

A compilation of criminal
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The Marshall Project

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News ||||| Inside

What People in Prison Need to Know About the COVID-19 Vaccine

Lo que las personas en prisión
deben saber sobre la vacuna
contra el COVID-19





For the "Inside Story" video version of "Superpredator: The Media Myth That Demonized a Generation of Black Youth," with special features, please have someone at your facility email me at Lbartley@themarshallproject.org.

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A Letter from Lawrence

ON THE COUNT!

Just kidding. I know you hear that enough. I know I did when I was inside. I vividly remember the list coming around after the count where we would sign up for many places: the law library, school, vocational, work, gym, yard, etc. We would go to different destinations at different times to express ourselves in different ways. It was a testament to wearing many hats—sports official, law aficionado, politician, yard-lord. This is why the stories in this issue cover different aspects of the system and a range of lives entrapped in it.

To my point, it's 2021, and that sucka COVID is still around. It has taken away visits, claimed the lives of old-timers and people who work in the system. Now vaccines are becoming available across the country. "We Asked People Behind Bars How They Feel About Getting Vaccinated" gives you the skinny on what incarcerated people think about them and will they take it.

After reading that, you will know why we decided to pen this next piece: "What People in Prison Need to Know About the COVID-19 Vaccine," which answers many of the questions you may have about how the vaccine works, its potential side-effects and more. Because we think it is important that, as many of you have access to it as possible, we had it translated into Spanish.

"Superpredator: The Media Myth That Demonized a Generation of Black Youth" unpacks how news outlets and politicians used animal imagery to label Black children in the criminal justice system 25 years ago—and what that meant for those children. This one is personal to me as I am a person who was arrested at 17. I lived through the time period that gave birth to the racist term.

To balance out the issue there is "How Trump Made a Tiny Christian College the Nation's Biggest Prison Educator." Read it to find out why Ashland has traditional prison educators riled up. "A Question of Violence" is another head-scratcher about a stand-up dude in San Quentin who is haunted by the permanence of the word "violent," despite his accomplishments. And "Will Drug Legalization Leave Black People Behind?" is all about the bag and who can hold it.

I've even added a crossword puzzle for your entertainment. You can go at it cold if you think you're nice like that. But I suggest you read the articles first, because, get this: THE ANSWERS ARE INSIDE! I encourage correctional officers to give it a try too. A little infotainment never hurt anyone.

Enjoy all. And if I don't reach you through the small screen with "Inside Story," I'll catch up with you in Issue 8 of News Inside this summer.

Stay up.



Lawrence Bartley

Lawrence Bartley is the director of News Inside. He served a 27 years-to-life sentence and was released on parole in May 2018.

Letters to the Director

Over the last year, I've discovered your magazine in the General Library and I really commend the information you attempt to provide, especially from an inmate's perspective. However, if I had to offer a suggestion since society is finally on board with the idea of criminal justice reform, how about we start showing a deeper perspective of what's going on inside these dangerous facilities. And trust me, I know you're going to say that with News Inside you do show a deeper perspective by some who have been personally affected by the harsh realities of prison. But what about the fact that, for the last 2 decades, I've been transported on a draft bus in chains with no seatbelt, in a state where it is mandated by law to wear a seatbelt?

E. Torres, New York

I was in the library and your News Inside magazine got my attention. I liked the impact it had on me. The stories that are in your magazine gave me a lot to think about. If they can get out of prison and do good for themselves, so can I. I am very glad I picked up The Marshall Project's News Inside.

F. Cooper, Wisconsin

First, an enormous thanks for all of the priceless work you do, providing a voice and demanding attention to all prison reform issues! Your work is eagerly received and shared among all of us here, but the broader attention and dialogue you spark in the world is the best part. This is how change is made!

T. Mahon-Haft, Virginia

I really liked your December 2020 Issue 6 news article about changing how police question suspects and the...coercion/Reid Technique. I am dealing with some of these issues right now in the courts, hoping to win back my freedom.

H. Marshall, New York



Medical worker Robert Gilbertson loads a syringe with the Moderna COVID-19 vaccine to be administered at Kedren Community Health Center in South Central Los Angeles, Calif., in February. APU GOMES/AGENCE FRANCE-PRESSE, VIA GETTY IMAGES

What People in Prison Need to Know About the COVID-19 Vaccine

Over 100 incarcerated people around the country told us their questions about the vaccine. Here's information about whether it's safe, when it could be available and more.

By Ariel Goodman

Incarcerated people have been among the hardest hit by the coronavirus in the United States. At least one in every five people in state and federal prisons has caught the virus since the pandemic began, and over 2,000

have died of the disease. Since COVID-19 vaccines became available, incarcerated people and their families have been telling The Marshall Project that they're not getting key information. So we surveyed 136 incarcerated people to collect the most common questions. Then we got answers from vaccine experts, Centers for Disease Control and Prevention (CDC) fact sheets and other reliable sources.

How does the vaccine work?

There are two COVID-19 vaccine brands widely distributed in the U.S.: Pfizer-BioNTech, which requires two shots 21 days apart, and Moderna, which requires two shots 28 days apart.

Both work by injecting a small piece of genetic material called "messenger RNA" into your body. Messenger RNA teaches the body to make a harmless "spike protein" like the one found on the coronavirus. Your body learns to recognize the spike protein as something foreign and produces virus-fighting antibodies to protect you against it.

The Federal Drug Administration

(FDA) authorized a Johnson & Johnson vaccine on February 27, and distribution will ramp up in March. Unlike the other two vaccines, it only requires one shot. It works by injecting an inactive version of a common virus called an adenovirus into your body. The adenovirus carries instructions to your cells to create the spike protein, which sparks an immune response.

All three vaccines are highly effective in preventing hospitalization and death from COVID-19. Because the vaccine supply is so scarce, most people in or outside of prisons can't choose which brand they get.

What are the most common side effects of the vaccine?

All three vaccines can cause mild side effects one to three days after receiving a shot. Some common side effects are irritation, swelling, tenderness and muscle pain in the area of your arm where you got the shot. Some people have reported fever, chills, headache and tiredness, especially after the second dose. Experts suggest you plan for a day of rest and take a pain reliever.

Are there any serious side effects?

A tiny percentage of people who received the Pfizer-BioNTech and Moderna vaccines had a severe allergic reaction called anaphylaxis. Most of these reactions occurred shortly after the shot, which is why you should wait about 15 minutes before you leave the place where you were vaccinated. Be sure to tell the person giving you the shot if you have a history of severe allergic reactions or if you've ever had to use an EpiPen.

While no one who participated in the Johnson & Johnson clinical trial had an anaphylactic reaction after receiving the vaccine, a small percentage of people experienced blood clotting. Experts are still studying whether this was related to the vaccine.

How do I know the vaccine is safe?

Health officials have not reported any deaths caused by the COVID-19 vaccines. Compare this with over 500,000 people who have died of coronavirus in this country. "COVID is a very severe disease," said Larry Corey, a

virus expert who leads the COVID-19 Prevention Network. "The vaccines are effective in preventing death, hospitalization and being on a ventilator."

Some people who took our survey said they feared companies were using prisoners as guinea pigs. More than 100,000 people participated in clinical trials for the Moderna, Pfizer-BioNTech, or Johnson & Johnson vaccines before they were released to the public. The overwhelming majority of those participants were in the free world. The clinical trials for all the vaccines showed that they have an equal effect on people from different racial and ethnic groups.

At publication time, more than 75 million people—roughly 15 percent of the U.S. population—have received at least one dose.

How are prisons distributing the COVID-19 vaccine?

The first thing to note is that it's up to states to decide when their residents get the vaccine. Most states are distributing the shots in three phases. The phases are based on whom the state government determines is most at risk of contracting COVID-19.

Medical experts have argued that incarcerated people should be in the first phase because they are at such high risk. But so far, only nine states have explicitly included imprisoned people in Phase 1. Eighteen states have placed them in Phase 2. Many of the remaining states have vaguely worded plans that may include incarcerated people. To find out where incarcerated people fall in your state's vaccination plan, ask a loved one to google: Prison Policy Initiative Briefings State COVID-19 Vaccination Distribution Plans.

Who gets the vaccine first in prison?

There are no universal distribution guidelines for state prisons, local jails and detention centers. According to the CDC, jurisdictions will make their own plans.

The Federal Bureau of Prisons does have clinical guidelines that they've made public. According to those guidelines, federal prisons will distribute the shots to people based on four "priority levels." People who work

in "health service unit jobs" or live in nursing care centers are the first priority. Second priority are people 65 and older, and those with health conditions that put them at a high risk of being hospitalized or dying from COVID-19, such as cancer, heart disease, sickle cell anemia or type 2 diabetes. On the third priority level are people ages 50 through 64, and those with medical conditions that may put them at risk of severe COVID-19 infection such as asthma, high blood pressure and liver disease. After these three groups get their shots, prison officials are instructed to give them to anyone else who wants to take it.

Should I take the vaccine if I've already had COVID-19?

When you recover from COVID-19, your body begins to produce protective antibodies. If you are exposed to it again, these antibodies can identify and, in most cases, defeat the virus. This is called "natural immunity."

But the amount of natural immunity that people build up varies, and experts are still studying how effective it is in preventing future COVID-19 infections. That's why the CDC advises that people wait to take the vaccine at least 90 days after recovering from the virus.

"We don't know how long [natural] immunity is going to last," said Monica Gandhi, a professor of medicine at the University of San Francisco. "It could be really long, but the current recommendations are still to get the vaccine. That's not because we don't think you're immune after you've gotten COVID, but because it could just boost your response so that you have lifelong immunity."

Does the vaccine prevent me from contracting the new variants of the coronavirus?

Experts are still researching how well each vaccine protects against the new coronavirus variants that have emerged in different parts of the world. Though every variant is different, early studies have shown all three vaccines to be effective in preventing severe infection. "The only real tool we have to combat the virus, besides not acquiring COVID, is vaccination," said Corey, of the COVID-19 Prevention Network.

So if I get the vaccine can I still spread the coronavirus?

Maybe. Experts are still studying whether vaccinated people can carry and transmit the coronavirus to others. For that reason, the CDC still recommends using precautions such as masks, social distancing and frequent hand-washing even if you are vaccinated.

Ariel Goodman is a Tow audience engagement fellow at The Marshall Project. She is bilingual, works in multiple mediums and centers her work around community media, collaborative journalism and engagement to uplift the voices and stories of those most affected by injustice.

Lo que las personas en prisión deben saber sobre la vacuna contra el COVID-19

Más de 100 personas encarceladas en todo el país nos plantearon sus preguntas sobre la vacuna. A continuación explicamos si es segura, cuándo estará disponible y más

By Ariel Goodman

Las personas encarceladas están entre las más afectadas por el coronavirus en Estados Unidos. Al menos una de cada cinco personas en prisiones estatales y federales ha contraído el virus desde el inicio de la pandemia y más de 2.000 han muerto a causa de la enfermedad.

Desde que las vacunas contra el COVID-19 han estado disponibles, las personas encarceladas y sus familias le han contado a The Marshall Project que no están recibiendo la información clave. Por eso encuestamos a 136 personas encarceladas y re-

copilamos las preguntas más comunes. Obtuvimos las respuestas de expertos en vacunas, documentos informativos de los Centros para el Control y la Prevención de Enfermedades (CDC, por sus siglas en inglés), y de otras fuentes confiables.

¿Cómo funciona la vacuna?

Hay dos marcas de vacunas contra el COVID-19 ampliamente distribuidas en Estados Unidos: Pfizer-BioNTech, que requiere dos dosis con 21 días de diferencia, y Moderna, que requiere dos dosis con 28 días de diferencia.

Ambas inyectan en tu cuerpo un pequeño fragmento de material genético llamado "ARN mensajero". El ARN mensajero enseña al cuerpo a producir una inofensiva "proteína espiga" como la que se encuentra en el coronavirus. Tu cuerpo aprende a reconocer la proteína espiga como algo extraño y produce anticuerpos que combaten el virus y te protegen del mismo.

