



**Criminal
Justice
Journalists**

HANDBOOK FOR JOURNALISTS

COVERING AMERICA'S CORRECTION SYSTEMS

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PART ONE

COVERING PRISONS AND JAILS

REPORTING TIPS

#1 – Try to interview inmates when reporting on prison policy issues. Be prepared for access restrictions imposed by authorities, both for security reasons and opposition to supposed “glorification” of prisoners. Join and monitor Facebook groups maintained by inmate families and friends.

#2 – Incarceration is expensive, and states are constantly reviewing their practices. Explore the components of prison spending, including high health care costs for inmates in custody for long periods under “three strikes and you’re out” and other mandatory sentencing laws.

#3 – A majority of released prisoners return to custody. Much of this may be due to the lack of programming behind the walls—education, job training, drug and mental health treatment, for example. Examine the ingredients of recidivism— are many inmates being set up to fail?

Introduction

Note: A resource guide to covering prisons and jails appears at the end of this section

Despite more than a decade of advocacy by reformers and many policymakers, the United States remains the world’s incarceration leader.

Many states and the federal government have reduced their numbers behind bars and have closed aging prisons, but the total number in prisons and jails on any given day remains over two million.

Despite the large amount of money spent on prisons –the federal government alone spends nearly \$8 billion annually to house only a small fraction of the nation’s inmates – there is relatively little in-depth coverage of the subject by the news media.

It is true that prison news gets lots of play when it involves drama involving riots and deaths, such as occurred in Mississippi prisons in late 2019, or the \$20 million manhunt in 2015 for two inmates who escaped from New York State’s maximum security Clinton Correctional Facility.

What many journalists may not realize is that the prison beat is incomparably rich turf, a hair-raising intersection of human drama, politics, money, conflict, and power that promises good tales.

Prying those stories loose from a subculture that remains quasi-militaristic, despite a wave of new correctional thinking and leadership, is only one challenge of the beat.

Reporters covering corrections also may face apathy or outright hostility from their audiences, a lack of support and interest from editors and news directors, difficulty gaining the trust of sources, and depression spawned by immersion in so much human misery.

Overlaying it all is the often tricky task of gaining access to prisoners and their jailers. As former California Corrections Secretary Roderick Q. Hickman told the *Los Angeles Times*, “We become very good at keeping inmates from getting out of prison, but we’re not very good at letting the rest of the world in.”

For the most part, that’s just fine with the rest of the world. By definition, prisoners have been convicted of a crime, and for many people, that’s enough information, regardless of whether the crime was a nonviolent drug offense or a brutal assault, or whether they contend that their conviction was wrongful.

Critics complain that prison reporters make celebrities out of infamous criminals. Crime-victim advocates say that stories detailing the fate of incarcerated convicts glorify the guilty while further traumatizing those upon whom they have preyed.

In some states, such sentiments have led to laws restricting media access to inmates, making it difficult for reporters to obtain one-on-one interviews. In the mid-1990s, California adopted such a policy, ending the ability of journalists to contact a specific inmate and arrange an in-prison interview. Instead, reporters were told they could schedule a general tour and interview only those prisoners they happened to encounter.

The odds of running into the lone inmate whose story you want to tell are very low, so reporters are now forced to use more cumbersome and time-consuming means to arrange contact. Typically, this means obtaining permission to join an inmate’s official visitors’ list and arranging a meeting through extended postal mail exchanges. While such logistical hassles are frustrating, journalists should be ever mindful of the impact their reporting may have on survivors of crime.

Remember that you often can get tips or other information from family members or friends of prisoners. Some journalists have done this by seeking out and joining Facebook groups maintained by those who know inmates.

Telling the Real Story

The corrections beat is about far more than celebrity bad guys—or about riots, abuse of force and overcrowding, three other staples of the past.

The incarceration boom has produced a complex, far-flung and increasingly expensive correctional system wracked with problems, and brimming with potential for the enterprising journalist.

Combined federal and state spending on prisons each year is about \$50 billion, about four times the amount spent in the latter part of the 20th century. California alone spends more than \$12 billion each year on its corrections system.

Clearly, the numbers alone make the correctional system a topic that demands serious attention by the media. The fiscal impact of prisons is only one piece of the evolving story.

Other elements ripe for exploration include an inmate population that is aging and increasingly sick; private prisons that are adding a new dimension to the industry; prison gangs that continue to defy containment efforts; discouraging recidivism rates that are raising fresh questions about the nation's fundamental correctional approach; and the increasing use of electronic monitoring and other technological tools to supervise offenders in the community.

Capital punishment remains an ever controversial topic, especially given the rising number of wrongful convictions exposed through DNA testing. There have been 167 exonerations of death row prisoners since 1973, [says the Death Penalty Information Center](#).

Perhaps most fundamentally, strong coverage of corrections is important because prisons represent the power of the state over the individual. Journalists have an obligation to act as a check against that power, while making sure they don't get taken in by the cons. It all adds up to an irresistible, combustible mix.

The Evolution of Corrections

U.S. corrections policy has been whipsawed by countless conflicting theories about its desired objective and how best to achieve it. Is prison just about punishment and incapacitation, or should we help lawbreakers reshape their lives and rejoin society as productive citizens? Can we really rehabilitate offenders, or is advancing age the only true antidote to criminal behavior? Do most offenders deserve a stint behind bars, or should we reserve expensive prison cells for only the most violent, chronic criminals?

Given the dizzying number of pendulum swings within correctional practice, it's a good idea for journalists to have at least some familiarity with its history. From the earliest accounts of civilization, punishment has been a central form of social control, a way to force people to behave according to communal rules and norms.

The simplest expression is a parent disciplining a child. Criminal punishment is the most structured arrangement, allowing society to define the limits of acceptable behavior and impose appropriate sanctions that express collective outrage toward the transgressor.

Until the 1800s, punishment of lawbreakers in Europe and America was a highly public affair. Crowds bellowed with rage and excitement at whippings, burnings, beheadings, hangings, brandings and various other mutilations. These spectacles not only answered society's desire for revenge but also served as a deterrent and vivid expression of the governing authorities' power.

In Colonial America, most people lived within a system of laws adapted from England. The colonies had little use for jails or other forms of confinement. Rather, according to criminologist Todd Clear of Rutgers University, the colonists used banishment, fines, and corporal punishments to inflict their desired retribution. The death penalty also was popular, not just for

a community's most serious crimes. Pickpockets, burglars, rebellious slaves, horse thieves – all were liable to meet their maker by burning, hanging or other brutal means.

No energy was spent on rehabilitating offenders, as they were considered predestined to their fate from birth. In 1829, the U.S. opened America its first penitentiary, near Philadelphia, which Clear described as a place “to reform offenders within an environment designed to focus their full attention on their moral rehabilitation.” Its opening marked a significant change in thought about “human nature and the purpose of punishment,” Clear noted.

Anchoring the new corrective approach was the belief that isolation – one prisoner, one cell, with visits only from occasional clergymen -- would force prisoners to contemplate their transgressions and repent. (The word “penitentiary” comes from the Latin for penitence, or remorse – a powerful idea at the time.) As prisoners proliferated, the isolation approach became too expensive. Moreover, critics began to sound alarms over reports that inmates were going insane because of their solitary living conditions.

Corrections Models: From ‘Reformatory’ to Crime Control

From that point, corrections seesawed through a variety of models, including the “reformatory” phase, which emphasized education and training for offenders, and the later “medical” model, which rested on the notion that criminal behavior stemmed from a social, psychological or biological deficiency.

By the late 1960s, rising crime rates and doubts about the effectiveness of offender treatment programs led to a new, more punitive “crime control” phase. This era ushered in a wave of “tough on crime” policies that targeted violent and repeat offenders as well as drug dealers. Determinate sentencing, or the imposition of fixed terms, became the rule in about half of the states, resulting in longer prison stays and the decline of discretion in release decisions.

Rehabilitation fell out of favor, with incapacitation viewed as the most desirable way to combat criminal behavior. The death penalty was suspended for several years and reinstated in many states in conformance with Supreme Court requirements.

Much of the legislating in this period was influenced by a series of sensational, headline-grabbing crimes. The most infamous was the violent 1987 rape of a woman by furloughed Massachusetts felon Willie Horton. After Horton was used successfully in Republican presidential campaign ads against former Massachusetts Gov. Michael Dukakis in 1988,, few politicians were willing to ignore the dangerous potential of a released offender. Overnight, it seemed, governors and other lawmakers concluded that they could not be too cautious when it came to the parole or furlough of a felon.

Similarly, the 1993 abduction and killing of 12-year-old **Polly Klaas** in Petaluma, Calif., spurred an outcry that led to passage of California’s “three strikes” law. The law, passed both in the legislature and by voter initiative, imposed a 25-years-to-life sentence on offenders convicted of two previous serious or violent felonies. Despite stories about “strikers” locked away for life on a third offense as minor as the theft of a loaf of bread, efforts to amend the statute have been futile, and it has been widely copied in other states.

The rape and murder of **Megan Kanka** in New Jersey by a released sex offender fueled a nationwide campaign to pass “Megan’s Laws” beginning in 1994. The measures generally require official notification of neighborhoods when a convicted sex offender moves in. A decade later came “Jessica’s Law.” Named after nine-year-old Jessica Lunsford of Florida, who was raped and murdered in 2005 by a convicted sex offender, it imposed a minimum sentence of 25 years on first-time Florida sex offenders who assault children.

“America’s Most Wanted” host John Walsh, whose son, Adam, was abducted from a Sears department store and murdered in 1981, has been a vocal champion. In California, a sweeping 2006 voter initiative known as Proposition 83 banned sex offenders from living within 2,000 feet of a school or park and subjected paroled sex offenders to electronic monitoring for life. In all of these cases, media coverage – both of the original crimes and the subsequent legislative responses – has played a central, sometimes controversial role.

Incarceration Numbers Climb and Stabilize

The widening net of incarceration, coupled with the longer terms people are serving behind bars, sent the nation’s prison population skyrocketing in the late twentieth century. Starting in 1970, the number of state and federal prisoners has grown by more than 700 percent – from about 196,000 to a peak of 1,615,000 in 2009. The number dropped to nearly 1.5 million in 2017, the last time that a full national count has been [published by the U.S. Bureau of Justice Statistics](#). Data for 2018 are expected in the spring of 2020.

Local jail populations held fairly steady, declining from about 747,000 in 2005 to 745,000 in 2017. The U.S. incarcerates more people than any other nation, including the far more populous China. According to a [2019 comparison by the World Population Review](#), the top ten nations in terms of combined prison and jail population per capita were the United States (737), Russia (615), Ukraine (350), South Africa (334), Poland (235), Mexico (196), Brazil (193), Spain (144), Kenya (130), and the Netherlands (128).

In the U.S., some groups have experienced the imprisonment boom far more intensely than others. At year-end 2017, the imprisonment rate for sentenced black males (2,336 per 100,000 black male residents) was almost six times that of sentenced white males (397 per 100,000 white male U.S. residents).

None of this has come cheap.

In 2015, 45 states responding to a [Vera Institute of Justice survey](#) were spending just under \$43 billion a year on prisons. The cost per inmate averaged \$33,274 and ranged from a low of \$14,780 in Alabama to a high of \$69,355 in New York. The federal Bureau of Prisons budget is about \$7 billion to house roughly 175,000 inmates.

Despite such dramatic figures, few political leaders publicly question the wisdom or expense of this vast correctional system. Nor have they analyzed whether the return – in improved public safety – has been worth the investment. Fear of appearing “soft on crime,” or, worse yet, having a “Willie Horton” affixed to one’s resume by a political foe, has largely stifled serious discussion of the punitive approach or viable alternatives.

In recent years, that picture has changed somewhat. Some states, including several led by Republican governors, already are well on their way down new paths. Texas, for example, long had a reputation as a law and order state with a swelling prison population that rivaled California for biggest among the states.

In 2007, Texas lawmakers from both parties decided it was time for a new path. Rather than spend a half-a-billion dollars on new cells for up to 17,000 more prisoners expected to arrive within the next five years, Texas authorized a dramatic makeover of its correctional system. Among the reforms: changes in parole practices, expanded drug courts and a substantial increase in drug treatment and diversion beds. In all, the changes were expected to save Texas \$210 million initially, plus another \$233 million if the state was able to avoid contingency plans to build three new prisons.

The Texas prison population fell from about 152,000 in 2007 to 145,000 in 2018.

Some other states took actions that resulted in a decline in prison inmates. Pennsylvania, for example, cut its total from more than 51,000 in 2013 to under 48,000 at the end of 2019.

Still, the overall picture is that prison populations have not fallen dramatically, and some states have reported increases.

Prison Beat 101

With buyouts and layoffs becoming commonplace at many media outlets, most reporters will not have the luxury of covering corrections as a full-time beat. Given that, preparation – and an organized approach – are all the more essential for success.

Most good editors understand that journalists new to a beat need backgrounding time. Request it, and then start where every smart reporter starts, by debriefing your predecessor. Ask for help with introductions to sources, story ideas, background materials and tips on where the landmines lie. If no predecessor remains, read clips, become familiar with the history and management of prisons and jails in your region, and get up to speed on the issues in play.

Understanding the system is a critical first step. Most people think of corrections as prisons and jails, but nearly two-thirds of convicts are supervised in the community. (See Part Three of this handbook on covering Probation and Parole.) Thus, the term “corrections” refers to a complex web of legal responses to prohibited behavior, performed by public and private organizations and involving all levels of government.

