Justice Reinvestment is an idea that emerged in the early 2000s and eventually grew into a joint federal-private partnership beginning in 2010. The early 2000s focused on strategies and efforts to reduce prison populations, particularly for communities with a high concentration of individuals returning from prison. Around 2007, the Pew Public Safety Performance Project (PSPP) adopted the initiative but expanded the emphasis to include an examination of the broader range of policy and practice drivers of mass incarceration. The expansion was designed to foster a structured policy initiative to drive change. Then in 2010, the Bureau of Justice Assistance (BJA) and PSPP joined together to offer technical assistance to states that are interested in reducing the financial and human costs associated with incarceration. In less than fifteen years, over half of the states have participated in some form of Justice Reinvestment Initiative (JRI), with the majority involving a bipartisan, interagency work group to review the policies and practices that drive the utilization of incarceration, examine data on incarcerated populations, and make legislative recommendations to propel system change and reduce spending on prisons. The goal is to invest in spending that will foster better public safety at the community level. As described by the JRI sponsorers,

Justice reinvestment is a data-driven approach to improve public safety, examine corrections and related criminal justice spending, manage and allocate criminal justice populations in a more cost-effective manner, and reinvest savings in strategies that can hold offenders accountable, decrease crime, and strengthen neighborhoods.¹

The data-driven strategy is designed to depoliticize crime policies of control with an emphasis on addressing critical features of their systems that contribute to prison and jail utilization.

The unanswered question is whether this initiative, which started in the early 2000s, has had an impact on prison populations, or even the handling of justice-involved populations. According to the Bureau of Justice Statistics, the total correctional population was 6,467,800 in 2000, 7,339,600 in 2007, and then decreased to 6,851,100 in 2014. This translates to 1 in 36 adults, 18 years or older under correctional control in 2014, as compared to 1 in 31 in 2007, when JRI began. The number under any form of correctional control per 100,000 of U.S. residents over 18 years old was 3,210 in 2007, as compared to 2,780 in 2014; this consists of 2,240 on probation or parole in 2007, as compared to 2,140 in 2012, while the incarcerated population is 1,000 in 2007, as compared to 900 in 2014.² The indicators illustrate modest changes; some are positive in that the number under correctional control is decreasing, but the rates indicate that the reach of the corrections system is still great. The overall reduction of 1 percent of the total correctional population in 2014, with a modest reduction of −0.03 percent for the probation population and −1.5 percent for the parole population. These numbers are difficult to measure due to the varying length of the initiative in each state, but it is unlikely that the “official” statistics will reveal major changes in undoing the policies of mass incarceration.

The main drivers of the continued high rates of the use of incarceration, or even correctional control overall, are community supervision revocations, sentencing practices including mandatory minimums, insufficient community supervision or support for managing populations in the community, and parole processing delays.³ Under the BJA-Pew JRI initiative, some policy drivers that affect the population under correctional control have been identified. The typical responses for 17 states active in JRI efforts are: adopting risk and need assessment tools (16 states), implementing accountability measures for those under community control (15), good time and earned credit for early release from prison (15), intermediate and graduated sanctions (15), enhanced community-based treatment (11), sentencing changes and departure mechanisms to reduce sentence lengths or reduce offense severity (11), mandatory supervision requirements (7), problem-solving courts (6), streamlined parole processes (6), and expanded parole eligibility (5). Most of these efforts require authorizing legislation, building community capacity, and reallocation of resources. Most have modest changes in the use of incarceration but rather serve to have a more balanced justice system.

Besides focused reforms on the touchpoints that affect the use of incarceration, the JRI process has had an impact on the impetus for reform in a number of different venues of the justice system. Contemporary JRI and critiques of the performance of the justice system served as a groundwork for a recognition of the need for reforming...
the system, and this has been the impetus for changes in policy. The following discussion will identify some critiques of the approach, impetus for system change, and need for noncriminal justice efforts to better advance the efforts to undo the effects of mass incarceration policies. The emphasis will be on expanding our efforts to reduce the drivers of involvement of justice involvement.

