

Report of the Commission on Christian Action

MASS INCARCERATION IN THE UNITED STATES

“The spirit of the Lord God is upon me, because the Lord has anointed me; he has sent me to bring good news to the oppressed, to bind up the brokenhearted, to proclaim liberty to the captives, and release to the prisoners; to proclaim the year of the Lord’s favor, and the day of vengeance of our God; to comfort all who mourn; to provide for those who mourn in Zion—to give them a garland instead of ashes, the oil of gladness instead of mourning, the mantle of praise instead of a faint spirit. They will be called oaks of righteousness, the planting of the Lord, to display his glory” (Isaiah 61:1–3).

The purpose of this paper is to raise the level of awareness, to educate, and to issue a call for action to the church regarding the most critical social issue of our day.

Background Information

The most critical social issue of our time is the issue of mass incarceration. According to the U.S. Justice Department’s Bureau of Justice Statistics, the prison population of the United States has increased 500 percent over the past thirty years. Statistics reveal that at year end 2012, about 6.94 million people were supervised by the U.S. adult correctional system. This is equivalent to about one in thirty-five U.S. adults or 2.9 percent of the adult resident population. Around 217,800 were incarcerated in federal prisons, 1.35 million in state prisons, and 744,500 in local jails. Of these numbers, 2,112,300 are male and approximately 200,000 are female. About 3.94 million offenders are supervised in the community on probation and another 851,200 on parole.¹ The female prison population has increased at a rate of nearly one and a half times that of the male population since 1980.²

Of these men and women, 54 percent, or more than 1.2 million, are parents of children under the age of eighteen.³ More than 2.7 million children in the United States have a parent who is incarcerated, not including children who have parents under community custodial care, on probation, or on parole. Most of the children with a parent in prison (58 percent) are less than ten years old.⁴ There are currently 7,067,500 United States citizens under some form of social control. One million people are serving sentences for non-violent crimes. Proportionately, the United States has the most jailed or incarcerated individuals in the world. Although the U.S. has just 5 percent of the global population, it has 25 percent of the world’s incarcerated people.⁵

Mass incarceration has significant, long-lasting impact on American society and particularly on communities of color. The racial composition of the prison population is grossly disproportionate. According to the United States Bureau of Justice Statistics and the U.S. Census Data for 2010, African Americans comprise 39.4 percent of the prison population, but only 13.6 percent of the general population. That equates to nearly 1 million of the total population of 2.3 million incarcerated people. African Americans are incarcerated at six times the rate of whites.⁶ Together, African Americans and Hispanics comprise 59.4 percent of all prisoners, even though these groups only make up approximately 25 percent of the population. One in one hundred African American women are in prison and one in six African American men are incarcerated. According to the NAACP, these trends indicate that one in every three black males born today can expect to spend time in prison during his lifetime. The Center on Juvenile and Criminal Justice report reveals that 26 percent of juvenile arrests are African American. Of those African American youth arrested, forty-four percent are detained and fifty-eight percent are incarcerated in state prisons.⁷

Mass incarceration has a debilitating effect on black, brown, and poor communities. Gutted

of the skills, talent, and intellectual property of those who reside within prison walls, urban communities are left in a condition of societal blight. Earning power is significantly decreased, and poverty, unemployment rates, and low educational achievement create instability in these neighborhoods. The tax base of communities with high numbers of imprisoned residents is eroded and that of the communities that house correctional facilities is boosted. Family life is disrupted. The loss of either a mother or a father to the prison system creates a distorted perception of so-called “normal” family life. Family life loses what is normal when one or both parents are incarcerated. Individual lives are shredded—for the victims of crime, those behind the walls, their families, and those returning to society.

Victims of crime are seldom remembered or cared for in a way that helps them successfully resolve the assault they experienced and receive some type of restitution. Perpetrators of crime are seldom rehabilitated; they carry the “mark” of a felon for life and as a result are barred from participation in society as full human beings. Those suffering from drug addiction and mental illness receive no treatment and actually return home in a state that is worse than when they entered prison. Returning citizens find it difficult if not impossible to find employment; they are barred from public housing, they cannot receive food stamps to meet a need as basic as hunger, and they are excluded from receiving federal funding for educational purposes. They are essentially locked out of opportunities to become viable, productive, contributing citizens and soon find themselves caught in activities that lead back to prison, where they can receive housing and a hot meal.