All told, the U.S. correctional system employs more than 700,000 administrators, wardens, officers, counselors, social workers, parole agents, and other players, says the U.S. Bureau of Justice Statistics.

Jails are the gateway to the system, and are run mostly by cities or counties and supported by local revenues. They house defendants awaiting trial and convicted offenders serving relatively short sentences, usually for misdemeanors. People appealing their sentences also are often held in jails, which are typically run by law enforcement officials such as the county sheriff.

Because of the frequent turnover – there were nearly 11 million separate jail admissions in 2017 --and mix of offenders, jail can be a highly volatile places. Often, mentally ill or homeless people wind up as part of the mix, adding an unpredictable element. Crowded conditions and a lack of programs and activities exacerbate the dangerous milieu.

Reporters covering jails should keep an eye on coroner records for jailhouse deaths, and stay well connected with any oversight panels that play a watchdog role. In 2019, the *Associated Press* and the *Capital News Service* [published a series](#) on the large number of jail suicides by mentally ill inmates.

Prisons, which house the vast majority of offenders, are most often run by state government and are reserved for people convicted of more serious crimes, usually felonies. In some states, prisons also are used to incarcerate parolees who have violated the rules governing their supervision in the community.

Prisons are typically run by a department of corrections and staffed by trained correctional officers who are sometimes represented by powerful unions.

The Federal System

A parallel system of correctional institutions is operated by the federal government to deal with people convicted of violating federal laws. The Federal Bureau of Prisons, located within the U.S. Department of Justice, is led by a director appointed by the president. Some federal lock-ups have relatively low-security, places such as “Camp Cupcake” in West Virginia, where Martha Stewart was locked up after lying to investigators about a stock trade.

The system also includes high-security penitentiaries, including a “Super Max” facility in Florence, Colorado. Sometimes called “The Alcatraz of the Rockies,” the Florence prison relies on round-the-clock isolation of inmates, many of whom have killed other inmates or attempted to assault officers. It was built as a response to the killing of two correctional officers by inmates at the federal penitentiary in Marion, Illinois, in 1983.

The super-max label combines the words super and maximum and denotes the highest level of custody available. Though broad, the network of federal correctional facilities holds only about one in 10 incarcerated adults. The federal government’s jurisdiction is limited to crimes involving interstate commerce; serious felonies such as bank robbery and arson; violations on federal property or violations of federal laws.

With the advent of the war on drugs, a growing proportion of the population – more than half – now represents drug convictions. In addition, the federal government’s Immigrations and Customs Enforcement unit operates immigration detention centers for people awaiting deportation or decisions on their immigration status.

Some facilities are directly operated by federal officials, while others are run under contract by private prison companies or local governments.

Exploring Your Turf

Once you're well briefed, get out and view the system. Call prison and jail public information officers (PIOs) and schedule tours – if they are permitted – and introductory interviews with wardens, the corrections director and other key officials. As you proceed, remember that a PIO's job is to control the flow of information, and his first allegiance is to his employer. In the highly structured correctional system, that loyalty runs deep. As a result, you may have more luck developing source relationships with officials higher up the food chain who feel more secure in their jobs – and more willing to share tips with a reporter.

Before your first jail or prison visit, carefully review the rules, including those for clothing. These should be available online through the websites of the managing agencies. Most prisons bar visitors from wearing anything resembling what inmates wear. This rule is for your own safety, but it can also create hassles if, for example, you are threatened with denial of admission just for wearing blue jeans.

The Society of Professional Journalists compiled a helpful state-by-state list of prison access rules for the media, available [here](#), but it was not up to date as of 2020, so check with your state for any changes.

Other rules strictly limit what you can bring into a jail or prison. Most facilities bar the use of tape recorders, and many will allow you to use only the writing materials (if any) that they provide.

REPORTERS' CHECKLIST

- ✓ Iron out all these details with key personnel before you get to the prison, because the guards at the gate are not paid to be sympathetic to your logistical needs.
- ✓ Know the rules governing your visit, and be prepared to cite them. Cell phones, purses and all other personal items typically must be stored in a locker at the entrance. A walk through a metal detector is a given, so if you're a woman, leave the underwire bra at home; it will set off the detector and, at a minimum, make for an embarrassing moment you would rather avoid.
- ✓ Be sure to bring your driver's license or other valid identification. Do not even think about wearing your diamond engagement ring or other flashy jewelry.
- ✓ Prisons may insist that a staff member be present when you are interviewing an inmate. This may or not be stated in the corrections system's rules. If you think this may be an issue, check it out in advance. Some journalists report being told on the spot of "rules" that may or may not exist.
- ✓ At many prisons, one step may be the signing of a "no hostage" waiver. This means, in short, that if an inmate takes you hostage in an attempt to negotiate an escape, your life will be sacrificed if necessary. Security comes first – and certainly counts for more than the fate of a lowly reporter.

Once you're cleared for entrance, be prepared for an otherworldly journey. Walking through a prison yard with a thousand pairs of eyes upon you and sharpshooters in guard towers overhead may make for a feeling unlike any other. Depending on the facility, you may experience catcalls, screams, profanities and other unsettling events, such as security alarms that could require you to hit the deck.

On high-security tiers, you will see plastic screens in front of cell doors – shields against “gassing,” or the flinging of feces and other material by inmates. The climate tends to be more relaxed on the prison yard, where inmates congregate, play handball or basketball and should be happy to chat with a visiting reporter. Stay close to your escort and follow directions, but don't hesitate to break from the scripted tour and ask to talk with random inmates.

Most everyone inside has something interesting to say, and you'll likely leave with a half-dozen story ideas, some of which may pan out. Be sure to get all the detail you will need, as well as names and phone numbers of inmates' attorneys and family members outside. If your company will pay for collect calls, leave your phone number and schedule a time for a follow-up call. You can't call a prisoner back to fact-check or ask that final question.

Once you've achieved a good understanding of the beat's skeleton and official management structure, reach out to the myriad other figures connected to the correctional system. These include prison chaplains, medical directors, union bosses, inmate family groups, prison newspapers, religious or educational organizations that work with convicts, parole agents, and law firms that handle class action suits and other cases affecting the penal system.

In many states, parts of the correctional system – or even the entire system -- are under the oversight of judges or court-appointed receivers and special masters. These officials may have control of medical care, mental health care, the management of juvenile offenders, or, as is the case with many county jails, the early release of inmates if the population exceeds acceptable capacity levels.

While they may be reluctant to talk with you on the record, some of these officials will talk on background – and the reports they file with the court, along with status hearings and most other proceedings before a judge, are accessible to the public.

State legislatures and local governments are another source for stories. While prisons and prisoners aren't always top of mind for legislators, some politicians do take an active interest in corrections, especially as prisons and jails have begun consuming a large chunk of taxpayer dollars.

Beyond their quotation value, these legislators can be useful to reporters in obtaining documents that might otherwise be unavailable; holding hearings that put agency officials on the hot seat; and championing policy changes that can serve as story fodder.

More important than elected representatives are staffers who focus on corrections. Whether it's the public safety committee in the legislature or a county jail oversight panel, the analysts and others in the trenches can be a great source for journalists. These are the people with the closest

connection to the players in the system, and the best ability to ferret out and pass on tips, trends and documents.

Finding Sources, Resources

Documents can be invaluable as a source of story leads, as well as serving to buttress a story by providing written proof of what people are telling you. Prisons and jails are a function of government, and governments compile all sorts of records. You can, for example, discover the amount the state pays for the milkshake makers in the commissaries, and how much it costs to make the electrified fences work.

Become familiar with the U.S. Bureau of Justice Statistics [website](#) and mine it for data that will add heft to your stories. Note that many of the reports are dated. For example, BJS issued a report in the spring of 2019 on state corrections data for 2017.

Visit the website of your state's corrections department frequently for information on inmate population forecasts – which can yield a quick daily story – as well as demographic data that can become a peg for longer pieces.

Read state personnel board actions against officers and others who work in the prisons. Take the time to read and understand the correctional officers' union contract. It will spell out work rules, pay and benefits, sick leave and other provisions that often yield stories.

Get the relevant "use of force" policy. What are the rules governing responses to prison and jail violence? Can officers use stun guns? When is lethal force warranted?

Track campaign donations from the prison guards' union and its allies to politicians, and track politicians' votes on legislation affecting the prison system, including bills that lengthen prison sentences. Follow state capitol lobbying efforts by the union and prison contractors, including private prison operators, prison builders and others with a stake in the system.

Many states produce a "daily log" of activity in their prisons, from riots and more minor disturbances to less noteworthy events. These provide a fascinating window on the system, and may reveal patterns or isolated incidents that merit a follow-up inquiry.

Transcripts from parole board hearings can be a gold mine of information about offenders and their background. The hearings usually review the inmate's criminal and personal history, as well as his conduct in prison and future plans. Because a prisoner's central prison file, or "C File," is very difficult to obtain, transcripts from these hearings can often provide the most complete and accurate picture available to reporters.

Use the federal Freedom of Information Act to get at information related to disciplinary actions against officers and other sensitive documents in the federal system. Federal lawsuits are another great repository of information related to federal prisons.

Like most beats, corrections also has its own flock of academics. Most of them reside in university criminology or sociology departments and in law schools, and they can be very

useful to add national or historical context to a story. Some get involved, serving on blue ribbon commissions or advising governors.

Some universities, meanwhile, host mini think tanks that help states manage their correctional systems – and can provide a bonanza of good, fresh data for journalists. One example is the University of California, Irvine, which houses a [Center for Evidence-Based Corrections](#). The center evaluates correctional programs and produces research to help policy makers get beyond the partisanship and emotion that so often dominate the corrections debate.

Finally, there are myriad organizations that concern themselves with corrections issues. Many are advocacy groups for one cause or another, so, if you use them, be aware of this and make sure your audience is. Others are more mainstream. These groups can produce useful data for your stories, tip you off to national trends and provide experts to comment for your stories.

While these “official” sources can yield great story ideas, it’s hard to top the potential payoff of street reporting. Andy Furillo, who covered prisons for the *Sacramento Bee* for 14 years, says that one vein of good yarns is the city’s downtown bus depot. Why? That’s where many prisoners wind up when they’re released. “On days when I had nothing to do, I used to go downtown and wait for the parolees to get dropped off,” Furillo said. “The buses from the local prisons usually rolled in between 10 a.m. and noon, and there were always guys just getting out who had lots of stories to tell.”

STORY IDEAS

There was a time when journalists who covered the beat mostly concerned themselves with the occasional riot, escape or inmate beating at the hands of a guard. Today, the correctional system is far-flung and complicated, and the meaty stories buried within it are seemingly limitless.

To make the most of the beat, reporters should have core qualities including open-mindedness, the ability to penetrate bureaucracy, an ear for half-truths and dogged investigative skills. Perhaps most importantly, the best prison reporters have a knack for writing stories that engage readers – including editors -- in a subject many would rather ignore.

Most people are in the dark about the reality of prison. Some are fascinated by it. Some are repelled by it. Most people – including many editors – get interested in the correctional system only when a Martha Stewart or Jeffrey Epstein winds up in it. The rest of the time, they could care less about what happens in prison or to prisoners. It is your job to make them care.

Without an advocate in the editor ranks who believes in the importance of what you report, and without consumers who are moved by it, it’s tough sledding. One key to winning interest in your work is picking the right stories -- or picking the right approach to a particular story.

Here are a few themes to watch on the correctional beat today:

➤ *Prisons as Budget Busters*

Even readers who think prisoners are unworthy of their attention may be moved by stories that explore prison spending and examine what sort of payoff taxpayers get in return for their

substantial investment. How have increases in correctional spending compared with increases in spending on other public programs, such as higher education or health care? How does your state's per-inmate spending compare with the national average? How do staff-to-inmate ratios, as well as correctional officer pay, influence the prison budget?

Many states are exploring alternatives to incarceration that cost less and still hold offenders accountable. Have these options been debated in your state? If not, why not? What are the cost drivers within corrections? Geriatrics? Medical care? How have other states coped?

What is the recidivism rate? Should taxpayers be getting more public safety bang for their buck from the prison system?

➤ **Private Prisons and Private Contractors**

Private businesses have long played a role in the correctional system. From their start in the mid-1980s, private prisons have grown to house 8.2 percent of prisoners in the U.S., [said a 2019 report](#) by the Sentencing Project.

The report said the private prison population reached a peak in 2012, with 137,200 prisoners. Declines in the use of private prisons make the latest total the lowest since 2006, the report said.

Entrepreneurs argue that they can build and operate prisons as safely and effectively as government – and often at a lower per-inmate cost. Critics question the ethics of turning the basic government function of criminal punishment over to profit-seeking outfits, and argue that the need to make money for shareholders can diminish care and security.

Reporters in states using private prisons should pay careful attention to campaign contributions, looking for signs of inappropriate influence over contract decisions.

If you are going to delve into this subject in any detail, be sure to read reporter Shane Bauer's [award-winning story](#) for *Mother Jones* about his four months spent as a private prison guard.

Whether a prison or jail is publicly or privately operated, inmates may be charged large sums for communicating to the outside world by phone, internet or video. Prisoner advocacy organizations have protested these high fees, with mixed success.

