

Disability and Criminal Justice Reform: Keys to Success



Co-Authors:

Jennifer Laszlo Mizrahi, President, RespectAbility

Janie Jeffers, Jeffers and Associates, LLC

Eddie B. Ellis Jr., Criminal Justice Associate, RespectAbility

Philip Pauli, Policy and Practices Director, RespectAbility

With Editorial Assistance by David M. Perry, Ph.D.

Research Assistance by Nathan Shearer and Max Spain

RESPECTABILITY

11333 Woodglen Drive, #102 Rockville, MD 20852 | 202-517-6272

www.RespectAbilityUSA.org

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Key Facts Leading to More Than 750,000 People with Disabilities Behind Bars in America

Children with disabilities are three times more likely to be victims of rape or sexual assault than children without disabilities.¹ Victims of assault are more likely to commit crimes.²

Students with disabilities are more than twice as likely to receive an out-of-school suspension as students without disabilities. Students who are suspended are more likely to drop out of school.³

Male African American and Latino students with disabilities have the highest suspension rates of all students with disabilities.⁴

Youth with disabilities only graduate high school at a rate of 61 percent, compared to 81 percent for people without disabilities – a 20-point gap in outcomes.⁵

Many youth with disabilities, especially those of color, do not get the diagnoses and early interventions they need to complete school and succeed.⁶

Youth with disabilities who do not complete a high school education are far more likely to interact with the criminal justice system than those who complete their degrees.⁷

Two-thirds of inmates in state prisons failed to complete high school and seven out of ten people in jail are high school dropouts.⁸

Every nine minutes an adult with a disability is sexually assaulted or raped.⁹

More than 60 percent of all prison inmates are functionally illiterate. Many will not gain literacy unless their disabilities are addressed as a part of their education.¹⁰

One-quarter of homeless adults living in shelters have a serious mental illness and an estimated 46 percent have psychiatric disabilities and/or substance use disorders.¹¹

Despite many myths, 96 percent of violence has nothing to do with mental illness.¹²

More than half of all people in prison report that they have a mental health condition. Only one-in-three people in prison and one-in-six of people in jail are receiving mental-health treatments.¹³

Inmates who are deaf, hard of hearing or have other disabilities frequently are put into solitary “for their own protection,” which can cause significant mental health challenges.¹⁴

The experience of prison or jail can worsen pre-existing mental health conditions

¹ People with Intellectual Disability and Sexual Violence - The Arc - <http://bit.ly/1tamYv>

² National Bureau of Economic Research - Does Child Abuse Cause Crime? - <http://bit.ly/1ChNscl>

³ DOED Civil Rights Data Collection - Data Snapshot: School Discipline - <http://1.usa.gov/1RJsyN>

⁴ Are We Closing the School Discipline Gap? - The Civil Rights Project-UCLA - <http://bit.ly/1OBDJDT>

⁵ Public High School Four-Year On-Time Graduation Rates and Event Dropout Rates - <http://1.usa.gov/1R6n9rs>

⁶ Pacer Center - Students with Disabilities & the Juvenile Justice System: What Parents Need to Know - <http://bit.ly/23gDGBc>

⁷ The Post-High School Outcomes of Young Adults With Disabilities - <http://1.usa.gov/24Xe0uV>

⁸ The National Guard Foundation - <http://www.ngyf.org/>

⁹ RAINN (Rape Abuse Incest National Network) - Sexual Abuse of People with Disabilities - <http://bit.ly/1S9LzAC>

¹⁰ Literacy Statistics - Begin to Read - <http://bit.ly/Yu6dbj>

¹¹ Mental Health By the Numbers - National Alliance on Mental Illness - <http://bit.ly/1vX8bed>

¹² Mental illness and reduction of gun violence and suicide - Annals of Epidemiology - <http://bit.ly/1tq0Fhu>

¹³ The Processing and Treatment of Mentally Ill Persons in the Criminal Justice System - The Urban Institute - <http://urban.is/1g2aISN>

¹⁴ #DeafInPrison Campaign Fact Sheet - HEARD - <http://bit.ly/250vgv0>

and can indeed create new mental health disabilities among inmates who leave the system.¹⁵

Some estimates show that between 70 and 90 percent of people released from the justice system are uninsured. This lack of access to healthcare, treatment and medication only diminishes a returning citizen's chances of successfully reintegrating into society.¹⁶

Ninety-five percent of the prison population will eventually be released, and each year 600,000 people leave incarceration. There is a severe lack of capacity to reintegrate them appropriately.¹⁷

Only one in three working-age Americans with a disability has a job, despite the fact that studies show that 70 percent are striving for work. More than 78 percent of non-disabled Americans are employed.¹⁸

Within five years, three-quarters of people who are paroled will be re-arrested and two-thirds will return to prison.¹⁹

¹⁵ GoodTherapy.org – The Effects of Incarceration on Mental Health - <http://bit.ly/1XmrlKF>

¹⁶ Council on State Governments - Justice Center - Policy Brief: Medicaid and Financing Health Care - <http://bit.ly/1mMB6d>

¹⁷ Offender Reentry - Congressional Research Service 7-5700 - <http://bit.ly/1smMrNt>

¹⁸ 2015 Kessler Foundation National Employment & Disability Survey: Overview - <http://bit.ly/25aEkoW>

¹⁹ Bureau of Labor Statistics - Persons with a Disability: Labor Force Characteristics Summary - <http://1.usa.gov/TKEJLR>

Introduction

Criminal justice reform is an urgent and complex issue facing our nation. People across the political spectrum agree that reform is necessary. **However, for criminal justice reform to succeed, every stage and effort must take into account the specific realities and needs of people with disabilities who are in the school-to-prison pipeline, the justice system or returning to our communities.**

A recent study by [the Urban Institute](#) reported what most criminal justice experts already know – that the majority of people behind bars have mental health issues. Mental health is not, however, the only issue. We need to acknowledge and accommodate for the full range and large numbers of people with diverse disabilities who are incarcerated as well. Failure to adequately and appropriately deal with these disability issues expands the cycle of failure, crime and recidivism.

According to the Bureau of Justice Statistics, 32 percent of federal prisoners and 40 percent of people in jail have at least one disability. Using such sources and limited data, we estimate that more than 750,000 people with disabilities are behind bars in America. This includes 140,000 who are blind or have vision loss, approximately the same number who are deaf or have significant hearing impairments and more than 200,000 who have mobility issues. The largest group, which includes more than half a million people, has cognitive impairments.

Table 1. How Many People with Disabilities Are Incarcerated?

Disability Type	Jail Inmates		State and Federal Prisoners		Combined
	Percent	Est. Total	Percent	Est. Total	Estimated Total
Any disability	39.9%	257,754	31.6%	493,592	751,346*
Vision	7.3	47,158	6.2	98,844	146,002
Hearing	6.5	41,990	7.1	110,902	152,892
Ambulatory	9.5	61,370	10.1	157,762	219,132
Cognitive	30.9	199,614	19.5	304,590	504,204
Self-care	2.8	18,088	2.1	32,802	50,890
Independent living	8.7	56,202	7.5	135,894	192,096

*Estimate calculated using Bureau of Justice Statistics report on Disabilities Among Prisoners and Jail Inmates and Prison Policy Initiative's 2016 Mass Incarceration Report <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=5500> / <http://www.prisonpolicy.org/reports/pie2016.html>

A majority of these people are functionally illiterate and did not complete high school. Many have repeatedly been victims of assault, sexual violence, bullying and low expectations – experiences that can lead to committing crimes.

Eventually, 95 percent of them will be released. However, the programs and communities waiting for them are not prepared to provide appropriate supports. Without appropriate support, two-thirds will end up being re-incarcerated, with new crime victims in their wake. **Reform that does not address these needs will fail to transform our broken system.**

RespectAbility is a national, non-partisan nonprofit organization working to enable the one-in-five Americans who have a disability to have a better future. **We are deeply concerned that so many Americans with disabilities, especially those of color, are in the criminal justice system and how many victims this system creates on all sides.**

Only when the rights and realities of people with disabilities are recognized and addressed will they be able to succeed in our communities. People of color and others from vulnerable populations are especially at risk because of the intersecting and compounding effects of racism, ableism and other forms of discrimination. In school, children of color often do not receive the disability diagnoses and early interventions that they need to succeed. They then remain among the most vulnerable throughout their lives when it comes to poverty, illiteracy, exploitation, victimization and violence. **Criminal justice reform will not succeed unless and until disability is addressed in all three stages of the criminal justice system:**

1. **People with disabilities are at a higher risk than people without disabilities of entering the justice system.** Addressing the issues includes combating stigma and ignorance that prevent children from getting the diagnoses and early interventions they need, improving mentorship and reforming policies that can cause students with disabilities to fall through the cracks.
2. **People with disabilities in the justice system face significant problems** including access to counsel, a lack of accommodations, complex rules, systematic abuse and solitary confinement.
3. **To build a better criminal justice system, we need to do better on release, reentry and reintegration for returning citizens.** Reform must address corrections education, building capacity, better data, recruiting employers and expanding innovative funding sources.

Summary of Policy Recommendations

1. People with disabilities are at a higher risk than people without disabilities to enter the justice system. Therefore, we must:

- **Combat stigmas around disability through focused, culturally competent communications campaigns that will empower parents and other stakeholders in vulnerable communities to enable children with disabilities to succeed.** This can be accomplished by increasing the number of parents and family members who understand and gain access to early interventions, utilize free parenting toolkits, trainings and other resources, secure educational supports for students with disabilities in or out of school and set high expectations for youth.
- **Take steps to address sexual assaults and abuse of people with disabilities by ensuring that youth with disabilities, their parents and special educators understand the risks and have access to the right resources.**
- **Reform educational policies, such as restraint and school suspensions, that have disparate, negative impacts on students of color and students with disabilities.** This can be accomplished by ending zero-tolerance policies, ensuring school staff understand the difference between visible/invisible disabilities, helping students overcome bullying and decreasing calls to School Resource Officers (SROs).
- **Improve mentorship programs and expand early work experiences.** These have a critical role to play in empowering youth with disabilities. Increasing the number of youth who successfully transition from school to work will require solutions beyond government such as mentorship and internships as well as summer jobs and apprenticeships that can help students gain skills, develop contacts and have high expectations for success.
- **Decriminalize homelessness and instead use community resources and supportive settings, which are better alternatives to incarceration.** Too many people with mental health disabilities and addiction issues end up on the street or are arrested by police.
- **Reform policing practices and use-of-force policies that have disparate impacts on people with disabilities.** In 2015, more than a third of people killed by police had disabilities. There is a clear need for police to be trained in non-lethal interventions and to understand how to interact with people who have non-apparent disabilities.

2. The entire criminal justice system must acknowledge and accommodate the very real issues around disabilities. We must:

- **Provide better resources for the juvenile justice system so that justice-involved youth are not trapped in the school-to-prison pipeline.** Youth with disabilities who are on probation, particularly those with cognitive disorders,

might not understand all of the requirements, and therefore be at a higher risk of violating them.

- **Expand alternative sentencing programs that are critical to decreasing juvenile incarceration and ensuring youth with disabilities are no longer trapped by a pipeline into the justice system.** Innovative models that prioritize getting youth with disabilities supports rather than jail time need to be closely studied and widely expanded.
- **Recognize and address wrongful convictions, false confessions and death penalties that disproportionately impact people with a range of disabilities.** People with disabilities interact with the justice system from being victims, witnesses and as alleged perpetrators. Accommodations are needed at each step of the way.
- **Dramatically reduce the use of solitary confinement and chemical restraint so that people are not traumatized unnecessarily and new disabilities are not created.** These can be particularly traumatic for prisoners with disabilities or exacerbate existing physiological disorders.
- **Put a process in place inside the corrections system to diagnose and accommodate people with a range of disabilities upon entering incarceration.** For example, up to one-third of all inmates have some level of deafness; they must be able to communicate, and corrections officers need disability training.
- **People who are incarcerated need to receive disability assessments, begin appropriate education in correctional facilities and start literacy and/or job training at the start of incarceration.** The first step in building a justice system that respects the rights of incarcerated individuals with disabilities is having a better data system, replicating best practices and combating stigma.

3. Release, Reentry and Reintegration – Models of Success and Future Pathways

- **Corrections education programs funded under Title II of the Workforce Innovation and Opportunity Act (WIOA) need to better serve inmates with disabilities.** From the beginning of incarceration, people behind bars need training in skills to successfully reintegrate into society. Time served should become time for preparation.
- **Extend and expand capacity through non-governmental supports focused on providing reentry solutions for returning citizens.** Volunteers, nonprofits, philanthropists and faith-based organizations must play a meaningful role in helping returning citizens with disabilities find and keep jobs or start a business.
- **Use better performance metrics to ensure the success of people with disabilities and returning citizens.** Labor Force Participation Rates is a better performance metric than unemployment data for understanding the challenges facing people with barriers to work.

- o **Recruit employers that will hire returning citizens with disabilities for business reasons, not charity.** Employment opportunities with willing employers are critical to successful reintegration for returning citizens. Banning the Box is necessary but only part of needed solutions for the reentry process.
- o **Expand the use of innovative funding sources such as Pay-For-Performance Contracting or Social Impact Bonds to reduce recidivism rates.** Leverage WIOA funding to address recidivism, channel the power of social entrepreneurship programs and build on the promising practice of social impact bonds.
- o **Change the narrative from “three strikes” to “second chances” by focusing outreach on business leaders, human resources professionals and returning citizens themselves.** Attitudinal barriers and stigmas facing returning citizens and people with disabilities need to be overcome through target messaging. Such communications efforts need to focus on win-win business cases for putting people with disabilities (those with and without criminal records) in an employer’s talent pipeline.

As you read through our detailed research, links to successful programs and policy recommendations, please refer to the glossary at the end of the document for further explanations of various concepts and pieces of legislation.

Sidebar: Learning from the Death of Freddie Gray

As we write this document, we recently have passed the one-year anniversary of the death of Freddie Gray, even as [the trials of the accused continue](#). Gray's death exemplifies the complexities of looking at the intersections of risk factors – including disability and racism – as we try to reform our criminal justice system.