How Did We Get Here?

According to Michelle Alexander, author of *The New Jim Crow: Mass Incarceration in an Age of Colorblindness*, the blame lies with the tough on crime policies of the War on Drugs. Such policies were instituted by the Nixon administration at a time when crime was at an all-time low. Alexander states, “Although the majority of illegal drug users and dealers nationwide are white, three-fourths of all people imprisoned for drug offenses have been black or Latino.” According to Alexander, there are more African Americans incarcerated today than were enslaved in 1850. Current drug policies have led to an overburdened and over-saturated incarceration system that unduly affects minorities. Federal drug laws dole out the same penalty for possession of five grams of crack cocaine (a cheaper, street version of powder cocaine) as for distribution of five hundred grams of powder cocaine (an expensive, designer version of cocaine). Federal sentencing data leads to the conclusion that blacks comprise the largest percentage of those affected by the penalties associated with crack cocaine.⁸

The Sentencing Project examined the effects of this twenty-five-year war on drugs in a new report that highlights racial disparities in drug arrests as well as problems raised by the enactment of mandatory minimum sentencing laws. According to the report, African Americans have been disproportionately affected by the heightened crackdown on drugs. African Americans constitute 14 percent of drug users, yet make up 37 percent of drug arrests and 56 percent of people in state prison for drug offenses. In addition, the report found that African Americans serve nearly as much time in prison for drug offenses as whites do for violent offenses.⁹

Much of the rise in incarceration rates can be traced to mandatory sentencing laws enacted in the mid-1980s, beginning with the Anti-Drug Abuse Act of 1986 and the Anti-Drug Abuse Act of 1988. Since 1988, sentencing for drug offenses has increased 14 percent. Civil rights groups and criminal justice advocates have pointed to discriminatory mandatory minimum sentencing laws, particularly the 1:100 crack cocaine law, as a primary rea-

son for rising incarceration of African Americans. Currently, African Americans make up 82 percent of the defendants sentenced, despite the fact that whites and Latinos make up two-thirds of the crack cocaine users. In 2012, of the 1,552,432 arrests for drug law violations, 82.2 percent (1,276,099) were for possession of a controlled substance. Only 17.8 percent (276,333) were for the sale or manufacturing of a drug. The Drug Policy Alliance estimates that when you combine state and local spending on everything from drug-related arrests to prison, the total cost adds up to at least \$51 billion per year. Over four decades, the group says, American taxpayers have dished out \$1 trillion on the drug war.¹⁰

Collateral Consequences of Mass Incarceration

According to Ernest Drucker, “Hundreds of thousands of people released from U.S. prisons after felony drug convictions discover that serving time isn’t their only punishment. They are permanently denied the life-sustaining benefits of food stamps and other public assistance.”¹¹

Local public housing authorities are required to deny federally assisted housing to any person arrested or charged with drug-related criminal activity, including Class C felonies and Class A misdemeanors.¹² These policies have important implications when it comes to juvenile proceedings. Because these policies also apply to any person living in the house, when a juvenile is arrested or charged with any of the named offenses, this can also cause the family to be evicted or denied admission to federally assisted housing.

In the United States, forty-eight states currently take away the right to vote for all imprisoned felons—some for their entire lifetimes.¹³ It is estimated that 5.3 million people are prohibited from voting as a result of a felony conviction. This equates to about one in every forty-one adults.¹⁴ Nearly half of those disenfranchised people have already completed their prison sentences.¹⁵

Americans believe strongly that individuals determine their own economic success through hard work, ambition, and other personal characteristics. Unfortunately, this reality is different for those who have been imprisoned. Incarceration casts a long-lasting shadow over former inmates, reducing their ability to work. The obstacles they face upon leaving prison compound the wages and skills lost during the period of incarceration. When inmates return home, they are confronted with the demands and responsibilities of everyday life, as well as the repercussions of their prior choices. Any professional work skills they had before may have eroded, and their social networks may well be frayed. On top of these challenges, many inmates emerge with substantial financial obligations, including child support, restitution, and other court-related fees.¹⁶ Sociologist Devah Pager cites studies of state inmate populations that report that between 75 and 80 percent of parolees remain jobless up to a year after release from prison.¹⁷ Previous incarceration becomes a criminal credential, preventing many former inmates from finding employment. Checking “the box” all too frequently guarantees the rejection of a former inmate’s job application.