In 2019, the Prison Policy Initiative published a [report](#) describing how county and city jails frequently charge inmates \$1 per minute or more for a phone call, far more than even the worst rates in state prisons.

➤ **Geriatric Prisoners**

The large number of inmates serving long terms is turning the prison population increasingly gray. More geriatrics means higher health care costs and many challenges in terms of custody and prison staffing. It also means lots of story potential for reporters.

Some states have adopted “compassionate release,” allowing terminally ill patients to die outside of prison with judicial or executive approval. This option sometimes triggers emotional battles that make for good stories. Reporters might find the oldest prisoner in the system and

profile him. Include the costs and details of his long-term nursing care, as well as comments from his victim and any remaining family.

Are prisons equipped to handle old and feeble inmates who can't hear, can't move at the pace demanded by officers, and are often preyed on by younger inmates?

Some prisons have hospices. Check them out to see what the end of life looks like for ailing inmates.

➤ ***Prison Programs***

A majority of state inmates and almost half of federal inmates were abusing or were dependent on drugs in the year before their admission to prison, according to a 2006 Bureau of Justice Statistics survey. One in six had a mental illness, and most lacked a college degree, or even a high school diploma. Few have solid family support, a stable work history or significant vocational skills.

Despite those needs, only a minority of inmates participated in a substance abuse treatment program prior to release or receive vocational or educational training. A work assignment in prison can be hard to come by, with prison industry jobs particularly scarce.

The late criminologist Joan Petersilia of Stanford University wrote in 2003 that, "Public sentiment and political rhetoric have ... forced the reduction of many programs" and that "treatment and work programs have also been affected by society's expectation that prison will be punishing and that prisoners should not receive free any services for which law-abiding citizens must pay."

Does idleness really serve society's best interests? A vast majority of inmates are ultimately released from prison and return home. They already face the stigma of their criminal record, as well as limitations on where they may live and significant employment restrictions because of their past.

As Petersilia said, "If these ex-prisoners are unable to lead law-abiding lives, we all pay in terms of new crimes committed ... The human and financial costs of returning ill-prepared convicts to the communities are staggering."

For reporters, this is rich turf. What do the numbers show about pre-release programs in prison, and has program availability increased or decreased? Why? What are the waiting lists like? Are the programs based on evidence that they are effective in reducing recidivism, or are they a sham? Is parole consideration based on program completion? If so, how is the dearth of programs affecting the rate at which offenders are paroled?

Talk to wardens about programming. For most prison administrators, idleness is a nightmare, creating a hotbed of disciplinary problems. Just what do inmates with no job, no classes to attend, and not much hope of a brighter future do all day?

Do not assume that most prisoners have access to educational or vocational training. A [report issued in 2020](#) by the Council of State Governments Justice Center found that only 10 states allow all people behind bars to access college and employment certification courses.

➤ ***Prison Gangs***

Racial or ethnic gangs are commonplace in most prisons, and are a constant threat to administrative efforts to maintain safety and control. In addition to protecting their members, gangs run a wide variety of rackets inside prison, including drug trafficking, prostitution, extortion and loan-sharking. 2

What are institutions doing about gang violence? Is the use of the “SHU,” or security housing unit, having an effect on violence levels by isolating gang leaders? What avenues are available for gang members who want an “exit ramp” out of gang life? How do “debriefing” and protective

➤ ***Prison Medical Care***

One of the biggest factors in rising prison costs is inmate health care. Despite stories that suggest prisoners receive “Cadillac care,” the reality is usually quite different. Spend a day in the prison infirmary and see what it’s like. Check the state medical board for disciplinary citations against prison doctors. Look at the costs of contract medical care – payments by states to private hospitals and specialists that treat more complex cases. Track campaign contributions by private health care networks to determine possible influence in winning lucrative corrections contracts.

Poor dental care is notorious inside prison. In some states, a severe shortage of dentists causes delays in treatment that give inmates no choice but extraction to fix problem teeth.

➤ ***Labor Relations***

In states where correctional officers are represented by a union, power struggles with prison management, along with contract negotiations, can yield a stream of stories.

➤ ***Invisible Punishments***

One emerging issue that has gone largely underreported in the media involves the collateral consequences of incarceration. States and the federal government have imposed numerous restrictions on ex-offenders that affect their families and communities, often in unforeseen ways. These include laws limiting access to public housing, federal educational benefits, certain types of occupations and job training.

Since 2014, an organization called the Collateral Consequences Resource Center has maintained a [website](#) reporting in depth on these issues.

Another powerful consequence often overlooked is the effect of incarceration on offenders’ children. Research shows the children of the incarcerated are more likely than their peers to wind up in prison later in life. Stories about these kids and their struggles can be powerful, from

the trauma of witnessing the arrest of a parent to attempting to maintain family bonds through prison visits.

➤ **Prison Rape**

In 2001, Human Rights Watch issued a report on rape in male prisons that drew serious attention to a problem that had long been neglected. Based on three years of research, the report, “No Escape: Male Rape in U.S. Prisons,” pulled back the curtain on an issue that had become a common – and tacitly accepted – stereotype about prison life. Two years later, Congress passed the Prison Rape Elimination Act, which was signed into law by President George W. Bush. Among other things, the act created a national commission to study prison rape, report to Congress and develop standards for the prevention of rape in correctional facilities.

In a [2018 report](#), the U.S. Bureau of Justice Statistics said correctional administrators around the U.S. reported 24,661 allegations of sexual victimization in 2015, nearly triple the number recorded in 2011 (8,768 allegations). Most of the increase in allegations was due to an increase in unfounded or unsubstantiated allegations, the agency said.

Reporters should track the evolution of the standards for preventing rape, monitor annual hearings on prisons with the highest and lowest rate of prison rape, and keep tabs on what’s going on at the National Institute of Corrections, which has been designated a clearinghouse for data on prison rape and assigned the task of training administrators in rape prevention.

Individual incidents of rape -- especially in the most notorious cases, such as accusations involving complicity of a correctional officer - can be a springboard to a broader story on the topic.

Rules to Live By

Few reporters are born with a passion to cover prisons. Here are some things journalists should consider to maximize their experience on the prison beat:

1) **The importance of reputation.** Without a reputation for accuracy and fairness, reporters on any beat are on shaky ground. In the correctional world, where mistrust of the media already runs high, strong personal credentials are especially important. Be professional, punctual, respectful, and careful. Be accessible and, when criticized, be responsive rather than defensive. Refrain from sharing personal details about yourself or your family with inmates, prison officers and others in the system. They are sources, subjects and, sometimes, targets in your stories. Be very wary of everything you are told. Many prisoners will try to convince you of their innocence; some may in fact have been wrongfully convicted, but check and double check everything, and be aware that you can squander a lot of time running down disappointing cul de sacs.

2) **Stay in the gray.** Avoid seeing and writing about issues in black and white. Yes, there are a lot of bad people behind bars - but they are not all psychopathic killers who cannot be trusted. Yes, there are sadistic correctional officers. Most are hardworking people who are doing their

job well and trying to support their families. Don't let your coverage, and your language, degenerate into cartoonish stereotypes. Find ways to break old patterns and illuminate what's different.

3) **Strive for story diversity.** Don't get sucked into covering the predictable when there are so many facets to the corrections story. Shadow a prison chaplain. Profile a pregnant inmate giving birth behind bars. Sit in when a victim meets her attacker at a restorative justice encounter. Find out how many days in a given month your local prison was on lockdown, and ask why. Spend time at a juvenile prison, and chronicle the despair and hope within. Document how much correctional officers are making in overtime. Compare correctional spending to spending on higher education or other public programs.

4) **Read the mail.** If you're doing your job right, you will have prisoners looking to be your pen pal. Take the time to tear open those letters and at least read the first few sentences. You will know quickly whether the writer may become a useful source.

5) **Details, details, details.** You are the eyewitness to a subculture most people will never see. Don't miss the chance to make your storytelling as powerful as it can be. Employ all your senses when you're behind bars so you can translate the experience vividly for your readers. Smells, sounds, the way the air feels inside a cellblock -- gather it all so you can transport readers into the place. The expressions on the faces of guards and inmates. The dripping water pipes overhead. The stifling, or freezing temperatures. The size of the cell. The menu. The tattoos. The collection of items on the wall, shelves and floor of a cell. Prison is a very colorful, almost alien world.

6) **Take care of yourself.** Prisons and jails are depressing places. They are brimming with troubled people ensnared in miserable lives. Despair and frustration and anguished proclamations of innocence are rampant. It is easy for all of it to leave you feeling drained and despondent. Don't be afraid to yell uncle when you've had enough.

Resource Guide to Covering Prisons and Jails

Organizations and Government Agencies

ACLU National Prison Project, Washington, D.C. <https://www.aclu.org/other/aclu-national-prison-project>. National litigation program for prisoners.

American Correctional Association, Virginia, http://www.aca.org/aca_prod_imis/aca_member 703-224-0194 (communications). Professional organization for prison managers, standards, accreditation.

American Jail Association, Hagerstown, MD. <http://www.americanjail.org> Professional organization for jail managers.

Association of Paroling Authorities International. Sam Houston State University, Huntsville, TX, <http://www.apaintl.org>, 936-294-1671. Organization for parole boards and other release agencies.

Correctional Leaders Association (formerly Association of State Correctional Administrators), Idaho, <http://www.asca.net>. Organization of correction agency directors.

Center on Juvenile and Criminal Justice. San Francisco 415-722-1191 <http://www.cjcj.org> nonprofit, left-leaning, good research; aims to reduce use of incarceration

Collateral Consequences Resource Center, Washington D.C., <http://ccresourcecenter.org/> Provides information about “legal restrictions and societal stigma that burden people with a criminal record long after their criminal case is closed.”

Council on Criminal Justice, www.counciloncj.org Nonpartisan think tank that “works to advance understanding of the criminal justice policy choice facing the nation and build consensus for solutions that enhance safety and justice for all.”

National Council on Crime and Delinquency. Oakland, CA, <http://www.nccdglobal.org>, 800-306-6223. Nonprofit conducts research, outreach on youth and adult corrections issues.

Prison Law Office, www.prisonlaw.com, c/o General Delivery, San Quentin, CA 94964. Nonprofit prison litigation firm. Extensive experience in cases on prison medical care, overcrowding, mental health care, juvenile corrections, parole boards, and other issues.

Prison Policy Initiative, Northampton, MA, <http://prisonpolicy.org>. Nonprofit produces research “to expose the broader harm of mass criminalization.”

Public Safety Performance Project, Pew Charitable Trusts. Washington, D.C., <https://www.pewtrusts.org/en/projects/public-safety-performance-project> Nonpartisan policy briefs, other reports on national and state-level trends related to corrections.

The Sentencing Project Washington, DC 202-628-0871 <http://www.sentencingproject.org>. Left-leaning research and advocacy group favoring less incarceration

U.S. Bureau of Justice Statistics Washington, DC <http://bjs.gov>. Justice Department agency with wealth of statistics on inmates, parolees, prisons, etc. Data usually two years behind.

U.S. National Institute of Corrections Washington, D.C., <http://nicic.org>, 202-307-3106 and 800-995-6423. Training, program development for correctional agencies. Clearinghouse for articles, other research on all aspects of the field.

Urban Institute Washington, D.C., www.urban.org, 202-833-7200. Wide-ranging work includes activity on corrections, with emphasis on parole and reentry.

Vera Institute of Justice New York City, <http://www.vera.org>, 212-334-1300. Extensive research on sentencing and corrections.

People

Note: contact info was valid as of February 2020.

Deitch, Michele 512-328-8330 mydeitch@gmail.com University of Texas adjunct professor. Attorney expert in prison conditions, oversight, management.

Dawe, Brian National Director, COPTSD Coalition (correctional officers) coptsd156@gmail.com

Fama, Steve 415-457-9144 sfama@prisonlaw.com Prison Law Office. Expert on prison litigation, especially inmate health care.

Jacobson, Michael, michael.jacobson@islg.cuny.edu, director, City University of New York Institute for State and Local Governance; former director, Vera Institute of Justice. Former correction and probation commissioner for New York City. "Author of Downsizing Prisons: How to Reduce Crime and End Mass Incarceration."

Macallair, Dan 415-621-5661 dmacallair@cj.org Director, Center on Juvenile and Criminal Justice. San Francisco nonprofit, left-leaning, good research, extensive background on California corrections, other prison trends.

Potter, Andy Executive Director, Michigan Corrections Union; founder "One Voice" national campaign providing voice for corrections officers on corrections reform. andy@mco-seiu.org

Simon, Jonathan 510-643-5169 jsimon@law.berkeley.edu University of California Berkeley School professor. Books include "Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear" and "Mass Incarceration on Trial: A Remarkable Court Decision and the Future of Prisons in America."

Specter, Don 415-457-9144 dspecter@prisonlaw.com Prison Law Office. California's most experienced expert on prison litigation.

Zimring, Frank 510-624-0854 fzimring@law.berkeley.edu University of California Berkeley Law School professor. Expert on three strikes, California prisons, criminal sentencing.

Other Sources

Corrections Department Operating Manuals. Each state should have one, outlining management policies and regulations for its prison system.

Criminologists recommended by the **Crime and Justice Research Alliance**. The nation's two leading organizations of criminologists have compiled a list of members who specialize in prisons and other corrections issues. <http://crimeandjusticeresearchalliance.org/experts/>

"American Corrections," by Todd Clear, George Cole, Michael Reisig. (Thomson Wadsworth, 2006) Comprehensive textbook on the history and evolution of corrections in the United States.