[Freddie Gray had a developmental disability](#) from being raised [in a home surrounded by lead paint](#) in an economically disadvantaged neighborhood. Disability is both a cause and consequence of poverty. Poverty, itself, is linked to racial injustice and other forms of inequality and discrimination. Racism can make it harder to escape poverty or receive necessary supports for disability.

Lead paint poisoning, like other environmental issues including Fetal Alcohol Syndrome (FAS), can cause an inability to follow multi-step instructions. It is vital for children with these issues to receive single-step instructions and other accommodations until they can learn how to follow multi-step instructions. Early intervention, while brains literally still are shaping and can rewire, is key. That is because significant improvements in executive function and other abilities can be achieved. However, when such a disability is not properly diagnosed and addressed, as happens all too often in single parent, minority and other families, an outcome can be “unexpected behaviors” in school. This, as was the case with Mr. Gray, may lead to school suspensions, failure to complete high school and a greater risk of falling into the justice system.

Freddie Gray's disability did not kill him. However, the lack of an early diagnosis and appropriate supports made it impossible for him to complete school. Once he was out of the school system, Gray was in and out of the justice system. Moreover, Gray is not the only public example of a high profile death where disability was a factor. As reported by [The Ruderman Family Foundation](#), Tamir Rice, Sandra Bland, Quintonio Legrier and many others whose deaths as a result of police using lethal force and caught national attention were people with disabilities. More recently, a young man with a psychiatric disability named [Jamycheal Mitchell](#) starved to death in police custody.

This document provides a broad policy overview of issues. Let us not forget, though, that behind the numbers are human beings, each of whose lives should be treated equally. These deaths illustrate how people with disabilities, especially those who are People of Color, are among the most vulnerable when it comes to poverty, exploitation, victimization and violence. We cannot fix these problems unless we confront all the forms of oppression that intersect to ruin lives, absorb vast sums of money and shatter dreams. Disability is a critical part of that equation.

Americans with Disabilities at Risk: Structural Overview

[According to the Bureau of Justice Statistics](#), 32 percent of federal prisoners and 40 percent of people in jail self-report that they have at least one disability. [Most recent data](#) shows there are more than 2.2 million adults in the prison system in the United States. **Combining these statistics provides a conservative estimate that there are more than 750,000 prisoners with disabilities currently behind bars in our nation.** The actual number certainly is much higher.

Table 2. Number of People with Disabilities Who Are Incarcerated

	Jail Inmates		State and Federal Prisoners		Combined
Disability Type	Percent	Est. Total	Percent	Est. Total	Estimated Total
Any disability	39.9%	257,754	31.6%	493,592	751,346
Vision	7.3	47,158	6.2	98,844	146,002
Hearing	6.5	41,990	7.1	110,902	152,892
Ambulatory	9.5	61,370	10.1	157,762	219,132
Cognitive	30.9	199,614	19.5	304,590	504,204
Self-care	2.8	18,088	2.1	32,802	50,890
Independent living	8.7	56,202	7.5	135,894	192,096

Many prisoners themselves lack knowledge about disability, accommodations and interventions. Some, due to limited access to medical care or other issues, never received proper diagnoses or treatments. Anti-disability stigma, moreover, keeps some individuals from disclosing their disabilities. **Even these under-reported numbers, however, make the stakes clear: reforming criminal justice in this country requires working on disability at every stage.**

Former Treasury Secretary Robert E. Rubin recently wrote in the [New York Times](#) about the human and financial cost of incarceration and identified needed reforms such as improving educational opportunities for incarcerated individuals, overcoming barriers to employment, providing better transitional assistance, expanding stable housing and providing health care coverage.

RespectAbility fully agrees with Rubin’s recommendations. **However, while each of these critical issues is necessary, alone they are insufficient. Criminal justice reform must begin by examining those policy and practices in policing, sentencing and reentry that prohibit people the opportunities to live successful lives, have disparate impacts on people of color or disabilities, and work to build better, safer communities.**

Proposed reforms hold huge potential and great promise both for taxpayers and people in the prison system or jail. However, returning citizens often are unprepared to return home, and their communities are unready to welcome. Thus, the risk of recidivism is extremely high.

According to 2014 data from the [Bureau of Justice Statistics](#), two thirds of ex-prisoners were arrested again within three years and three quarters had been re-incarcerated within five years. Limited information exists on the recidivism rates of ex-prisoners with disabilities. However, what information is available paints a bleak picture of the current recidivism rates for inmates with disabilities. A 2012 [Outcome Evaluation Report](#) of the California Department of Corrections and Rehabilitation (CDCR) found that “inmates with a designated developmental disability recidivate at a higher rate than those without a developmental disability designation.”

[A different study in 2015 found](#) that “prisoners with disabilities were identified as an at-risk group for recidivism” because of a lack of employment experiences and vocational training while incarcerated. **These numbers speak to the reality of a broken system that already is failing to prepare people to readjust and reintegrate back home.**

The Bureau of Justice Statistics report quoted above provides detailed information about prevalence and type of disability. In the figure below, we see that among state and federal prisoners, 20 percent of people in federal or state prison have a cognitive disability, 10 percent have an ambulatory disability, seven percent have either a vision issue or a condition that impacts their ability to live independently and six percent have a hearing impairment.

Table 3. Prevalence of Disabilities Among State and Federal Prisoners and the General Population, Standardized, 2011-2012²⁰

Disability ²¹	State and Federal Prisoners		General Population	
	Percent	Standard Error	Percent	Standard Error
Any Disability	31.6%**	1.40%	10.9%	0.06%
Vision	7.1**	0.69	2.1	0.02
Hearing	6.2**	0.61	2.6	0.02
Ambulatory	10.1**	0.76	5.1	0.03
Cognitive	19.5**	1.13	4.8	0.04
Self-Care	2.1	0.29	2.1	0.02
Independent Living	7.5**	0.71	4.0	0.03

We find similar statistics when we look at the prevalence of disabilities among jail inmates. In this set of BJS data, fully one-third of inmates report having a cognitive disability. Nine percent have an ambulatory condition, eight percent have an independent living disability, seven percent have a vision impairment and six percent have some form of hearing loss. **This data reflects the hard reality that many people who are incarcerated have disabilities and that disability is found throughout the justice system.** Thus, it is critical for reform to factor disability into the equation.

Table 4. Prevalence of Disabilities Among Jail Inmates and the General Population, Standardized, 2011-2012

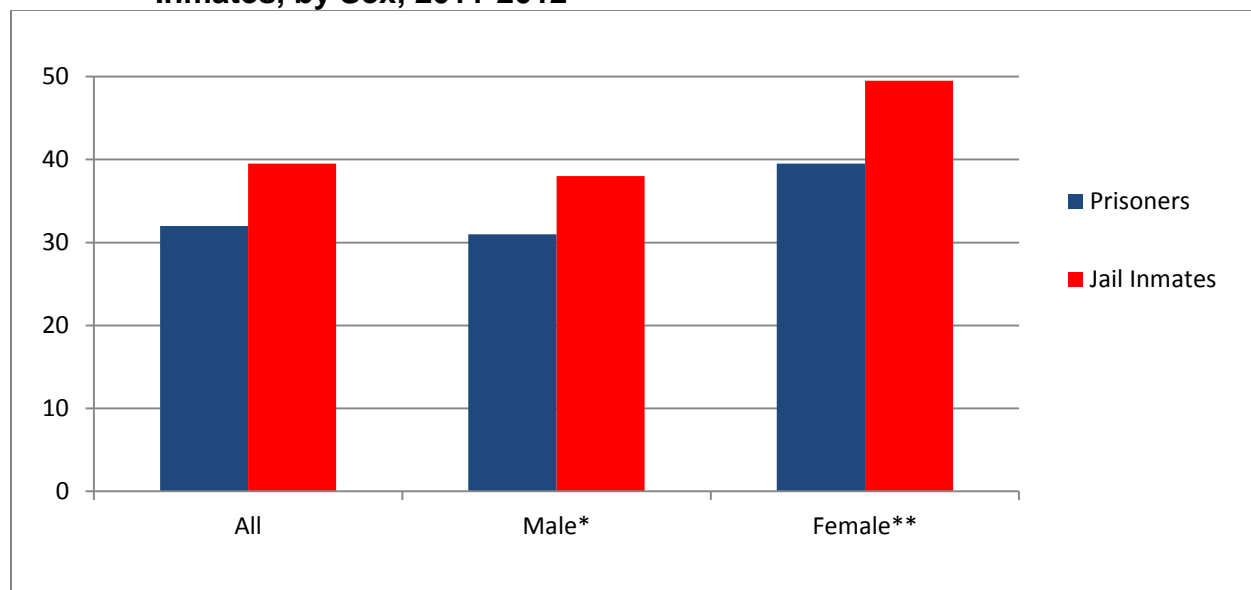
Disability	Jail Inmates		General Population ^{*a}	
	Percent	Standard Error	Percent	Standard Error
Any disability	39.9%**	1.10%	9.3%	0.05%
Vision	7.3**	0.59	1.7	0.02
Hearing	6.5**	0.46	1.9	0.02
Ambulatory	9.5**	0.63	3.7	0.02
Cognitive	30.9**	0.91	4.7	0.04
Self-care	2.8**	0.33	1.7	0.02
Independent living	8.7**	0.61	3.4	0.03

²⁰ Source: Bureau of Justice Statistics, National Inmate Survey, 2011-12; and U.S. Census Bureau, American Community Survey, 2012.

²¹ Note: Disability types include hearing, vision, cognitive, ambulatory, self-care, and independent living. See Methodology for definitions of disabilities. See appendix table 1 for estimated percentages and standard errors. *Comparison group. ** Difference with comparison group is significant at the 95% confidence level. Source: Bureau of Justice Statistics, National Inmate Survey 2011-12

One of the most important ways that any reform measures could add the lens of disability would be to improve the available data on the size and scope of how many prisoners and inmates have disabilities. Throughout this report, we cite disparate data sources to try to gain a perspective on the disability-related challenges involved with the justice system. We did this because of the inadequacies of existing data source on people with disabilities who are behind bars. If there was a way to better track justice-involved youth and inmates with disabilities issues, there might be better options to intervene early and assess the efficacy of those efforts. Thus, we are left with having to estimate the scope of challenge with what little data is available.

Figure 1. Prevalence of Disabilities Among State and Federal Prisoners and Jail Inmates, by Sex, 2011-2012²²



Using the Bureau of Justice Statistics data quoted above and combining it with data on the overall prison population, this report provides the following estimate of the number of prisoners and inmates in the United States that have at least one disability: **Today, there are more than 750,000 Americans with disabilities behind bars.** It must be noted that these estimates are based on limited, self-reported survey and likely barely scratch the surface of disability in the justice system. This includes 140,000 who are blind or have significant vision loss, approximately the same number who are deaf or have significant hearing impairments, and more than 200,000 have mobility issues. The largest group, which includes more than half a million people, has cognitive impairments.

The disability community is well aware of what can happen when people are released from institutions without adequate or effective reentry and community supports. The [Willowbrook State School closed in the 1980's, for example](#), because of a well-intended effort to release people from an ill-equipped and dangerous institution that was regularly violating the rights of their residents. Institutions such as Willowbrook needed to be closed in favor of community living. However, people with mental health disabilities were released without the transitional

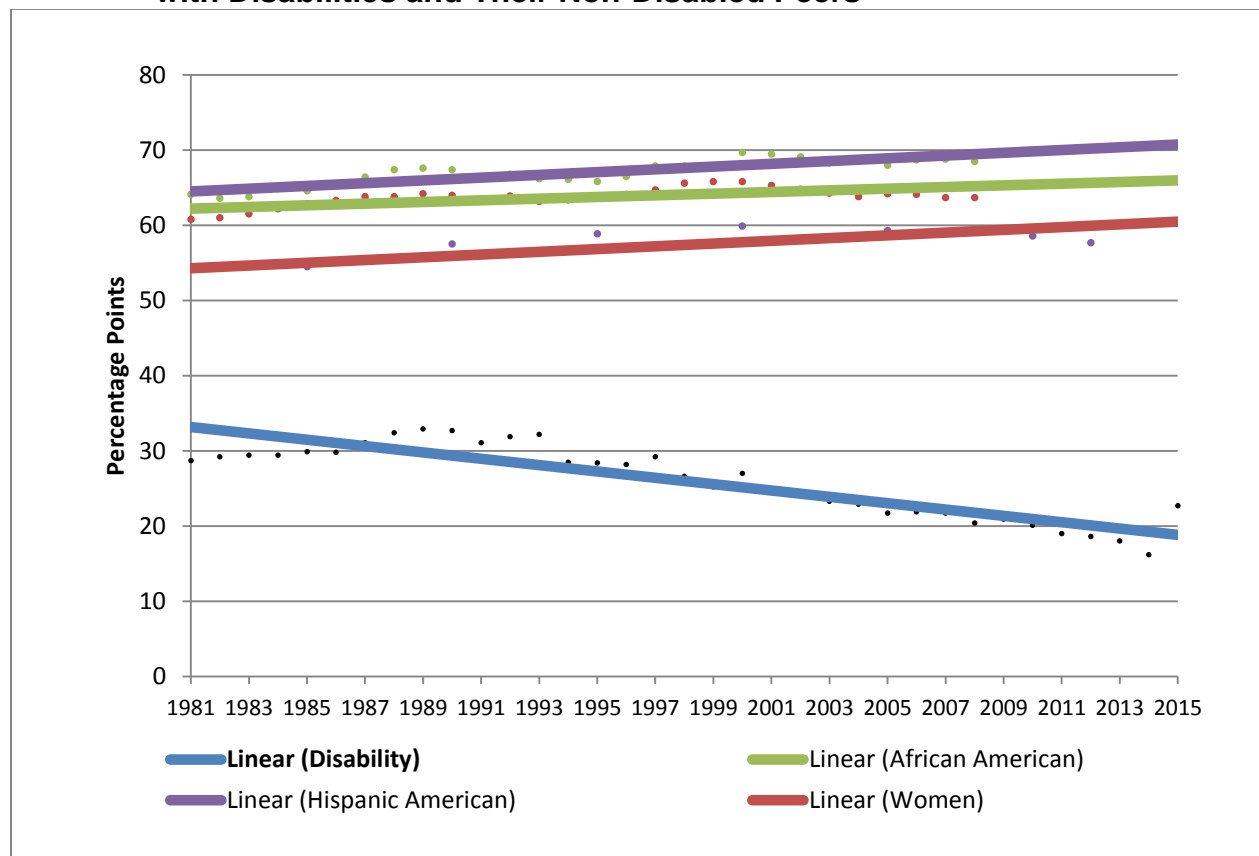
²² Note: Disability types include hearing, vision, cognitive, ambulatory, self-care, and independent living. See Methodology for definitions of disabilities. See appendix table 1 for estimated percentages and standard errors. *Comparison group. ** Difference with comparison group is significant at the 95% confidence level. Source: Bureau of Justice Statistics, National Inmate Survey 2011-12

supports they required to succeed in the community. Many people ended up homeless or in prison because a well-intended effort lacked appropriate and vital supports.