I. Early Critiques of JRI
Many of the designers of the early JRI initiative are now critics of the contemporary JRI emphasis. The major criticism around the current version of JRI—assessing broad-based policy levers—is that it has different goals and purposes than the original concept. The original concept focused on analyzing the prison population with an emphasis on communities with higher concentrations of prison reentry, providing policymakers with options to generate savings, quantifying savings, investing in select high-stakes communities, and measuring the impact and enhancing accountability. The revised effort after 2007 now focuses on broader policy issues instead of the focus on “high-stakes” communities.

James Austin and others specify that the current emphasis on broad-based policy has the direct impact of limiting attention to the geographical areas most affected by prison policies. The PSPP-BJA JRI transformed the effort to be more generic and to have less emphasis on the on key communities affected by incarceration. The original JRI focused on building capacity and protective factors to reduce the demand on incarceration in high-concentration communities. It essentially disperses the impact across a wider range of efforts, which makes it difficult to measure change. JRI critics note that the initiative has had a much smaller impact due to short-term technical assistance provided to interested jurisdictions, involvement of well-established local and state advocacy groups that are embedded in prior policies and practices, insufficient targeting of the corrections policy levers, insufficient or misdirected reinvestments, and lack of structural disincentives for innovations. The critics discuss the need for a focus on efforts to reduce admissions to prison for new convictions or re-entry, including the reduction of unnecessary arrests, to eliminate unnecessary pretrial detention, to reclassify drug and other crimes, to eliminate mandatory minimums, to eliminate revocations to prison, and to require racial impact statements. The goal is to reduce the length of stay in the system; in other words, the focus is on the iron-clad rule of corrections—that the size of the prison population is influenced by the intakes and stock (length of stay).

Regardless of the critics, JRI has opened the door to reviewing criminal justice policies and practices with an eye toward rethinking the system.

Taxman, Pattavina, and Caudy (2014) lament that the current emphasis has not focused on building infrastructure to address the social problems that affect incarceration, such as substance use disorders and mental illness. Recent surveys identify that less than 10 percent of the justice-involved population can participate in programs and services directed at factors affecting criminal behavior, and that this level of access limits the impact on recidivism rates. Using the results of a simulation model focused on expanding services, recidivism can be affected by expanding services to increase participation rates through a public health approach, which focuses on expanding exposure rates to programs and services that address some of the issues related to criminal behavior. The current 10 percent participation rate in treatment is associated with the 58.8 percent recidivism rate. But increasing the treatment participation rate to 50 percent can drop the recidivism rate to 54 percent with no other changes in treatment programs and services. However, applying the scientific principles of Risk-Need-Responsivity and improving the quality of the programming at a 50 percent participation rate is estimated to reduce the recidivism rate to 45 percent. A better way to think of this is that for every 33 people treated in a controlled setting, you can prevent one recidivism. But if you expand treatment options, for every 9 people treated, one person is less likely to recidivate. And if scientific principles of treatment are adopted, for every 5 people treated, you can reduce recidivism by one person. Expanding treatment, and the type of treatment, can have a direct impact on reducing the recidivism rates. These estimates do not include the prevention efforts that are provided by having increased resources in the community to assist individuals with social problems. JRI efforts have not been devoted to expanding social capital as part of building infrastructure to reduce the demand on the justice system, but rather JRI focuses on the policy related issues related to disorder and criminal offenses instead of expanding infrastructure in key areas.

II. Changes to the Front Door of the Justice System
JRI efforts have identified a number of system improvements that could affect incarceration rates, including attention to the front door of the justice system, arrests. The question that some legislators and policy makers are raising is whether arrests are a necessary response, and what type of action should be taken to address public disorder or safety issues. This has extended the view to examine the types of arrests (e.g., police, summons), use of pretrial detention, and use of diversion programming as three areas in which more effort can is needed to change how the justice system is utilized.