La Administración de Alimentos y Medicamentos de Estados Unidos (FDA, por sus siglas en inglés) autorizó la vacuna de Johnson & Johnson el 27 de febrero. Su distribución se intensificará en marzo. A diferencia de las otras dos vacunas, la de Johnson & Johnson solo requiere de una dosis. Ésta inyecta en tu cuerpo una versión inactiva de un virus común llamado adenovirus. El adenovirus transmite instrucciones a las células para que creen la proteína espiga, lo cual desencadena una respuesta inmunitaria.

Las tres vacunas son altamente eficaces para prevenir la hospitalización y la muerte por el COVID-19. Debido a que el suministro de vacunas es tan escaso, la mayoría de personas dentro o fuera de las prisiones no puede escoger qué marca recibir.

¿Cuáles son los efectos secundarios más comunes de la vacuna?

Las tres vacunas pueden causar efectos secundarios leves de uno a tres días después de haber recibido la inyección. Algunos efectos secundarios comunes son irritación, hinchazón, sensibilidad y dolor muscular en el área del brazo donde se recibió la dosis. Algunas personas han presentado fiebre, escalofríos, dolor de cabeza

de la segunda dosis. Los expertos sugieren planear un día de descanso y tomar un analgésico.

¿Hay efectos secundarios graves?

Un porcentaje mínimo de personas que recibió las vacunas de Pfizer-BioNTech y Moderna presentó una reacción alérgica grave llamada anafilaxia. La mayoría de estas reacciones se produjo poco después de la inyección, por lo cual se debe esperar unos 15 minutos antes de salir del lugar de vacunación. El paciente debe informar a quien lo vacuna si ha tenido reacciones alérgicas graves o si alguna vez ha usado una EpiPen.

Si bien ningún participante de los ensayos clínicos de Johnson & Johnson ha tenido una reacción anafiláctica después haber recibido la vacuna, un pequeño porcentaje de personas experimentó coagulación en la sangre. Los expertos todavía estudian si esto tuvo relación con la vacuna.

¿Cómo saber si la vacuna es segura?

Las autoridades sanitarias no han reportado ninguna muerte causada por las vacunas contra el COVID-19. Hay que comparar esto con las más de 500.000 personas que han muerto por coronavirus en el país. "El COVID es una enfermedad muy grave", dijo Larry Corey, un experto en virus que lidera la Red para la Prevención del COVID-19 (COVID-19 Prevention Network). "Las vacunas son eficaces para prevenir la muerte, la hospitalización y estar conectado a un respirador".

Algunos encuestados dijeron temer que las empresas estuvieran utilizando a los presos como conejillos de indias. Pero más de 100.000 personas participaron en los ensayos clínicos de las vacunas de Moderna, Pfizer-BioNTech y Johnson & Johnson antes de que estuvieran disponibles para el público y la inmensa mayoría de esos participantes no estaba en la cárcel. Los ensayos clínicos para las vacunas demostraron que todas tienen el mismo efecto en personas de distintas razas y grupos étnicos.

Hasta la fecha de esta publicación, más de 75 millones de personas —aproximadamente el 15% de la población de Estados Unidos— han recibido al menos una dosis.

¿Cómo están distribuyendo las cárceles la vacuna contra la COVID-19?

Primero hay que tomar en cuenta que los estados son los que deciden cuándo se vacunan sus residentes. La mayoría de estados está distribuyendo las vacunas en tres fases. Según el gobierno estatal, las fases se basan en quienes tienen más riesgo de contagiarse del COVID-19.

Expertos médicos alegan que las personas encarceladas deberían estar en la primera fase debido a que tienen un riesgo muy alto. Pero hasta ahora, solo nueve estados han incluido explícitamente a personas encarceladas en la Fase 1. Dieciocho estados los han colocado en la Fase 2. La mayoría de los estados restantes tiene planes vagamente redactados para incluir a las personas encarceladas. Para saber donde se encuentran las personas encarceladas en el plan de vacunación de su estado, pregúntele a un ser querido que busquen en Google el artículo: Prison Policy Initiative Briefings State COVID-19 Vaccination Distribution Plans.

¿Quién recibe primero la vacuna en prisión?

No hay guías de distribución universales para las prisiones estatales, las cárceles locales y los centros de detención. Según los CDC, cada jurisdicción puede hacer sus propios planes.

La Agencia Federal de Prisiones tiene lineamientos clínicos públicos. De acuerdo con estos lineamientos, las prisiones federales distribuirán las vacunas según cuatro "niveles de prioridad". Las personas que trabajan en "unidades de servicios de salud" o que viven en centros de cuidado son la prioridad principal. La segunda prioridad son las personas de 65 años en adelante, y aquellas con condiciones de salud como cáncer, enfermedades cardíacas, anemia de células falciformes o diabetes tipo 2, que las ponen en alto riesgo de ser hospitalizadas o de morir por el COVID-19. En el tercer nivel de prioridad están las personas de 50 a 64 años, y aquellas con condiciones médicas como asma, presión sanguínea alta y enfermedades hepáticas, que las ponen en riesgo de sufrir una infección grave por el COVID-19. Luego de que

estos grupos reciban las vacunas, las autoridades de las prisiones tienen instrucciones de dárselas a cualquier persona que quiera ponérsela.

¿Debería vacunarme si ya tuve el COVID-19?

Cuando se recupera del COVID-19, tu cuerpo empieza a producir anticuerpos protectores. Si te expones al virus de nuevo, estos anticuerpos pueden identificar y, en la mayoría de casos, vencer al virus. Esto se conoce como "inmunidad natural".

Pero la cantidad de inmunidad natural que las personas desarrollan puede variar. Los expertos siguen estudiando su eficacia para prevenir futuras infecciones por el COVID-19. Por eso los CDC recomiendan que las personas esperen al menos 90 días después de haberse recuperado del virus para vacunarse.

"No sabemos cuánto durará la inmunidad (natural)", dijo Monica Gandhi, profesora de Medicina de la Universidad de San Francisco. "Puede ser mucho tiempo, pero se sigue recomendando la vacunación. La razón no es porque la persona no tenga inmunidad después de haber contraído el COVID, sino porque vacunarse podría potenciar la inmunidad de por vida".

¿La vacuna me impide contraer las nuevas cepas de coronavirus?

Los expertos aún están investigando la protección que proporciona cada vacuna contra las nuevas cepas que han aparecido en distintas partes del mundo. Aunque cada cepa es diferente, estudios tempranos han demostrado que las tres vacunas son eficaces para prevenir infecciones graves. "La única herramienta real que tenemos para combatir el virus, además de no contraer el COVID, es la vacunación", dijo Corey, de la Red para la Prevención del COVID-19 (COVID-19 Prevention Network).

Entonces, si me vacuno, ¿puedo aún contagiar el coronavirus?

Quizá. Los expertos siguen estudiando si las personas vacunadas pueden portar y contagiar el coronavirus. Por esa razón, los CDC recomiendan seguir tomando precauciones como las mascarillas, el distanciamiento social y el

lavado frecuente de manos, incluso si se está vacunado.

Ariel Goodman es Tow audience engagement fellow en The Marshall Project. Es bilingüe, trabaja en múltiples medios, y centra su trabajo en los medios comunitarios, el periodismo colaborativo, y en elevar las voces y las historias de los más afectados por la injusticia.

Esta pieza fue traducida por Óscar Molina V.

We Asked People Behind Bars How They Feel About Getting Vaccinated

A Marshall Project survey of the incarcerated showed widespread interest in the coronavirus vaccine as well as pervasive distrust of the prison medical system.

By Nicole Lewis

Larry London, who is incarcerated at Oshkosh Correctional Institution in Wisconsin, said he has counted numerous ambulances leaving the prison grounds as he watched from his cell window. Four of the 25 people who have died from COVID-19 in Wisconsin prisons were housed in his facility. He knew two personally.

Prison officials' handling of the pandemic has given him another reason not to trust the prison or the medical staff, he said. Still, London said he is eager for the coronavirus vaccine. He is scared of dying in prison.

"Since the onset of this pandemic I have feared for my health and safety," he said.

In 35 states, people in prison could be among the first to receive the coronavirus vaccine. So far, about 63,000

incarcerated people across the country have been immunized, according to data compiled by The Marshall Project and The Associated Press.

The Marshall Project surveyed incarcerated people in state and federal prisons in January and February to understand attitudes toward vaccination. The majority of the 136 respondents said they would get vaccinated when they can. Even wary prisoners were open to vaccination, the survey showed. Most respondents said they'd get vaccinated if their questions were answered, if their friends and family said it was safe, or after guards received their immunizations first.

Yet prison officials will have to overcome numerous obstacles to vaccinate the nearly 1.2 million people imprisoned in the United States. Many respondents harbor a deep distrust of medical staff. Misinformation abounds, and officials have moved slowly to explain the vaccine's benefits and risks.

But the biggest barrier lies beyond prison walls. Public health officials have urged states to prioritize prisons and jails because they have been the epicenters of outbreaks. To date, at least 383,000 incarcerated people have contracted the coronavirus, and more than 2,400 have died. But limited vaccine supplies and public resistance to allowing prisoners early access to the vaccine threaten to undermine their efforts. So far, only nine states have included incarcerated people in phase 1 of the vaccine rollout.

The desperation borne out of a year in lockdown seems to be boosting incarcerated people's interest in the COVID-19 vaccine, said Lauren Brinkley-Rubinstein, who leads the COVID Prison Project, which tracks correctional facilities' responses to the pandemic. In Arizona, for example, Brinkley-Rubinstein said a system-wide survey showed that more than 21,000 of the 38,000 people incarcerated in the state were willing to get a COVID-19 vaccine. Only 4,000 said they would not take the vaccine. The rate of refusal is far lower than that for the flu vaccine, she noted. Brinkley-Rubinstein believes officials will have the best chance of overcoming vaccine hesitancy if they emphasize how the shots might improve living conditions for the incarcerated.

Is the vaccine safe?


- The vaccines that will be available to Oklahomans are safe and effective. The FDA has rigorous scientific and regulatory processes in place that ensure the safety, effectiveness and quality of COVID-19 vaccines. Throughout the entire process, the vaccines were evaluated for their safety and efficacy. Oklahomans should feel confident in receiving the vaccines.
- Both the Moderna vaccine and the Pfizer vaccine have been shown in late-stage vaccine trials to be safe and very effective - **94.5% and 95% effective**, respectively.
- We encourage all Oklahomans to receive the vaccine when it becomes available to them.

Was the vaccine rushed?

- No, the vaccine went through all the usual FDA-required assessments and regulatory processes.
- With scientists and manufacturers around the world all focusing on combating COVID-19, parts of the vaccine production and manufacturing process were run concurrently.
- The FDA-approved COVID-19 vaccine is as safe and effective as any other FDA-approved vaccine.



Are there side effects to any of the vaccines?

- As with all vaccines or any medication, there are chances of side effects.
- According to the CDC, common side effects include
 - Pain and swelling on the arm where you got the shot
 - Fever and chills throughout the body
 - Tiredness
 - Headache



How does an mRNA vaccine work to protect against COVID-19?

- mRNA vaccines are a type of vaccine to protect against infectious diseases. mRNA vaccines teach our cells how to make a protein — or even just a piece of a protein — that triggers an immune response inside our bodies. That immune response, which produces antibodies, is what protects us from getting infected if the real virus enters our bodies.
- COVID-19 mRNA vaccines give instructions for our cells to make a harmless piece of what is called the “spike protein.” The spike protein is found on the surface of the virus that causes COVID-19. Our immune systems recognize that the protein doesn’t belong there and begin building an immune response and making antibodies, like what happens in natural infection against COVID-19.
- At the end of the process, our bodies have learned how to protect against future infection.
- The benefit of mRNA vaccines, like all vaccines, is that those vaccinated gain this protection without having to risk the serious consequences of getting sick with COVID-19.

An information sheet about COVID-19 vaccines was sent to Oklahoma prison facilities and offices.
OKLAHOMA CORRECTIONS

Christopher Dawson, incarcerated at Columbia Correctional Institution in Wisconsin, was one of many who described how COVID-19 has upended prison life. In his prison and others across the country, college classes or substance abuse treatment programs ended abruptly and lockdowns were imposed in attempts to stop the spread. Many prisoners have endured days and months on end in their cells. Many have not seen their families in nearly a year.