People with disabilities, particularly those who are People of Color, face systematic barriers to obtaining appropriate diagnoses, receiving accommodations, completing their education and pursuing the American Dream. **Disability is not a causal factor that drives people to a life of crime. Ignoring disability is a factor that puts people at a higher risk of being victimized, failing to complete their education and ultimately falling into the criminal justice system.**

Approximately 22 million Americans with disabilities are of working age. Each year [300,000 young people with disabilities](#) age into what SHOULD be the workforce. However, only one in three working-age people with disabilities in our nation have a job. Eleven million working-age Americans are living on government disability benefits at a cost of more than [\\$150 billion a year](#). **In recent years, the gap in labor force participation rate (LFPR) between people with and without disabilities has increased significantly.**

Figure 2. Differences Nationally in Workforce Participation Rates Between People with Disabilities and Their Non-Disabled Peers²³



²³ Source: [Annual Disability Statistics Compendium](#)

A recent report from Jason Furman and the [White House Council of Economic Advisors](#) correctly identified how employment, education, stable housing and services can help prevent crime. However, the report did not discuss the ways that racism and ableism intersect, compounding risk factors that can cause youth with disabilities to fall through the cracks. **Broad inequities in health care and education, including diagnostic and therapeutic services, track with racial and class divisions in ways that make individuals who are poor, have disabilities and are people of color, especially at risk.**

As we have seen from the life of Freddie Gray, environmental conditions including fetal-alcohol syndrome and lead poisoning can lead to life-long cognitive disabilities that require early and appropriate intervention including special educational or therapeutic services. However, these services are routinely not provided or are of poor quality for lower-income students.

Many families, especially those of color, have difficulties securing supports for their children with disabilities. These challenges only grow more complex for low-income families or single-parent households. These parents may not be fully prepared to help a child with a difference or may not know how to advocate for their child. Without a diagnosis, children can be denied access to an Individualized Education Plan (IEP), 504 plan, behavior or therapy plan and can be treated poorly. According to Eric Jacobson, the Executive Director of the Georgia Developmental Disabilities Council, in Georgia, “boys of color are diagnosed with conduct and behavioral disorders while white kids get diagnosed with autism.”

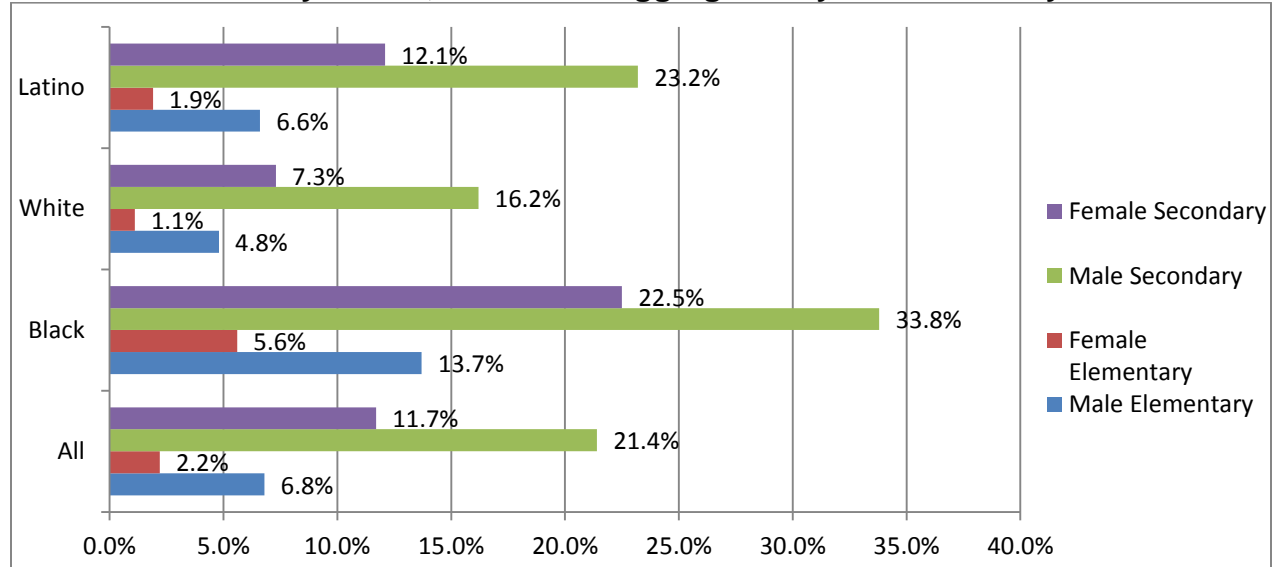
These conditions place children with disabilities at risk of dropping out. Furthermore, many justice-involved youth in juvenile detention and confinement, on probation and in prisons, already have been diagnosed with learning disabilities and have IEPs. However, those IEPs need to follow the youth if they transition into probation or enter the adult side of the corrections system.

Only 61 percent of young people with disabilities achieve a high school diploma, compared to 81 percent of people without disabilities – a 20-point gap. There is a high correlation between high school completion rates and incarceration. Data from the [National Guard Youth Foundation](#) found that “67 percent of those incarcerated in state prisons failed to complete high school” as did “69 percent of local jail populations.”

Students with disabilities are suspended more often than their non-disabled peers. **Among students with disabilities, minority students with disabilities have the highest suspension rates** as found by a recent study by UCLA. This means that minority students with disabilities are the group most vulnerable to the school-to-prison pipeline.²⁴

²⁴ Source: <http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/are-we-closing-the-school-discipline-gap/losen-are-we-closing-discipline-gap-2015-summary.pdf>

Figure 3. Suspension Rates of Students with Disabilities at Both Elementary and Secondary Levels, Further Disaggregated by Race/Ethnicity and Gender



A 2011 report from the [National Center on Special Education Research](#) offers these statistics to clarify the vital nature of a high school education: “**Young adults with disabilities who had not completed high school were more likely to have had each of the various forms of criminal justice system involvement than those who had earned a postsecondary degree** or had completed their high school education, including being stopped by police for other than a traffic violation (75 percent vs. 42 percent and 48 percent, respectively); having been arrested (59 percent vs. 22 percent and 32 percent), spending a night in jail (40 percent vs. 10 percent and 17 percent), or having been on probation or parole (39 percent vs. 10 percent and 19 percent).”

Figure 4. Criminal Justice System Involvement by Young Adults with Disabilities

People with disabilities also face extremely high rates of violence. According to data from a Bureau of Justice Statistics report on Crime Against Persons with Disabilities, people with disabilities [experienced 1.3 million violent victimizations](#) in 2013 and were victims at a rate twice that of their non-disabled peers. Trauma, abuse and other assaults may have consequences that last a lifetime. Likewise, studies done by the [National Bureau of Economic Research](#) found that experiencing abuse as a child doubles “the probability of engaging in many types of crime.”

[Child SSI recipients](#) have a significant higher arrest rate. Approximately one-fifth had been arrested. Unfortunately, these trends are consistent with other reports that indicate 30 to 50 percent of incarcerated youth have disabilities that could qualify them for other services, such as special education services.

Further, data from the National Crime Victimization Survey shows that an average of 59,000 adults with disabilities are raped or sexually assaulted each year. **Children with cognitive disabilities are four times more likely than those without disabilities to be sexually abused. Every nine minutes, an adult with a disability is sexually assaulted or raped. Moreover, approximately half of adults with cognitive disabilities will experience 10 or more sexually abusive incidents in their lifetime.**

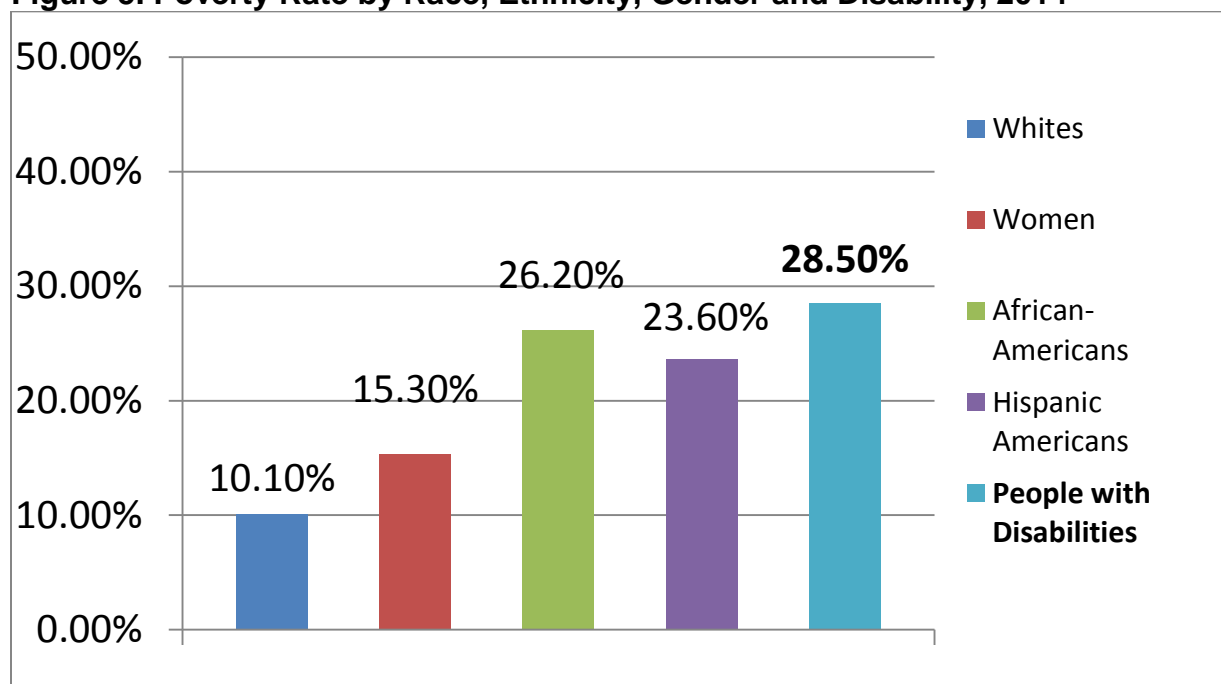
These horrific statistics bespeak a reality of victimization that needs to be fought. Teaching children with disabilities self-advocacy skills also must include training in self-defense and education about how to seek assistance in the event of an assault. It is wrong enough that

someone can be raped once but the fact that some people with disabilities experience repeated assaults is catastrophic.

Twice as many Americans with disabilities [live in poverty](#) compared to those without disabilities. More than 28 percent of non-institutionalized adults aged 21-64 with a disability in the United States live in poverty compared to 12.4 percent of those without a disability. This is greater than the rate for any other demographic category including African Americans, Hispanics or female-headed households.

Furthermore, more people with disabilities live in poverty (28.5 percent) than any other minority. 26.2 percent of African Americans live in poverty while 23.6 percent of Hispanic Americans do. 15.3 percent of women live in poverty and just 10.1 percent of white people live in poverty. Obviously, there is an even higher poverty rate for people who fall into multiple categories, such as African American women who have a disability.

Figure 5. Poverty Rate by Race, Ethnicity, Gender and Disability, 2014



Disability is both a cause and consequence of poverty. The higher probability of living in poverty and prevalence of violence among people with disabilities are just a few factors leading to disability that should be considered when addressing disability in the larger context of criminal justice reform.

Full Policy Recommendations on Reducing the School-to-Prison Pipeline

Approaching criminal justice reform through the lens of disability, as well as in view of appropriate accommodations and early intervention, requires a close look at the factors that put people with disabilities at risk of falling through the cracks. Fundamentally, we recommend a proactive approach of addressing disability issues early as a way to divert youth away from the

school-to-prison pipeline. Diagnosing, supporting, empowering and enabling youth to succeed so they can become independent takes multiple steps and best practices including youth employment. Below we discuss critical recommendations, key ideas and vital statistics that need to be factored into the criminal justice reform equation:

- **Combat stigmas around disability through focused, culturally competent communications campaigns that will empower parents in vulnerable communities to empower their children with disabilities.** Low expectations and misconceptions are critical barriers for people with disabilities and for people involved in the justice system. [A Princeton study](#) shows that while people with disabilities are seen as warm, they are not seen as competent. Stigma, and the discrimination that comes with it, is a factor that limits the employment opportunities that are available to people with disabilities and returning citizens. Stigma also prevents people from getting an appropriate diagnosis and seeking support.

Research from the [University of California](#) at Davis shows that “African American and Latina/o children are still more likely than Whites to underutilize certain services (especially preventive and primary care), end up in the most intensive care settings, and to experience poorer outcomes.” As captured by Beulah Iyabo Agbabiaka in her issue brief on [The Intersection of African Americans and Disability](#), “disability is a complex issue in minority communities since it represents a cross cutting cleavage between two areas of discrimination.” She goes on to write that the label of disability plus the label of race “has the doubly negative effect of making the scarce resources of job opportunities and economic advancement even more unattainable.”