U.S. prisons increasingly house inmates who have mental disorders; estimates show that 1 in 6 U.S. prisoners have a mental illness.¹⁸ The incidence of schizophrenia, major depression, bipolar disorder, and post-traumatic stress disorder is two to four times higher among prisoners than among those in the general population.¹⁹ The prevalence of infectious disease is on average four to ten times greater among prisoners than among the rest of the U.S. population, and the prevalence of chronic disease such as hepatitis C and B, tuberculosis, and HIV/AIDS is even greater. After release many ex-inmates enter open society continuing to struggle with drug and alcohol abuse and physical and/or mental disabilities.

The graying prison population has become a national epidemic afflicting states around the

country. According to the National Institute of Corrections, prisoners age fifty and older are considered “elderly” or “aging” due to unhealthy conditions prior to and during incarceration. There are 246,600 elderly prisoners behind bars across the country. The United States keeps elderly men and women locked up despite an abundance of evidence demonstrating that recidivism drops dramatically with age. It costs \$34,135 per year to house the average prisoner, but it costs \$68,270 per year to house a prisoner age fifty or older. The elderly prison population is increasingly composed of individuals sentenced to prison for long periods of time (twenty years or more), and they increasingly remain in prison into old age. The majority of aging prisoners are not incarcerated for murder, but are in prison for low-level crimes. In fact, many aging prisoners are incarcerated for nonviolent crimes.²⁰

Mass incarceration devastates urban communities. Many criminologists and sociologists argue that mass incarceration actually leaves communities worse in that they become “less capable of sustaining informal social control that undergirds public safety.”²¹ Informal social control is the level of involvement residents feel in their community—for example, willingness to call the police when they see a crime occurring in the neighborhood, overall interaction among community members, and concern for one another’s well-being.²² Mass incarceration has been found to have a destabilizing and adverse effect on neighborhoods and informal social controls. Neighborhoods with high rates of incarceration tend to suffer the most due to significant numbers of residents consistently leaving for prison and reentering.²³ There are a number of destabilizing consequences—housing changes, school maladaptations, welfare problems, and strains on relationships—that follow the person’s trip to the prison. Families struggle financially to deal with court costs and later the need to provide support for people who were locked up.²⁴

One in every twenty-eight children has an incarcerated parent. In terms of race, one in nine African American children, one in twenty-eight Hispanic children, and one in fifty-seven white children have an incarcerated parent.²⁵ These children have become known as “invisible victims” or “collateral damage” in the broader social phenomenon of mass incarceration. These are frequently the children who are targeted for the “cradle to prison pipeline” phenomenon. They are often children who don’t have the advantages of early childhood education (pre-K or kindergarten) and start school without the ability to read or do simple math. As a result they often fall behind in school. They are children who may have disrupted homes, who may have witnessed the arrest of one or both parents, and as a result have been displaced either into the foster care system or with a foster care relative.

According to Nell Bernstein,

The children of prisoners suffer from anxiety and attention disorders, or from post-traumatic stress. They are likely to bounce from one care giver to another; to have and to cause trouble in school. Often poor to begin with, they get poorer once a parent is arrested. As many as half of all boys whose parents do time will wind up behind bars themselves, a formula that virtually guarantees one generation’s prison boom will feed and fuel the next.²⁶

Fatherlessness

According to a recent fatherhood and mentoring report given to the White House, one out of three (almost twenty-four million) children live in fatherless families. With more than twenty-four million lives impacted, this is a severe problem. The problem is so dire that President Obama challenged the nation while highlighting the need.²⁷ John Sowers, in his book *Fatherless Generations: Redeeming the Story*, describes the alienation and abandonment that many fatherless children and adults experience. This is an issue that can be directly linked to mass incarceration. Sowers cites direct consequences that point to youth

suicide, pregnant teens, homeless youth, incarcerated youth, and high school dropout rates. A collateral consequence of imprisonment and fatherlessness is the rapid spread of gangs, anger, and rage in young boys and sexual promiscuity in male and female youth.²⁸