"Independent Correctional Oversight Mechanisms Across the United States: A 50-State Inventory," by Michele Deitch. <https://digitalcommons.pace.edu/plr/vol30/iss5/21/>

Reimagining Prisons. 2018 report from Vera Institute of Justice on ways to reform prisons.
https://www.vera.org/downloads/publications/Reimagining-Prison_FINAL3_digital.pdf

Transforming Prisons, Restoring Lives: Final Recommendations of the Charles Colson Task Force on Federal Corrections, <https://nicic.gov/transforming-prisons-restoring-lives-final-recommendations-charles-colson-task-force-federal>

Society of Professional Journalists - "Covering Prisons" <http://www.spj.org/prisonaccess.asp>
Primer on media access to prisons. See regulations governing journalists who visit. Not up to date as of 2020. Check states of interest for updates.

PART TWO

Covering Sentencing

Sources and resources for covering sentencing appear at the bottom of this section

REPORTING TIPS

TIP # 1: When reporting on a sentence, note that plea bargains often lead a defendant to be sentenced on fewer charges than those first brought by prosecutors. Plea bargaining takes into account the quality of the evidence, aggravating or mitigating circumstances, and each side's assessment of how it might fare in a trial.

TIP #2: Pre-sentence reports normally aren't publicly available, but reporters covering newsworthy cases should be alert to issues that may arise when they are compiled. Reporters should seek to report on any sentencing recommendation made in a pre-sentence report or made by the prosecution or defense.

TIP #3: Be aware that the word parole often is used to connote two entirely different procedures: a discretionary release from prison, and supervision in the community after prison. Many states that abolished parole may have been motivated to assure "truth in sentencing." Critics contend that to accomplish that goal, some states also shortsightedly eliminated the post-release supervision aspect. Convicts who are released without supervision and services are more prone to return to crime. News reports on sentences should state whether or when a defendant will be eligible for parole.

Introduction

"The maximum sentence: 100 years in prison without parole." That phrase in a news story about a murder case illustrates a major issue in reporting on criminal sentencing. While the phrase may be technically accurate, it reflects the view of a prosecutor, who may want to convey to the public the most serious possible description of a crime.

The description is fundamentally misleading, because no one will serve 100 years behind bars, and almost no defendants receive the maximum penalty in any case. One result of exposure to scores of such references in news stories over the years is that the public may develop a jaundiced view of the justice system, believing that lawbreakers rarely receive the sanctions they deserve.

To report in proper context, journalists should understand how sentencing practices in the United States have evolved and how they actually work in today's crowded court systems.

Understanding the Sentencing Process

There is no national system of sentencing. The federal government and each state maintain their own rules, and criminal courts may operate very differently depending on where they are. Defendants accused of identical crimes in neighboring states may end up with vastly different penalties because of varying state laws and prosecutorial practices.

This report provides an overall view of sentencing in the U.S., but journalists must familiarize themselves with the laws of their state or jurisdiction. Reporters should keep in mind that the criminal justice system “is nothing more than the sum total of discretionary decisions by innumerable officials,” as criminologist **Samuel Walker** of the University of Nebraska at Omaha puts it.

From police officers to prosecutors to judges to corrections officials, government authorities have considerable leeway in deciding how to treat those suspected of committing crimes. Journalists should be aware that the sentencing stage is only one step in a long series of decision points in the justice process, and what a judge may say in court rarely is the final word on a defendant’s fate.

From Fixed to Flexible Penalties

In the nation’s early history, crimes tended to be associated with specific penalties fixed by law. In 1870, the National Prison Association (now the American Correctional Association, www.aca.org) concluded that the practice did not give convicts much incentive to improve. The concept of indeterminate sentences is usually credited to **Zebulon Brockway**, a prison warden in New York State and later Detroit, who was a pioneer in inmate rehabilitation. The prison association declared that “preemptory sentences ought to be replaced by those of indeterminate length.”

Under this concept, which became common nationwide over the ensuing century, a parole board typically would decide on the actual length of time served behind bars depending on “its judgment of whether the prisoner had been reformed or cured or had simply served enough time,” according to a historical account prepared for the U.S. Department of Justice in 1996. “Under indeterminate sentencing, the sentence was individualized so that the punishment fit the criminal rather than the crime.”

A robber, for example, might be eligible under an indeterminate sentencing law for any prison sentence between five and 20 years, and might actually receive a sentence of five to eight years. A parole board or some other correctional authority would decide on that convict’s actual release date based on several factors, primarily his behavior record and presumed fitness to live successfully on the outside.

Indeterminate sentencing was widely used during an era when prison populations were relatively low. The national total was under 100,000 in the 1960s, less than one-tenth of what it grew to in the four decades that followed.

With crime largely out of the national spotlight, indeterminate sentencing and parole were “part of the process of making criminal justice better suited to the individual case,” wrote historian **Lawrence M. Friedman** in “Crime and Punishment in American History.”

When crime rates started to rise sharply in the 1960s, policy makers began to look for reasons for the increase and for ways to control crime. The criticism spanned the ideological spectrum. One of the many apparent culprits was sentencing. Analysts cited widespread disparities among penalties, a lack of predictability into what sanctions defendants would get, and disparities in how much time behind bars would be served.

When a chronic offender was re-arrested, critics often blamed the officials who released him and the laws that authorized them to do so. Another line of attack came from experts like federal judge **Marvin Frankel**, whose 1972 book, “Criminal Sentences: Law Without Order” argued that it was unjust to put all sentencing power over a defendant into the hands of one judge.

One big-city jurist recalls that when he and his colleagues attending a retreat were given details of a hypothetical case and were asked what sentence they would impose, the answers ranged from probation to a long prison term. Clearly, there was an inequity problem.

As a result of these and other criticisms, the U.S. “underwent a wholesale shift in sentencing philosophy” in the 1970s, says sentencing scholar **Sandra Shane-DuBow**, former director of Wisconsin’s state sentencing commission. The new ways of sentencing took many different forms. More than a dozen states moved to “determinate” sentencing laws that specified penalties for certain offenses. Most states went further by adopting “mandatory minimum” sentences for some offenses, meaning that a defendant was required to serve at least a certain amount of time behind bars before release. This was intended to eliminate sanctions that were too lenient.

The Rise of Sentencing Guidelines

Several states decided to address the problem of variations in sentence lengths with a “sentencing guidelines” framework. Usually drafted by sentencing commissions and affirmed by legislatures, guidelines set penalty ranges based on various factors, including the offender’s record and the severity of their current offense. How were the numbers calculated? Some commissions put together their collective wisdom, essentially arriving at arbitrary figures reflecting their professional judgments.

Others studied how judges had actually been sentencing defendants, and tailored the guidelines to fit historical patterns. Virginia, for example, one of 25 states with a sentencing commission as of 2015, [according to the National Conference of State Legislatures](#), provides judges with a range of recommended sentences that summarizes past practices but eliminates the extreme lowest and highest penalties.

The federal government was one of the earliest to adopt a guidelines scheme. Federal judges were required to follow the guidelines in nearly every case from 1987 to 2005, when the U.S. Supreme Court declared the guidelines advisory in the case of *U.S. v. Booker*. Since 2005, federal

judges still must consider the guideline range but have much greater leeway to impose sentences outside the guidelines.

While some of the early state sentencing guidelines were advisory from the start, four states—Minnesota, Pennsylvania, Washington and Florida—created guidelines systems that were deemed “presumptive.” Judges were required to follow them unless they could provide a rationale for a variation.

Superficially, a particular offense combined with a defendant’s criminal record correlates with a specific sentence. For example, an unarmed robber with a minimal record might expect to serve three years in prison; a second-degree murderer might be recommended for a 20-year term.

Some states provide judges with grids that lay out expected penalties based on the crimes and defendants’ criminal histories. Critics say that grids can lead to mechanical, inflexible sentencing. Virginia uses “worksheets” that try to capture the variables judges can take into account, such as how seriously a victim may have been injured or whether the defendant had a criminal record as a juvenile.

Whatever the system, reporters should be able to estimate a sentence based on publicly available information, at least in states with sentencing guidelines. Of course, the sentence would be based on charge and the resolution, whether a guilty plea or a jury verdict—not necessarily the same thing that was the basis of an arrest.

In Virginia, for example, a second offense involving crack cocaine possession may come with a sentencing recommendation of between 12 to 18 months. Although guidelines in Virginia are advisory, judges follow them about 80 percent of the time, according to the Virginia Criminal Sentencing Commission. Absent some unusual circumstance, it is safe to say that the defendant in the crack cocaine case probably will get a sentence of about 15 months. Still, because each case is different, journalists should take care to learn the judge’s reasoning for whatever penalty is imposed.

A judge who departs from the guidelines typically will cite an “aggravating” factor pointing to a higher sentence or a “mitigating” factor suggesting a lesser one. Washington, D.C., a jurisdiction with advisory sentencing guidelines, provides judges with long lists of factors to consider. An aggravating factor might be “deliberate cruelty” to a victim, “gratuitous violence,” or premeditation. Mitigating factors would include the level of aggression by the victim or the extent of the defendant’s cooperation with law enforcement.

Defendant cooperation has been a controversial element of federal sentencing guidelines. Critics complain that in many drug cases, a person high up in a drug trafficking operation can get a big sentence reduction by fingering other key participants, while a “mule” who is involved only in low-level transportation of drugs can get a tough sentence because he is unable to provide any significant evidence. The mule might end up serving more time than the trafficker.

Before the Supreme Court made the federal sentencing guidelines advisory, judges complained that their hands were tied.

Three-Strikes Life Terms

“Three Strikes and You’re Out” laws were a popular variation on mandatory minimum sentences in the 1990s. The availability of extended prison terms for career criminals had been on the books in many states for decades, but there still were notorious cases that raised complaints of “revolving doors” in which a suspect would repeatedly be convicted of felonies, and released every few years only to commit new crimes.

Five in six (83 percent) of state prisoners released in 2005 across 30 states were arrested at least once released in the 9 years following their release, [the U.S. Bureau of Justice Statistics reported in 2018](#).

In 1988, as national rates of reported crime were increasing, partly because of violence among drug traffickers, Seattle talk radio host **John Carlson** conceived of the “three strikes” slogan. He used baseball terminology to signify that a conviction on a third offense would produce a life prison term. Helping to popularize his proposal was **Ida Ballasiotes**, whose daughter had been abducted and stabbed to death by a repeat criminal. She later was elected to the state legislature.

After the idea won support and financial backing from the National Rifle Association, Washington State voters overwhelmingly enacted “three strikes” in a 1993 referendum. The month after Washington’s voters went to the polls, police in Petaluma, California, found the body of 12-year-old **Polly Klaas**, who had been abducted from a slumber party in her bedroom.

Richard Allen Davis, who was arrested for the crime, had been released after serving half of his stated term in a kidnapping case under California’s determinate sentencing law, after time was subtracted for good behavior in prison. **Marc Klaas**, Polly’s father, worked with **Mike Reynolds** of Fresno, Calif., whose 18-year-old daughter also had been killed by a career criminal, to promote an even harsher version of three strikes. Just about any felony, not necessarily a violent crime, could count as the third strike that would trigger a life sentence. California voters approved the measure in 1994.

About half of the country’s state legislatures passed “three strikes” statutes in the 1990s, supplementing the “habitual criminal” laws that already had been enacted in many places. After President Bill Clinton backed three strikes in a State of the Union address, Congress adopted it for some federal offenses. “Three strikes” laws led to many long prison sentences. So did sentencing guidelines in many states.

Prosecutors and Plea Bargains

No matter what term lengths are stated in the law, the reality is that the sentencing system is largely controlled by prosecutors, who have vast powers to decide what charges to bring in a given case. For example, a robber carrying a pipe with crack residue who uses a gun to rob an elderly person near a school could be charged with a number of different crimes involving drugs and guns.

A prosecutor decides how many charges to bring and, in many circumstances, whether they are felonies (the more serious category of crime) or misdemeanors (the lesser category). The difference can be crucial: a felony conviction that counts as a third “strike” could lead by statutory mandate to a life prison term.

Criminal defendants in the United States are entitled to a trial by a jury of their peers, but a trial can be a complex, expensive process that is used mainly when there is significant doubt about who committed a crime. A vast majority of criminal cases end with guilty pleas.

In a given case, a prosecutor may bring a collection of charges that together may carry maximum penalties under the law, totaling, hypothetically, 40 years. The prosecutor may tell the defense that he would accept a guilty plea to one of the charges that carries a maximum penalty of 10 years. The prosecutor may hope that the defendant views this as a bargain, providing certainty about the outcome as opposed to the many uncertainties that can crop up in a trial.

The defense must weigh whether the prosecution has strong enough evidence to sustain a conviction on each count if the case actually went before a jury, which can vote to convict only if there is evidence beyond a “reasonable doubt.” A defendant might also plead guilty if he is likely to be put on probation and would not be jailed pending trial.

The plea bargaining process is one reason a prosecutor may welcome a news story that emphasizes the maximum possible sentence in a case, to scare criminals into thinking that they are likely to receive the maximum. On the defense side, an attorney will advise a client how much time is actually likely to be served in the jurisdiction involved under a variety of possible outcomes.