Stigma is especially felt around issues of mental health, which we know, thanks to the Urban Institute, impact more than half of all people behind bars. Thus, stigma is a harsh reality that much be combatted at every stage of the reform process. However, what is the best way to replace myths and misconceptions about disability? As captured by the [National Mental Health Consumers' Self-Help Clearinghouse](#), “studies have shown that the way to counter negative stereotypes is...to replace them with positive images.” Such images are critical because they begin to provide role models and begin to raise the expectations that parents hold for children.

In order to ensure that such efforts have the biggest possible impact, it needs to be supported by a serious, systematic and ongoing communications campaign focused on combating stigma. Efforts such as the [“What Can YOU DO?”](#) PSA campaign need to be designed to focus on overcoming stigma and aimed at impacting parents of children with disabilities especially in communities of color. We know from the research that “the most [powerful force in changing transition outcomes](#) for young people with significant disabilities” is “the expectations and aspirations individual parents hold for their sons and daughters.”

As such, we recommend that reform needs to support communications efforts that will combat stigma and support parents.

- **Empower parents, families and other social supports with resources, which will combat stigma and safeguard youth with disabilities from falling through the cracks.** To quote the [Journal of Early and Intensive Behavior Intervention](#), “families are a critical source of support for children with disabilities” and can “absorb the added

demands on time, emotional resources and financial resources” involved with supporting a child with differences. Parenting a child with a disability can be deeply rewarding. It also can be challenging regardless of economic means, but the obstacles only grow more complex for low-income families or single-parent households.

As captured by a 2012 report entitled the [*Parenting a Child with a Disability: The Role of Social Support for African American Parents*](#), the authors rightly noted: “caring for a child with a disability brings multiple challenges to parents.” Parents are impacted in multiple ways by the “financial burdens for treating their child’s condition, dealing with the child’s problematic behavior and social stigma.”

Another [study in 2002](#) looked exclusively at the impact of stressful environmental conditions such as poverty and crime on parenting. What this study found was that “as neighborhood conditions worsened, the positive relation between emotional support and...nurturant parenting” weakened. The study found that “positive influences of social support on parenting behavior were strained and attenuated in poorer, high-crime environments.” For example, think about the barriers that parents face if they have low literacy skills or lack Internet access. They might be unable to access free resources on learning disabilities like [understood.org](#) or parenting toolkits from [the Autism Society](#).

Further, such materials often do not reflect the particular challenges or cultural backgrounds of people of color and other marginalized communities. Single parents working long hours might not have the time to learn skills specific to parenting a child with a disability.

Many families lack the financial resources needed to pay for private diagnostic testing or lawyers in order to receive school services if an existing Individualized Education Plan (IEP), 504, behavior or therapy plan is inadequate. With the wrong diagnosis, students can be stigmatized or treated poorly, furthering compounding the barriers that they face. That is why parenting is a critical issue involved with the “school-to-prison” pipeline, combating stigma and empowering youth with disabilities to succeed.

However, there is no silver bullet that can address these issues. At a minimum, parents of children with disabilities [need culturally competent training](#) that will empower them to support their children. Parents in minority communities and those at the greatest risk due to socioeconomic disparities need supports so they can help their children succeed and overcome barriers they face in their own lives.

Returning to the research about the role of social supports and African American parents with children who have disabilities, several practical steps become clear. Access to “tangible support such as day care and respite care facilities in the community may be as important as the provision of emotional support.” Tangible support should take many forms beginning with parenting skills, connecting parents of children with disabilities to providers who can help identify disabilities and [securing access to early interventions](#).

Likewise, [grandparents of children with disabilities](#) have a vital role to play and should be involved both in helping children with disabilities as well as [setting high expectations](#). The Office of Disability Employment Policy (ODEP) has [practical information](#) that can help any parent of a child with a disability think about putting their child on a path to success. When it comes to involved issues of IEPs and school suspensions, parents –

especially those from marginalized communities – need information and tools tailored to meet their challenges. For example, [the Georgia Appleseed Center for Law and Justice](#) has a toolkit aimed at building a “school to opportunity pipeline.”

To achieve these goals, we recommend that a sustained effort is needed to get these types of free resources into the hands of parents with limited economic resources so that they can begin to overcome stigma and help their children with disabilities to succeed.

- **Take steps to address sexual assaults and abuse of people with disabilities by ensuring that youth with disabilities, their parents and special educators understand the risks and have access to the right resources.** The necessary first step for addressing a horrific injustice such as sexual assault and people with disabilities is to understand the scale of the problem. Fundamentally, people with disabilities are much more likely to be victims of sexual violence as compared to those without disabilities.

According to the [National Crime Victimization Survey](#) (NCVS) and other studies, there is a correlation between individuals with disabilities and rates of sexual violence. Estimates show that around 59,000 adults with disabilities are raped or sexually assaulted each year. Those same studies show that adults with disabilities (hearing, vision, cognitive, ambulatory, self-care limitations, or inability to live independently) are 68 percent more likely than persons without disabilities to be a victim of rape or sexual assault.

One study called [Courage Above All: Sexual Assault Against Women with Disabilities](#) found that “83 percent of women with disabilities will be sexually assaulted in their lifetime.” Approximately half of adults with cognitive disabilities will experience [10 or more sexually abusive incidents](#) in their lifetime. Lastly, to quote the Department of Justice’s report on [Crime Against Persons with Disabilities](#), “39 percent of all violent crimes committed against adults with disabilities were serious violent crimes...compared to 29 percent for those without disabilities.” These horrific statistics bespeak a reality of victimization that needs to change.

We know that the issue of protecting students from sexual assaults has been a [priority of the White House](#) and they have brought critical visibility to such issues. These efforts have brought critical attention to the large issue of sexual violence in our society and we hope that moving forward, it will give people with disabilities a platform to talk about their personal experiences. This effort also highlights the wicked problem of protecting people from violence and victimization.

The greatest challenge, as captured by the Arc in their fact sheet on [“People with Intellectual Disabilities and Sexual Violence,”](#) is that “societal attitudes must change to view victims with disabilities as having equal value as victims without disabilities, and giving them equal advocacy.” Culture changes slowly but there are intervention points where better resources and clear information can make the difference, particularly in a young person’s life.

Further, partnerships should be developed with organizations that have specialized expertise and resources such as [RAINN \(Rape, Abuse & Incest National Network\)](#). Their website, which is screen reader accessible, provides [background information on state law](#),

information on ways to access help including if a victim is deaf, [referrals to local sources of support](#) and [anonymous online avenues](#) for connecting victims to specialists.

Additionally, the issue of sexual assault is one highly relevant to special educators. While each state has standing laws on reporting suspected abuse, more proactive steps need to be taken. For example, teaching children with disabilities self-advocacy skills also must include training in self-defense and education about how to seek assistance in the event of an assault. It is wrong enough that someone can be raped once but the fact that some people with disabilities experience repeated assaults is catastrophic. As such, steps must be taken to identify the problem, change the culture and empower victims to come forward.

As with combating stigma, we recommend that sustained communications and outreach efforts be undertaken that will reach people with disabilities themselves as well as the parents of children with disabilities so they know where to go for resources and community organizations need information about what they can do to prevent sexual assaults and other forms of violence.

- **Reform educational policies, such as physical restraint and school suspensions, which have disparate, negative impacts on students of color and students with disabilities.** The best possible parenting skills matter very little when school policies continue to have significantly different impacts on students due to their race, ethnicity, gender and disability status. The Department of Education's [Office for Civil Rights](#) reports that students of color are suspended or expelled at three times the rate of white students.

Such impacts are mirrored when it comes to the use of restraints and seclusion by school officials. Students of color only account for one-in-five students served under IDEA, but account for fully one-third of students subjected to restraint. One-in-four boys of color with disabilities and one-in-five girls of color with disabilities have received an out of school suspension. Such treatment in the school system sets students on the hard path towards dropping out of school and falling into the justice system.

The PACER Center's report on [Students with Disabilities & the Juvenile Justice System](#) found that "20 percent of the youth with emotional and behavioral disorders were arrested while in secondary school, approximately 13 percent of juvenile offenders had developmental disabilities and 36 percent had learning disabilities." Not all of those juvenile offenders with disabilities receive services, though. According to the Southern Education Foundation's [Just Learning](#) report, 33 percent of all tested students had learning disabilities, but only 22 percent were receiving services. Meanwhile, in 2006, [more than 3.3 million students in the U.S.](#) (one-in-14) were suspended or expelled, and "less than 10 percent of these cases were for violent offenses." Children with disabilities and minority youth bear the full weight of the unintended consequences of these policies.

A critical factor underpinning these challenges is the fact that most disabilities are invisible. If a youth has a learning difference or an executive function disorder, it often is easy to misunderstand the child's behavior and not recognize the role disability plays in his or her life. To put it another way, educational professionals, like their peers in the police and corrections, need to understand the difference between someone who can't

follow directions because of a disability issue and those who simply won't follow directions. Unless teachers and other school staff understand this difference, too many children with disabilities will fall through the cracks.

Bullying is another issue that significantly impacts the educational experiences of students with disabilities. According to studies compiled by the [National Bullying Prevention Center](#), “children with disabilities were two to three times more likely to be bullied than their nondisabled peers.” Children who need supports and services already face challenges in the academic environment, which can only grow more difficult when they face bullying. As captured in a briefing paper on bullying by the National Council on Disability, “many students with disabilities have significant social skills challenges, either as a core trait of their disability or as a result of social isolation due to segregated environments and/or peer rejection.” Those challenges only grow worse when a student faces bullying at school.

The [results of 2002 study of U.S. mothers](#) found that “94 percent of children with a diagnosis of Asperger's Syndrome faced peer victimization,” ranging from bullying to gang attack to nonsexual assaults. We know [from the available research](#) that bullying can negatively impact academic achievement, school attendance and disciplinary referrals. As such, bullying is very much a risk factor that can create difficulties for students with disabilities.

Fortunately there are elements in the new [Every Student Succeeds Act](#) that address bullying through professional development, school safety efforts and local collaborations. However, these policies have yet to be fully implemented and more work is still needed. Addressing bullying and students with disabilities, as document by the PACER Center, can [begin through the IEP process](#) and [should be a central element](#) of [self-advocacy](#). Likewise, there is a critical place for innovative projects such as [the Kool Kids! Digital Storytelling Project](#), which promotes self-worth, creativity and positive peer motivation.

Bringing police in unnecessarily to work with children with disabilities can result in needless and harmful criminal records for children. Sadly, the Department of Education data shows that this occurs regularly. According to a [2014 report](#) from the Department's Office of Civil Rights, “students with disabilities (served by IDEA) represent a quarter of students arrested and referred to law enforcement” despite accounting for only 12 percent of all students. These statistics reflect troubling trends in how students with disabilities are passed from teachers to police in the vicious cycle of the “school-to-prison” pipeline.

There are multiple intervention points where policies and practices need to change to better serve students with disabilities and support their success. Referrals to law enforcement are one such point and alternatives need to be adopted across the county. For example, South Carolina's Superintendent of Schools, in collaboration with police and advocates, [issued a new policy](#) forbidding the use of School Resource Officers (SROs) to discipline students for behavioral issues, limiting their involvement to suspected criminal activity. This should become a national model.

Instead of punitive measures that take children out of the classroom, proactive steps are needed to enable young people with disabilities to receive the educational supports they need, the training to become economically independent and the chance to become positive contributors to society.

Programs such as [Restorative Justice](#) and [Communities in Schools](#) deserve more support. One possible alternative to the use of SROs is the [Responsive Classroom approach](#) designed at the University of Virginia. Part of the philosophy is developmental awareness: “Teachers use knowledge of child development, along with observations of students, to create a developmentally appropriate learning environment.” According to [Collaborative for Academic, Social, and Emotional Learning \(CASEL\)](#), this approach is one of the most “well-designed evidence-based social and emotional learning (SEL) programs.”

Thus, we recommend that alternatives to restraint and school suspensions be expanded and that SRO programs should be scaled back, and federal funding be re-focused on programs that will keep youth in school.

- **Improve mentorship programs and expand early work experiences.** The scale of the challenges involved with reform and empowering youth with disabilities demands that we look beyond government for solutions. A practical example of this is the opportunities that mentoring activities provide for youth with disabilities. To quote ODEP, “mentoring activities designed to establish strong relationships with other adults and peers” can be a tool to put children with disabilities on a path to employment.

Community service also may play a pivotal role in this process. Whether as a [mentorship program](#) for at risk youth or using [volunteer opportunities](#) to provide [pre-employment experiences](#) for youth with disabilities, faith organizations, nonprofits and community services need to be involved both to support returning citizens and to ensure youth do not fall through the cracks.

Several national leadership organizations focused on youth with disabilities exist such as [Kids as Self Advocates](#), the [National Youth Leadership Network](#) and the [National Consortium on Leadership and Disability for Youth](#). However, other model programs like My Brother’s Keeper or Big Brothers and Big Sisters can be strengthened significantly by bringing in disability expertise to the populations with whom they work.

There is a need for similar organizations that are prepared to provide mentors to youth with disabilities. A [study by the National Center for Learning Disabilities](#) found that the most important indicators of success for students with learning and attention issues include self-confidence and support from parents, teachers, peers and the community.

The National Mentoring Partnership through [their website Mentoring.org](#) already has begun the critical task of collecting, compiling and disseminating information around the transformative role that these types of programs can play in young life. In 2012, they published a resource compendium called [Referring Youth in Juvenile Justice Settings to Mentoring Programs](#) cataloging best practices and lessons learned from multiple programs across the country.

Resources like this report should be a starting point for better supporting and improving such programs, which can be an ideal vehicle for not only [helping youth](#) so they do not fall through the cracks but also empowering them to [gain skills and pursue employment](#). It is vital to look at examples where good work is being done to empower youth through the power of collaborative effort. One such example that is worth examining is the

[Division of Youth Services in Indiana](#), which has a multi-tiered approach to serving youth.

Thus, we highly recommend that mentorship opportunities and early work experiences be expanded as a preventive measure to keep more youth out of the school-to-prison pipeline.