“This has been a horrible experience dealing with this virus inside of here,” Dawson wrote. “We never know what is happening from one day to the next.”

The prison has haphazardly enforced social distancing and hygiene protocols, he said. The men aren’t getting any extra hand soap and can only disinfect their cells twice a week. Prison officials won’t let them touch any workout equipment during rec time out of fear of spreading the virus. But the men are forced to shower “shoulder to shoulder,” Dawson said.

Dawson has some reservations about the vaccine but said he is willing to get vaccinated “so we can get back as close to normal as possible.”

A spokesperson for the Wisconsin Department of Corrections said that restrictions are a response to suspected

outbreaks of the coronavirus and that as cases decline, they are loosened.

Incarcerated people may express increased interest in the vaccine, but to get shots in arms, prison officials will have to overcome distrust of the medical system and its staff. Decades of subpar medical care have alienated those behind bars, leading many survey respondents to say they worry the medical staff may not properly store or handle the vaccine.

At Gordon Correctional Center in Wisconsin, Johnnie Littlefield said he is wary of the medical staff. Littlefield said officials routinely ignore prisoners’ medical concerns, but if they do see a nurse, they “give out ibuprofen for everything,” Littlefield said he is still interested in being vaccinated so he can get back to working in the prison’s work-release program.

Some worry they’d be left to languish in their cells if they had an adverse reaction to the vaccine. “My biggest fear is that I get sick and don’t get the proper medical treatment,” wrote Robert Lovato, who is incarcerated in Federal Correctional Institution, Tucson in Arizona.

Many doubt that a system that has historically shown such little regard for their well-being would suddenly offer them a potentially lifesaving vaccine. More than half the respondents said they don’t believe the prison is acting in their best interest by making the vaccine available to prisoners. And few said they believe medical staff would provide accurate information about the vaccine. Nearly one-third of respondents said the vaccine is just another attempt to experiment on prisoners without their knowledge. Another third said they aren’t sure.

Today, research in prisons is tightly regulated. But experimentation on incarcerated people was much more permissible in previous decades. In 1963, for example, a team of researchers at the University of Washington set out to understand the effects of radiation on male reproductive function. The researchers used prisoners, exposing the test subject’s scrotums to X-rays and requiring them to be sterilized to participate. Decades later, some of the men who participated in the experiment received a \$2.4 million settlement as part of a class-action lawsuit against

the university and the corrections department.

Experimentation aside, the incarcerated are sometimes victims of coercive medical procedures. Between 2006 and 2010, nearly 150 women imprisoned in California were sterilized without proper consent, according to a 2013 investigation by the Center for Investigative Reporting.

Many incarcerated people don't know enough about the vaccine to decide whether to take it, the survey showed. Many of the respondents raised basic questions about the vaccine: What are the long-term side effects? If I have had the virus, do I still need to be vaccinated? Can you still get COVID-19 after receiving the shots?

Many respondents noted that guards have stoked fears over the vaccine's safety by dramatizing the few instances in which people died after receiving it. Prison officials haven't done enough to dispel the myths and provide basic information about the vaccine and its benefits and risks.

Prison officials in some states have shared fact sheets and answered frequently asked questions about the vaccine. But most respondents said they get their information from the news and only trust information from family members.

In some cases, the information provided hasn't countered conspiracy theories about the virus and the vaccine. Several respondents believe the vaccine will alter their DNA. Some fear the virus was intentionally created to cull the population.

Public health experts say prison officials could learn from outside community outreach efforts that tap local leaders to encourage vaccinations in communities with low rates. Inside prison, officials could enlist prisoners regarded as leaders, such as lifers or even gang members. But pulling off a peer-led vaccination campaign is logistically difficult in prisons where the pandemic has limited movement.

Some states have turned to staff instead. In Rhode Island, for example, two nurses have gone cell to cell to answer questions and get consent from all incarcerated people who are interested in being vaccinated. By mid-February, officials had immunized every interested prisoner, about 900 people.

Their success is largely due to long standing relationships with the Department of Health and the trust of the incarcerated, said Dr. Justin Berk, the medical director for the Rhode Island Department of Corrections. One of the nurses making the rounds has worked for years providing treatment for people struggling with opioid addiction, Dr. Berk said. "Both have spent a lot of time with the incarcerated population and were the perfect people to be going cell to cell."

This kind of high-touch process may work well in a small system but is harder to pull off in prison systems with thousands of prisoners. Rhode Island incarcerates roughly 1,800 people. California and Florida have prison populations nearly 50 times the size.

Prisoners in California are beginning to be vaccinated. Staff members have gone cell to cell to tally a refusal list. Those who say they don't want the vaccine then receive one-on-one follow-up to answer any questions. Prisoners with intellectual disabilities also undergo a specialized consent process. It's a time-consuming operation, said Andrew Mendonsa, a psychologist at California State Prison in Sacramento, and pandemic-induced staffing shortages have only added to the strain.

"It feels like we are trying our hardest and we are putting all burners on high," Mendonsa said. "And it still feels very fragile."

All it takes is one bad batch to bring the vaccination efforts to a halt, Mendonsa said. In mid-January, California had to recall over 330,000 doses of the Moderna vaccine after seeing a higher than usual number of possibly severe allergic reactions. Data from the Centers for Disease Control and Protection indicates that such reactions are rare, usually occur immediately after a vaccination, and can be treated. The recall paused vaccinations at community clinics as well as prisons and jails for several days, Mendonsa said. Nevertheless, vaccinations in the state continue apace: California has vaccinated more than 37,000 incarcerated people to date.

Prison officials in many states are also offering incentives to prisoners who get vaccinated. In Virginia, for example, prison officials are offering free stamps and telephone credits in

addition to care packages for anyone eligible and willing to get vaccinated. Eligible prisoners in North Carolina could leave prison five days earlier if they take the vaccine. And in Pennsylvania, people who get vaccinated could receive \$25.

State officials will determine when people in prison are offered the vaccine. But prioritizing people behind bars is politically controversial. Wisconsin state legislators are weighing a bill that would deprioritize incarcerated people from the first round of vaccinations. Colorado removed incarcerated people from the first phase of vaccinations after public backlash. Prisoners in Oregon weren't included in the first round of immunizations until a judge ordered the state to prioritize them after several incarcerated people filed suit. Nine states haven't included the incarcerated in their plans at all.

Part of the problem, experts say, is a general hostility toward incarcerated people and a misperception that prisoners are not part of their home communities.

There are ways to combat public opposition, said Dr. Charles Lee, president-elect of the American College of Correctional Physicians. "We should be telling people: If we can protect the inmates, we can protect the workers, and if we can protect the workers, we can protect you. So when the guards go to Walmart and shop alongside you, they are not infected. We are doing it not instead of, but in addition to you."

But that same hostility is deepening some people's resistance to vaccination. James Ellis, who is incarcerated at Marion Correctional Institution in Ohio, said he does not want a vaccine. For one, Ellis said he has already had the coronavirus. But his bigger concern is prison officials' motives. Many of the people he interacts with treat prisoners as if they are not human, he said.

"I don't have a lot of faith that people actually care about my well-being," Ellis wrote, using the prison's email system. "Most think guys in prison are the scum of the earth, so it's hard to feel good about people who think that low of me, and it's hard to believe they are actually doing something for me that's in my best interest."

Ariel Goodman contributed to this report.

Superpredator: The Media Myth That Demonized a Generation of Black Youth

25 years ago this month, “superpredator” was coined in *The Weekly Standard*. Media spread the term like wildfire, creating repercussions on policy and culture we are still reckoning with today.

By Carroll Bogert and LynNell Hancock

The epithet is a quarter-century old, but it still has sting: “He called them superpredators,” Donald Trump insisted in his final debate with Joe Biden. “He said that, he said it. Superpredators.”

“I never, ever said what he accused me of saying,” Biden protested. While there is no record of Biden using the phrase, much of the harsh anti-crime legislation embraced by both parties in the 1990s continues to be a hot-button issue to this day. From the moment the term was born, 25 years ago this month, “superpredator” had a game-changing potency, derived in part from the avalanche of media coverage that began almost immediately.

“It was a word that was constantly in my orbit,” said Steve Drizin, a Chicago lawyer who defended teenagers in the 1990s. “It had a profound effect on the way in which judges and prosecutors viewed my clients.”

An academic named John J. Dilulio Jr. coined the term for a November 1995 cover story in *The Weekly Standard*, a brand-new magazine of conservative political opinion that hit pay dirt with the provocative coverline, “The Coming of the Super-Predators.”

Then a young professor at Princeton University, Dilulio was extrapolating from a study of Philadelphia boys that calculated that 6 percent of them accounted for more

than half the serious crimes committed by the whole cohort. He blamed these chronic offenders on “moral poverty ... the poverty of being without loving, capable, responsible adults who teach you right from wrong.”

Dilulio warned that by the year 2000 an additional 30,000 young “murderers, rapists, and muggers” would be roaming America’s streets, sowing mayhem. “They place zero value on the lives of their victims, whom they reflexively dehumanize as just so much worthless ‘white trash,’” he wrote.

But who was doing the dehumanizing? Just a few years before, the news media had introduced the terms “wilding” and “wolf pack” to the national vocabulary to describe five teenagers—four Black and one Hispanic—who were convicted and later exonerated of the rape of a woman in New York’s Central Park.

“This kind of animal imagery was already in the conversation,” said Kim Taylor-Thompson, a law professor at New York University. “The superpredator language began a process of allowing us to suspend our feelings of empathy towards young people of color.”

The “superpredator” theory, besides being a racist trope, was not

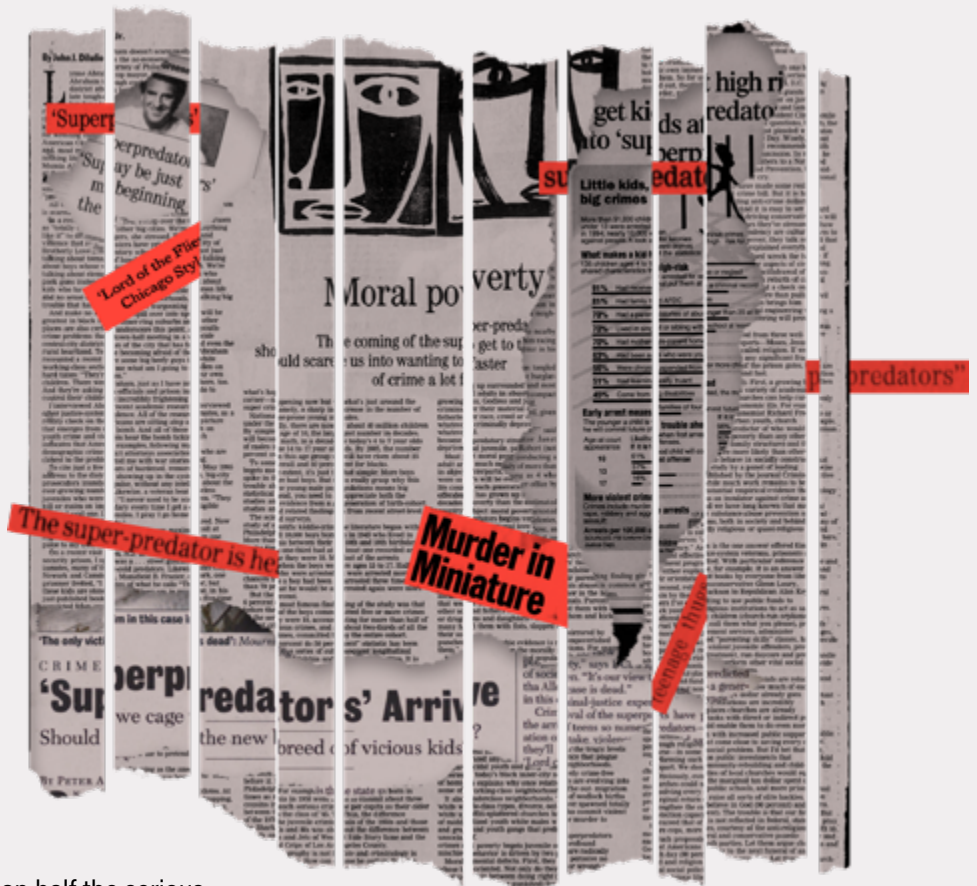
borne out in crime statistics. Juvenile arrests for murder—and juvenile crime generally—had already started falling when Dilulio’s article was published. By 2000, when tens of thousands more children were supposed to be out there mugging and killing, juvenile murder arrests had fallen by two-thirds.