If a defendant is convicted in a trial, the court must consider all counts on which there was a conviction. Sentences may be ordered to be served consecutively (one after the other) or concurrently (at the same time). That could mean, for example, that a 10-year term is imposed on each of three counts but the terms are served simultaneously, not back to back. The difference is vast: 10 years maximum vs. 30 years.

The difference between consecutive and concurrent sentences can be confusing. If there is any doubt about what a judge has ordered, ask the judge directly or a court clerk to make sure there is no misunderstanding about the actual sentence. Journalists should consider not only the current case but also whether any charges against a defendant in another jurisdiction might affect the sentence. For example, a 10-year sentence in the court you are covering might be just a small fraction of a likely sentence in a case against the same defendant pending in another state.

Sentences after a jury verdict are likely to be longer than those agreed to in a plea bargain because they can involve many more charges. That means defendants may be taking a chance by arguing their case to a jury. A few states still allow juries to recommend sentences that judges may be unable or unwilling to reduce. Because jurors tend to impose harsher sentences than judges, criminal jury trials may be uncommon in those places. Defendants in those jurisdictions may go to great lengths to avoid being sentenced by a jury.

Once a plea deal has been negotiated or a jury verdict is in, a pre-sentence report will be prepared, usually by a probation agency. This involves a review of the defendant's criminal record, family situation, and educational and work background. The agency may also use risk assessment tools to help assess how likely a defendant may be to commit new crimes if not in custody. Defendants may collect their own materials in addition to those in the official pre-sentence report, asking others to write to the judge in their support.

Pre-sentence reports normally aren't publicly available, but reporters covering newsworthy cases should be alert to issues that may arise when they are compiled. One of them is the extent of a criminal record. Despite some improvements in record keeping, many state databases remain vastly incomplete. For this reason, it may become clear only during a pre-sentence investigation that a defendant's record is more serious than it appeared when a plea bargain was agreed to. That may influence a judge, who usually considers the risk that a defendant will commit more crimes.

In major cases, especially in the federal system, the prosecution and defense may submit written memos suggesting particular sentencing outcomes and setting out aggravating and mitigating factors.

The formal sentencing typically occurs several weeks after a guilty plea or jury verdict, so that the sentencing report can be prepared. At the proceeding, a judge will ask the prosecution for a recommendation, and the defense for a response. The defendant is allowed to speak, and the judge then pronounces a sentence.

Depending on the judge and the case, sentencing can take only a few minutes in assembly-line fashion or much longer, in controversial cases or those involving multiple defendants. Although usually routine, sentencing proceedings can sometimes result in dramatic stories if the participants choose to disclose new information or express their feelings about a crime.

In the past, aggressive defense attorneys have been able to reduce many sentences by bringing in experts who would argue, for example, that a defendant suffered from a mental condition that when treated could prevent future criminal behavior. That and other favorable evidence might persuade a judge to grant probation or a short term behind bars.

The Role of the Victim

The playing field has been changed drastically in some cases because of a growing victim-rights movement dating from the 1980s. Historically, a criminal case centered on a defendant, his culpability and penalty. Crime victims argued that they had been left out of the equation. They successfully lobbied for laws guaranteeing them a role in the process.

Now, in all 50 states and at the federal level, crime victims have the statutory right to submit victim impact statements (VIS) at sentencing. This can include presentations to the court in person; in writing; or on audiotape or videotape. Such statements can be powerful in violent crimes. In the case of homicides, the courtroom at sentencing can be turned into a virtual memorial service for the victim.

The impact varies from case to case. In places with sentencing guidelines that largely control the result, judges may regard such testimony as “theater” that has little impact on the penalty. In some cases, however, victim-impact evidence can influence a judge to impose a tougher penalty.

An example of a [powerful victim impact statement](#) was the one given in 2016 by a woman who was raped by Stanford University swimmer **Brock Turner**. The judge, however, imposed only a six-month jail sentence, prompting widespread protests and the judge’s removal from the bench by voters in 2018.

Victims' rights provisions often are included as part of the sentence. In all states, victims have the right to be notified about the status and location of the offender. While statutes vary, the court may provide protective orders (also called "stay-away orders") that prevent convicted offenders from being in contact with victims.

In all states, the prosecutor can request that the offender pay financial obligations to the victim (including restitution and child support), which can be included in the sentence.

Non-Prison Sentences

An increasingly popular sentencing option is known as a deferred prosecution. As part of a plea bargain, a defendant may agree that if he or she avoids any legal trouble for a specified period, the case will be dropped. One advantage of this arrangement is that the defendant will have no criminal record if the case is never pursued, giving him a greater chance to obtain a job.

This procedure sometimes is known as a “diversion,” and often includes court-ordered treatment programs. This is different from probation, which would remain on a person’s criminal record. Most such non-prison sentences are administered by specialized courts that have sprouted up nationwide.

Most common are drug treatment courts, which started in Miami in the late 1980s and now are operating or planned in over 3,000 jurisdictions, [says the U.S. Justice Department](#).

New York City started a “community court” in the early 1990s that hears local non-violent cases like 47 loitering, graffiti-posting, and subway fare jumping. Also proliferating are “mental health courts” to hear cases linked to mental illness. The number has grown from four in 1997 to more than 300, with programs found in almost every state, [says the Council of State Governments Justice Center](#).

Prison for Most Felons

Under today’s tougher sentencing laws, a majority of convicted felons go to prison.

The U.S. Bureau of Justice Statistics stopped collecting local court data on this subject in 2006, [but in that year](#), 41 percent of those convicted of felonies were sentenced to state prisons and another 28 percent went to jails, which generally house people sentenced to one year or less. Some 27 percent were put on probation with no prison or jail time. Only four percent got

sentences that included no time behind bars or probation but rather some combination of fines, restitution to victims, community service, house arrest, or periodic drug testing.

Even when a defendant is put on probation, the judge typically imposes a sentence and then “suspends” it for a certain period. That is a notice to the defendant that if he commits a new crime or merely fails to appear for a drug test or an appointment with a probation officer, his probation may be revoked and he can be sent to prison or jail.

Again, journalists should be alert to the intent of a judge, who may announce a sentence of, say, five years in prison, only to suspend it and impose probation.

Truth in Sentencing

Convicts rarely are expected to serve their maximum sentences (for example, six years on an initial sentence of four to six years) That’s because of several important factors, such as “good time” and parole. Under good time (sometimes called “earned time”), an inmate’s total sentence length is reduced for each month of good behavior in prison.

The availability of good time gives inmates some incentive to behave. Traditionally, good time has amounted to about 15 percent of a defendant’s stated term, or roughly one day per week. That percentage figures in a concept that gained prominence starting in the 1980s called “truth in sentencing.”

Taking credit for that phrase were then-junior Republicans in the U.S. House of Representatives, **Newt Gingrich** of Georgia and **Dan Lungren** of California, who complained that the public often heard about a lengthy-sounding sentence number only to learn later that the defendant had been set free by a parole board long before that time had elapsed.

The Republicans insisted on putting “truth in sentencing” into federal law, thus eliminating parole, when they negotiated the 1984 federal crime bill that established the U.S. Sentencing Commission. Federal practices in criminal justice often influence the states, but “truth in sentencing” didn’t spread quickly. Only five states had embraced it by 1993.

The next year, in another omnibus federal crime law, Congress decided to tie federal aid for building state prisons to a requirement that states must pass “truth in sentencing” laws to be eligible. Within five years, 22 more states adopted the 85 percent rule. The infusion of federal aid encouraged another burst of prison construction, which is one reason prison populations continued rising in the 1990s while crime total declined.

The increase in prison population had a definite but limited impact in reducing crime, say experts like William Spelman of the University of Texas.

Probation-Parole Differences

The practices of probation and parole are frequently misunderstood both by journalists and the public. Both terms refer to supervised release of convicts outside of prison. Probation normally is granted by judges in lieu of prison; parole is granted by a parole board and occurs after release from prison. A “split sentence,” however, may include probation that follows time

behind bars. Probation and parole operations are discussed in more detail in Part Three of this handbook.

Both probationers and parolees are given a set of conditions, for example reporting to an officer on a set schedule, finding a job, enrolling in an educational program, or undergoing drug tests. Under parole, the corrections system or a separate paroling authority is given the authority to release inmates to community supervision.

Traditionally, an inmate becomes eligible to apply for parole release after serving a specified portion of the sentence. Parole boards may approve a release after examination of various risk factors, including an inmate's behavior record in custody and prospects for employment, housing, and family assistance outside the prison.

A few states, such as Florida, Illinois, and Virginia, abolished parole in the last two decades, usually opting for systems that eliminated discretionary releases of inmates. Be aware that the word "parole" often is used to connote two entirely different procedures: a discretionary release from prison, and supervision in the community after prison. States that acted to abolish parole may have been motivated to assure "truth in sentencing."

Critics contend that to accomplish that goal, some states also shortsightedly eliminated the post-release supervision aspect. Convicts who are released without supervision and services are more prone to return to crime.

STORY THEMES

It may seem odd that the U.S. prison population has remained high for many years as crime totals have fallen. A combination of several factors is responsible. A major one has been that overall, sentencing laws have been toughened.

Still, the National Opinion Research Center has reported for many years, [as recently as 2018](#), that a majority of the public believes that sentences are not severe enough. This is due at least partly to news reports over many years about chronic criminals. Legislators have tended to view harsher sentences as a simple remedy, to keep lawbreakers off the street longer.

The underlying crime rate was a major contributor through the early 1990s. Reported crime has been dropping ever since, with some minor increases in a few time intervals since 2000 in crime reports compiled by the Federal Bureau of Investigation from state and local law enforcement agencies.

In 2017, more than 600,000 people were admitted to prisons, [says the U.S. Bureau of Justice Statistics](#). Of these, more than 400,000 arrived on sentences from courts and nearly 175,000 were sent on the basis of probation or parole violations.

In some states, such violators account for a large percentage of those entering prison. States that admitted more than half of their prisoners for violations of conditions of probation or parole in 2017 were Washington (71 percent), Idaho (71 percent), Vermont (65 percent), Utah (55 percent), Maine (53 percent), New Hampshire (50 percent), and Pennsylvania (50 percent).

“In essence, the entire correctional system is feeding on itself, as the larger parole and probation populations create more violations, which in turn feeds the prison system,” said **James Austin**, a consultant who advises states on corrections policy.

Despite the wave of laws providing for higher sentences, it is not actually the length of the stated sentence but rather the amount of actual time served that helped drive the prisoner totals upward for many years.

The average sentence to a state prison for a violent crime dropped between 1994 and 2004 from 10 years to 7 ½ years (about five years for all convicts), according to the U.S. Bureau of Justice Statistics. The averages were roughly the same for defendants in the nation’s 75 largest counties as of 2009, the most recent data available, [BJS reported](#).

The average length of time served in prison for inmates released in 2016 was 2.6 years, [BJS reported](#). Violent offenders served 4.7 years in state prison on average, compared to less than 2 years for other offenders, the report said. Those inmates served an average of 46 percent of their maximum sentence length before their initial release.

Since 2000, the average time served by prisoners has risen in all 44 states (including the District of Columbia) that reported complete data to the National Corrections Reporting Program, [the Urban Institute reported in 2017](#).

Advocates of longer terms correlate the increase in imprisonment with the drop in crime, arguing that crime started declining in the 1990s in part because of the prison boom. One problem with the argument is that the national prison population has been rising since 1980, and crime did not decrease consistently after that, peaking in 1993.

Several analysts have concluded that the increased prison population accounted for somewhere between 10 percent and 25 percent of the crime decline. (See a detailed explanation by William Spelman in “The Crime Drop in America,” Cambridge University Press, 2000).

The combined federal and state imprisonment rate, not including those in local jails, was about 250 per 100,000 population in 1988. By 2007, it had risen to 506 per 100,000, and the prison population was still rising. Then it began to decrease, hitting 440 in 2017, a drop of nearly 13 percent over a decade.

Options for the Future

Critics of long sentences contend that they generally fail to accomplish much beyond the typical criminal’s peak years of activity in the teens and 20s. Not many new crimes would be committed by those who are released at age 35, yet many remain in custody far longer than that under “three strikes” laws, and that has brought higher medical treatment costs for an aging inmate population.

Some experts say crime and corrections costs both could be cut by better analysis of which convicts could benefit from supervised release in the community. One idea is that punishments like probation, fines, short jail stays and financial restitution to victims would be preferred for those who caused relatively little financial, psychological or physical harm. Some advocates of

reform contend that swiftness and certainty of sentences can be more significant in reducing crime than is their length.

Advocates of retaining the current practice of long sentences contend that, by and large, the appropriate people are being put in custody. Because of plea bargaining, the argument goes, many of those in prison have much more serious offense histories than is reflected by their eventual guilty plea.

Supporters of harsher sentences say it is a myth that many people in custody are low-level drug users. In all, about one in five inmates are serving a sentence for a drug crime, [says the Prison Policy Initiative](#).

Although prison populations are down modestly in the first two decades of the twenty-first century, there have not been radical overhauls of sentencing laws, largely as a result of politicians' continued fears of being labeled "soft on crime."

Several more states enacted reforms in 2019, but a [review by the Sentencing Project](#) concluded that "most measures will have a modest impact on the scale of incarceration."

Some reform advocates have pressed for "second look" laws that allow for sentence reductions when the original penalty seems unreasonable or unjust.