- **Instead of criminalizing homelessness, community resources and supportive settings are better alternatives to incarceration.** America requires heavy reinvestment in community mental health and other resources instead of turning to law enforcement as a tool to end homelessness. This realignment of resources is critical because, if done correctly, it can benefit taxpayers and society as a whole. The National Law Center on Homelessness & Poverty’s “[No Safe Place](#)” report catalogs examples of innovative work that is addressing homelessness through interventions rather than incarceration.

A 2013 report by the Utah Housing and Community Development Division reported that the annual cost of emergency room visits and jail stays for an average homeless person was \$16,670, while providing an apartment and a social worker cost only \$11,000. Further, a 2013 analysis by the University of New Mexico Institute for Social Research of the Heading Home Initiative in Albuquerque, New Mexico showed that, by providing housing, the city reduced spending on homelessness-related jail costs by 64 percent. Lastly, a 2014 economic-impact analysis by Creative Housing Solutions evaluating the cost of homelessness in Central Florida found that providing chronically homeless people with permanent housing and case managers would save taxpayers \$149 million in reduced law enforcement and medical care costs over the next decade.

The [University of Denver’s Sturm College of Law](#) recently put out a report summarizing the cost to taxpayers in Colorado of stricter ordinances around homelessness: “In 2014 alone, Denver spent nearly three-quarters of a million dollars (\$750,000.00) enforcing” anti-homelessness laws and “six Colorado cities spent a minimum of five million dollars (\$5,000,000.00) enforcing 14 anti-homeless ordinances over a five year period.” In summary, the report states that “the cumulative effect of anti-homeless ordinances is clear: living without a home in Colorado nearly guarantees that a person will break some law.”

Local and state governments have an absolutely essential role to play in prioritizing community supports over jail time for people with mental health disabilities. Incredible reforms are being tested and proven by [the Stepping Up initiative](#) launched by the National Association of Counties, the Council of State Governments and the American Psychiatric Association Foundation. Inspired by the life and work of Judge Steve Leifman, Stepping Up is a concerted effort to divert people with mental health and addictions issues from jail and into community-based mental health programs. So far, 274 counties and parishes in 41 states have adopted measures implementing *Stepping Up*. Such reforms offer critical models moving forward.

Likewise, taxpayers in San Antonio, Texas are seeing the cost savings of such models. For example, [in San Antonio](#), a series of linked programs is saving around 10 million dollars a year by offering comprehensive services to the homeless, sobering services to publicly intoxicated individuals (without criminalizing them), free mental health care,

crisis response centers, mobile crisis teams, Crisis Intervention Training (CIT) training to local law enforcement and more.

As such, we recommend that shifting resources away from incarceration and investing in community mental health supports is a win-win for both taxpayers and people with disabilities who are homeless.

- **Reform policing practices and use-of-force policies that have disparate impacts on people with disabilities.** Police officers must be trained to work appropriately, safely and professionally with individuals with disabilities. Among many other recommendations, [the Furman report](#) discussed putting more police on the streets as part of justice reform. The lack of disability awareness among police garnered national attention following the needless death of [Ethan Saylor](#) in Frederick, Maryland, whose identity as a white, middle-class man with Down syndrome – a condition generally associated with positive stereotypes – shocked people who otherwise never saw police use-of-force as an issue.

[The Ruderman Family Foundation White Paper](#) on media coverage of police use-of-force and disability showed many examples of what we will term “death for disability.”

[Freddie Gray](#) (lead poisoning), [Tamir Rice](#) (emotional disabilities), [Sandra Bland](#) (epilepsy), [Quintonio LeGrier](#) (psychosocial disabilities) and many others whose stories caught national attention were people with disabilities. Meanwhile, lawsuits proliferate as a result of such violent encounters between Americans with disabilities and law, costing taxpayers millions, even as these lawsuits do little to prevent the next case of abuse.

According to former House Majority Whip Tony Coelho, the co-author of the ADA and someone with epilepsy himself, the stigma and lack of awareness around epilepsy and seizures means that many people who are having seizures are mistaken for being drunk or on drugs. Diabetic and deaf drivers have reported similar experiences.

There are several programs and efforts that address these challenges. For example, programs such as the [Crisis Intervention Team](#) (CIT) model not only need to be implemented by more community policies officers, it also needs to be tested to ensure that it is having a positive impact and saving lives. [The CIT curriculum](#) distinguishes itself by exposing police officers to mental health professionals, individuals with lived experience of mental health crises, de-escalation training and practical exercises intended to [help cops](#) do their jobs and [save lives](#). Likewise, there [are examples](#) of work being done in [partnership with law enforcement](#) such as [Maryland’s Commission](#) for Effective Community Inclusion of Individuals with Intellectual and Developmental Disabilities and in areas in Florida.

We recommend that such training programs need to be expanded across local, state and federal jurisdiction.

Sidebar: Learning from the Lives of People with Disabilities Lost in Prison

Christopher Lopez

Tragically, there are multiple examples of [prison personnel using excessive force](#) and misguided tactics on inmates with disabilities. The story of Christopher Lopez, a 35-year-old prisoner in Colorado, is one of them. Lopez had “schizoaffective disorder, bipolar type.” On March 17, 2013, he was found lying face down in his cell. Instead of calling for medical attention, prison personnel handcuffed and shackled Lopez to a “restraint chair.” When he was removed from the chair a couple hours later, he was having difficulty breathing, and he subsequently had a seizure, while prison personnel looked on. He died of a blood condition that could have been treated with medical attention, of which Lopez received none.

Anthony McManus

Anthony McManus had a history of schizophrenia and bipolar disorder. Although he previously had received treatment, he was confined in a Michigan prison without a psychiatry department. McManus died in his cell from a combination of causes after multiple requests for help and water. A prison expert noted that “animals in animal shelters are generally given more attention and better care than was afforded to McManus.” An inmate across the hall, a person with no medical background, testified that “you could see that his eyes was [sic] turning yellow. His cheeks were sunken in, the skin on his frame was just hanging off his bones like clothes on a hanger.” The court concluded that the facility “did not provide its inmates with psychiatric treatment or medications to treat mental illness” and “not a single defendant made a serious attempt to have him transferred to a facility that could treat his obvious mental illness.” Unfortunately, these horrific examples are not few and far between. Prisons and jails are regularly [inadequate at providing services](#) to people with disabilities.

Arthur Johnson

Arthur Johnson is a living example of the long-term consequences of both of [unaddressed disability issues and solitary confinement](#). Johnson has spent nearly four decades in solitary confinement as a prisoner of the Pennsylvania Department of Corrections. Born in 1952, Johnson’s intellectual disabilities resulted in him dropping out of grade school. At age 18, Johnson was arrested for his involvement in a gang fight in the streets of Philadelphia that left another young man dead. When he attempted to appeal his conviction, Johnson claimed that he was beaten into confessing to the crime. Following an escape attempt, he was sent to solitary confinement in 1979 and has remained there ever since.

Sidebar: Learning from the Experiences of Ameer Baraka

Ameer Baraka

Ameer Baraka struggled in school. From an early age, [Baraka had trouble learning](#), and neither his mother nor his teachers diagnosed his dyslexia. He thought that “formal education wasn't relevant” and was out of his reach because he could not read. He felt “hopeless and lost” from being called names like “stupid” and “dumb.” Baraka testified in a Senate hearing that he “chose to succumb to [his] environment...because [he] thought [he] was a dummy.” He would avoid his spelling tests and would even hide in an empty hallway to “avoid embarrassment.” No child should feel like there is something wrong with them and no child should have to feel like they don't have a chance to succeed in life.

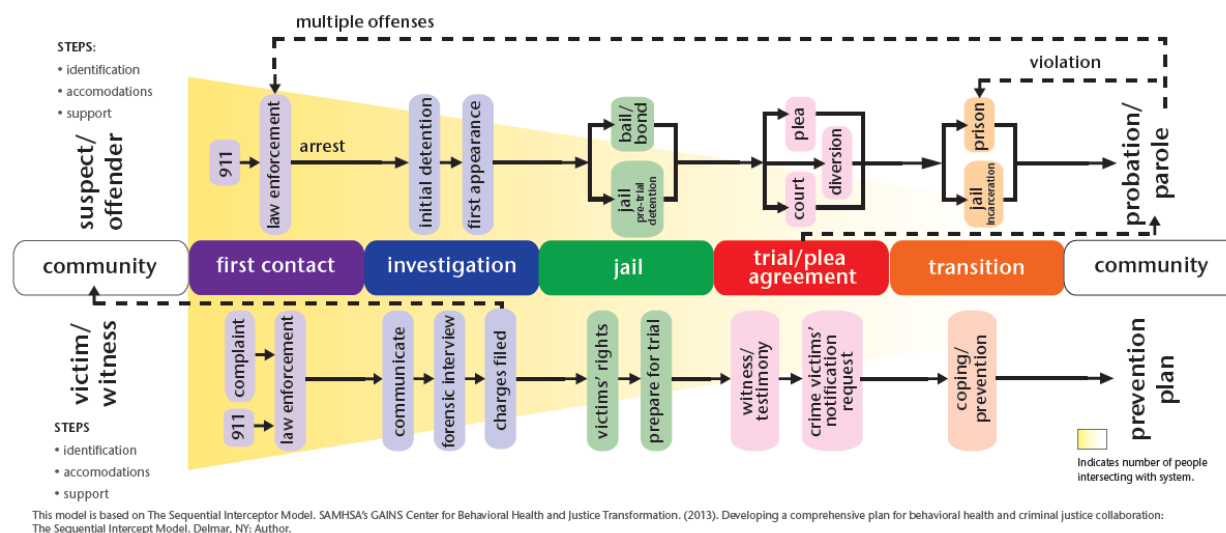
Baraka was never given the supports he needed and was never made to feel included in his school, so he turned to the streets and dealing drugs, where he ultimately served prison time as both a juvenile and an adult. At age 23, Baraka could only read at a third grade level.

Finally, in prison, Baraka was diagnosed with dyslexia and pushed, with the proper supports, to develop his reading and writing skills. Within four years, he earned his GED and began teaching others many of the same skills he learned. [Since his release](#), Baraka has modeled for Nike; acted alongside the likes of Jessica Lange, Kathy Bates, Angela Bassett, Blair Underwood and Forest Whitaker; produced four independent films and written a book telling his story hoping to inspire others to get the help they need at a young age. Baraka has shown a tremendous dedication to helping underprivileged, at-risk youth stay off the streets. In May 2016, Baraka testified at the U.S. Senate Education Committee's hearing titled “[Understanding Dyslexia](#): The Intersection of Scientific Research & Education”, where he [shared his experience with dyslexia](#) and pushed for better supports to empower youth with dyslexia to succeed.

Incarceration and Disability: Factors Affecting Prisoners with Disabilities

There is a disability dimension at every stage of the criminal justice system. This fact is perhaps best illustrated by [the Pathways to Justice Model](#) developed by the Arc through the National Center on Criminal Justice & Disability (NCCJD). Below is a graphical representation of the justice system as a whole showing each stage of the process and reflecting where disability needs to be addressed.

Figure 6. The Pathways to Justice™ Model



Credit: [The Arc and National Center on Criminal Justice & Disability](#)

It shows that programs focusing on incarceration, sentencing reform, post-incarceration support, poverty alleviation, education, employment training and housing reforms all need to take into account how disability shapes an individual's life and experience. Criminal justice reform needs to consider the problems that exist around forced confessions, wrongful convictions, needed assessments, solitary confinement, chemical restraint and other traumatization within prisons. Far too many of these critical issues remain unresolved.

Effective reform of the criminal justice system must start with quality data, a solid understanding of who is being served by the system and a clear picture of how those individuals are faring. Better assessments are needed to diagnose disabilities, create interventions, record accommodations and track individual progress so that people can be prepared to leave the system. Without good data, it is difficult to make good policy. This is particularly important when considering issues with incarceration, which are very costly to both the individual and society. Having more data can help policy makers justify the costs of early intervention efforts, which should produce long-term benefits in avoiding incarceration.

However, critical gaps remain in terms of what disabilities are captured in the existing data sets. As reported by [researchers from Berkeley](#), “while those with intellectual disability comprise two to three percent of the general population,” some estimates put them at up to 10 percent of the prison population “with an even greater number of those in juvenile facilities and in jails.” [The Arc](#) has been doing important work on this subject. However, the true scale of the challenge is not fully known and there is not enough data. Data collection and analysis should be a leading action item for the Department of Justice and the various White House data initiatives.

The lack of good data on disability among people who are incarcerated is being addressed in part by organizations such as [Helping Educate to Advance the Rights of the Deaf \(HEARD\)](#), which is focused on the rights of Deaf prisoners. Likewise, organizations such as [Grassroots Leadership](#), the [Vera Institute of Justice](#) and others are studying mental health issues in prison.

The lack of data on the rates of people with learning disabilities in the justice system is particularly a problem as there is no recent quality data looking nationally at prevalence rates in the justice system. All the policy recommendations that follow will then have a solid foundation of data to support them.

Wrongful convictions and confessions, as well as missing accommodations, in the prison and jail systems must be acknowledged. Accessibility challenges remain unaddressed in terms of access to counsel, wrongful convictions, forced confessions and requests for accommodations by prisoners with disabilities. The recent [execution of Warren Hill](#) in the state of Georgia reminds us that the death penalty is a criminal justice issue caught in the shadow of disabilities.

In [2014](#), the Supreme Court weighed the constitutionality of capital cases involving intellectual disabilities. In June 2016, the Supreme Court recently announced that it [will be considering two appeals](#) focused on questions at the intersection of capital punishment, developmental disability and race. [The ACLU](#) also has done some critical work studying exonerations among death row inmates with intellectual disabilities. Their work feeds into the pervasive issue of wrongful convictions and false confessions among people with intellectual or developmental disabilities who enter the criminal justice system.