It failed as a theory, but as fodder for editorials, columns and magazine features, the term “superpredator” was a tragic success—with an enormous, and lasting, human toll.

Terrance Lewis was 19 and returning from work in 1997 when Philadelphia police trapped him on a bridge, guns drawn, and arrested him for a murder that he spent 21 years in prison trying to prove he did not commit. Only last year did the judge finally throw out his homicide conviction, citing faulty eyewitness testimony.

“I’m a recipient of the backlash of that superpredator rhetoric,” said Lewis, now 42. “The media believed in the rhetoric. All the coverage from back in that era was to amplify that rhetoric.”

Dilulio’s big idea wasn’t original. His mentor as a graduate student at Harvard, the influential political scien-



tist James Q. Wilson, had been warning for years about a new breed of conscience-less teen killers. ("I didn't go to Harvard," Dilulio told one interviewer. "I went to Wilson.")

But Dilulio was a clever popularizer who quickly became a darling of the think-tank circuit—and of the media. The Marshall Project's review of 40 major news outlets in the five years after his *Weekly Standard* article shows the neologism popping up nearly 300 times, and that is an undercount.

There was the Philadelphia Inquirer's fawning magazine profile of Dilulio, who grew up there. (Until recently, Pennsylvania had the country's largest population of people still serving life sentences without parole—for crimes they committed as children.) There was also a lengthy, mostly gentle New Yorker profile; a spot on The New York Times' op-ed page; and an appearance on the CBS Evening News.

The media exposure led to conference invitations, which led to more media exposure. The word "super-predator" became so much a part of the national vocabulary that journalists and talk show hosts used it without reference to Dilulio—including even Oprah Winfrey, in a segment on "Good Morning America."

The *Weekly Standard*'s founding editor, Bill Kristol, now downplays the blockbuster cover story of his defunct magazine. But he admits: "It struck a nerve. And it caught on."

The notion of an impending wave of teenage savagery caught on among criminologists, too.

"How did these ideas get supported and weaponized throughout the decades? Academics also played a role," says Jeremy Travis, then at the National Institute of Justice, the research arm of the Justice Department, and now at Arnold Ventures, a charitable foundation from which The Marshall Project receives funding.

James Alan Fox, a professor of criminology at Northeastern University, says he never used the term "superpredator," but he warned in numerous media appearances about the coming teen crime wave, and makes no apologies. "One of the things about forecasts is that they're sometimes wrong," he said.

Meanwhile, having sparked the media's feeding frenzy, Dilulio soon

started sounding doubtful. "The term 'superpredator' has become, I guess, part of the lexicon," he told NPR in the summer of 1996. The word had "sort of gotten out and gotten away from me."

Of the 281 media mentions of "superpredators" we found from 1995 to 2000, more than three in five used the term without questioning its validity. The remainder included writers who contested Dilulio's thesis in op-ed articles of their own, readers writing outraged letters, or journalists quoting a number of dissenters in their articles.

Although it made the news pages, the term "superpredator" appeared most often in commentaries and editorials, and in newsmagazines. An emerging "journalism of ideas" would gather force through the 1990s as cable television and the internet took hold. News outlets that once focused on telling their readers the basic facts now felt they had to explain, in the words of one of *Newsweek*'s advertising slogans, "Why it happened. What it means."

famous dictum, "if it bleeds, it leads." But crime coverage went national in the 1990s. According to one study, at the beginning of the decade, the three national news networks ran fewer than 100 crime stories a year on their nightly news broadcasts. By the end of the '90s, they were running more than 500. On NBC News, a February 1993 segment on "Nightly News" focused on teen killers in the suburbs and rural areas, while one in December 1994 warned of a crime wave as America's teen population swelled.

The record doesn't show then-President Bill Clinton using the word "superpredator," but Hillary Clinton did as first lady. And he certainly helped amplify crime as a national story. Political reporters were dazzled by his legerdemain in stealing a traditionally Republican issue, promising more law enforcement on the streets and tougher penalties for juvenile offenders.

The 1994 Crime Bill, a package of mostly draconian federal laws, was national news. And Sen. Robert Dole,



The term "superpredator" first appeared in a cover story in *The Weekly Standard* 25 years ago this month. THE WEEKLY STANDARD

In January 1996, the magazine asked in a headline, "'Superpredators' Arrive: Should we cage the new breed of vicious kids?" (Full disclosure: We both worked at *Newsweek* in the 1990s, and regret not protesting its crime coverage at the time.)

It's commonplace to blame local news media for exaggerated crime fears, especially local TV with its

the Kansas Republican running against Clinton in 1996, with the economy humming and the Cold War over, needed an issue to hammer. When he talked about "superpredators," that made national news, too.

As some criminologists ex-

plained at the time, what drove juvenile homicides in the 1990s wasn't a new breed of violent teens. It was probably the greater availability of guns, making fights and gang rivalries among kids more lethal than before, said Franklin Zimring, a Berkeley law school professor. But to paraphrase Mark Twain, the truth was still putting on its shoes while the "superpredators" ran out the door.

were primed for the "superpredator" theory. In Chicago, gruesome murders by children rocked the city in the early 1990s, including the case of Robert Sandifer, an 11-year-old whose love for cookies earned him the nickname "Yummy." He was being sought for the murder of a 14-year-old girl in late

pulling the trigger, but for driving his brother's getaway car.

"I hate the media," said Hardaway, who was released in 2016, in an interview last month. "I feel like I was convicted through the media."

"The reaction was, the way to stop this crime problem is to hit 'em hard," said Don Wycliff, then the editor of the Chicago Tribune editorial pages. "I don't recall a lot of persuasive dissenting voices at that time."

When the "superpredator" concept was born a year after Yummy's death, the Trib was all in. Just 10 days after Dilulio's piece, the editorial board cited him in its argument for bringing back orphanages. A prominent and widely syndicated columnist for the Tribune, Bob Greene, advised readers to "stop thinking of the superpredators as merely some projected future phenomenon [but] something based on current fact." The Tribune even devoted its entire op-ed page to reprinting Dilulio's Weekly Standard piece.

"What can I say?" Wycliff said. "It seemed to explain a lot of things."

The Chicago Tribune would later publish exceptional work uncovering years of police abuse and misconduct by local prosecutors. But reporter Maurice Possley said his sources sometimes asked, "Where was the Tribune when all this bad stuff was going on in these courtrooms?"

Journalists of color say that a lack of diversity in American newsrooms influenced criminal justice coverage. Black reporters at the Tribune were so dismayed by their White editors' narrow outlook that in the early 1990s, one of them, Dahleen Glanton, organized a minivan ride to the city's Black neighborhoods.

"There were top editors who had never been to the South Side of Chicago," she remembers. (The editors most directly responsible for the Chicago Tribune's op-ed page when it reprinted Dilulio's piece, Wycliff and Marcia Lythcott, are both Black. Neither one remembers making the decision to run it. "I hated that term," Lythcott says now.)

By the late 1990s, the "superpredator" mania was dying down. "Young killers remain well-publicized rarity," a Tribune headline said in February 1998. "'Superpredators' fail to grow into forecast proportions."



The New York Daily News wrote a story about 15-year-old Willie Bosket, who killed two people on the subway, in 1978. THE NEW YORK DAILY NEWS

State legislatures were already busy dismantling a century's worth of protections for juveniles when the fear of "superpredators" gave them a new push. New York had started the trend in 1978 after 15-year-old Willie Bosket killed two people on the subway. The media led that charge, too: Gov. Hugh Carey read a sensationalized story about Bosket in the New York Daily News ("He's 15 and He Likes to Kill—Because It's Fun"), and immediately called a special session of the legislature that stripped children of many protections of juvenile court.

Illinois followed suit, starting in 1982. At the end of Denver's media-driven "summer of violence" panic in 1993, Gov. Roy Romer pushed through an "iron-fist" overhaul of Colorado's juvenile justice system. By the end of the 1990s, virtually every state had toughened its laws on juveniles: sending them more readily into adult prisons; gutting and sidelining family courts; and imposing mandatory sentences, including life sentences without parole.

Readers who had already been subjected to a steady stream of horrific stories about child killers



Derrick Hardaway was sentenced to 45 years in prison for driving the getaway car in Robert Sandifer's murder when he was 14. LAWRENCE AGYE/ FOR THE MARSHALL PROJECT

summer 1994, when he was himself murdered by brothers Cragg and Derrick Hardaway, ages 16 and 14.

The local crime became a national story. Time magazine put Yummy's picture on the cover: "So Young To Kill. So Young To Die." By the time Derrick Hardaway was sentenced in adult court in 1996, at the height of the "superpredator" frenzy, he got 45 years in prison for Yummy's murder: not for



JAMIEL LAW FOR THE MARSHALL PROJECT

In 2001, Dilulio admitted his theory had been mistaken, saying "I'm sorry for any unintended consequences." In 2012, he even signed on to a brief filed with the U.S. Supreme Court supporting a successful effort to limit life sentences without parole for juveniles. (Dilulio's wife said he was not available for comment for this article because of ill health.)

As the Biden-Trump debates showed, politicians now feel the need to backpedal from the term. When she was running for president in 2016, Hillary Clinton was pressed to apologize for using "superpredators" 20 years before.

Few media outlets have apologized for "superpredators." The Los Angeles Times conceded in September that "an insidious problem ... has marred the work of the Los Angeles Times for much of its history ... a blind spot, at worst an outright hostility, for the city's nonwhite population." Indeed, our analysis shows that the L.A. Times used "superpredator" more than any other major newspaper. But it was hardly alone in branding a generation of young men of color as animals and paving the way for harsher juvenile justice.

"If we don't acknowledge the impact of what past stories did," said law professor Taylor-Thompson, "I'm not sure the media's behavior will change."

Carroll Bogert is president of The Marshall Project. LynNell Hancock is professor emerita at Columbia University Graduate School of Journalism.

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by Kio Herrera and Noya Kohavi and was sponsored by a grant from the Brown Institute for Media Innovation.

Source: Nonscientific review of all mentions of "superpredator" and its variations in 40 major U.S. news outlets from 1995 to 2000.

A Question of Violence

Rahsaan "New York" Thomas is barred from COVID-related release from San Quentin because his 20-year-old crime was violent. GoFundMe cancelled his legal defense campaign for the same reason. Here's what it's like to live with the scarlet letter V.

By Rahsaan Thomas

"Denied, without prejudice, for failure to state a prima facie case for habeas relief."

Laying on the top bunk of the San Quentin cell assigned to me, I read those words on the California State Appellate Court's one-page ruling over and over. "Without prejudice" means you can refile the same issue in that same court—something that does not usually happen. This was not exactly

the decision I wanted, but at least they left the door open for me to resubmit the appeal I had filed in February, which included new evidence.

I had prayed that the court would decide that the homicide I committed was justified, reverse my conviction and begin the process of having me released. I was recovering from a COVID-19 infection that caused a pounding headache, chills, weakness and the feeling that my nasal passages were closing. My illness made the need to be free more urgent than ever.

I shouldn't have been exposed to the virus in the first place. For the first three months of the pandemic, San Quentin went without any confirmed cases. But in late May there was a transfer fiasco: The California Department of Corrections and Rehabilitation (CDCR) sent 121 men from the California Institution for Men in Chino, which had 450 cases, to San Quentin.

When he testified before the state Senate Public Safety Committee in July, the prison health system's federal receiver Clark Kelso said that some of the Chino men were tested three or four weeks prior to transfer—far too long to be reliable, he said.

I heard in early June that several guys from Chino tested positive once they got to San Quentin. Predictably, the virus spread beyond quarantine areas.