A. Types of Arrests
Of the more than 11.2 million arrests reported in 2014, 1.6 million were for drug abuse violations, 1.12 million for drunk driving, and 1.23 million for larceny-theft. It is unclear from the national statistics which ones are misdemeanor and which are felony arrests because the definition varies by state. From the federal statistics maintained by the Federal Bureau of Investigations (FBI), it is also impossible to identify the severity of the offense. In a New York City
research project, the types of arrests were examined from 1989 to 2013, a period when incarceration rapidly expanded, but also a period when the crime rates were declining. A series of studies revealed that felony arrests decreased significantly during this period while misdemeanor arrests climbed by 190 percent. The study found that dispositions for misdemeanor arrests in 2012 included discharge (45 percent), jail or prison (20 percent), and time served (25 percent). That is, many misdemeanor arrestees were incarcerated pretrial, and therefore the disposition was “time served”; many misdemeanor arrestees also received jail or prison time for their offense. This study contributes to a growing recognition that the system treats misdemeanors and serious felons in a similar manner, indicating an expanded reach of the justice system that contributes to greater utilization of incarceration. The type of offenses considered to be misdemeanors contributes greatly to justice processing. Similar to Malcolm Feeley’s *The Process is the Punishment,* the New York study documents how justice processing for minor offenses contributes to incarceration and practices that are disproportionate to the nature of the crime, and affects those with lesser means. As an updated and empirical version of Feeley’s testimony to unfair and unjust practices, the renewed emphasis on the overcriminalization and punitive nature of the justice system might lead to some reforms that affect how incarceration is being used. In fact, a recent initiative by the MacArthur Foundation’s Safety and Justice Challenge is targeting the use of jail incarceration and the handling of misdemeanors. Many of the efforts are designed to “rethink” the utilization of jail, which draws attention to pretrial processing, lower court processes, and the proportionality of the punishment to the offense.

B. Pretrial Detention and Release

Pretrial detention has been identified as a direct contributor to the incarceration rate since those awaiting trial are detained due to inability to make the needed bond or be released on one’s recognizance (or to a third party). The average length of time in jail was 23 days with a range from 6 to 67 days, whereas those detained in a federal facility have an average length of stay of 115 days. A recent review of the process by the American Bar Association found that money bail is needed for 70 percent of felony cases nationwide, and over half remain in jail pretrial due to the inability to pay. Nearly all of these individuals remain in jail during their court process due to the lack of bail. A study in New York City found that most individuals charged with misdemeanor offenses had bail of $1,000 or less, and that most remained detained through their court process due to the lack of resources.

Being detained pretrial has two major consequences: (1) those who are not released are more likely to receive a prison sentence; and (2) many individuals who are detained pretrial receive “time served” sentences, which means that their time behind bars is counted toward their sentences. In fact, individuals who are released under pretrial supervision do not receive the same benefit of having their time under correctional control counted toward their sentence. More importantly, for those who receive a bail, many detainees do not have the resources to post their own bail or are good candidates for a bond company to post bond. The inequities have resulted in improvements in pretrial processing, including the reduction in the use of pretrial detention and non-financial forms of release.

C. Pre-Arrest Diversion

Individuals in the justice system are four times more likely to have a substance use disorder than the general population, and two to four times more likely to have a mental health disorder. That is, the justice system is a de facto “treatment” for people with behavioral health disorders. Over the past two decades, there has been an emphasis on providing treatment for people within the justice system, whether in prison, jail, on probation or parole, or potentially in other justice settings. Drug treatment courts emerged in the early 1990s as an innovative mechanism to provide easier access to treatment in the justice system, but the courts have never been able to scale up. Only about one in fifty people can partake in a drug treatment court. It is well-documented that less than 10 percent of the substance abuse population in the justice system can access treatment services, and the quality of the treatment services varies considerably. Besides drug treatment courts, other innovations have been tried that include new screening tools to better identify those who are in need of substance use and/or mental health services, new programs, and the use of newer medically assisted treatments.

Diversion of those with mental illness and/or substance use disorders at the police stage—prior to arrest—is now claiming favor as a new strategy in this reform environment. It is part of the initiative to reduce the demand on the justice system through accessing treatment services in the community. Part of the rationale for these diversions is that integrated behavioral health care should be a response to behavior that requires attention because of its impact on the community. These diversion efforts suggest a new era in justice practices, with heightened use of deflection from the justice system that recognizes the value and contribution of non-justice interventions to address certain social problems, especially those problems that are better handled through treatment.