The National Academy of Sciences published [a large volume](#) in 2014 analyzing the growth in U.S. imprisonment and made recommendations "to reduce the nation's reliance on incarceration."

Several national organizations such as [#cut50](#) work to decrease incarceration, but their impact has been mixed as states constantly review their policies on sentencing and related issues.

Resource Guide to Covering Sentencing

Organizations and Government Agencies

Council of State Governments Justice Center New York City. www.csgjusticecenter.org, 212-482-2320, press@csgjusticecenter.org The center promotes effective data-driven practices—particularly in areas in which the criminal justice system intersects with other disciplines, such as public health—to affect a particular public safety problem. The center has focused on prisoner re-entry and "justice reinvestment" among many other issues.

Families Against Mandatory Minimums Washington, D.C. www.famm.org, 202-822-6700 rburks@famm.org or tlaino@famm.org <http://www.famm.org> media@famm.org The organization was founded in 1991 by Julie Stewart, whose brother, a first-time drug offender, received a mandatory minimum prison term of five years for growing marijuana. Stewart started the group to campaign against such laws on the federal and state level. As of 2020, it was headed by Kevin Ring.

National Association of Sentencing Commissions www.thenasc.org admin@thenasc.org The association was formed to exchange information among the state sentencing agencies.

National Center on Institutions and Alternatives Baltimore www.ncia.net.org, 443-780-1300
The center, founded by advocates of alternatives to incarceration, helps arrange treatment for emotionally disturbed youth, developmentally disabled adults and adolescents, and others involved in the criminal justice system.

Pew Center on the States Public Safety Performance Project Washington, D.C.
<https://www.pewtrusts.org/en/projects/public-safety-performance-project> Jake Horowitz, director. (202) 540-6434 (media) Launched in 2006, the project says it works with states to advance data-driven, fiscally sound policies and practices in the criminal and juvenile justice systems that protect public safety, ensure accountability, and control corrections costs.

Robina Institute of Criminal Law and Criminal Justice, University of Minnesota Law School, www.robinainstitute.umn.edu, robina@umn.edu, (612) 626-6600. Expertise on sentencing guidelines, prison release, and community supervision.

U.S. Sentencing Commission (U.S.) Washington, D.C. 202 502-4500 www.ussc.gov
pubaffairs@ussc.gov The commission is a judicial branch entity whose seven members are appointed by the President and confirmed by the Senate. It was created in a 1984 federal anticrime law to recommend sentencing guidelines for federal judges. The guidelines became effective in 1987, but the Supreme Court ruled in 2005 that judges are not bound to follow them. The commission still makes recommendations and sponsors studies on sentencing issues.

Sentencing Commissions (States) Twenty-one states and the District of Columbia have created their own sentencing commissions to sentencing policies. Links to those commissions can be found [at this site](#).

The Sentencing Project Washington, D.C. 202-628-0871 <http://sentencingproject.org> The organization promotes reforms in sentencing law and practice, and alternatives to incarceration. It was founded in 1986 to provide sentencing advocacy training to defense lawyers. It now campaigns on a number of issues, including racial disparity in the justice system, disenfranchisement of felons, and convicts' loss of welfare, education, and housing benefits after minor drug convictions.

Vera Institute of Justice New York City 212-334-1300
<https://www.vera.org/centers/sentencing-and-corrections> Vera's Center on Sentencing and Corrections (CSC) provides nonpartisan support to government officials and criminal justice professionals on sentencing and corrections policy. Using empirical data and evidence-based practices, the institute identifies emerging trends and issues and helps develop cost-effective strategies for protecting public safety.

PEOPLE

Contact info valid as of February, 2020

Austin, James Malibu, Ca./Washington, D.C. www.jfa-associates.com (310) 867-0569 jfainstitute@gmail.com Austin's consulting firm "works in partnership with federal, state, and local government agencies, and philanthropic foundations to evaluate criminal justice practices and design research-based policy solutions."

Berman, Douglas Ohio State University <https://moritzlaw.osu.edu/faculty/douglas-berman/> (614) 688-8690 berman.43@osu.com Berman specializes in criminal law and criminal sentencing. He is co-author of a casebook on the subject ("Sentencing Law and Policy: Cases, Statutes and Guidelines; Aspen Publishers) and has served as an editor of the *Federal Sentencing Reporter* for more than a decade. Berman is the creator of the widely-read Weblog "Sentencing Law and Policy" (<http://sentencing.typepad.com>) and is widely quoted in the media. His blog posts have been cited in many court rulings and briefs.

Bowman III, Frank O. University of Missouri <https://law.missouri.edu/person/frank-o-bowman-iii/> (573) 882-2749 bowmanf@missouri.edu Bowman is a former prosecutor, both for the U.S. Justice Department criminal division and the Denver District Attorneys' office. He formerly served as a special counsel to the U.S. Sentencing Commission, and is an expert on sentencing guidelines.

Levin, Marc Austin, Tx. <https://www.texaspolicy.com/about/staff/marc-levin> (512) 472-2700 (e-mail him via his Web site) Levin is a director of the Center for Effective Justice at the Texas Public Policy Foundation. He focuses on sentencing and corrections issues from a free-market perspective. He has served as a law clerk on the U.S. Court of Appeals for the Fifth Circuit.

Love, Margaret Colgate Washington, D.C. <http://www.pardonlaw.com> (202) 547-0453 Margaretlove@pardonlaw.com Love specializes in executive clemency and restoration of convict rights, as well as sentencing and corrections policy. She served in the U.S. Justice Department as Pardon Attorney between 1990 and 1997. She is director of the Collateral Consequences Resource Center, www.ccreourcecenter.org

Reitz, Kevin University of Minnesota <https://www.law.umn.edu/profiles/kevin-reitz> (612) 626-3078 reitz027@umn.edu Reitz specializes in sentencing law and policy. In 1993, he organized the first meeting of the National Association of Sentencing Commissions. He formerly served as co-reporter of the American Bar Association's committee on criminal justice standards for sentencing.

Robinson, Paul University of Pennsylvania Law School <http://www.law.upenn.edu/cf/faculty/phrobins> (215) 898-1017 pfr@law.upenn.edu Robinson was a member of the U.S. Sentencing Commission in the 1980s and has written extensively on sentencing and issues of punishment theory.

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Smith, Michael University of Wisconsin Law School <https://law.wisc.edu/profiles/mesmith4@wisc.edu> (608) 263-7762 Mesmith4@wisc.edu Smith joined the law school in 1995 after 16 years heading the Vera Institute of Justice in New York City. He serves on the editorial advisory board of the *Federal Sentencing Reporter*, which was started by Vera after the federal sentencing guidelines became effective in the 1980s. He served on many criminal justice boards in New York city and state, including the New York State Sentencing Guidelines Committee, and on the U.S. Sentencing Commission Advisory Committee on Alternatives to Imprisonment.

Stith, Kate Yale Law School <https://law.yale.edu/kate-stith> (203) 492-2992 kate.stith@yale.edu Stith is a former federal prosecutor in New York City, where she handled white-collar and organized-crime cases. She has served as an adviser for the American Law Institute project Model Penal Code Sentencing. She wrote a book, “Fear of Judging: Sentencing Guidelines in the Federal Courts” (U. of Chicago Press 1998) with her husband, Judge José A. Cabranes, of the U.S. Court of Appeals for the Second Circuit.

Tonry, Michael University of Minnesota <https://www.law.umn.edu/profiles/michael-tonry> (612) 625-1314 Tony001@umn.edu Tonry is a close observer of sentencing policies both in the United States and abroad. He has been a visiting professor at the University of Lausanne, Switzerland, and a senior fellow of The Netherlands Institute for the Study of Crime and Law Enforcement. He edits “Crime and Justice” – an annual review of justice research. His recent books include “Punishing Race” (Oxford University Press, 2011) and “Sentencing Fragments” (Oxford University Press, 2016).

Articles, Books, Reports, Research

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Frankel, Marvin, “Criminal Sentences: Law Without Order” (Hill and Wang, 1973)

Friedman, Lawrence M., “Crime and Punishment in American History” (Basic Books, 1993)

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PART THREE

Covering Community Corrections, Probation and Parole

Note: A resource guide to covering Community Correction, Probation and Parole appears at the end of this section

REPORTING TIPS

#1 The terms probation, parole, and community corrections refer to a range of punishments for offenders outside prison walls. Every state's system is different. Make sure you know how it works in your jurisdiction and the legal status of people you mention in stories; probation and parole are not the same.

#2 At one time it was routine for probationers and parolees to be jailed for minor rules violations. States increasingly are devising more sophisticated risk assessment tools and "graduated sanctions" to keep more convicts from repeatedly returning to prison. Is this happening in your area?

#3 More than 600,000 prisoners are released every year nationwide. The federal Second Chance Act of 2007 (reauthorized by the 2018 First Step Act) supports programs that work with ex-convicts on key problems like housing, jobs, education, and drug treatment. Find out how this money is being spent in your state?

Introduction

When most people think about corrections in the United States, they picture high-security prisons encircled with electric fencing, or jails teeming with inmates watched by uniformed guards. At last count, the nation housed nearly 2.2 million people in its sprawling network of federal, state and local lock-ups. That means that nearly 1 in 100 adults is behind bars, an incarceration rate vastly exceeding that of any other country.

While such statistics are startling, a far greater number of supervised offenders – more than two-thirds – are not behind bars. Instead, they live among the rest of us in the community, either on parole, probation, house arrest or under some other form of correctional watch.

During the past several decades, the number of offenders under correctional supervision in the community has skyrocketed, and totaled a staggering 4.5 million at the end of 2016. The total number under "correctional supervision" dropped for nine consecutive years as of that year. National statistics compiled by the Justice Department are several years behind.)

All the attention paid to long sentences like "three strikes and you're out" life terms have masked the reality that most inmates serve relatively short stints in custody.

The average length of stay was about 2.6 years for inmates released in 2016, [says the U.S. Bureau of Justice Statistics](#). That means that more than 600,000 people are released each year, many of them into the strained community supervision system.

Despite such high numbers, the vast array of programs and neighborhood based sanctions collectively described as “community corrections” has received comparatively little coverage by the news media.

Lawmakers in many states have tried to cut correctional costs that ballooned during a decades-long build-up of the incarcerated population. Their quest put a new focus on community corrections, an alternative that costs dramatically less than housing offenders under 24-hour guard behind bars.

On average, prisons cost state governments about \$91 per inmate, per day – or more than \$33,000 annually, based on data collected from 45 states by the Vera Institute of Justice for 2015.

The daily cost of supervision on probation or parole is much lower, [\\$5.55 in North Carolina in 2019](#), for example.

Layering drug treatment, job training or electronic monitoring on top of such supervision can increase the cost, but not as high as the price of round-the-clock incarceration. Moreover, offenders in many states are required to pay a portion of their community supervision costs, as well as paying restitution to victims.

For journalists, the expanding interest in community supervision creates an opportunity to explore a corner of the correctional world that has been overshadowed – even neglected – for years. Much of the coverage has focused on ex-convicts who committed serious crimes while on probation or parole, or the released sex offender who stirred an uproar by moving into a peaceful residential neighborhood.

Crime by those under supervision is a legitimate subject for coverage, but reporters have devoted surprisingly little sustained attention to the management of the millions of offenders who ride our buses, shop in our grocery stores, walk our park trails, and live in our midst.

Even less journalistic effort has been invested in assessing the effectiveness of community corrections programs and the science that underlies them.

Simply defined, community corrections refers to a range of alternative punishments for offenders, often those convicted of property and drug offenses. The centerpiece of supervision is probation and parole. Also under the community corrections umbrella are drug courts and residential drug treatment facilities, home detention with electronic monitoring, day reporting centers and other options.

In some instances, programs are used on the “front-end” of the criminal justice system to divert defendants from prison or jail onto probation and into a community-based setting offering rehabilitation services. In other cases, judges use halfway houses or other facilities as a “back-end” or post-custody alternative for parolees who need assistance, treatment or extra monitoring upon release from prison.

Community corrections options have proliferated dramatically, especially since prison overcrowding starting in the 1980s prompted new interest in alternative sanctions. While the

number of offenders under correctional watch in the community has soared, sufficient funding has rarely followed.

Probation and parole agencies often lack the resources they need to monitor convicts effectively, let alone ensure they receive quality drug treatment, mental health care, job training or other services to reduce the odds they will reoffend. University of Pennsylvania political scientist **John J. DiIulio** summed up the state of affairs two decades ago this way: “Currently we spend next to nothing on community corrections. We get what we pay for.”

Journalists can find stories in the emergence of “techno-corrections” – the brave new world of devices and techniques that allow more intensive surveillance of offenders. From ignition interlocks to real-time GPS satellite monitoring, government has an expanding box of tools to track paroled sex offenders, gang members and others on the streets.

The advancing science of risk assessment – or determining whether an offender’s characteristics and history make him or her suitable for community supervision and, if so, what sort of programs best fit the needs – is also a natural target for media investigation.

Corrections agencies often toss out figures showing how a pet program reduces recidivism, claims that often coincide with requests for additional funding. Journalists should beware of such reports, and never take them at face value. What do the data really say? Did the study include a control group? How strong is the science behind it?

Experts say that any program that claims to have reduced recidivism by more than 10 to 15 percent is suspect. Community corrections is an evolving field that is ripe for scrutiny by journalists. And when it comes to public safety, no other piece of the nation’s byzantine correctional system matters more.