In North Block, where I was housed, social distancing was out of the question: There were nearly 800 people occupying 414 cells

on June 19. Despite the double bunks, those 6-by-9-foot cells were clearly designed for one person.

University of California medical experts who toured San Quentin warned that unless the prison reduced its population by 50 percent, its overcrowded cell blocks and poor ventilation would cause a full-fledged epidemic. And yet the governor and the corrections department refused early release for people who had committed violent crimes. People like me.

It didn't matter if you'd served decades in prison, aged out of crime, no longer committed violent acts or had an inflated sentence because of three-strikes laws or "sentencing enhancements." No one considered that paroled lifers have less than a 1 percent rate of committing a crime again, compared to nearly 49 percent for other prisoners.

hurting no one but themselves, directly finances the 9-millimeters that dealers use to kill over territory. Even the drug dealers who put business over violence still sell a product that compels fiends to commit fraud, child neglect, robbery, prostitution and murder.

Before I committed violence, I experienced a whole lot of it. The worst happened when I was 17 and I ran away as a robber shot my little brother in both of his legs for a gold ring. I started carrying a gun in 1988 to redeem that cowardice and altered my path from clerking at a law firm to needing a lawyer. Twelve years later, when two armed men robbed a friend right in front of me, I reacted with a hail of gunfire.

The man I am today would rather be robbed than to kill another Black human being. Through years of self-help groups, reflection and study, I have

San Quentin have healed and have stopped resorting to violence as well. Even with over 1,000 lifers, this is one of the safest places I've ever lived. It's so safe that people tour the prison. NBA stars like Draymond Green and JaVale McGee have sat at tables on the yard in the midst of dozens of tatted-up men to play dominoes and chess. Over 3,000 volunteers, mostly women, facilitate self-help groups without direct CO supervision. Yet, when state officials had a chance to save people from COVID through early releases, they classified us as violent. I guess they read "The New Jim Crow" but skipped "Just Mercy."

After the court made its "without prejudice" ruling in my case on June 30, I had 90 days to refile. Because of the constant quarantines, I was unable to get inside the law library and phone access was limited. I decided I needed an attorney.

I didn't have enough money to hire anyone, so I asked my friend Su to launch a fundraising campaign. By the time I reached her, I only had about 60 days left on my statutory deadline. If I filed after that, my claim would be time barred unless I could provide a good reason for the delay.

I had read in other cases that hiring a lawyer who starts an investigation counts as good cause. I also figured that catching coronavirus would be an acceptable justification. On August 15, the date Su launched a GoFundMe, COVID-19 had infected over two-thirds of the San Quentin population—2,100 people—and claimed 25 lives.

By October 16, we had raised \$14,563. While it fell short of our \$35,000 goal, it was enough to pay a lawyer for a case review. Two other friends agreed to contribute however much I fell short.

I briefly considered not hiring the lawyer because on Oct. 20 a state court determined that the warden of San Quentin had deliberately failed to protect us from COVID-19 and ordered the prison to reduce its population by half. But the court left it up to the deliberately indifferent prison officials to decide if they would reach the reduction through releases or transfers. For the most part, San Quentin chose transfers.

On Oct. 23, as soon as a CO opened our cages, I raced to the phone

Designations of "violent" or "nonviolent" are as fake as race. They aren't true indicators of dangerousness.

Designations of "violent" or "nonviolent" are as fake as race. They aren't true indicators of dangerousness. All crimes have a butterfly effect that leaves someone, somewhere harmed. The politicians who accept NRA money when polls show that most Americans support gun control measures are accessories to mass murders. The white collar criminals who sham families into poverty are accessories to any suicides by the victims of their Madoff-ing. A drug addict, seemingly

healed. I've learned from books like Danielle Sered's "Until We Reckon" that the poverty and violence that I experienced were key factors in the commission of my crime. "The Body Keeps Score," by psychiatrist and trauma researcher Bessel van der Kolk, showed me that seeing my little brother shot caused physical changes in my brain that contributed to me killing someone when faced with circumstances reminiscent of that robbery.

Most of the older men housed at



Democratic presidential nominee Joseph R. Biden spoke during a drive-in campaign rally in Pittsburgh, Pennsylvania, on Nov. 2. DREW ANGERER/GETTY IMAGES

booths to call Su. She quickly accepted the call but opened our conversation with, "Please don't be mad at me."

"What? What happened?"

"GoFundMe shut down the account and refunded everyone's money. You can't have legal campaigns on their site."

Time stood still as sensations of anger, shock and fear passed through my body. I sighed deeply and told her to start a campaign on another website then have everyone re-donate.

With more research Su and I learned that you can in fact do legal campaigns on GoFundMe, but the crimes can't involve violence. Without regard for the circumstances of my case or who I am today, I was once again being judged for something I did 20 years ago—something I wish to God that I could change but can't, no matter how many other changes I have made.

Rahsaan "New York" Thomas is the co-host and co-producer of the Pulitzer Prize-nominated podcast "Ear Hustle." He's also a contributing writer for The Marshall Project and San Quentin News. He is currently incarcerated and pursuing a legal campaign to secure his freedom.

What Biden's Win Means for the Future of Criminal Justice

Joe Biden ran on the most progressive criminal justice platform of any major party candidate in generations. So what can he actually do?

By The Marshall Project Staff

During his presidential campaign, Joe Biden promised to end private prisons, cash bail, mandatory-minimum sentencing and the death penalty. Candidate Biden also said the U.S. could reduce its prison population by more than half. While he didn't put forward as progressive or as detailed a platform as many of his competitors for the Democratic nomination (including

his running mate Kamala Harris), Biden has nevertheless, quietly, been elected on the most progressive criminal justice platform of any major party candidate in generations. So what can he actually do?

Biden will face the same constraints as all incoming presidents after a campaign of big promises. Government moves slowly, time and political capital are limited, and his administration will likely need to prioritize the pandemic and the related economic fallout in the early days. But if he's serious about tackling criminal justice, here's what experts say to expect from the Biden administration on key issues.

Policing Reform

Along with the COVID-19 pandemic, policing has been at the forefront of public consciousness for much of 2020. That interest gives Biden the political capital to act, but doesn't change the fact that policing is primarily local, and nationwide change is hard to enforce at the federal level.

The U.S. has some 18,000 law enforcement agencies, all with their own rules and regulations. If Biden wants to make changes



The federal execution chamber is located at Terre Haute Federal Correctional Complex in Indiana. SCOTT OLSON/GETTY IMAGES

on his own (he has suggested banning no-knock raids and chokeholds, for example) he will mostly be limited to offering funding or threatening funding cuts to departments based on whether they follow guidance issued by his Department of Justice.

Notably, the Trump administration had already moved to ban restraint maneuvers that “restrict an individual’s ability to breathe” via executive order, implemented last November.

This strategy has had some impact in the past, but federal funding makes up only 3 percent of local law enforcement spending nationwide, so changes are hardly a slam-dunk. Biden has also promised to revitalize federal investigations of departments that demonstrate a pattern of civil rights violations. These investigations were routinely conducted by the Obama administration but abandoned by former President Donald Trump. Historically they have led to consent decrees in some of the nation’s largest cities and produced the now frequently-cited Ferguson Report.

Biden repeatedly spoke about wanting to convene “cops, social workers ... and the Black and Brown community,” and experts say they expect him to build on some of the relationships and work that the Obama administration’s Task Force on 21st Century Policing started.

Biden could encourage lawmakers to pass a version of the George Floyd Justice in Policing Act, which passed the House earlier this year before being stymied in the Senate. The legislation would have a much larger impact than the administration could have on its own. The bill, among other things, would set a national use-of-force standard, make it easier to charge police with crimes at the federal level and establish a national registry of misconduct by law enforcement officers.

Biden brings to the White House a long history of close relationships with law enforcement, but one that has recently frayed as police unions largely defected to Trump. Biden’s loss of political capital with cops stems partly from his slight shift leftward during this

year’s Democratic primaries, when he started openly using terms like “systemic racism” in conversations about policing. It is also a result of how the Obama administration, with Biden as vice president and point person on law enforcement issues, aggressively investigated police departments accused of excessive use of force and racist practices. —*Jamiles Lartey and Eli Hager*

Juvenile Justice

On an often overlooked issue, a Biden administration has the chance to make real change.

The juvenile justice system gets less attention than hot-button issues like immigration, policing and private prisons. That’s why it went largely unnoticed when Trump appointed a former prosecutor and professor at the evangelical Liberty University to run the federal agency that oversees youth justice nationwide—who then dismantled a range of protections for children of color in the justice system.

The Biden administration will likely reinvest in this agency, the Office of Ju-

venile Justice and Delinquency Protection, to ensure that juveniles' records are expunged, to prohibit them from being incarcerated in adult facilities, and to end the practice of jailing them for so-called status offenses—crimes that would not be crimes if you were an adult, like underage drinking and truancy.

Biden's campaign pledged \$1 billion for these efforts and the goal of reducing juvenile imprisonment to near zero, which children's advocates say is possible in coming years. His plan is to create a grant program that would provide money to states to set up alternatives to incarceration like repurposing empty youth jails into community centers and mentorship, counseling and job programs.

Importantly, the Biden plan does not suggest GPS monitoring as an alternative to youth incarceration, which has often resulted in increased surveillance of kids by the justice system.

Finally, Biden will likely return to Obama-era policies designed to plug the school-to-prison pipeline. Before Trump took office, the Justice Department's civil rights division had been active in pressing school districts to stop calling the police on kids for minor misbehavior and stop suspending and expelling students of color, which can lead to a greater chance of them being arrested. — *Eli Hager*

The Death Penalty

Biden can't unilaterally end the death penalty, but he can speed up its demise and use symbolism to signal a new era.

Ultimately, the death penalty is symbolic. It has never been used to punish more than a tiny fraction of the most serious murders, but it makes very long prison sentences appear lenient by comparison.

On the campaign trail, Biden said he'd work to end the federal government's use of the death penalty. His record is mixed. As a senator, he pushed for a bill in which "we do everything but hang people for jaywalking," but also fought to make sure death-row prisoners had good lawyers. He now argues that some serious crimes should still lead to life sentences without parole, which some consider worse than execution.

Although only Congress can fully

abolish the federal death penalty, the president can do a great deal to speed its yearslong decline across the country.

Trump's attorney general, William Barr, oversaw the most federal executions of any presidential administration since Eisenhower. A new attorney general could stop them immediately, and return to the Obama-era practice of seeking no executions. A new attorney general could tell U.S. attorneys to only seek new death sentences for rare crimes like terrorism and mass shootings, which would still apply to defendants like Charleston church shooter Dylann Roof and Boston Marathon bomber Dzhokhar Tsarnaev.

Biden could also initiate a moratorium on executions and halt all action while his administration studies the punishment's use, which President Barack Obama promised but never delivered.

Most death sentences are handed out in state courts, but the president can push states to slow down executions, by withholding federal grants unless states guarantee that death row prisoners have access to DNA tests that may help them prove their innocence. Robert Dunham, executive director of the Death Penalty Information Center, said the president could set up a project to help defend military veterans who commit serious crimes. "There is a unique federal interest in protecting people who have served the country," he explained, noting many veterans develop PTSD or suffer head trauma in service, and their lawyers struggle to get their military records.

If Biden wants to really opt for symbolism, he could follow the lead of California Gov. Gavin Newsom—who ordered that the state's execution chamber be dismantled last year—and close the federal chamber in Terre Haute, Indiana. He could also aggressively pursue a mass clemency campaign, commuting the sentences of the more than 50 people currently on federal death row, if he believes that the death penalty system is too broken to be fixed. — *Maurice Chammah*

Bail Reform

Biden has promised to "lead a national effort to end cash bail," but his pathway to do so is limited.

Cash bail is money a defendant

pays as collateral in exchange for being let out of jail during the time between their arrest and a trial or plea. Biden repeatedly called the practice a "modern-day debtors' prison" in campaign literature, but no president has much direct influence on bail, since it's rarely used in the federal justice system.

Biden can help push local governments by asking his Department of Justice to issue guidance on bail, convening White House events or assembling a task force as the Obama administration did with policing in 2015. "That bully pulpit that the president has, he really exercises through the attorney general position on these issues," said Cherise Fanno Burdeen, an Executive Partner at the Pretrial Justice Institute.

