Kira Hall and Mary Bucholtz eds.) (1995) (“Feminists have devoted a great deal of attention over the past quarter century to speech and its effect on gender and power relations. Less consideration has been given to its compliment, the absence of speech, or silence, and that much more recently”).

⁵¹⁵ Significant exceptions include students of collective and individual crisis. The greater part of sociologist Kai Erikson’s work is devoted to the dissolution of communal bonds following the disasters that devastated the communities he writes of. See, e.g., KAI T. ERIKSON, EVERYTHING IN IT’S PATH (1976) (describing the destruction of community in Buffalo Creek town following a man-made flood); A NEW SPECIES OF TROUBLE, THE HUMAN EXPERIENCE OF MODERN DISASTERS 11 (1994) (describing a number of communities “stunned by the effects of a recent disaster”). Both Katherine Newman and Kathryn Dudley have written eloquently about the combination of shame and severed social ties that have devastated downwardly mobile communities. See, KATHERINE S. NEWMAN, FALLING FROM GRACE (1988) (describing the experiences of downward mobility among downsized middle managers, newly divorced housewives, and laid-off factory workers); KATHRYN MARIE DUDLEY, THE END OF THE LINE (1994) (describing the experience of residents in Kenosha, Wisconsin, after the closing of an automotive manufacturing plant, the largest employer in the area); and KATHRYN MARIE DUDLEY, DEBT AND DISPOSSESSION (2000) (describing the experience of farming families in western Minnesota who lost their farms during the farm crisis of the 1980s).

and law — these stories are often as much about silence as they about any positive utterance.

This kind of silence kills what Marcel Mauss called “total relationships,” relationships that are at once material, religious, political, and moral. These are the relationships people build when they are more than mere transactors in the marketplace and are essential to any community. These are the relationships that bind us together with indebtedness

There is a repression of self, experienced by family members in their silence. The retreat of a mother or wife from friendship in church and at work, the words not spoken between friends, the enduring silence of children who guard what for them is profound and powerful information — all are telling indicators of the social effects of incarceration. As relationships between family or friends become strained or false, not only are people’s understandings of one another diminished but, because people are social, they themselves are diminished as well.

But there is a second type of repression, one that is less direct and less obvious in the stories that these families tell. This is a repression of the public thought, of our collective imagination. It runs through public debate about urban families and communities, submerged and barely noticed. It is the sense that these families are hardly families at all, that there is little we could do to damage them as they barely exist as families to begin with. It is the implication that the problems in poor urban communities run so deep that there is little that we could do that would have any effect. In effect, the stereotypes of inner-city families and communities naturalize the problems they face and absolve us as a society of any shared responsibility for the burdens that they bear.

By forcing out of view the struggles these families face in the most simple and fundamental social acts — living together and caring for one another — this broader social silence makes it seem that they simply are “that way.” Yet, many of our policy choices create the very conditions that feed these stereotypes and thus promote a unspoken assumptions about the families and communities that bear the brunt of current criminal justice policies. This form of social silence is, so to speak, deafening — the less we hear of their problems, the less we are able to understand or make sense of what we do hear because we have no context in which to place new information. The problems of these families are so difficult to address, in part, because we know so little of them.

The effects of incarceration are far less visible than the publicized objectives given by lawmakers, or the rising and falling crime rates they hope to influence. The effects of incarceration, as we have seen, are hidden by families because of the stigma they carry and made further invisible by stereotypes of inner-city families and communities. But this presents a significant dilemma, for how can we as a society address such a muted problem, something so invisible? This is not simply a problem for our criminal justice system; it is a problem for our democracy, one that presents us with a host of confounding and frustrating issues.

The social silence in and around these families, it should be also noted, is part of a profound social dispossession. By and large, these are families and communities that have suffered the most as a result of social policies biased by ignorance. For generations, social institutions from slavery and segregation to broadly punitive criminal sanctions have born down unremittingly on poor and minority families and communities. As a

society, our collective failure to understand the injury our social institutions inflict continues to prevent us from doing the justice we intend.