Nuts and Bolts Probation

The vast majority of offenders supervised in the community are on probation or parole. The two practices share some common elements but are distinctive in one important respect: in general, probationers remain in the community in lieu of prison, while parolees have served time behind bars. (Some “split sentences” involve incarceration that is followed by probation.)

Because of their extensive use, and because they are often misunderstood by the news media and the public, probation and parole deserve a careful look. Probation is a court-imposed punishment that allows a convict to remain free in the community under a suspended sentence. Offenders placed on probation – derived from the Latin word *probatum*, for the “act of proving” – typically have committed lower-level crimes and are required to meet certain conditions and standards of behavior while reporting to a probation officer.

Conditions vary according to the offense, but may include drug testing and treatment; regularly scheduled meetings with a probation officer; mandatory employment; payment of restitution to crime victims; community service; rules limiting travel outside the jurisdiction, and participation in anger management or domestic violence classes.

The probation process starts after a defendant pleads guilty or is found guilty by a jury, when a probation officer prepares a pre-sentence report. This is based on interviews with the defendant, his family members, and others who can offer background on the defendant's skills and health issues, among other things. The officer also does a thorough criminal record check.

If the penalty isn't set by state sentencing guidelines, the report may include a risk assessment and will recommend whether probation should be granted. Judges have significant discretion in imposing probation, and generally make their determination after considering the nature of the offense and the offender's criminal history. In ordering probation, a judge implicitly threatens the imposition of more serious sanctions – either more stringent conditions or a term in custody – should a probationer violate the terms set by the court.

Probation's origins in the U.S. date to the mid-19th century, and are generally linked to a Boston boot-maker and philanthropist named John Augustus. Augustus, often referred to as the nation's first probation officer, appeared as counsel for defendants in Boston police court and also provided bail and found housing for the accused. A pioneering figure in the correctional field, he conceived the ideas of supervision conditions, social casework, reports to the court and revocation of probation. Eventually, probation spread to other states and to the federal justice system.

Ultimately, the humanitarian approach put forth by Augustus – whose principal goal was behavior reform and guidance of offenders toward a law-abiding existence – came under challenge by those who emphasized more of a law enforcement model.

As criminologist **Todd Clear** of Rutgers University has written, "The strain between the so-called law enforcer role of probation, which emphasizes surveillance of the offender and close controls on behavior, and the social worker role, which emphasizes provision of services to meet offenders' needs, remains today – with no resolution in sight."

Either way, probation is a highly popular sanction within the criminal justice system – and not just for misdemeanants. Nationally, about 25 percent of felony defendants in state courts were put directly on probation as of 2009, the [latest data available](#) from the U.S. Bureau of Justice Statistics.

Probation numbers and practices vary greatly from state to state. A [BJS report](#) showing data as of year-end 2016 said the numbers on probation per 100,000 adult population ranged from 2,680 in Rhode Island to 366 in New Hampshire. (Georgia had led the nation in probation rates in previous years but did not provide data in 2016).

Most adult probationers share characteristics such as low educational attainment, limited employment history or job skills, mental illness, or gang involvement. Studies have shown that about 70 percent of probationers have used illegal drugs, and about half were under the influence of drugs or alcohol at the time of their arrest.

While most probation departments are operated at the state level, often in combination with parole, in a handful of states, including California, probation is a county government function, while parole is operated by the state.

Parole

Parole derives from the French term *parol*, meaning "word," as in word of honor. Parole is similar to probation in that offenders promise to meet certain conditions in order to stay free in the community. Unlike probationers, parolees have spent time in prison and are released to serve the remainder of their sentence under supervision by a parole agent. Parole supervision generally lasts one to three years, though it can stretch considerably longer in some states.

[Figures from the Bureau of Justice Statistics](#) show that about 875,000 U.S. adults were on parole at the end of 2016, nearly all of them set free after serving at least one year in prison.

Parole's early development is usually credited to Alexander Maconochie, who ran the English penal colony at Norfolk Island, off the coast of Australia, beginning in 1840. Described as a visionary, Maconochie believed rewards for good conduct, labor and study would motivate prisoners, and he established a system to gradually prepare them to reenter society. Prior to that time, prison sentences were all stick, no carrot. "When a man keeps the key of his own prison he is soon persuaded to fit it to the lock," Maconochie reportedly said.

In the United States, Michigan penologist Zebulon Brockway became the first to introduce a system of indeterminate sentencing and parole release, at a youth reformatory in New York. The dual concepts spread quickly across the country, and by 1927, all but three states had established a parole system.

Discretionary Parole

In some cases, parolees are released by appointed parole boards that consider various factors in assessing an offender's readiness to rejoin society. This practice is called discretionary parole. As late as 1977, three out of four inmates were released from prison in this fashion.

In evaluating an inmate's suitability for release, parole boards typically hold a hearing and consider prison record, various risk factors, insight into causes of criminal conduct, future plans, prospects for employment, housing and family support. Eligibility for such a hearing varies widely among the states.

Often, inmates are referred for parole consideration at the end of a minimum term, minus "good time" earned through a clean record and completion of educational classes or other prison programs. In other states, eligibility is at the discretion of the board or is calculated after a portion of the maximum sentence is completed.

Despite the presence of guidelines and criteria for evaluating inmates, subjective factors, including politics, can often influence parole decisions. As appointees, parole commissioners are sensitive to public perceptions, and may even receive direct or indirect pressure from those who name them to the board. In California, for example, **Gray Davis**, who served as governor from 1999 to 2003, made headlines when he announced that no murderers would be released on his watch—no matter the nature of their crime, their prison record or other mitigating circumstances, such as a battered woman who killed her abusive spouse.

A high-profile crime committed by a convict can also make parole board appointees – many of whom hail from law enforcement backgrounds – more cautious. Massachusetts, home of the infamous Willie Horton case, underscores this point. Horton, a convicted murderer who raped a woman while released on a weekend furlough, became a household word during the 1988 presidential campaign, when Republican candidate George H.W. Bush used the incident to portray his Democratic opponent, Massachusetts Governor Michael Dukakis, as soft on crime.

Dukakis lost, Bush became president, and between 1990 and 1999, the Massachusetts parole grant rate dropped from 70 percent to 38 percent. The power to grant parole, according to the late criminologist **Joan Petersilia**, historically “was believed to contribute to prisoner reform, by encouraging participation in programs aimed at rehabilitation.”

Representing a light at the end of the proverbial tunnel, parole encourages good conduct inside prison, giving wardens a tool for maintaining control. And, though politicians have been loathe to admit it, parole’s use has often served as an important release valve for prison overcrowding.

At one time, discretionary parole represented the exit door through which 95 percent of prisoners returned to society. Beginning in the late 1970s, states began moving toward determinate sentencing as parole boards came under criticism both from the right and left. Conservatives argued that parole commissioners were releasing too many inmates too early. Liberals argued that the subjectivity of the process led to disparities in prison time served, and in particular, created bias according to race and class.

More generally, critics questioned whether parole release and supervision reduced recidivism. Parole boards in most states still exercise discretion on when some inmates should be released, but each state’s law is different. In many states, a convict must serve some specified percentage of his stated term before being considered for release.

Among violent offenders, many states require serving 85 percent of the term before parole may be granted. A typical procedure is mandatory release to parole. This occurs after an inmate has served time equal to his total prison sentence, minus any good time. If the parole board does not have the discretion to judge whether an inmate has matured in prison and is prepared to rejoin society, mandatory release is merely a function of bookkeeping.

Many more convicts are released in this way than formerly was the case, when parole boards made most of the decisions.

As with probation, the number of parolees per 100,000 adult residents varied greatly among states at the end of 2016, from 1097 in Pennsylvania to two in Maine.

CAUTIONARY NOTE: Be aware that the word “parole” has two different meanings in the correctional context. One refers to a discretionary release from prison. The other relates to an offender’s supervision in the community after prison.

Journalists who refer to states or proposed measures that “abolish parole” should specify whether this means only ending discretionary release of inmates or also applies to supervision after a convict is back in the community.

Enforcement Officers and Agents

They may not wear uniforms, but parole agents and probation officers are essentially the prison guards of the streets. In many ways, their fundamental mission is similar: oversee offenders to ensure they comply with the rules, help them succeed, but recommend a return to custody when warranted.

A deeper look shows that both kinds of officers are asked to play two sometimes conflicting roles: cop and social worker. On the enforcement side, they ensure compliance with conditions set by a parole board or court; restrict various aspects of an offender's life; and initiate revocation if a slip-up merits it. They may search a parolee or probationer's apartment without a warrant or cause; order drug testing without warning; or show up unannounced at the workplace.

On the humanitarian side, agents and officers are charged with linking offenders with drug treatment or other community services, helping them find jobs and otherwise guiding them toward a crime-free future.

Parole agents typically receive training at a correctional officers' academy, and are likely to carry weapons. Their salaries are often higher than those who handle strictly probation cases, and they are more likely to make arrests. Probation officers often must have a degree in social work or criminal justice. Unlike parole agents, they may collect restitution and court-imposed fines.

Caseloads

Not all parolees and probationers are alike, and their level of supervision depends on the risk they pose to the community, their need for treatment and other factors.

At one time, the average probation officer has about 100 offenders per caseload, while parole agents average about 60 parolees under their watch, but [an analysis](#) in 2018-19 by the Justice Management Institute warned that using average figures like this "essentially masks the higher level of effort used to supervise high-risk clients (or conversely lower level of effort to supervise low risk clients)."

Higher-risk offenders, such as those convicted of driving under the influence, sex crimes, domestic violence or those who need extensive treatment for mental illness, are often placed on "specialized caseloads" that increase the supervision level.

Probationers on a regular caseload might be required to undergo a face-to-face meeting as rarely as once a year, while offenders on specialized lists may receive two to four visits per month, sometimes more. Probationers and parolees formerly reported in to a central location, but officers are more likely these days to visit their charges in the community, whether at their residences, work places, or other agreed-on locations.

In Washington, D.C., for example, officers are instructed to make half of their contacts in the community. Often, these are spot checks, in which a probation/parole officer will visit a convict unannounced, sometimes in the company of a police officer in case of trouble. Even if the

offender is not home, the officer takes the opportunity to inspect his living arrangements and interview anyone else present.

Fiscal woes have prevented many jurisdictions from reducing probation and parole officers' caseloads markedly.

The quality of supervision may suffer. In San Francisco, the caseload ratio for "general" probationers has periodically climbed as high as 400 to 1, says **Jeanne Woodford**, the county's former chief probation officer. Aside from an annual address and background check, often done by telephone, officers have virtually no contact with the offenders they are supposed to oversee, some of whom have been convicted of violent crimes. "When probation functions correctly, with small, intensive caseloads, it can do a tremendous job," Woodford said. "But that's the exception today."

In past years, some newspapers have reported in depth on their states' probation and parole practices.

After several high-profile crimes by probationers and parolees in South Carolina, the *Charleston Post and Courier* published a series in 2008 detailing how an average caseload of 109 was leaving officers very little time to check on the convicts assigned to them.

It was a similar story in North Carolina, where the *Raleigh News & Observer* found that 580 probationers had committed murders between 2000 and 2008. After the University of North Carolina's student body president was killed in 2008 by a probationer, the Justice Department's National Institute of Corrections was called in to audit the system. The agency found that local probation officers, with caseloads ranging from 90 to 140, were not keeping close track of the convicts who had been assigned to them.

Probation and parole officials are stretched further by expansions of their duties. Sex offender laws, in particular, have added a host of new responsibilities, including DNA testing, mental health screening, GPS monitoring, risk assessment, and registration checks.

Big Brother Helps Out

Technology innovations have made the job of supervising offenders in the community easier. Drug testing, for instance, has become quicker and cheaper. And with the vast majority of offenders struggling with substance abuse, it is a staple of most offenders' probation or parole programs.

In some states, offenders must submit to random breath tests for alcohol through detectors installed in their homes. Also popular are "ignition interlocks" that prevent a person from starting a vehicle's engine if alcohol is detected in their system. Another device checks an offender's eye to detect signs indicating use of a controlled substance. Some offenders are equipped with bracelets that detect movement during sleep. This technology was spawned by studies showing that normal sleep patterns are disrupted by drug and alcohol abuse in predictable ways.

If the bracelet senses an inconsistency, the offender is ordered to produce a urine sample for testing. Many parole and probation agencies still use old-style electronic monitoring bracelets to conduct “passive” as well as “active” tracking that sends a continuous signal to a computer at a monitoring center.

Global Positioning System (GPS) satellites are widely used in tracking sex offenders and gang members. First developed by the Department of Defense in the 1970s, GPS gives agents increasingly detailed information about an offender’s whereabouts, such as whether he wanders into territory that is off limits. While such an alert may not allow police the time to catch a criminal red-handed, GPS tracking can be a deterrent, and can supply information for possible use in later prosecutions.

This wave of “techno-corrections” is changing the way offenders are monitored on the streets, and represents a big target for enterprising journalists.

Among some stories meriting a check:

- How does GPS monitoring work, and what does the evidence say about its effectiveness in safeguarding society from paroled sex offenders, gang members and other notorious criminals?
- What are the costs of such tracking?
- Are manufacturers of the monitoring devices funneling campaign contributions to lawmakers in states considering expansion of the technology?
- Does such “big brother” tracking give the public a false sense of security?
- Where has it been successfully used, and what defines success?
- What is life like for those under surveillance? How does it affect an offender’s habits?