The models for pre-arrest diversion are slowly evolving, but they typically require the police to have a “drop-off” place to take an individual in lieu of an arrest. For about the last decade, police agencies have been training their officers in the Crisis Intervention Team (CIT) approach, which focuses on training officers in understanding mental illness and responding to individuals with mental illness. The resulting challenge is that the trained officers need an alternative to arrest for the mentally ill (and those with substance use disorders). Some communities have social workers available for officers to call for assistance, and
others have a drop-off center model that provides ready access to assessment and case management services to guide the person into the appropriate level of care. Still other communities have not addressed how best to provide the police with resources to handle the mentally ill.

New models are evolving for drug-involved individuals. Unlike diversion programs, which are premised on the police officer referring to treatment in lieu of arrest, other models have evolved. One new deflection model comes from the small town of Gloucester, Massachusetts. Police Chief Leonard Campanello decided to try to undo the effects of the drug war by using the police as a resource to help addicts get into treatment. “Any addict who walks into the police station with the remainder of their drug equipment (needles, etc.) or drugs and asks for help will NOT be charged,” he stated. “Instead we will walk them through the system toward detox and recovery” and send them for treatment “on the spot.”** In this model, the police serve as a conduit to treatment, regardless of whether the individual addict is criminally active.

In the pre-arrest model, the police refer the individual to case management or take the person to a case management facility. Either way, arrest is avoided in preference to case management, which then acts as a conduit to treatment access. The innovation is that the police are making the decision about who is diverted, compared to a more traditional approach where the prosecutor has control over diversion decisions based on a combination of criminal history and nature of the current offense. The pre-arrest diversion efforts are more of a harm-reduction approach where there is a realization that the behavior is better handled through a public health model than a crime model.

III. Non-Justice Initiatives

Although the contemporary JRI initiative focuses attention on justice system processes as they relate to incarceration and reforms to the justice system, a lack of attention has been devoted to non-justice-related factors. That is, JRI focuses on the justice system instead of considering other options that could achieve the desirable goals of addressing problematic health and social behavior, improving the quality of life in disenfranchised communities, and advancing efforts to address social justice issues. The goal of JRI is typically referred to as a redirection of resources to reduce the demand on incarceration as a tool to manage public order and safety. Other systems can be contributors to involvement in reducing the demand for the justice system. Consideration is needed for bolstering non-justice-related efforts, particularly in communities with high concentrations of individuals who have been affected by incarceration policies and procedures.

The nearly forty-year experiment with mass incarceration resulted in multiple generations of individuals being exposed to the justice system, either themselves or indirectly through the experience of others. The intergenerational nature of justice involvement means that undoing the effects of mass incarceration will require a framework for prevention. A good conceptual model is the one proposed by the Center for Disease Control, which has four levels—individual, relationship, community, and societal—with a focus on regulations, policies, legislation, and financing that can be assessed as facilitators or barriers to change.**

A. Building Individual Resiliency that Affects Intergenerational Involvement in the Justice System

There is a need to identify the personal characteristics that may influence involvement in the justice system. The individual level characteristics occur in three categories: (1) predisposition factors such as age, education, income, family history with substance abuse, family history with victimization and/or abuse, or other factors that affect individual decision making; (2) enabling factors such as housing, transportation, income, social supports, and food insecurity; and (3) needs such as severity, comorbidities, attitudes and beliefs, and past experiences with the justice system in the close social network. Given the entrenched experience that prolonged justice involvement has on individuals and their families, it is important to address these efforts through cognitive, social, and life skills development. That is, it is important to identify individuals who have had extensive exposure to the justice system (either directly or through social networks), and then provide the necessary decision-making skills to recognize attitudes and behaviors that may predispose the person to criminal behavior. For example, anti-authority attitudes or patterns of irresponsibility may affect how individuals approach situations. Prevention efforts would recognize these attitudes and provide the necessary skills to pursue other options that will promote attitudes and behaviors that focus on one’s citizenship role in the community and relationships with positive influences.