Biden could also work with Congress to pass legislation like Bernie Sanders' "No Money Bail Act" which would have offered grants to states to adopt alternatives to money bail. Incoming Vice President Kamala Harris co-sponsored a similar bill in 2017.

Much depends on what the White House would push for as a replacement. State-level bail reform efforts that have replaced money with increased discretion for judges to order preventative detention have divided justice advocates. In the federal system for example, thanks in part to a 1984 reform bill that Biden co-sponsored as a senator, criminal defendants are often presumed too dangerous to release before trial, either because of the nature of the crime they are accused of or because of factors calculated in a risk assessment.

Biden has promised that he will pursue reforms that are "fair" and "do not inject further discrimination or bias into the process." But that has so far proven easier said than done. — *Jamiles Lartey*

Mandatory Minimums

Biden has said he wants to eliminate mandatory minimum sentences, a legacy of the tough-on-crime '80s. To make this happen at the federal level, he'd need to appoint a range of officials who share this view and get buy-in from Congress.

Beginning in 1984, Congress passed dozens of laws requiring minimum prison terms for a wide range of crimes, including

buying and selling drugs, possessing guns unlawfully, or downloading child pornography. Over the years mandatory minimums have been singled out for leading to decades behind bars or life sentences for possessing or selling tiny amounts of drugs. Biden's criminal justice platform pledges to eliminate federal mandatory minimums. Biden hasn't specified which ones, but advocates say if he does tackle them, he will likely focus on drug crimes.

There are more than 60,000 people currently serving mandatory minimum sentences in federal prison, according to the U.S. Sentencing Commission. In 2019 alone, 10,000 entered the system. A broad clemency effort or a law

with Congress. So the first step a President Biden could take to signal his commitment to repealing mandatory minimums is to appoint officials who share his view, says Rachel Barkow, a law professor at NYU and a former member of the U.S. Sentencing Commission, which helps draft federal sentencing guidelines. An attorney general who is skeptical of mandatory minimums could also instruct federal prosecutors to use them judiciously, as Eric Holder did in 2013.

Barring legislative changes, a president can use his clemency powers to shorten the sentence of anyone serving a mandatory minimum, or use his commutation power to give judges the

that he intends to use it.

Clemency, which includes reversing criminal convictions (pardons) and shortening sentences (commutations), is the president's most direct means to reduce incarceration. Biden made no bold promises on these topics during the campaign. He has promised to "broadly use his clemency power for certain nonviolent and drug crimes," as Obama did at the end of his administration.

Under Trump, clemency slowed considerably. Trump issued fewer than 50 total pardons and commutations as president and they disproportionately went to his political allies, like Roger Stone, Dinesh D'Souza and Joe Arpaio. Compare that to over 1,700 issued under Obama, which set a record as more acts of clemency than the previous 13 presidents combined.

Biden could ask Harris to take the lead on clemency since she laid out a more detailed plan than his own during the Democratic primary. Harris said she would remove clemency decisions from the Department of Justice and open a federal sentence review unit, where a team of lawyers would be exclusively tasked with reviewing old sentences and considering reductions. These would be within the administration's authority and could speed the pace of clemency considerably.

Another option for the administration would be to create an independent White House clemency advisory board to speed the pace of clemency decisions, something Sens. Bernie Sanders, Elizabeth Warren and Amy Klobuchar all supported during their presidential campaigns. — *Jamiles Lartey*

Private Prisons

Biden can move the 14,000 federal prisoners currently held in private facilities without too much struggle. After that it gets harder.

Biden and Harris both pledged to end the federal government's use of private prisons during the 2020 campaign, a position that is extremely popular among Democrats partywide. Experts say the incoming administration is likely to build on guidance issued under the Obama administration in 2016, rescinded by Trump, that encourages the director of the Bureau of Prisons to stop renewing contracts with

Biden brings to the White House a long history of close relationships with law enforcement, but one that has recently frayed as police unions largely defected to Trump.

change, if it were retroactive, could reduce the federal prison population by a quarter almost overnight.

Repealing mandatory minimums—or passing a "safety valve" law that doesn't repeal them but gives judges the discretion to sidestep them—would require an act of Congress. Part of the problem, say scholars who study the issue, are the attorney general and the

18 Department of Justice, whose opinions carry a lot of weight

opportunity to shorten their sentences, said Paul Larkin, a legal research fellow at the Heritage Foundation. Biden says he now regrets his support of the 1984 and 1986 laws that created many of today's mandatory minimums. — *Beth Schwartzapfel*

Clemency

Biden has lots of power to revamp and supercharge the clemency process—but he hasn't given much indication



A detainee buys goods at the commissary at the Stewart Detention Center, which is run by CoreCivic, in Lumpkin, Ga., in 2019. DAVID GOLDMAN/ ASSOCIATED PRESS

private facilities when they expire, in an effort to ultimately phase out their use.

At that time, about 22,000 people were being held in private facilities under contract with the bureau. The number has since fallen to around 14,000 because several prisons were closed and federal incarceration declined both under Obama and Trump. The 2018 First Step criminal justice reform bill and coronavirus-related policy changes have both driven federal prison populations down to some extent.

Prisoners serving sentences for federal crimes only make up a small percentage of the people the federal government currently detains in private facilities, however. Some are held pre-trial for the U.S. Marshals Service and the vast majority are being detained for U.S. Immigration and Customs Enforcement. Unlike the prisons bureau, these agencies have few of their own deten-

tion facilities and rely heavily on private companies (as well as local jails) to hold people for them. In 2019, ICE booked some 500,000 detainees into a system where private companies make up about 80 percent of the available beds.

Together, the major two detention providers, CoreCivic and GEO Group, made about \$1.3 billion last year in contracts with ICE, and each company relies on ICE for around 30 percent of its revenue, according to the Associated Press. Both companies secured multiple 10-year contracts with ICE this year that experts say would be difficult for the federal government to get out of, and would theoretically extend past the end of even a two-term Biden presidency.

That creates a challenge for Biden, who also pledged to "end for-profit detention centers." Experts say the

only realistic way to make good on that promise is to detain far fewer people. The Biden campaign has strongly endorsed case-management strategies for those arrested on immigration violations instead of detention. — *Jamiles Lartey*

Immigration Detention

Biden can't abolish private immigration detention without a dramatic reduction in the number of people being detained. Holding fewer people will be within Biden's power, but may come at a political cost.

Tucked away deep in Biden's 18-page plan for immigration is a pledge to end private detention centers. "No business should profit from the suffering of desperate people fleeing violence," it says, without specifying how to accomplish that ambitious goal.

After decades of expansion, the detention system overseen

by Immigration and Customs Enforcement, or ICE, held more than 52,000 people a day at its peak in 2019. Four in five detainees were held in privately run facilities, according to the American Civil Liberties Union. The major players are the GEO Group and Core-Civic, publicly traded companies.

Trump rapidly expanded detention, especially for asylum-seekers. Officials ordered most of them to be confined while their cases moved through immigration courts, all but eliminating release on bond. Since 2017, ICE has opened more than 40 new detention centers, bringing the total to 220. In 2020 ICE's budget for custody operations was \$3.1 billion.

Largely because the Trump administration cited the pandemic to expel border crossers, ICE's average daily detention headcount dropped from 50,218 in October 2019 to 20,365 in September. Even so, there are not enough vacant public facilities in the country to house immigrant detainees unless their numbers drop substantially.

Biden's plan calls for investing in alternatives to detention, like community-based case management programs to ensure people show up for court hearings, which proved effective in pilots under the Obama administration.

Biden sent a bill to Congress with a "roadmap to citizenship" for more than 10 million undocumented immigrants, a measure that could eventually greatly curtail ICE arrests within the country.

Intense resistance will likely come from officials in places that depend on detention centers for jobs, said César Cuauhtémoc García Hernández, a law professor at the University of Denver who has argued for abolishing immigration detention.

Biden's victory has amplified calls from Democrats to end detention of children in chain-link cages and other Custom and Border Protection holding cells at the border. Biden has said he will not allow separation of children from migrant families, and he can instruct U.S. border authorities to hold young border-crossers in more appropriate government facilities and speed their release.

Some Biden campaign aides worry that his victory will spur a new surge of migration to the border,

which might imperil support in Washington for broader reform. Pressure to wait on closing detention centers could emerge from within the Biden White House.

— Julia Preston

Reducing The Prison Population

Biden can't implement new programs or rewrite outdated sentencing laws at the state level. But he can use federal funding to send a message.

Crime prevention is a central feature of Biden's criminal justice plan. He has pledged to set aside \$20 billion in federal funding to states that adopt evidence-based crime prevention programs and that opt for diversion programs over incarceration.

Biden's plan is adopted from The Reverse Mass Incarceration Act, a 2015 policy proposal by The Brennan Center for Justice, a nonpartisan law and policy organization working to reform the justice system.

Under Biden's plan, states would have access to federal funding if they agreed to implement programs designed to keep people out of prison. The funding comes with some stipulations: States must eliminate mandatory minimums and they must create earned credit programs for people currently serving time.

It's unclear what kinds of programs states could or should adopt in order to get the funding. Biden has emphasized the need for states to invest in programs that address several underlying drivers of crime such as illiteracy and limited early education.

Congress would have to enact Biden's plan. He has allies in both chambers: Senator Cory Booker and Representative Tony Cardenas introduced a bill in 2019 modeled after the Brennan Center proposal. But neither bill has moved forward. And even if Biden wins the presidency, the success of his plan hinges on the outcome of 2020 congressional races, and the makeup of the Senate might not be determined until January.

States have already begun to decarcerate. In 2019, the state prison population declined for a third year in a row. And crime is at historic lows, despite a recent uptick. But the changes are uneven. Spurred by federal funding through the Justice Reinvestment Act,

some states have let people out of prison early, only to increase the number of people on probation and parole.

— Nicole Lewis

How Trump Made a Tiny Christian College the Nation's Biggest Prison Educator

His administration has funneled \$30 million to Ashland University in Ohio. Critics say the school's tablet-based program fails incarcerated students.

By Eli Hager

Six years ago, Ashland University, a small Christian college in the north-central region of Ohio known as the "Buckeye Bible Belt," was in trouble. The school was \$70 million in debt, was given a "junk" rating by the investors' service Moody's, and was later cited by state officials for transcript manipulation, records show.

But under Donald Trump's Department of Education, led by Betsy DeVos, Ashland's fortunes have turned around. After being selected to participate in a federal financial aid initiative for incarcerated people, the university's correctional education program was able to spread to more than 100 prisons and jails in 13 states, from Louisiana to Minnesota. Since 2017, it has enrolled nearly as many new students behind bars as make up its entire undergraduate student body, bringing in almost \$30 million over that time period, according to school records as well as data provided by an Education Department spokesman.

No other college has been allowed to use federal funding to expand so widely and rapidly in correctional



JUAN BERNABEU FOR THE MARSHALL PROJECT

facilities over the past four years, nine prison education experts said in interviews. Despite Ashland's relative obscurity, the school now appears to have a bigger footprint in the nation's penal system than any other institution of higher learning.

And yet, critics say that few colleges offer less to imprisoned students, often in return for using up their lifetime allotment of federal financial aid. Unlike most prison university programs, which provide at least some in-person classes—that is, when there's no pandemic—the Ashland experience takes place almost entirely on a tablet. To complete coursework for an associate degree in General Studies, a bachelor's degree in Applied Communications, or an Interdisciplinary Studies degree, the school's 3,518 currently incarcerated students watch recorded lectures, absorb digital readings and type up papers alone.

Ashland, a private, nonprofit school, loads its content onto devices owned by private companies such as Texas-based Securus Technologies, which charges prisoners to send and receive emails, listen to music and play games through its JPay service.

Todd Marshall, Ashland's vice president for correctional education and innovation, says the university's tablet-based curriculum makes it pos-

sible to teach more people in prisons and jails than are served by traditional college programs, especially those in remote, under-funded areas where in-person offerings are minimal. "Our goal is for every incarcerated individual in America to be able to go to college," he said, noting that education reduces the likelihood that people who have been locked up will commit future crimes and increases their chances of getting a job.