Violations

Probationers and parolees frequently violate one or more conditions of their supervision in the community. Many infractions lead to increased supervision or some loss of privileges. In some cases, they start a process that can lead to a revocation and, in some cases, an arrest and subsequent term in prison.

The first step is a hearing, either in court (probationers) or before a parole board or other administrative body (parolees). The accused have the right to testify on their own behalf, and usually may present witnesses and have an attorney present.

In recent decades, violators have been a key driver of prison populations in many states. [A 2019 report](#) by the Council of State Governments Justice Center found that 45 percent of the nearly 600,000 prison admissions nationwide in 2017 were due to violations of probation or parole for new offenses or technical violations.

In 20 states, more than half of prison admissions were due to supervision violations. Similar rates of re-imprisonment have been reported for the nation’s jails.

Readmissions to custody are administrative decisions that do not require the higher standard of legal proof of a new crime.

Statistics show probationers most often face revocation for absconding, or failing to stay in contact with their probation officer, and for committing a new offense. Other reasons include failure to pay fines or restitution, failure to attend or complete a drug or alcohol treatment program, failure to complete community service, or association with people involved in crime.

As for parolees, the National Institute of Corrections (NIC), an agency of the U.S. Department of Justice has estimated that as many as 80 percent are, at one time or another, in violation of some condition of their supervision. Those violations run the gamut from “technical” to serious, and whether they warrant a violation is often in the eye of the beholder.

As a result, patterns of violations and revocation decisions vary widely from state to state, and even from county to county. In many states, agents and officers operate with few firm criteria and little policy to guide them, creating widespread interpretation variations.

One agent’s standards may differ from another’s, leading to wildly varying rates within a single state. Obviously, this opens the door to questions of fairness – and a potentially rich vein of stories for journalists. In the past, some probationers and parolees were sent back to custody for any violation, including flunking a drug test.

Because a majority of criminals have some kind of drug problem, incarceration for violations like this has created a revolving door within some correctional systems, with offenders shuttling in and out of custody and making little or no progress toward rehabilitation.

Progressive probation and parole programs have adopted “graduated sanctions” models in which convicts are imprisoned only after committing an escalating series of violations. The idea is to use a version of the “carrot and stick” approach, giving offenders the opportunity to enjoy a gradual relaxation of restrictions if they can avoid new violations.

Some reformers advocate giving probation/parole officers the power to impose swift, certain sanctions for violations as they occur instead of allowing an infraction record to accumulate until it virtually requires an offender’s return to prison.

One program that says it employs this strategy effectively in Hawaii is called HOPE – Hawaii’s Opportunity Probation with Enforcement. Created in 2004 by Circuit Court Judge Steven Alm, HOPE has essentially put some teeth into the rules of probation. Those who fail to comply with frequent but random drug tests, office visits and treatment requirements receive an immediate sanction, typically a few days in jail.

Those with legitimate jobs can serve the time over the weekend to avoid work disruption. Those who cannot abstain from drugs are placed in residential treatment.

Early results of an evaluation were encouraging, showing that HOPE probationers were less than half as likely to test positive for drugs or miss appointments. Says Judge Alm: “Our approach has brought integrity back to the probation system. Offenders know from the outset

what the expectations are, and they know there will be consequences if they don't meet those expectations."

However, a [federally funded study](#) of HOPE programs in Arkansas, Massachusetts, Oregon, and Texas published in 2018 "found that HOPE-modeled probation was generally not an improvement over traditional probation in terms of key success metrics such as new arrests, revocation of parole, and new convictions."

Community Corrections Programs

Housing and work arrangements for probationers and parolees can follow a wide range of models. Many are allowed to live at home if they have stable family arrangements. Depending on their conditions of release, they may be under house arrest (not allowed to leave except by permission) or are able to come and go freely. Some must appear at daily reporting centers.

Others live in community group homes often known as "halfway houses," connoting halfway status between prison and freedom. They typically report to jobs, classes or drug treatment during the day and return to the halfway house for their overnight stay. (In the other direction, those who commit several violations may be sent to "halfway back" facilities as a threat to returning to custody.)

Advocates claim wide public support for these kinds of sanctions because they are less expensive than a prison cell and more likely to get a former inmate back on the right course. At the same time, corrections agencies have difficulty finding locations for such programs because of local "not in my backyard" opposition.

The Prisoner Re-entry Movement

As recently as two decades, the word re-entry was rarely heard in the correctional world. Now, it is a staple in the industry's lexicon, defining an entire movement that reflects the fact that that the vast majority of prisoners will eventually leave prison and return home.

Even former President George W. Bush, whom no one could describe as soft on street crime, acknowledged this reality – and the responsibility of society to accept those who have served their time.

In his 2004 State of the Union address, Bush surprised more than a few observers by including some sympathetic words for ex-convicts. "America is the land of second chances," Bush said, "and when the gates of prison open, the path ahead should lead to a better life." He proposed to spend federal funds to help state and local programs that facilitate successful prisoner re-entry into society.

Despite wide bipartisan support, it took more than three years for Congress to approve the idea. The Second Chance Act, signed by Bush in 2007, authorized more than \$330 million over two years to help government agencies and nonprofit groups work with inmates returning home. For the first time in memory, Washington was moving to help ex-convicts transition to life on the outside, not erect barriers in their path.

Even with the bill's passage, it took at least a year more to appropriate money, and even then it was likely to be a modest amount by Washington standards when divided among the 50 states. The federal legislation came as some state prison administrators were embracing an expanded mission, one that includes prisoner reintegration.

In 2005, the California legislature changed the name of its prison agency to the California Department of Corrections and Rehabilitation and defined an additional goal for managers – to achieve prisoners' "successful reintegration back into society." A few states, notably Arizona, said they would start to prepare inmates for reentering society as soon as they arrived in prison.

The shift was noteworthy. In earlier years, prison officials and policymakers spent little energy on what became of prisoners once they were released.

Barriers to Re-entry

When prisoners first leave custody, their needs and challenges are many and daunting. Despite the recent attention to re-entry, only a minority of inmates are able to take part in meaningful vocational or educational programs behind the walls. In most states, once it is time for release, they are given only clothes, a small sum of money, and instructions to report to their parole officer within 24 hours.

Not surprisingly, the first days after release may be the most difficult. Ex-inmates may not possess identification necessary to obtain a job or housing, such as a driver's license, and may not have applied for basic benefits that are available to most citizens. Without family housing, they may be relegated to sleep in a shelter. Medicaid benefits that do not start for 30 days may leave them without medication.

Most are unskilled and may still be battling addictions. Many are estranged from family, poorly educated and ill-trained for the job market. Rejoining the free world, after years of a life in which every moment is dictated by their custodians, is unsettling. And while free, parolees face continuing consequences of their conviction, as well as the constant threat of reincarceration for slip-ups, placing them in a sort of legal limbo.

They are stigmatized with the indelible label of ex-con, which brings discrimination in everything from finding housing, getting a job and regaining parental rights to, at least initially, participation in the basic rite of democracy, voting. While some states restore voting rights once a felon has completed a prison term or parole, others strip the franchise from ex-convicts for life.

Barriers in the workforce may be the most painful for parolees to overcome, as they are both official and unspoken. Legal obstacles arise in part because certain occupations require licenses that are denied to any ex-convict. Beyond that, employers are suspicious of parolees, viewing a conviction as evidence of a character flaw.

The result: the work options for ex-convicts are narrowed, adding to their struggle to regain their footing in the outside world. Beyond employment, parolees convicted of drug crimes face

barriers in obtaining food stamps and public assistance; public housing; and student loans and grants.

Evaluating Prisoner Re-entry

Before the Second Chance Act, the federal government gave grants to state and local agencies starting in 2002 under a \$110 million Serious and Violent Offender Re-entry Initiative. Each of 89 programs devised its own reentry projects; researchers studied 16 of them in 14 states to learn lessons that might be applied nationwide. Not surprisingly, the programs were dealing with a troubled population.

Drug use was reported by 95 percent of participants, and more than half had been treated for a mental health or substance abuse problem; only 60 percent of the adults involved had finished 12th grade or had a GED.

Researchers found that a higher proportion of convicts received drug treatment in custody than they did on the outside. Still, participants in the community “were much more likely to receive a broad array of services” than those who didn’t take part and were 10 percent more likely to get jobs.

Jeremy Travis of Arnold Ventures, then president of John Jay College of Criminal Justice and an authority on prisoner re-entry, told a congressional committee in 2009 that effective re-entry programs had the potential of reducing recidivism by 15-20 percent.

The assessment was partly based on research led by Steve Aos at the Washington State Institute for Public Policy that has studied recidivism reductions as a result of various education, job training, and drug treatment programs.

[In a summary published in 2018](#), the Justice Department’s National Institute of Justice said that two evaluations led by Social Policy Research Associates and RTI International concluded that in general, participation in a Second Chance Act program “did not affect a range of reentry outcomes, for example, substance use and compliance with supervision. Participation in an SCA program did, however, increase access to and receipt of reentry services and programs for participants and improve partnerships with community agencies.”

Sex Offenders: Special Scrutiny

A flurry of federal and state laws governing released sex offenders created extraordinary challenges on the housing front. First came Megan’s Law, which required public disclosure of sex offenders’ information – such as their name, picture, address and crime – on the internet.

The law was inspired by the rape and murder of four-year-old **Megan Kanka** in New Jersey. Next came a series of laws passed after **Jessica Lunsford**, a nine-year-old Florida girl, was raped and murdered in 2005 by a convicted sex offender.

In addition to lengthening prison terms for sex offenders and subjecting them to lifetime monitoring, versions of Jessica’s Law in some states prohibited the offenders from living within a half-mile of a park or school. In California, this restriction created a housing crisis that has

driven numerous paroled sex offenders to live on the street – making them difficult to supervise -- or merely abscond.

While many of these offenders are serious and dangerous criminals, others – say, a teenager guilty of statutory rape for having sex with an under-age girlfriend -- committed crimes that make them far less of a public threat.

Resource Guide to Covering Community Corrections, Probation and Parole

Organizations and Government Agencies

American Correctional Association

http://www.aca.org/ACA_Prod_IMIS/ACA_Member/Home/ACA_Member/Home.aspx

Professional organization for the prison managers. Standards, accreditation, etc.

American Probation and Parole Association www.appa-net.org International organization representing parole and probation practitioners.

Association of Paroling Authorities International www.apaintl.org Organization for parole boards and other release agencies.

Collateral Consequences Resource Center, <http://ccresourcecenter.org> Provides information on “legal restrictions and societal stigma that burden people with a criminal record long after their criminal case is closed.”

International Community Corrections Association, <http://iccalive.org> (614) 252-8417 staff@iccalive.org (614) 252-8417 Organization of 250 private agencies operating over 1,500 residential and community alternative programs.

National Institute of Corrections (U.S. Department of Justice) www.nicic.gov/parole Training, program development for corrections workers.

National Reentry Resource Center, Council of State Governments Justice Center, <https://csgjusticecenter.org/nrrc>

Prisoner Reentry Institute, John Jay College of Criminal Justice www.johnjaypri.org Promotes innovation and improved practice in the reentry field.

Public Safety Performance Project, Pew Charitable Trusts. Washington, D.C. <http://www.pewtrusts.org/en/projects/public-safety-performance-project> Nonpartisan policy briefs, other reports on national and state-level trends related to corrections.

Urban Institute Justice Policy Center <https://www.urban.org/policy-centers/justice-policy-center> (202) 833-7200 Wide-ranging work includes projects on corrections.

U.S. Bureau of Justice Statistics Washington, D.C.

<https://www.bjs.gov/index.cfm?ty=tp&tid=1> Wealth of statistics on inmates, parolees, prisons, etc. However, data are published several years behind.

Vera Institute of Justice New York City 212-334-1300 <http://www.vera.org> Extensive research on sentencing and corrections.

People

Note: contact info valid as of February 2020

Austin, James www.jfa-associates.com (310) 867-0569 jfainstitute@gmail.com Consultant and researcher who advises governments on population management in prisons, jails and parole systems.

Deitch, Michele (512) 328-8330 University of Texas adjunct professor. Attorney, expert in prison conditions, oversight, and management, and community corrections issues.

Experts recommended by the **Crime & Justice Research Alliance**, representing the nation's two major criminology organizations. <https://crimeandjusticeresearchalliance.org/experts/>

Love, Margaret Colgate margaretlove@pardonlaw.com Director of Collateral Consequences Resource Center (see above), specializes in executive clemency and restoration of convict rights, as well as sentencing and corrections policy.

Mukamal, Debbie, Stanford Criminal Justice Center, dmukamal@law.stanford.edu Expert on prisoner reentry and related issues.

Young, Malcolm, youngmalcolmc@gmail.com founder of Project New Opportunity and expert on prisoner reentry

Research Materials

National Institute of Justice, "Lessons Learned from the Second Chance Act; Moving Forward to Strengthen Offender Reentry, 2018 <https://nij.ojp.gov/topics/articles/lessons-learned-second-chance-act-moving-forward-strengthen-offender-reentry>

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EDITOR'S NOTE

This handbook was edited by Ted Gest, President of Criminal Justice Journalists and Washington Bureau Chief of *The Crime Report*, based on an earlier handbook written by him and Jenifer Warren, a former reporter for the *Los Angeles Times*.

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