B. Building Relationship Resiliency that Affects Intergenerational Involvement in the Justice System

Peer and social networks may influence how individuals react to situations and can be a risk factor for involvement in the justice system. Relationships with social institutions such as medical care, case managers, justice agencies, and schools may affect the resiliency of the individuals. The social networks of communities are also important factors that affect the resiliency of both individuals and communities to overcome intergenerational experiences with the justice system. Typical relationship efforts involve parenting or family-focused efforts that are supplemented by mentoring and peer programs aimed at preventing involvement in the justice system.

C. Building Community Resiliency

One issue related to the communities, particularly those with high concentration of involvement in the justice system, is trust with major justice institutions such as police, courts, and probation and parole. Building trust is a major factor in resolving some of the factors contributing to
justice involvement at the individual and relationship level. At the community level, it is important to substantiate the legitimacy of the operations of justice organizations. For example, many communities with high concentrations of justice-involved individuals often believe that the police are not involved in preventive policing and fail to respond to calls for service in a timely manner. Other community-level factors to be considered are stigma, social norms, characteristics of the neighborhoods, employment opportunities, and the available social capital. The nature of the social institution must also be considered, including geographical locations, access to services, and attitudes of the organization to the community.

D. Addressing Societal Factors that Affect Intergenerational Issues

JRI has fostered a review of justice-related policies that affect mass incarceration, with an emphasis on enabling and/or authorizing legislation to affect change. But there are also health, education, employment, housing, and food policies that affect the contribution communities affected by mass incarceration policies, and these also need attention to build resiliency to decrease involvement in the justice system. More attention is needed to examine the broader policies that affect the quality of life in high-concentration communities or those that have had intergenerational experiences with the justice system. These high-concentration communities are most often affected by health and social welfare policies. Recent evidence suggests that addressing housing instability, food insecurity, and employment opportunities will result in long-term changes that help to prevent justice involvement. For example, a recent study found that children who experience frequent hunger are more likely to exhibit impulsive behaviors including intentionally injuring others. Similarly, other researchers have found that food insecurity affects recidivism. Housing stability is another societal policy that affects individuals and communities. A recent trend is Housing First, which emphasizes obtaining secure housing as a way to prevent homelessness, mental illness, substance abuse, and other societal factors that often comingle with histories of justice involvement. An emerging literature supports stable housing as a preventive factor to improve the quality of life in communities and reduce social ills. Obviously, expanding substance abuse and mental health services is needed in these communities, both to provide easier access to services and to serve as a protective social capital. The emphasis on societal factors draws attention to crafting health, economic, educational, and social policies that reduce the negative effects of incarceration that often extend to social welfare policies.

IV. Conclusion

JRI contributes to a thorough review of the justice policies and practices related to mass incarceration, particularly among communities with a high concentration of individuals with justice system involvement. However, opening a door to the review of justice policies and practices requires seeking solutions that are outside of the justice system to prevent incarceration among those most affected by these social policies. Although the review of police, probation, prison, sentencing, and other justice-related policies and practices has been beneficial, now more attention is needed to undoing these policies. Circling back to the focus on high-concentration communities to build the resiliency of these communities—especially through health, educational, and social welfare policies—is needed to truly undo the impact of mass incarceration. That remains the next JRI challenge: to invest in nonjustice options as the long-term solution to undoing the effects of mass incarceration policies, and in building resilient individuals and communities to address social and behavioral ills. In the long run, an investment in the community of positive social capital should provide the barrier to an overreliance on the justice system as a means to maintain health and safety.

Notes

* This paper is the opinion of the author’s only and do not reflect any funding from government agencies.
8. For more information on the Safety and Justice Challenge, see http://www.safetyandjusticechallenge.org/.
12. F.S. Taxman, M. Perdoni & M. Caudy, The Plight of Providing Appropriate Substance Abuse Treatment Services to Offenders:
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