Marshall said the school's longstanding commitment to educating prisoners, including its new model for doing so in a more scalable way, is rooted in Christian values of rehabilitation and integrity.

The Marshall Project asked to view Ashland's coursework on one of the devices that prisoners use, but officials denied the request, saying the technology only works on prison grounds.

Students correspond with professors they have never met through a messaging tool that must be plugged into a kiosk at their prison; these often break down, according to interviews with six incarcerated students. The university employs only one digital librarian for prisoners nationwide, and only one staffer who manages their career plans and return to society.

It's just not possible for incarcerated people, a population with consid-

erable social needs, to get adequate support taking college courses largely by themselves on a small device, critics say. "It's hard for those of us in higher education to even articulate how nonsensical that is," said Rob Scott, executive director of the prison education program at Cornell University, which teaches in-person liberal arts courses in upstate New York prisons.

Ashland's expansion is an "inflection point" for the future of education for incarcerated people, said Ann Jacobs, executive director of the John Jay College Institute for Justice and Opportunity in New York City. "We are challenged to answer the question," she said, "of whether a substandard educational experience is better than none, or good enough, for 'those people.'"

Marshall, the Ashland official, says there are misconceptions about tablet-based learning. "It's not like we just dump stuff on there," he said. Students have "substantive, regular conversation" with professors via the app and receive feedback on the assignments they submit, he said. They are given a keyboard and earbuds, he added, and any technological problems are fixed quickly by the site directors that the school assigns to each prison.

Some facilities create an "AU dorm" with access to tutors, he said.

Part of the richness of higher education programs ... is ultimately that they are grounded in debate, dialogue, critical thinking and the arts—rather than digital educational “content”

Ben Castro, a formerly incarcerated Ashland graduate, said there were study halls at his Louisiana prison thanks to the school's site director. Castro said he owes the well-paying job he now has as vice president of operations for a small grocery store chain to the fact that Ashland gave him an associate's degree while he was behind bars in 2018.

“It totally changed my life,” he said.

When asked for data showing Ashland's success with all of its incarcerated students, though, Marshall said the tablet program has only operated for four years, making it too early to assess graduation or drop-out rates, and that a project to improve the school's metrics is still a few months from completion.

In 2018, a college accrediting commission found that Ashland had not set goals for its students in prison to complete the program, and had no systematic process for reviewing student complaints.

Ashland claims that it is the oldest continually operating college behind bars in the U.S.; it first started teaching in one Ohio prison in 1964.

22 But until 2016, its correctional education program existed only

in that state.

Ashland's nationwide expansion was sparked near the end of the second Obama administration, when the Department of Education launched a pilot program called Second Chance Pell with the goal of reinstating federal financial aid for prisoners who seek a college education. Pell grants for incarcerated people had been banned by the 1994 Crime Bill authored by Joe Biden.

For universities, gaining funding through Second Chance—roughly \$6,000 per student—has required a rigorous approval process for every prison system they want to operate in. In the most recent round of applications, 67 colleges were picked out of more than 180 that expressed interest.

College administrators say the selection process under the Trump administration has been opaque, but that Ashland has been a clear winner. It's been the only school allowed to keep expanding to new states across the country, according to experts interviewed by The Marshall Project.

The Department of Education granted Ashland a waiver allowing it to expand, according to department

spokeswoman Angela Morabito, who said the decision was made by career civil servants not by senior leaders appointed by Trump. She also said that any school receiving these federal funds must have “regular and meaningful interaction” with incarcerated students, which she said is possible through an internet connection.

An August report published by the department states that one unnamed college has expanded to multiple states. Morabito did not respond by publication time to a question asking whether this one school is Ashland.

Higher education experts see the Trump administration's open-ended support for an obscure Ohio college's tablet program as consistent with DeVos's philosophy of promoting private religious and charter schools rather than public schools with proven track records. This has included those that operate like a business: spreading their product using students' own money. (In 2019, DeVos repealed an Obama rule that had reined in for-profit colleges whose graduates leave school without a real chance of getting a job and with more student debt than they can ever repay.)

Marshall, the head of Ashland's prison program, said that Dr. Carlos Campo, the university's president, has an excellent working relationship with DeVos and other top education officials. And he noted that some of the school's imprisoned students receive limited scholarship money, in addition to federal dollars. Ashland does not make any money from corrections departments or from private prison telecommunications companies, he said.

Ashland's program is, in turn, appealing to prison administrators in part because they don't have to pay anything extra for it, given that it is funded nearly entirely by prisoners' Pell dollars and can come with the JPay tablets.

Other universities build more complete college experiences for incarcerated students through scholarships and grants, as well as some state funding.

Meanwhile, for Ashland's virtual program, corrections officials don't have to process security clearances for visiting professors, assign officers to guard classrooms or buy additional educational materials.

Ashland is less adversarial than

other higher education initiatives, which tend to advocate for prisoners to have a culture of intellectual exploration and empowerment. That dynamic often causes direct conflict with corrections departments' culture of control.

The school "requires none of the 'messiness' of collaboration—bodies and texts moving within and through the prison walls," one college administrator wrote in an open letter to Ashland that he posted on a higher education listserv in early December. Instead, corrections departments get a "seamless" process for providing educational content, he said. Yet "messiness is an essential part of any college education worthy of the name, and seams (if not outright resistance) are exactly what we should be causing in the prisons."

Marshall said of Ashland's relationships with prison agencies, "We're guests in their house."

Those with experience with Ashland also complained about its approach to preparing prisoners for reentry into society, which most prison university programs consider to be a major aspect of what they provide. After being released from prison, most students can only afford to continue their education with the college if they remain eligible for Pell money, which many have already spent on the program.

Luci Harrell, a halfway house resident in Georgia—where Ashland operates in private prisons—who also facilitates a reentry group at her facility says she has been appalled by what's happened to the Ashland students who arrive there from prison. All of the women she works with, she says, lose the credits they started but didn't finish when they were locked up, and, without access to the tablet program anymore, have little way to keep working toward their degree.

It's "quite the insult" from a college that has been given unique access to use JPay tablets in the state's correctional facilities, Harrell said. "Ashland shows that it cares more about getting federal Pell dollars than actually educating people, advocating for the completion of courses, or helping its students with reentry needs," she said, and "is doing more harm than good."

But she also noted that she doesn't want to "beat up on those implementing new ways of providing educational

access, in any capacity." For many behind bars, online learning is the only method available, Harrell says.

This fall, even New York's state prison system, with its established network of relatively well-funded, well-connected college programs including Cornell, the Bard Prison Initiative and Hudson Link, signed up with Ashland. The college will be piloting its tablet content in four of the state's prisons next year, though there is no written agreement yet, according to officials at the New York Department of Corrections and Community Supervision.

The state's existing prison education programs wrote letters of complaint, questioning how an evangelical, mostly White school in the Midwest could be adequately responsive to the diverse population behind bars in New York.

"For incarcerated people who've had adverse relationships with authority, and with the education system, and with technology," learning from afar "is the opposite of how to help them build a more trusting relationship with the world and to see more potential in themselves," said Jessica Jensen, director of statewide educational initiatives for John Jay's Institute for Justice and Opportunity.

During the pandemic, many prison college programs are temporarily using Zoom and other online platforms, but plan to resume in-person classes as soon as possible. DOCCS officials said that Ashland will be a complement to these schools; it won't replace them.

Officials also said that fewer than 10 percent of prisoners in the state who have a high school degree are enrolled in any college program, which means there is a clear need for more educational opportunities, even by tablet.

But Rowland Davis, a formerly incarcerated person released this October in New York and pursuing a degree in education from the City College of New York, says there is no comparison between in-person learning and tablet learning, both of which he experienced behind bars. "What I loved and grew from was hearing my peers explain how they arrived at a thought," he said. "And I know that almost all people who've been in prison would agree with me."

Other currently and formerly incarcerated students said they didn't grow

up with technology; they do not feel engaged on tablets or feel accountability while being taught remotely, they said.

A better approach to expanding college to more students who are locked up, many experts say, would be to provide funding for the community colleges that are near even the most remote prisons nationwide.

Part of the richness of higher education programs, college-in-prison advocates say, is ultimately that they are grounded in debate, dialogue, critical thinking and the arts—rather than digital educational "content" produced in partnership with private corrections companies, like Ashland's.

"No one comes into any kind of class as just a brain: They have anxieties, ambitions, interests," said Paul Lynch, director of the prison education program at Saint Louis University in Missouri, which works in a prison system where Ashland has expanded. "We as professors may be the few people they ever see in their lives who see them primarily as a full person—a student of ideas—not as a prisoner. That is what is lost."

Will Drug Legalization Leave Black People Behind?

Even in states that have legalized or decriminalized marijuana possession, Black people are still more likely to be arrested for it than White people. These organizers are working to change that.

**By Wilbert L. Cooper and
Christie Thompson**

From the Pacific Northwest to the Deep South, drug legalization won big nationwide on Election Day. Under the first state law of its



An election worker sorted submitted ballots at the Multnomah County, Oregon, elections office on Nov. 2. NATHAN HOWARD/GETTY IMAGES

kind, people in Oregon soon won't be arrested for possessing small amounts of drugs including heroin, meth and cocaine. In New Jersey, Arizona, South Dakota and Montana, voters joined 11 other states and the District of Columbia in legalizing recreational marijuana. Washington D.C. passed an initiative to make mushrooms and other natural psychedelics the lowest possible enforcement priority. Even Mississippi legalized medical marijuana.

After months of global protests over racism in policing, advocates behind many of these campaigns focused their messaging on racial disparities in drug-law enforcement. In New Jersey, a social media ad explaining how a marijuana arrest could ruin someone's life centered images of young Black men and women. Activists in Oregon pointed to a statewide study that found drug convictions for Black and Native people would drop by nearly 95 percent under the state's decriminalization law.

Yet despite these electoral successes, it remains unclear what effect the new measures will have for communities of color, who have long been disproportionately targeted in the war on drugs. Even as many states move toward legalization, drug-related violations were the most

frequent cause for arrest in the U.S. in 2018. Nearly 40 percent of those arrests are for marijuana possession alone, according to federal data. Black people make up 27 percent of drug arrests, but only 13 percent of the country.

Even in states that have already enacted more lax drug laws, racial disparities in enforcement didn't disappear. An April study from the ACLU found that "in every state that has legalized or decriminalized marijuana possession, Black people are still more likely to be arrested for possession than White people." Being caught with large amounts of marijuana, selling it, using it in a school zone or underage use is still illegal in states that have legalized. In states like Maine and Vermont, according to the ACLU, racial disparities in weed arrests worsened after legalization passed. Disparities improved in California and Nevada.

Some opponents of legalization say this increase in arrests is the result of the continued criminalization of black markets that still exist outside of the heavily regulated legal market. And they believe the potential for more widespread drug abuse under legalization, in the form of crimes like DUIs, can lead to more interactions with police—especially for people of color.

Kevin Sabet, a former White House Office of National Drug Control Policy adviser, thinks that if the goal is to end racial disparities, states should continue focusing on decriminalization. "It's a false dichotomy to think that you either have to arrest someone and lock them up, or you need to be in bed with Big Tobacco and have edibles," he said. "Oregon already had a decent system for referring drug users [from jail time]."

But even if people aren't serving long sentences for simple drug possession, the impact of an arrest or a criminal conviction can follow them for years, legalization supporters say. And for repeat offenders, a drug conviction can mean a longer sentence for any future offense.

"They own you after that," said Bobby Byrd, a volunteer with Yes on 110 in Oregon who struggled to find a place to live, get promoted and get licensed to become a drug counselor because of his drug conviction. "People need help, not punishment. Punishment didn't help me; it just slowed me down in my life and made me have to work 20 times harder."

In South Dakota, which legalized marijuana last week, weed arrests have increased significantly since 2007, and the racial disparities for Indigenous

people are especially stark. Native Americans are 10 percent of the state population, but were nearly 20 percent of marijuana possession arrests in 2018. They are nearly a third of the state prison population.