As [Toshio Meronek wrote in *The Nation*](#), “For inmates with disabilities who are routinely denied their mental or physical needs, incarceration can be a nightmarish fight for survival.” Most prisons are not equipped to deal with people with disabilities. Whether it is because of the lack of staff training or a lack of accessible equipment or limited access to healthcare, the prison system neglects people with disabilities on many levels. Basic needs have to be considered from accessible restrooms to canes for people with visual or mobility impairments, access to hearing aids for people with hearing loss, ASL interpreter services for Deaf prisoners or even the basic, human dignity of person first language. Someone who has epilepsy or experiences seizures needs to have proper bedding so they do not end up on the top bunk where they are at risk of getting injured.

Correctional officers need training on how to address people with disabilities, medical professionals working in prison need to be able to identify or diagnose what type of disability a person has and those running prison educational programs need to be able to help when a prisoner has a disability. Whether we are talking about mental health conditions or chronic health

issues, inmates with disabilities need to be getting the right medication that can help them get better and not just some medication that will subdue them. If a person who has a disability is sharing a cell/room with another person, we need to make sure they are safe at all times and not being abused. Abuse within a prison can take many forms.

Certain practices and experiences such as solitary confinement can create a psychiatric disability where none existed before, can re-traumatize a person with an existing difference and impact the ultimate ability of people to return home. Whether it is solitary confinement or chemical restraint, prisoners with disabilities are vulnerable to the consequences of such experiences. For years there has been [documented evidence](#) that [solitary confinement](#) can cause mental health deterioration for those with a previous condition, or can cause an [onset of new disorders](#) (such as psychosis and depression) in prisoners without a prior diagnosis. [Talila Lewis](#), the founder of Helping Educate to Advance the Rights of the Deaf (HEARD) has found that, “solitary confinement is often used as a substitute for the provision of accommodations for and protection to deaf and disabled prisoners.”

From eye-witness testimony and extensive interviews, deaf prisoners have reported to the advocates at HEARD that they have been “sent to solitary immediately after reporting discrimination or assault” and not just as a punishment for “disciplinary infractions.”

The experiences of deaf and hard of hearing prisoners are emblematic of the larger problems that the prison system has with respecting the rights of prisoners with disabilities. Just recently, a federal jury ordered the D.C. Department of Corrections to [pay damages to a deaf inmate](#) for denying the inmate’s request for accommodations. **Likewise, the case of [Joseph Heard](#) is an egregious example. He spent 22 months in prison after a judge dismissed charges and ordered his release because no one communicated this fact to him in an accessible manner.**

In the past months, [HEARD](#) and other civil rights groups like [Solitary Watch](#) have brought attention to conditions for deaf prisoners in the Florida Department of Corrections. Likewise, the work of the [Southern Poverty Law Center](#) shows the systematic abuse and neglect faced by people with disabilities in Alabama’s prisons. The ACLU of Ohio and [Disability Rights Ohio](#) recently put out a report shining a light on the way that thousands of prisoners are being put into solitary confinement and the price that these people pay for that experience.

If the prison system already is consistently failing, traumatizing and abusing prisoners with visible disabilities, then what is happening to people with non-visible differences?

A 2015 [Urban Institute report](#) found that more than half of all inmates in jails and state prisons have a mental illness of some kind, the most prevalent being depression, followed by bipolar disorder. The report also found that “only one-in-three state prisoners and one-in-six jail inmates who suffer from mental-health problems report having received mental-health treatment” since entering incarceration. “Mental-health courts” are becoming increasingly popular as alternatives to incarceration for people with mental health disabilities. These courts, if used properly, allow people to stay out of prison and instead receive supervised treatment and services to eventually transition back into society.

[The Baltimore Sun](#) recently reported on the current state of Maryland's mental health facilities. The state Department of Mental Health and Hygiene has seen its facilities under-staffed and over-capacity. Whereas in the 1980s Maryland's "psychiatric capacity" was for about 3,000 people, it now has declined to about 960 people. The Sun also found that at the time of this article, 85 people referred by courts or jails in Maryland were on waiting lists for mental health facilities. Clearly, corrections systems both state and national need to be improved to better serve people with mental health disabilities.

Full Policy Recommendations on the Criminal Justice Process

Below are our specific recommendations in terms of how our criminal justice system must do better in terms of identifying prisoners with disabilities, satisfying existing needs and transitioning prisoners back into their home communities.

- **Provide better resources to the juvenile justice system so that justice-involved youth are not trapped in the school-to-prison pipeline.** A critical area where disability issues can be a correlated factor along the pipeline to jail is violating probation. Often those who are on probation must comply with strict conditions and violating those conditions puts a person at risk of going to jail. If the conditions are especially complicated, then youth with disabilities, particularly those with cognitive disorders, might not understand all of the requirements, and therefore be at a risk of violating them.

To put these issues in perspective, each year more than [2.1 million youth under age 18 are arrested](#). Fifty-seven percent will be placed on probation, and within one year, on average, 55 percent of those on probation will be rearrested. [Surveys](#) focused on identifying the prevalence of disability among justice-involved youth have found that one third of such youth were receiving special education services. [Other studies](#) put the percentage of justice-involved youth who have disabilities at 65-70 percent. Both of these estimates show the wide prevalence of identified disabilities and learning differences. As such, judicial professionals, court staff and probation officers must [be prepared](#) to meet the needs of someone with a disability.

For example, there is a critical need for more resources focused on the particular needs of youth with disabilities. [The Tools for Success Curriculum](#) developed by the Substance Abuse and Mental Health Services Administration (SAMSHA) is focused exclusively on helping juvenile justice professionals address fetal-alcohol syndrome issues. However, that is just one condition on the wide spectrum of disability and many more such resources are needed.

Therefore, we recommend that better, more diverse disability focused resources be developed for us throughout the juvenile justice system.

- **Expanding alternative sentencing programs are critical to decreasing juvenile incarceration and ensuring youth with disabilities are no longer trapped by a pipeline into the justice system.** [Project SEARCH](#) has been achieving phenomenal outcomes by providing skill training and work experiences for youth with disabilities before the end of high school. As a result, this model has been tremendously successful at transitioning students from school to work: a [70 percent employment outcome](#). There should be a significant effort to adapt the lessons learned from this model and apply them

to juvenile offenders through alternative sentencing programs or direct employment training before being released.

Any innovations in this space should [reflect best practices](#) that have achieved great youth outcomes for youth. For example, the Annie E. Casey Foundation has been working on the [Juvenile Detention Alternatives Initiative \(JDAI\)](#). The goal of this initiative is to keep youth from being detained at the front end of the juvenile justice system, to keep them in their homes and from going into the deep end of the justice system. Likewise, the Court Employment Project (CEP) from the [Vera Institute of Justice](#)'s "alternative-to-incarceration program for youth ... combines a strengths-based youth development focus" with education, employment and supports.

Another example of a better alternative to incarceration is issuing civil citations. This practice is exemplified by the "[Civil Citation](#)" program being instituted by the Miami-Dade Juvenile Services Department. Juveniles in Miami-Dade County who commit a minor offense have the opportunity to avoid an arrest and the long-term impact that results from an arrest by instead receiving services through a tailored training program. When police officers respond to a call where a juvenile has committed a first-time, minor offense, they refer eligible juveniles to the Juvenile Services Department. The department gives the juvenile an assessment then applies an individualized intervention to educate the youth. The juvenile participates in the program for about 90-120 days. After the juvenile successfully completes their individualized program, their criminal record will be completely "clean." The program has police support, as all 37 local "arresting agencies" have agreed to participate. The program has seen a 23 percent reduction in arrests and referrals to the Juvenile Justice System since its inception in April 2007.

The results that these types of models are achieving mean that we recommend that criminal justice reform consider ways to replicate and expand such programs.

- **Reforming the court system requires looking at the ways that wrongful convictions, false confessions and the death penalty disproportionately impact people with a range of disabilities.** As reported by the [University of Michigan](#), "2015 set a record for exonerations in the United States" with a total of 149 defendants being exonerated. This critical issue is further documented by the collaborative work of the National Center on Criminal Justice and Disability (NCCJD). The NCCJD has "[compiled a list](#) of people with intellectual disability who gave false confessions." [By their accounting](#), in the past twenty years, "over 60 people with intellectual disabilities have been executed based on false confessions."

Together, these data points speak to a hard reality that people with disabilities who do interact with the criminal justice system are at risk of being wrongfully convicted or being forced to give a false confession. These are factors that the court system needs to be aware of and prepared to address.

People with disabilities interact with the entire justice system and not just the criminal side of the equation. People with a range of disabilities are victims, witnesses and alleged perpetrators. That is why models like the Arc's Pathway to Justice Model are so important. This model shows each aspect of the process needs to address disability issues.

Whether we are talking about court hearings or agency offices, there are accommodation and access issues that need to be addressed.

In 2011, the Washington State Bar Association and the Access to Justice Board helped to develop a guide called “[Ensuring Equal Access for People with Disabilities](#)” that catalogs best practices around ensuring accessibility in the court system. [D.C. Courts](#) and [Michigan Courts](#) both have made a concerted effort to make accessible resources available to the public and provide clear routes for requesting accommodations.

Beyond physical accessibility in the court system, assistive technology needs to be part of the equation. The [Accessible Courts Initiative launched in 2007](#) by Center for Legal and Court Technology (CLCT) and the American Foundation for the Blind (AFB) pointed the right way in terms of technology and equal access. To quote Carl R. Augusto, President & CEO of AFB, “using the right technology enables visually, audibly and mobility impaired judges, jurors, witnesses and attorneys,” which is critical to making equal access to the court system a reality.

On the access to counsel side of the issue, public defenders need resources so they can best represent the interests and protect the rights of people with disabilities who are accused perpetrators. A rare example of the types of information that public defenders need comes from the California Department of Corrections and Rehabilitation’s [Developmental Disabilities Program](#). Resources covered by these materials include referrals to specialized services, information on accommodation requests and clear information on available resources. Likewise, [DisabilityJustice.org](#), the American Association on Intellectual and Developmental Disabilities ([AAIDD](#)) and [the Arc](#) all have resources that cover in greater detail the challenge of ensuring the people with disabilities “have the right to justice and fair treatment in all areas of the criminal justice system.”

Thus, we recommend that accommodation and accessibility concerns should be better addressed by replicating best practices across the system and that further study is needed of policies that will impact access to counsel, convictions and false confessions.

- **The use of solitary confinement and chemical restraint needs to be dramatically reduced so that people are not traumatized unnecessarily and new disabilities are not created.** Adequately and accurately identifying the number of prisoners who are in solitary confinement is a continuing challenge that speaks to the need for better data collection across the prison system. A May 2016 issue brief from the [American Constitution Society](#) estimated that “between prisons and jails— federal, state and local—an estimated 90,000 to 115,000 prisoners live in solitary confinement.” Likewise, [Solitary Watch](#) has written about the complexities of estimating how many prisoners are in solitary confinement. In summary, they wrote, “based on available data, there are at least 80,000 prisoners in isolated confinement on any given day in America’s prisons and jails.”

Whatever the true number, solitary confinement is all too common in American prisons. Advocates who oppose the practice have noted, “solitary confinement is often used as a substitute for the provision of accommodations for and protection to deaf and disabled prisoners.” [There are solid legal arguments](#) that “isolating prisoners because of their

serious mental illness, intellectual disability or physical disability violates the statutory ban against disparate treatment” under the ADA.

Similarly, the use of chemical constraints is another critical issue raised by mental health advocates. The experiences chronicled by [Erick Fabris and Katie Aubrecht](#) in *[Disability Incarcerated](#)* show that the use of psychiatric drugs in institutional settings is commonplace and there are significant consequences. Whether it is solitary confinement or chemical restraint, prisoners with disabilities are particularly vulnerable.

For years there has been [documented evidence](#) that solitary confinement can cause [mental health deterioration](#) for those with a previous condition, or can cause an [onset of new disorders](#) (such as psychosis and depression) in prisoners without a prior diagnosis. Even the Bureau of Justice Statistics has reported on the link between restrictive housing including solitary confinement and mental health. [As reported in 2015](#), “29 percent of prison inmates and 22 percent of jail inmates with current symptoms of serious psychological distress had spent time in restrictive housing units in the past 12 months.”

As such, on legal, moral and practical grounds, reducing the use of solitary confinement should be a component of the movement forward on criminal justice reform.

Organizations such as the [VERA Institute of Justice](#) through their [Safe Alternatives to Segregation Resource Center \(SASRC\)](#) are working to identify practical alternatives to solitary confinement in the prison system.

These practices are so damaging to prisoners that we recommend steps be taken as a part of criminal justice reform to reduce the use of solitary confinement with clear timeframes, solid policies and measurable goals for the system.

- **The corrections system needs structures in place that will diagnose and accommodation people with a range of disabilities upon entering incarceration.** In *[Deaf Inmates: Communication Strategies & Legal Considerations](#)*, published last year in *Corrections Today*, HEARD founder Talila Lewis discussed “a marked increase in the number of lawsuits brought against law enforcement agencies, departments of correction, private prison companies and reentry service providers on behalf of deaf and hard-of-hearing individuals.” These lawsuits are signs of consistent violation of rights that cost taxpayers dearly.

Lewis’ recommendations include: hiring deaf and hard-of-hearing individuals to work in all facilities, “robust classification and tracking” in order to make sure needs are known and met, and assess communication needs for all inmates regularly. Lewis concluded, “corrections professionals must understand Deaf culture and communication if they aim to adequately address communication barriers within their respective systems.” We strongly endorse HEARD’s full recommendations, which can be found at their website, <http://www.behearddc.org/>.

The lack of accommodations and understanding for even easily identified prisoners with disabilities (i.e. people with hearing, vision and mobility issues) reflect a justice system that is failing to fully respect the rights and meet the needs of prisoners with disabilities.

Just last year, the [Texas Tribune](#) reported on several lawsuits against the Texas Department of Criminal Justice for a consistent pattern of abuse. One of the prisoners

said that correctional officers “just aren’t trained to be around anyone who is handicapped.” Improving the prison system will very much depend on corrections professionals being trained and prepared to interact with prisoners with a wide range of disabilities including learning differences, ADHD, mental health and other issues. These needs have to be supported so that inmates are not traumatized while incarcerated.