Immigration and Mass Incarceration

Noemi Romero, who came to the U.S. illegally at age three, was arrested working at a Phoenix grocery store, where she used someone else's name to get the job. Romero, a twenty-one-year-old who likes to draw and dance, spent four months behind bars, almost half of it in a cramped cell at a 1,596-bed detention center in Eloy, Arizona, run by Corrections Corporation of America (CCA).²⁹ U.S. data shows that CCA, the Geo Group Inc. (GEO), and other for-profit prison operators hold almost two-thirds of all immigrants detained each day in federally funded prisons as they face deportation. Under law, taxpayers must pay to keep thirty-four thousand people like Romero in jail on a daily basis. This has cost of about \$120 per immigrant per day, even as the number of immigrants crossing the border has fallen by more than half since the past recession began.³⁰ The system of immigrant detention is operated by the Department of Homeland Security and cost taxpayers over \$2 billion in fiscal year 2012.³¹ Since 2009, when then-Senator Robert Byrd, a West Virginia Democrat, inserted a change into the Homeland Security Department's annual spending bill, federal immigration officials have been placed in the unusual position of operating under a statutory quota on how many people to hold behind bars.³² The "bed mandate," as it's called on Capitol Hill, forces the current administration to fill a minimum of thirty-four thousand prison slots a day. Congress has pressed to ensure the beds are full.

The Economics of Mass Incarceration

State spending for corrections has risen steadily over the last three decades, outpacing the overall growth in state budgets. Corrections now compose a larger share of general fund budgets than it did in prior decades. State spending for corrections reached \$52.4 billion in fiscal year 2012. The Department of Justice estimates that states and the federal government combined spent \$80 billion on corrections in 2010.³³ The average daily cost per offender for states is \$79.84, compared to \$77.49 for federal inmates.³⁴ Based on these estimates, the average annual cost for states to house an inmate would be \$29,141, with the cost to the federal government remaining slightly less at \$28,283.

In partnership with the Pew Center on the States, staff from the Vera Institute of Justice's Center on Sentencing and Corrections and Cost-Benefit Analysis Unit developed a methodology for calculating the full cost of prisons to taxpayers.³⁵ Vera researchers found that the total taxpayer cost of prisons in the forty states that participated in the study was \$39 billion. The Vera Institute of Justice estimates among forty states surveyed, the average full cost for states to incarcerate an individual for one year is \$31,286.³⁶ That figure doesn't include the financial impact on communities that experience a high rate of incarceration.

The Role of Private Prison Corporations

The privatization of prisons has contributed to the problem. GEO and CCA are the two largest and most profitable private prison corporations. Private prisons held nearly 10 percent of all inmates in 2010. With sixty-six correctional facilities in nineteen states and the District of Columbia, three federal detention agencies, and ninety-one thousand beds, Corrections Corporation of America has grown over the last thirty years to become and maintain its position as the industry leader. The two companies combined realized over \$2.9 billion in revenue in 2010. CCA's revenue increased to \$1.67 billion in 2010, up \$46

million from 2009.³⁷ The goal of private prisons is to keep the cells filled—more prisoners equals more money.

Since 2000, private prison companies have contributed over \$7.2 million to state candidates and political parties. The political action committees of CCA and GEO gave \$2,222,891 in campaign donations between the 2002 and 2012 election cycles.³⁸ Since 2000, private prison companies have contributed \$835,514 to federal candidates including senators and members of the House of Representatives on both sides of the political spectrum.³⁹

Hundreds of thousands of dollars have been spent on lobbying. Three companies—GEO, CCA, and Cornell Corrections—have spent \$21 million on federal lobbying efforts since 2000; CCA spent the largest amount, \$17 million.⁴⁰ Lobbying efforts have been in the areas of longer sentences, harsher penalties, and continued privatization of correctional facilities. This report does not allow for a more in-depth discussion of who is lobbied, how much is received in campaign contributions, or who is entangled politically and personally with the private prison companies; however, the tentacles reach far, wide, and deep in the political, social, and religious structure of this nation. Nevertheless, it is a critical moral issue when those who are elected to serve and care for the people and those who are chosen to provide spiritual direction for the people are found to be involved in profit-making off the backs of specific groups or classes of citizens.