Campaign organizers for decriminalization say they'll have to stay vigilant against the overpolicing of communities of color. "The reality is that systems of oppression always find different ways of incarcerating Black and Brown folks," said Kayse Jama, executive director of Unite Oregon, a social justice organization. "I think [the new law] is a good step forward; it's one tool we want to remove from their toolbox. But we also understand that [law enforcement] will continue to target our community."

Jama also noted the importance of decriminalization for immigrants, who will be less likely to face deportation or other federal immigration consequences over state-level drug crimes. So far in fiscal year 2020, more than 600 people whose most serious conviction was marijuana possession have been deported from the U.S..

There's also the question of whether Black communities can profit from the cannabis industry in states legalizing for the first time. Many states prohibit people with felony convictions from working for or owning dispensaries—convictions that are disproportionately saddled on people of color.

Crucial to undoing this dynamic is ensuring that people who have already been prosecuted for marijuana can be released from jail or expunge their record. While expungement was not part of the initial ballot proposal in South Dakota, Melissa Mentele, executive director of New Approach South Dakota, said her group would push for such a policy through the state legislature.

"Expungement is everything," Mentele said. "It's not just passing a law—you have people's lives in your hands."

Organizers in Oregon also said they planned on addressing expungement and sentencing reductions in the upcoming legislative session. At least 15 states have passed laws making it easier to wipe marijuana-related crimes from people's records.

Applying the new law retroactively could be especially significant in New Jersey, which has some of the highest

arrest rates for marijuana—locking up an average of more than 600 people every week in 2019 for pot sales and possession.

But in a state where the economic impact of a new legal weed industry could be as high as \$6 billion, it has been a challenge to put racial justice at the center of the conversation: Some supporters of legalization see it as either a new business opportunity or tax revenue generator.

"In 2014, we saw a version of a bill come through that didn't even have the word 'expungement' in it," said Amol Sinha, the campaign chairman of NJ CAN 2020, which backed the new measure, and the executive director of the American Civil Liberties Union of New Jersey.

Assemblyman Jamel Holley of District 20, a Democrat who was instrumental in writing the old marijuana bill and is helping shepherd the new one, said he is committed to delivering upon the demands of the voters.

"[We can't] have big conglomerates take over this [marijuana] industry, but at the same time have individuals who look like me have a record and can't get a job or housing," said Holley, who is Black. "My sole focus is that we repair the harms of the past."

Before the ballot measure had even passed, Holley called for the state to immediately dismiss all marijuana-related court cases, suspend all marijuana arrests and implement an expedited expungement process.

These kinds of actions illustrate

Applying the new law retroactively could be especially significant in New Jersey, which has some of the highest arrest rates for marijuana.

After a 2019 bill failed to pass the New Jersey state Senate, the question to amend the constitution and legalize weed was passed to the voters. The ACLU led the campaign for the ballot measure, spending more than \$300,000. "It was a huge, strategic investment," said Sinha. "We led with racial justice every step of the way... And that is what resonated with voters."

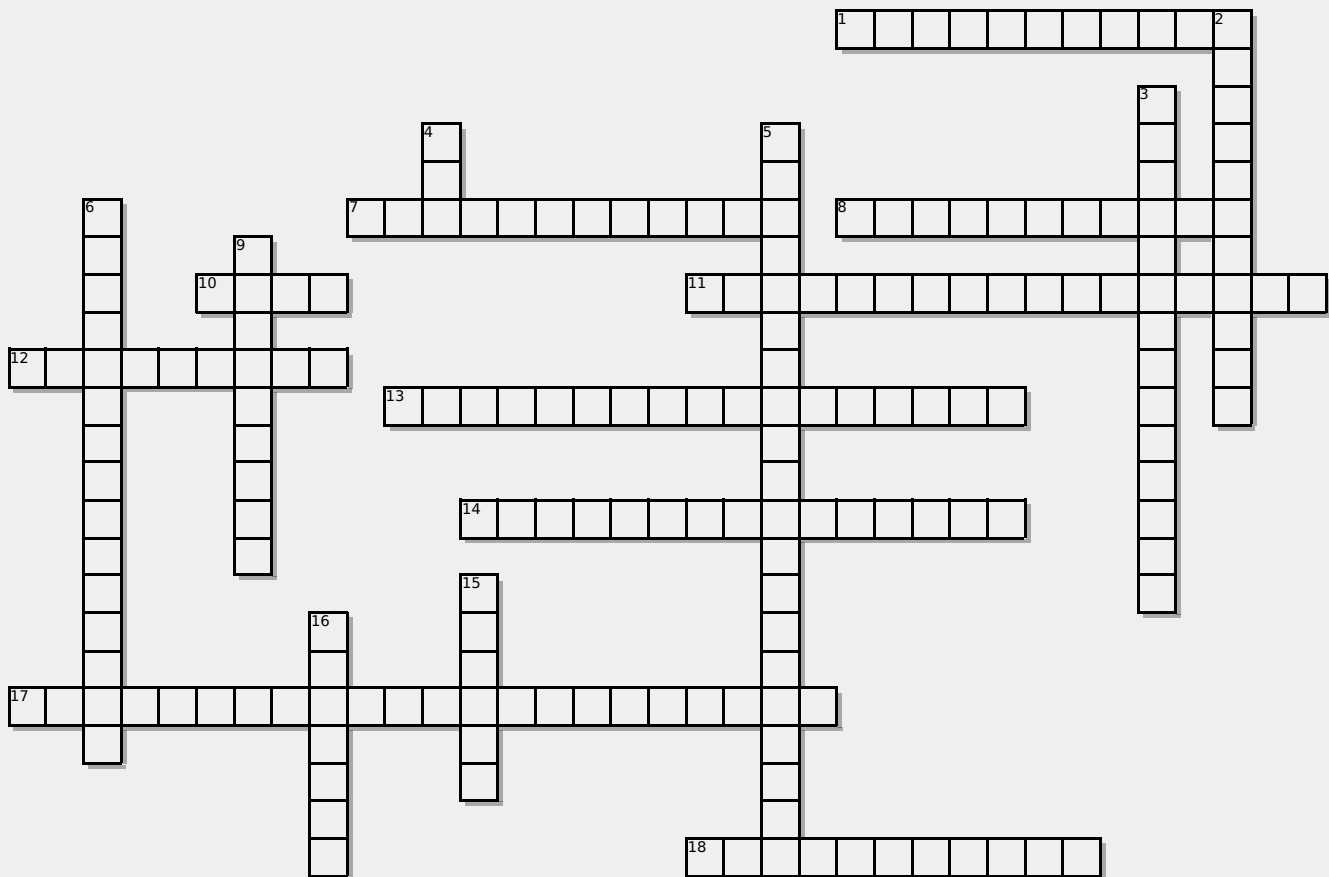
Now it's up to legislators to write the law, and it remains to be seen how much of the racial equity message will be baked into the new legislation. But

that politicians are catching up to voters in seeing legalization as a racial justice issue, not just a revenue question, said Alex Vitale, author of "The End of Policing" and a sociology professor at Brooklyn College.

"One thing we've seen from the measures that have passed and the exit polling data is that the electorate is more progressive than the candidates," Vitale said. "The American public seems very open to a total rethink on the drug war and economic justice."

CROSSWORD

Complete the crossword below by closely reading



ACROSS

- 1** "Even as many states move toward legalization, ____-____ violations were the most frequent cause for arrest in the U.S. in 2018." (2 words; without the hyphen in the answer)
- 7** Your body learns to recognize a harmless "spike protein", like the one found in the coronavirus, as something foreign and produces virus-fighting antibodies to protect you against it. This is done by injecting a small piece of genetic material called _____. (2 words)
- 8** Law that doesn't repeal but instead gives judges the discretion to sidestep mandatory minimums. (2 words)
- 10** According to health officials, how many deaths have been caused by the COVID-19 vaccines?
- 11** "Public health experts say prison officials could learn from outside _____ efforts that tap local leaders to encourage vaccinations in communities with low rates." (2 words)
- 12** "Yet, _____ is an essential part of any college education worthy of the name, and seams (if not outright resistance) are exactly what we should be causing in the prisons."
- 13** Where was the term "superpredator" first coined? (3 words)
- 14** The COVID-19 vaccine widely-distributed in the U.S. that requires two shots 21 days apart.

- 17** The following sentence best encompasses the fear of the majority of the incarcerated population: "My biggest fear is that I get sick and don't get the _____." (3 words)

- 18** Record of criminal conviction is destroyed or sealed from state or federal record.

DOWN

- 2** These type of violations were the most frequent cause for arrest in the U.S. in 2018. (2 words)
- 3** She apologized for using the term "superpredator" 20 years ago. (2 words)
- 4** Can you still get COVID-19 after receiving the [vaccine] shots?
- 5** President Biden wants to send this bill to Congress within his first 100 days to curtail ICE arrests within the country. (3 words)
- 6** The newest COVID-19 vaccine, which requires only 1 dose. (2 words)
- 9** How old was Rahsaan "New York" Thomas when he saw his little brother get shot?
- 15** The Ashland educational experience for imprisoned students takes place entirely on a _____.
- 16** The COVID-19 vaccine widely-distributed in the U.S. that requires two shots 28 days apart.

IN THE SPOTLIGHT

One of the greatest lessons I've learned is that networking and the skills I built while incarcerated are transferable beyond the wall. Reading "News Inside" when I was still in reminded me of that. I was particularly inspired by Michelle Jones who, like me, earned a college degree while incarcerated then used her network to further her academic career when she was released. For me, it wasn't an academic career, but one with the Vera Institute of Justice as an operations manager of advocacy and partnerships. Salute to News Inside for confirming my value. ~Sean Kyler

If you have a story you want to share of how News Inside inspired, informed, sparked an idea or was useful to you, please tell us about it. We want to hear from you.



Sean Kyler, operations manager of advocacy and partnerships at the Vera Institute of Justice.

? Thinking Inside the Box

Give these questions a try after you've read the stories in this issue. We'll include the answers in the next issue.

- 1 T or F. Biden promised to broadly use his clemency power for certain violent crimes
 - 2 T or F. Being caught with large amounts of marijuana, selling it, using it in a school zone or underage use is still illegal in states that have legalized it.
 - 3 T or F. Dilulio warned that by the year 2000 an additional 30,000 young "murderers, rapists, and muggers" would be roaming America's streets, sowing mayhem.
 - 4 TT or F. Paul Lynch, director of the prison education program at Saint Louis University in Missouri, criticized an Ashland education as being incomplete without in-person interaction.
 - 5 T or F. GoFundme shut down Rahsaan's account because people in San Quentin can't have GoFundme campaigns.
 - 6 T or F: In 17 states, people in prison could be among the first to receive the coronavirus vaccine.
 - 7 T or F. The CDC advises that people wait to take the vaccine at least 90 days after recovering from the virus.
- ¿Verdadero o falso? Los Centros para el Control y la Prevención de Enfermedades (CDC) aconsejan esperar al menos 90 días después de recuperarse del virus para recibir la vacuna.

Last Issue's Answers

1 200. (Unlocking The Vote In Jails) 3 Overton v. Bazzetta. (RBG's Mixed Record on Race and Criminal Justice) 4 True. (What COVID-19 Prison Outbreaks Could Teach Us About Herd Immunity.) 5 93%. (Is Violent Crime Rising In Cities Like Trump Says? Well, It's Complicated.) 6 The Reid technique. (Your Zoom Interrogation Is About To Start.) 7 True. (What COVID-19 Prison Outbreaks Could Teach Us About Herd Immunity.) 8 African-American. (I Wonder If They Know My Son Is Loved.) 9 Hire formerly incarcerated firefighters. (The Former Prisoners Fighting California's Wildfires.)

is a nonpartisan, nonprofit news organization that seeks to create and sustain a sense of national urgency about the U.S. criminal justice system. We achieve this through award-winning journalism, partnerships with other news outlets and public forums. In all of our work we strive to educate and enlarge the audience of people who care about the state of criminal justice.

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Contact

Lawrence Bartley
The Marshall Project
156 West 56th Street, Suite 701
New York, NY 10019
212-803-5200
lbartley@themarshallproject.org
themarshallproject.org