Many corrections professionals have not been adequately trained to understand that sometimes people cannot follow complex instructions due to disabilities. People with cognitive differences who are not provided supports will have poor prison adjustment. This can lead to punishments that may, in turn, lead to new psychiatric disabilities.

Another example that illustrates the fundamental need for better corrections training was the case of Disability Rights Florida v. Crews et al last year in Florida. This lawsuit, brought against [Dade Correctional Institution](#), resulted in a settlement agreement focused on the critical need for better training.

The [National Center on Criminal Justice and Disability](#) has compiled training resources intended for use by law enforcement as well as corrections. Moving forward, the [protection and advocacy system](#) has a profound role to play in terms helping the system fully respect the right and meet the needs of inmates with disabilities. Lastly, prisoners themselves need to [understand their rights](#) under Title II of the ADA and [be able to self-advocate as needed](#).

Thus, we recommend that steps be taken to better train correctional officers and information be provided to people in prison about rights or accommodations to begin to address the challenges of disability throughout the criminal justice system.

- **People who are incarcerated need to receive disability assessments, begin appropriate education in correctional facilities and start literacy and/or job training at the start of incarceration.** The first step in building a justice system that respects the rights of prisoners with disabilities is to identify those who have disabilities and ensure they receive the supports that they need. However, most state correction systems lack the necessary infrastructure for adequate data collection.

In 1998, the Bureau of Justice Statistics did a [one-time survey](#) of the “data elements maintained by state and federal corrections information systems.” What that survey found was that majority of states lacked good data on the health status of all prisoners. As reported by [Ethical Considerations for Research Involving Prisoners](#), only “20 states had electronic information systems that could identify offenders with physical disabilities at admission, 22 had systems that could identify inmates with mental or emotional problems and 22 could identify inmates with specialized medical conditions.” In preparing this report, we were unable to find any more recent surveys about the current capacity of the corrections to identify or assess offenders with disabilities. Eighteen years is ancient history in terms of public policy.

The 2012 National Inmate Survey contained a section of questions allowing inmates the opportunity to self-report disabilities using a rubric similar to the Census Bureau. The data from this survey provides a very limited view of a larger problem. **The types of assessments that are needed should be focused on understanding functional**

limitations whether they are the result of mobility issues, cognitive disorders, hearing loss, impaired visions, learning disabilities (including ADHD) or mental health. From there, people in prison should receive information about accommodations they can request. Such systems are lacking on the adult side of the justice system, but things are beginning to change thanks to changes on the juvenile justice side.

In the past few months, Congress passed and the President signed into law a new educational reform called the [Every Student Succeeds Act](#) (ESSA). As a broad based measure, intended to improve the educational system as a whole, ESSA contains many different elements that impact the lives of [students with disabilities](#). Among the most important elements are [new requirements](#) related to transition services for youth in correctional facilities. State agencies must now collaborate with correctional facilities to assess justice-involved youth both for educational needs and disability status.

While ESSA is new and has not yet been fully implemented by the states, these requirements hold great promise in terms of supporting educational attainment and ensuring youth with disabilities continue to receive the supports that they need. There is a critical need for similar requirements around collaboration and transition on the adult side of the justice system. The juvenile justice and corrections systems operate in separate siloes and there is no way for data to migrate from one side of the system to the next. If someone is in the system, data on accommodations, supports and their needs should follow the person.

As such, we recommend that better data collection and setting new disability and educational assessment requirements are a vital step forward in terms of adding the disability lens to justice reform.

Such assessments and requirements should mirror the provisions being implemented in the juvenile justice system by ESSA. There are several points where disability diagnoses and educational assessment could improve the justice system. First, by identifying disability status and educational attainment on a prisoner's first day in corrections, it might be possible to proactively address challenges they might face while incarcerated. Second, knowing that someone has a disability and may need educational supports can inform the work needed to ultimately prepare an inmate to reintegrate back into society. Third, collecting such information on day one could provide a baseline of data needed to make more informed policy choices about the intersection of disability and the justice system.

Sidebar: Learning from the Success of Eddie B. Ellis, Jr.

Eddie B. Ellis Jr. is a testament to the power of innovative thinking and individualized education for ex-offenders. A young man with multiple disabilities including a dyslexia diagnosis as a child, he did not get the supports he needed in school and dropped out following a suspension.

“I felt I was treated differently in school, which made me not want to be there,” Ellis said. “No one understood me. I felt less than a human being at times.”

Ellis dropped out of school when he was 15 years old and ended up being sent to Oak Hill Juvenile Center. A year later, after being released, he had a gun pulled on him and Ellis “defended myself and someone lost their life.” He was charged as an adult and sent to jail for manslaughter for 15 years, where he did 10 years in solitary confinement in one of the most notorious prisons in the United States, ADX Supermax in Florence, CO.

While incarcerated, Ellis was never given treatment for his Epilepsy.

“I remember having my first seizure in Youngstown, Ohio, in 1997 after being jumped on by some correctional officers and from that time until I was released I was never given any medication or test to see what was happening to me,” Ellis said. “I remember years before, some fellow inmates told me that I would be talking to them and then go into a daze-like state, which I found out later could have been signs of Epilepsy. I had a bad seizure around 2009 and I was taken to the hospital and was told that I do have Epilepsy and they see it in my frontal lobe.”

Released in 20016, Ellis figured out a great path to success. It is still not an easy one. Employment is hard to get. But Ellis is a role model for others that should be followed.

Ellis self-published a resource handbook for ex-offenders in the Washington, D.C., area titled, *“The Window of Opportunity - Pre-release Handbook,”* which eventually led to the formation of his own nonprofit organization, One by 1 Inc, in 2009.

Three out of four individuals released from the criminal justice system re-enter it within five years, so Ellis’ successes should give us pause. What worked for Ellis was an individualized education plan tailored to his strengths, weaknesses and goals with help from his parole office following his release. Replicating this process on a larger scale could decrease the amount of ex-offenders who return to the criminal justice system.

Ellis’ educational opportunities in prison were minimal. However, he found ways to educate himself and make the best use of the minimal resources that the system offered. Upon his release, the sole option for reentry education offered was a lesson on banking skills, which was not a realistic or helpful program for anyone reentering society after so many years.

While he did not have the support of a faith group or nonprofit after being released, Ellis was lucky to have a support system through the genuine and invaluable support of individuals like his mother, family members, best friend, his wife, parole officers – who took time to show him how to use the Metrorail system – and many more. Staying focused on his interests and skills helped Ellis shape his future after release even through the very tough moments life has to offer. He was not a fan of formal educational systems, which he said tend to “statistic you to death,” and easily lose sight of what Ellis calls the chief objective of learning: individual personal growth and enlightenment.

Ellis believes that an overemphasis on formal, stringent and restrictive learning environments can reduce an otherwise amenable, motivated-to-learn individual to suddenly cave, and not want to take on any challenges when it comes to education. As a result, understanding the power of education, Ellis decided to make his education his priority and used every resource available to him to educate himself by simply making the best of what he had and learning and applying the necessary skills to survive within society.

Soon Ellis was training probation officers, social workers and lawyers to help them understand the client more and ways to assist them. This peer-to-peer interaction also contributed to his continuous education. He has had the chance to speak at different colleges and universities, from the state of Vermont to North Carolina. His mission is clear; sharing his story can help students and young people of all backgrounds understand the importance of staying in school, doing the right things in life and how their choices impact their future. Ellis also helps former offenders get back on their feet and live life the right way by facilitating workshops and life skills groups. Ellis has been affected by seizures over the years and has been diagnosed with Post Traumatic Stress Disorder (PTSD).

“When I came home, I was tested and told that I have PTSD and my eye sight has been affected by being in solitary confinement for so long, I locked myself in my room for so many years and ate my food in my room away from my family because I was so used to eating by myself,” Ellis said.

Despite these layers of challenges, he strives to do his best and continue to live a just life and give back to the community.

Moving away from a system of conformity in schools and society could potentially break down the school-to-prison pipeline and prevent youth from ever entering the criminal justice system in the first place. Ellis’ story is a template for reform to our criminal justice system and beyond.

Release, Reentry and Reintegration: Models of Success and Future Pathways

The reentry process for inmates with and without disabilities must begin months before they finish their sentences. The stage needs to be set by making sure inmates have important information on jobs, supports, programs, services and housing. This is especially important for inmates with disabilities whose medical needs are successfully managed while incarcerated.

Beyond combating stigma, collecting better data and replicating best practices, healthcare access for returning citizens is a critical challenge overshadowing the entire reentry process. Inmates who need medication for mental health issues need a head start whether through receiving a 30-day supply of medication or more involved supports like the [Individual Placement and Support](#) (IPS) model. Access to healthcare for returning citizens is a critical element of building capacity and reducing recidivism.

Some estimates show that between 70 and 90 percent of people released from the justice system are [uninsured](#). This lack of access to healthcare, treatments and medication only diminishes a returning citizen's chances of successfully reintegrating into society. The research shows that "[poor physical and mental health contribute](#)" to recidivism "as ex-prisoners seek the 'security' of the life they knew." The [Michigan Prisoner Reentry Initiative](#) focuses on empowering returning citizens to receive critically needed healthcare services and has been achieving great results. As such, the role of healthcare access as a tool to combat recidivism needs to be considered.

After incarceration, what do returning citizens with disabilities encounter? Employment, education, stable housing, sobriety and access to services – these are the factors that prevent crime and combat recidivism. Criminal records make it harder to reintegrate. Lacking support for one's disabilities adds additional barriers. As do [felon disenfranchisements](#), which costs [5.85 million Americans their political voice](#). **We need to respond to these challenges by building capacity, engaging employers, creating innovative funding models and replicating best practices.**

In terms of trying to anticipate needs and plan for a better criminal justice system, it is vital to consider the need for capacity building regarding reentry and support programs. Agencies that assist hard-to-serve populations like people with disabilities or ex-offenders often are already short staffed. Frequently, case managers have to manage many more cases than they have the bandwidth to supervise. Even in [Montgomery County, Maryland](#), which has some of the very best disability supports and programs, agencies report multiple job vacancies. As a result, each case manager for transitioning services for youth with disabilities has between 25-40 cases and there is a massive waiting list even to be on that huge caseload. What this means is that if large cohorts of non-violent offenders leave jail, overcapacity agencies will fail to keep up with demand. As such, it is time to look beyond government when it comes to reentry and transition solutions that will support returning citizens and enable them to succeed.

There is a national need for more thorough investigations into best practices and successful models. Mathematica already has done some important research. See [their recent report about efforts](#) to study how employment, education, housing and healthcare help successful reentry. Montgomery County's collaborative approach that integrates faith organizations, family outreach

and supports deserves close attention. Another example worth closer consideration is [Hampden County, Massachusetts](#). [Hampden County's](#) principles and practices focus “a continuum of gradual supervised and supported community reentry for offenders.” However, more must be done to develop, test and evaluate programs for their efforts at reentry and reintegration.

Look at examples of innovative transition support work and reintegration efforts for offenders. Gov. Jack Markell of Delaware has gained attention for his leadership on jobs for people with disabilities. However, Delaware also has been doing innovative work in terms of reducing recidivism and working to ensure the successful reintegration of ex-offenders. [Delaware's Individual Assessment, Discharge and Planning Team \(I-Adapt\)](#) efforts have depended upon cooperation and collaboration across state government agencies. These efforts, which have been in place since 2009, offer valuable lessons in terms of the individual planning needed to achieve positive outcomes, to reduce recidivism and empower ex-offenders.

Full Policy Recommendations on Reentry and Reintegration

Below we discuss specific, critical facts that need to be addressed in order for the release, reentry and reintegration of returning citizens to be done as safely and effectively as possible:

- **Corrections education programs funded under Title II of the Workforce Innovation and Opportunity Act (WIOA) need to better serve prisoners with disabilities.** Title II of WIOA outlines many requirements for adult education and literacy programs and the law is clear in stating that disability issues *should* be addressed. However, very few of them adequately address the disability issues of people in the corrections system. As such, we hope DOL and DOED will not approve any of the state WIOA plans unless and until the states better addressed disability issues.

However, there are states that address the issue, at least in part. [West Virginia](#), for example, emphasizes a strong partnership between the Department of Vocational Rehabilitation and the Department of Corrections. [Tennessee's State Plan](#) goes one step further and expands a similar partnership to include the Tennessee Board of Probation and Parole. Both of these states' partnerships are intended to result in improved reentry employment training particularly for inmates and prisoners with disabilities.

We found another good initiative in [Vermont's state plan](#), which designates a position titled “Offender Reentry Employment Specialist” to focus on employment for returning citizens with disabilities. [North Dakota's plan](#) also gives significant attention to quality corrections personnel. The North Dakota Department of Corrections and Rehabilitation includes highly qualified teachers with professional development and/or special education experience in both their adult and juvenile corrections personnel.

Similarly, [Hawaii](#) is doing some good work in addressing disability in its jails and prisons by coordinating efforts between its corrections and the Department of Education. This partnership provides highly qualified teachers and counselors to prisons and jails so that returning citizens can be prepared to succeed in life after incarceration. These are just a few examples of how states can better use their WIOA funds, pursuant to Title II.

Training inmates for their eventual return to society and addressing underlying disability issues is a critical factor in preparing inmates to return to society. Unfortunately, these

programs cost money, and of course, inmates rarely are allowed access to appropriate testing for learning and other disabilities. The same is true for Internet education sites, currently deemed “too risky,” despite the obvious benefits for online education. Sites such as Khan Academy, Massive Open Online Courses (MOOCs), TEDTalks and other learning options often are well suited to diverse learning needs, but are kept off-limits.

We also need to significantly improve and expand online learning modules that are specifically geared toward adults who are functionally illiterate. This includes learning resources for people for whom English is a second language because they are immigrants or if ASL is their primary language.

Thus, we recommend that the impact of disability on corrections education be better addressed under Title II of WIOA and that improved online learning opportunities be provided to people behind bars.