The Church and Mass Incarceration

Why is this issue important to the church? It's important because it's an issue of justice—an issue of human rights, public health, and racial and ethnic disparity. It's important because it's an economic issue that holds one class of people in a posture of “less than” and puts an immoral strain on the economics of this nation; it's an issue of social management of human lives, and above all it's an issue of compassion, forgiveness, and honoring the *imago Dei* in all of God's human creation. It's an issue of God's love for all men and women, even the least among us.

We are instructed in Scripture to act justly, love mercy, and walk humbly with our God (Micah 6:8). Our criminal justice system and mass incarceration have proven to be unjust and unrighteous in their dealings against a class of people who live on the margin and are oppressed by society. As we read Scripture, we learn that Jesus took the side of the oppressed. Jesus ate with the oppressed, liberated the oppressed, and actually was oppressed himself, for in Scripture we encounter Jesus as the one who was criminalized and executed. And yet, as he hung dying for our sin, he found it in his heart to be merciful to each of us in his prayer of forgiveness to the Father on our behalf. It was his work of redemption that provided a way for eternal life for all.

Mass incarceration leaves little to no room for redemption. Life without parole screams out to us that a life so precious to the Lord Jesus Christ is considered so unworthy by humankind. Outrageously lengthy prison sentences for non-violent drug offenses deny the mercy of God toward those who so badly need mercy. Mandatory minimum sentences serve the very opposite of the Lord's teachings about restoring our brother or sister who has been found in sin. They serve to dehumanize both those caught in a web of destructive self-behavior and those who punish severely rather than love and forgive seventy times seven.

How Are Other Denominations Responding to the Issue of Mass Incarceration?

Our Formula of Agreement partners, the Presbyterian Church (U.S.A.) (PCUSA), the

Evangelical Lutheran Church in America (ELCA), and the United Church of Christ (UCC), have taken an active stand in opposition to mass incarceration. The PCUSA passed a resolution on racism, incarceration, and restoration in its General Assembly 2002. In its General Assembly 2012, the PCUSA Advocacy Committee on Racial Ethnic Concerns put forth six recommendations, several of which are listed below:

Direct that a study be prepared and shared with the church for action at every level showing the connection between “the war on drugs” and incarceration as a way of social management.

Develop a working group to work with our ecumenical partners in creating coalitions or networks to support strategies to aid reentry of former prisoners into our communities.

Direct the Office of Public Witness to advocate to Congress for fair application of existing laws and the reduction or elimination of penalties for drug possession and nonviolent offenses that clearly have a disproportionate adverse impact on the racial ethnic community, families, and individuals.⁴¹

Additionally, the PCUSA has taken an active stand against private prison corporations.

In 2013, the ELCA issued a social statement on criminal justice entitled “The Church and Criminal Justice: Hearing the Cries.” At its 2013 assembly eleven recommendations related to that social statement were made. Most of the recommendations focused on prayer, discernment, congregations becoming active advocates, and creating databases of resources. One significant recommendation was “to direct the ELCA’s Theological Discernment Team in the fall of 2015 to bring to the Church Council an assessment of the feasibility of developing a social message on the U.S. national drug policy.”⁴²

The UCC aligns with the PCUSA, the United Methodist Church, the Catholic Bishops of the South, and the Episcopal Diocese of Newark in opposing private ownership and management of prisons. The UCC has an active Justice and Peace Action Network that educates, advocates, and protests in relation to issues of mass incarceration.⁴³

The Christian Reformed Church in North America’s Office of Social Justice signed onto a faith-based amicus brief related to juvenile cases of life without parole in the state of Michigan. The Office of Social Justice is active in the area of restorative justice.⁴⁴

The PCUSA, UCC, and the Catholic Church have all divested from private prison corporations.

The focus of the annual meeting of Christian Churches Together (CCT) in February 2014 was mass incarceration. CCT developed a press release following that meeting entitled “National Christian Leaders Oppose Mass Incarceration.” A statement from the press release reads as follows: “CCT in the U.S.A. is encouraging its member denominations and organizations to increase awareness, educate, and take action to oppose mass incarceration in the public square.”⁴⁵ CCT also committed to developing guiding principles for the church in its efforts. You can read the press release at www.christianchurchestogether.org/2014-mass-incarceration-press-release.