APPENDIX: METHODOLOGY AND DATA SOURCES*Location*

This study is based on three years of research in Washington DC and two years of statistical research and writing. All the inmates in the study listed the District as their place of residence; some family members, however, lived in the surrounding suburbs. District inmates who were interviewed were located in one the following facilities: the DC Jail, located in southeast Washington; the privately operated Correctional Treatment facility operated by the Corrections Corporation of America adjacent to the DC Jail; the Lorton Correctional Facilities, located twenty minutes west of the District in Lorton Virginia; The Sussex II facility, located two hours south of the District in Sussex, Virginia; The Red Onion facility, located six hours southwest of the District in Pound Virginia; and the Youngstown Correctional facility, operated by the Corrections Corporation of America in Youngstown, Ohio.

Interviews

The quotations in this study are, for the most part, taken from the over two hundred recorded interviews I conducted with participants. Interviews were conducted over the course of three years starting in 1998. Most interviews were conducted either in the home of the person I interviewed or, for most inmate interviews, in a private visiting room designed for legal consultations. Most interviews were audio recorded, but for various reasons some were not. The largest number of interviews not recorded were conducted in facilities managed by the Virginia Department of Corrections, which declined to authorize the use of a recording device for this study. In other rare instances, I found an unexpected opportunity for an interview and did not have a recording device

handy or, the lament of interviewers everywhere, I ran out of batteries. In these instances I recorded the interview by hand, with detailed notes. I have made every attempt to rely on audio-recorded conversation where possible, but occasionally quote from my written notes.

Transcriptions differ from the actual spoken words of the interview in three ways. First, names and other identifying information have been altered. Second, a few interviewees had a linguistic tic (for example, saying “like” every few words) that distracted from the content of the quotation; where the removal of the tics did not alter the content in any significant way, I removed them. Third, unless the pronunciation was highly irregular, rather than emphasize vernacular pronunciation, I use the dictionary spelling of the word the person uses (“doing” rather than “doin”). I decided not to indicate vernacular pronunciation at every instance for three reasons. First, after many attempts, I found that it was simply impossible to do accurately and consistently — attempting to indicate the difference between elisions, faint inclusions, and atypical phonemes came to seem arbitrary. Second, readers of early papers in which I tried to indicate alternative pronunciations found it distracting. Third, many participants were concerned about whether or not they were effective in describing their situation, and it seems counter to both my own and their intentions as well as counterproductive to the general project to mark their language in ways that placed undue emphasis on pronunciation.

Any other deviations from the original wording of a quotation are indicated in one of two ways. First, square brackets ([]) indicate that the wording is mine or, if surrounding the first letter of a sentence, that the beginning of the sentence was truncated.

They are used in cases where the person clearly omitted a word, where alternate phrasing was much more succinct or clear, or where the beginning of a sentence did not add significant meaning to the quoted material. Second, while brief ellipses (...) indicate a recorded pause in conversation, extended ellipses (...) are used to indicate that the sentences did not directly follow one another in the original interview (usually indicating that a repetition or aside was deleted).

Statistical Sources

Statistical analyses drew upon data from five sources:

1. *Historical census data.* These data sets provided information on the demographic composition of the District for the last thirty years.
2. *DC Department of Corrections records.* These records provide inmates' last residence, crime for which convicted, time incarcerated, length of sentence, etc., for 1999 population and 1999 admissions.
3. *Police Department crime data.* Geocoded records from the DC Police Department on 1999 crime reports and arrests provided information on the date, time, and location of crimes reported in the District.
4. *Street map layers for geocoding Data Sets 1, 2, and 3.* Layers for all the streets and addresses in the District are publicly available. This data provides the physical layout of the city, and the location of schools, churches, state agencies, banks, and stores, all of which will help us develop a geographic portrait of the neighborhoods in and around the District.
5. *National data on incarceration in urban areas.* Data on incarceration for individual cities was, unless otherwise noted, obtained from the relevant Departments of Corrections.