In May 2014, the National Council of Churches will meet in Herndon, Virginia, to focus on the issue of mass incarceration.

What Is the Christian Obligation of the Reformed Church in America Related to Mass Incarceration?

There are several questions the church must take under serious prayer and thought: How does the Reformed Church in America move forward in mission and ministry, offering the love of God to a lost and broken world and directly confronting the issue of mass incarceration? How does the Reformed Church in America fit the issues of mass incarceration and its collateral consequences into our fifteen-year goal, Transformed and Transforming? In what private prison corporations has the church invested funds and how will the church begin the process of divestment?

These recommendations are offered:

R-38

To work with Christian Churches Together to take an active role in developing guiding principles for the church related to issues of mass incarceration. (ADOPTED)

R-39

To work together with Formula of Agreement partners and CCT faith families to educate, advocate, and take direct action related to prison reform and mandatory sentencing reform. (ADOPTED)

R-40

To form a coalition among the Commissions on Christian Action, Christian Unity, and Race and Ethnicity, and any other commission interested in participating, to engage in a deeper study of the issue of mass incarceration and to develop a collaborative response to present to General Synod 2015. (ADOPTED)

R-41

To urge RCA congregations to initiate conversations about how faith communities can work toward healing fatherless generations, understanding that fatherlessness is a critical consequence of mass incarceration. (ADOPTED)

A motion was made and seconded from the floor to reconsider R-41. The delegate making the motion confirmed to the president that he or she had voted with the majority.

VOTED: To not reconsider R-41.

R-42

To direct the General Synod Council to examine RCA investments to ascertain whether the RCA has any investments in private prison corporations, and to divest of any such holdings as soon as possible.

A motion was made and seconded from the floor to divide the question into the following two parts:

R-43

To direct the General Synod Council to examine RCA investments to ascertain whether the RCA has any investments in private prison corporations.

R-44

To divest of any investments in private prison corporations as soon as possible.

VOTED: To divide the question into two parts.

VOTED: To adopt R-43.

R-43

To direct the General Synod Council to examine RCA investments to ascertain whether the RCA has any investments in private prison corporations. (ADOPTED)

A motion was made and seconded from the floor to refer R-44 to the General Synod Council.

VOTED: To refer R-44 to the General Synod Council.

R-45

To direct the Commission on Christian Action, in consultation with the Commission on Theology, to develop a paper on God, justice and compassion for those who are incarcerated, victims of incarceration, families of the incarcerated, and returned citizens that addresses the church's role in being the beloved community of God. (ADOPTED)

R-46

To encourage New Brunswick Theological Seminary and Western Theological Seminary to continue to actively develop curriculum that trains future graduates in the realities and practicalities of social justice issues in general and mass incarceration in particular, grounded in a Christian response. (ADOPTED)

R-47

To direct the Commission on Christian Action to develop a resource list of books, articles, documentaries, training, workbooks, and resource people that can be utilized to raise the level of awareness and educate congregations about the issue of mass incarceration. (ADOPTED)

At the annual meeting of Christian Churches Together, Joshua DuBois, former spiritual advisor to President Barack Obama, said, "We are at a tipping point in the nation in relation to mass incarceration. The church has the moral voice to fundamentally change the trajectory of mass incarceration, but the church must speak with one collective voice." DuBois and Dr. Harold Dean Trulear, associate professor of applied theology at Howard University and national director of the Healing Communities ministry, admonished us not to speak of mass incarceration as an issue "but to speak of it as 'people' for indeed we must acknowledge the broad humanity of all people, even Black and Brown people, even people who are behind the bars." People behind the bars have faces, they have names, and they have families. People behind the bars hurt, love, cry, laugh, are intelligent, and have fears, hopes, and dreams. DuBois quoted James Baldwin: "Our connection with each other is far deeper and more passionate than any of us can imagine."⁴⁶

The gospel demands that we get involved. Are we brave enough to present ourselves to the

Lord and ask him to dig deep into our hearts and begin the work that is often painful, and yet so needed? Do we dare to ask God to move in our spirits to make something happen to transform our thoughts, our feelings, our beliefs, and our words about those who are different? Can we ask the question of God, “Now that I know, what do you want me to do?”

Endnotes

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