- **Extend and expand capacity through non-governmental supports focused on providing reentry solutions for returning citizens.** The process of reentry is complex and work needs to begin early to prepare them to succeed. Pre-release programs are very important to an inmate’s success when they are transitioning back into the community. For example, trying to help someone with a mental disability understand what they need to do when they get out of prison (and the complex rules of probation) is very important because they have a different way of learning and understanding. Returning citizens need to be able to self-advocate if they need accommodations. This means that inmates need information and resources long before they finish their sentences.

These are some of the many components involved with building the capacity of programs, agencies and services to support returning citizens. From workforce development to parole and probation officers, there is a network of programs intended to reintegrate inmates once they have served their sentence and returned home.

The necessary first step is to ensure that probation and parole officers who are working with returning citizens are aware of any disability issues that someone might have. Disability awareness and understanding accommodations need to be elements of their professional development because they are responsible for empowering ex-offenders. If a parole or probation officers does not understand what it means for someone to have a disability (especially a non-apparent disability), the risk that someone might fall through the cracks and end up back in the system is high.

Those same officers need to know how to communicate about disabilities with a returning citizen’s family. Families need to understand how to support their loved one who has returned from prison and they need information to navigate the complex path of disability.

Likewise, transitional housing units and other support efforts should be trained, prepared and equipped to handle disability issues when they arise. This is one of the points where grants through the [Second Chance Act](#) and the [Office of Justice Assistance](#) at DOJ have a critical role to play. However, government action alone is insufficient. The necessary condition for truly building the capacity of reentry programs is to look beyond government to nonprofits and the private sector for partners in this work. The booklet, [Clearing Obstacles to Work](#), put out by the Philanthropy Roundtable, is rich with

potential partners and proven programs for people without disabilities who are returning citizens. A number of the organizations detailed in this booklet already are doing reentry work and could be potential models.

Two examples of the types of programs building capacity to support returning citizens are the [Center for Employment Opportunities](#) (CEO) and the [Ridge Project](#). CEO is a nonprofit working in New York, California and Oklahoma on employment outcomes for returning citizens. The organization works with parole and probation officers, which is essential given that these officers are often the returning citizens' only point of contact when they leave incarceration. CEO begins by giving program participants a week of life-skills training. Then, participants are placed on a work crew doing maintenance and janitorial work. They work four days a week, and are evaluating based on their performance and participation. The other workday is spent receiving more job training and counseling.

Once their supervisor's evaluation says they are ready for full-time employment, CEO organizes interviews and assists in the transition. CEO continues to offer program participants services for up to a year after they secure employment. The 2012 evaluation of CEO from the U.S. Department of Health and Human Services found reductions in recidivism from program participants between 16 and 22 percent. CEO's impacts were stronger for "those who were more disadvantaged or at higher risk of recidivism."

The Ridge Project, a Christian nonprofit focused on empowering responsibility and improving the lives of families in Ohio, is another good example of reentry. The Project has found that many of the skills that make someone a good spouse and parent also make them a good employee. They offer classes to inmates both before and after they are released, working on both skillsets at the same time. These efforts are both meeting the reentry needs of returning citizens and building greater capacity to achieve successful reentry. The problem of recidivism is so great and the outcomes are so horrific that innovation is needed to drive reform.

Therefore, we recommend that collaborative reentry efforts, which bring together nonprofits, government and private industry, be considered as a key best practice as reform moves forward.

- **Use better performance metrics to ensure the success of people with disabilities and returning citizens.** In order to support returning citizens and decrease recidivism, economic opportunity needs to be front and center. Tracking unemployment information (which only reflects people actively looking for jobs) and job placements (which only monitors people who interface directly with the workforce system) is necessary, but not sufficient to drive true performance metrics.

The use of limited measures such as unemployment rates fails to also capture many of the most innovative parts of the labor force. Such limited measures of the economy do not factor in workers who are participating in the "gig economy" such as Uber, Lyft and other companies. With [several hundred thousand active drivers](#) in the U.S., Uber and Lyft are both companies making big waves in the American economy yet are inadequately captured by current datasets.

Table 5. State Employment Rates for People with Disabilities – From Best to Worst²⁵

#	State	%	#	State	%	#	State	%
1	South Dakota	50.1	19	Idaho	38.8	37	Maine	32.5
2	North Dakota	49.9	20	Texas	38.0	38	Louisiana	32.1
3	Iowa	46.5	21	Washington	37.7	39	North Carolina	31.3
4	Nebraska	46.0	22	Virginia	37.6	40	New Mexico	30.4
5	Wyoming	45.2	23	Oklahoma	36.4	41	Florida	30.1
6	Minnesota	44.4	24	Oregon	36.4	42	Tennessee	29.9
7	Utah	44.0	25	Indiana	36.2	43	Georgia	29.6
8	Hawaii	42.4	26	Vermont	36.2	44	Michigan	29.6
9	Colorado	41.6	27	Illinois	35.7	45	Arkansas	29.2
10	Nevada	40.9	28	Delaware	35.6	46	South Carolina	29.0
11	Alaska	40.8	29	Mass.	35.5	47	Mississippi	27.4
12	Montana	40.5	30	Ohio	34.6	48	Kentucky	27.3
13	Connecticut	40.2	31	Pennsylvania	34.5	49	Alabama	27.2
14	New Hampshire	40.0	32	Rhode Island	33.9	50	West Virginia	25.6
15	Kansas	39.8	33	New York	33.6			
16	Wisconsin	39.8	34	California	33.3		Washington D.C.	30.3
17	New Jersey	39.2	35	Arizona	32.8			
18	Maryland	39.1	36	Missouri	32.8		United States	34.3

Looking at labor force participation rates in a different way is critical, especially if more states are going to replicate best practices at employing people with disabilities. People with disabilities in [South Dakota](#) are twice as likely to be employed as people with disabilities in West Virginia for example. Part of why South Dakota has such good outcomes is because they have been investing heavily in [training, mentorship and support services](#). Similar high performing states such as North Dakota or Iowa deserve close attention for their proven results.

Looking at the employment gap between people with and without disabilities gives a clearer picture of whether people are being left out of the workforce. Maine comes in dead last in the country, quickly followed by Kentucky. Maine has been incorrectly viewed by some as a model state because it has Employment First policies enshrined both in executive order and in state legislation. However, while these are good policies, they alone are not enough.

As a result, when examining the gap between the employment rate of people with disabilities and those without disabilities, Maine comes dead last in the country. This means that Mainers with disabilities are not overcoming barriers to employment.

Government action alone—through executive orders, legislative decisions and regulatory oversight – is helpful, but is insufficient. The necessary condition for achieving greater

²⁵ Source: [Annual Disability Statistics Compendium](#)

competitive, integrated employment for individuals with disabilities is engaging employers and meeting their talent needs.

Thus, we seriously recommend that the state and federal components of the workforce system prioritize labor force participations rates as the key performance for overcoming barriers to employment.

Table 6. Gap Employment Rates Between People With and Without Disabilities²⁶

#	State	%	#	State	%	#	State	%
50	Maine	47.4	32	Wisconsin	41.4	14	Connecticut	37.7
49	Kentucky	47.1	31	New Hampshire	41.3	13	Colorado	37.4
48	South Carolina	45	30	New Mexico	40.8	12	Texas	37.3
47	Michigan	45	29	Indiana	40.7	11	New Jersey	37.3
46	West Virginia	44.9	28	Delaware	40.7	10	Montana	37.3
45	Arkansas	44.6	27	New York	40.4	9	Idaho	37
44	Tennessee	44.5	26	Louisiana	40.3	8	Wyoming	35.9
43	Missouri	44.4	25	Virginia	40	7	Iowa	35.7
42	Vermont	44.2	24	Illinois	40	6	Alaska	35.3
41	Alabama	44.1	23	Kansas	39.9	5	Hawaii	34.2
40	Rhode Island	43.8	22	Arizona	39.7	4	S. Dakota	33.6
39	Mass.	43.5	21	Oklahoma	39.2	3	Utah	33.5
38	Georgia	43.5	20	Maryland	39.1	2	Nevada	33.4
37	Florida	43.3	19	California	38.9	1	N. Dakota	32.1
36	Mississippi	43.1	18	Oregon	38.5			
35	N. Carolina	43	17	Minnesota	38.5		Washington D.C.	45.2
34	Ohio	42.5	16	Washington	38.3			
33	Pennsylvania	42	15	Nebraska	37.9		United States	40.3

- Recruit employers that will hire returning citizens with disabilities for business reasons, not charity.** Returning citizens face significant attitudinal barriers when it comes to finding employment and reintegrating into society. This is why so many organizations are invested in ongoing bipartisan efforts to “[ban the box](#).” RespectAbility understands and appreciates the barriers that ex-offenders face. Indeed, people with disabilities who have not been incarcerated face stigmas that often prevent them from employment. People with disabilities leaving incarceration face double discrimination. Yes, employers need to know if the people they are hiring for certain jobs have criminal records. However, criminal records should be disclosed to employers later in the hiring process so that people have a chance to be considered for employment or take advantage of policies [like the Federal Bonding Program](#).

In general, the Equal Employment Opportunity Commission (EEOC)’s reports proper consideration of [arrest and conviction records](#) in hiring. Like other forms of illegal discrimination, including [anti-disability discrimination](#), cultural change must accompany legal enforcement. As captured by an article in [The Nation](#), the laws enforced by the

²⁶ Source: [Annual Disability Statistics Compendium](#)

EEOC “bars not only overt bias based on protected categories like race, but also seemingly neutral policies that have the effect of reinforcing racial disparities.” Thus, employers “can consider criminal records only as one factor in hiring” but only “when the conviction is directly related to the work.”

As a nation, we need private sector companies that will explicitly state that certain offenses will not disqualify someone from getting a job. This is why efforts like the [Fair Chance Business Pledge](#) are so important. As a result of this White House initiative, 19 major companies have made a public commitment “to improve their communities by eliminating barriers for those with a criminal record” and creating second chances. These companies include a diverse range of businesses from the high tech world of Facebook, Google and Uber to big name brand companies like Coca-Cola, Hershey and Starbucks. Resources like [the Vocational Rehabilitation system](#) and the [Job Accommodation Network](#) have a role to play in addressing any disability-related issues or accommodation needs.

It is critical for people who are leaving the corrections system to know that opportunities exist and that some companies have affirmative action for hiring people with disabilities. Moreover, [federal contractors](#) have a [Section 503 requirement](#) to have [seven percent](#) of their workforce in all job categories be people with disabilities. Corporate and other employer partners are needed. We need employers to be willing to offer internships and apprenticeships to people with disabilities BEFORE they get in trouble, or upon reentry. As we see from the overwhelming recidivism rates, there is a profound need for innovative programs and effective supports. Our nation needs programs that will directly address the critical barrier to employment created by a criminal record.

An example of the type of innovative reentry program we would like to see widely replicated is the [Prisoner Entrepreneurship Program](#) (PEP). This organization, which is driven by “a passion for education, mentoring and entrepreneurship,” works to equip prisoners with “in-prison business educational experience” and connects them to [business mentors](#) who can help provide “proper education, coupled with life skills training, character-building, and a new social support network” so that “offenders can turn their lives around in a dramatic and fundamental way.” PEP’s supports, training and entrepreneurship have been achieving impressive results as measured by employment outcomes, wages, high retention and low recidivism rates. The successes achieved by PEP’s model deserves attention and extensive study.

Another example is the [Renaissance Center](#) in California’s Bay Area. Its combination of business-planning classes, financial assistance and connections with experienced entrepreneurs has turned the center into one of the most successful models for business incubation in the country. The center offers classes on a wide range of subjects useful to aspiring entrepreneurs in all stages of business growth, including California’s first entrepreneurship program for returning citizens, “Out of the Box.” The center’s 2015 survey of clients who received more than 10 hours of training, just one year after receiving services revealed several successes: 44 percent business start rate; 97 percent business survival rate; 60 percent of the businesses had employees; and a 38 percent increase in household income, among other results. Such entrepreneurial outcomes bode well for wide replication and closer evaluation of these best practices.

As such, our recommendations are that more employers are needed who will publicly commit that they will hire returning citizens (especially those with disabilities) and that there needs to be concerted national effort to replicate and evaluate best practices that are creating entrepreneurial opportunities for people getting out of prison.

- **Expand the use of innovative funding sources such as Pay-For-Performance Contracting or Social Impact Bonds to reduce recidivism rates.** The challenge of recidivism is so great that innovative work is needed to move beyond failing programs and achieve real results.

First and foremost, it is vital to ensure that funding streams under Title II of the Workforce Innovation and Opportunity Act are being used where they will be most effective. Before seeking new appropriations, oversight is needed both at the federal and state level to ensure that workforce development efforts for ex-offenders are supporting best practices and that corrections education programs are adequately meeting the disability needs of inmates in those programs.

Properly supporting such programs requires innovative thinking in terms of addressing cost. As such, it is worth considering what role blending and braiding of funding from diverse federal programs like SNAP and TANF could play in expanding employment opportunities and decrease recidivism rates. While federal law places a lifetime ban on welfare and food stamps for those convicted of drug crimes, more and more states are lifting such restrictions for ex-offenders.

As reported by the [Wall Street Journal](#) and [the Congressional Research Service](#), “a dozen states have made drug offenders eligible for Temporary Assistance for Needy Families, the federal welfare program, and nearly two dozen states now permit them to participate in the Supplemental Nutrition Assistance Program.” In those states, resources could align to support ex-offenders to develop skills or find them jobs and keep them employed.

Back in the community, the more than 550 [Workforce Development Boards](#) and more than 12,000 business partners involved with WIOA have a vital role to play in moving the needle. In total, WIOA sends \$17 billion dollars to the states to improve the workforce system, expand access for people with disabilities, and train workers to meet businesses’ talent needs.

As captured by Social Finance in their [“Building a Better Workforce” Report](#), this funding “represents a significant source of capital that can be invested in strategic initiatives—building stronger systems, unleashing innovative programs, bolstering measurement and accountability—to improve outcomes for participants.” One of the ways that WIOA can achieve those outcomes is to utilize innovative “Pay for Performance” (PfP) contracting. In fact, Workforce Investment Boards may authorize up to 10 percent of their funding for these innovative efforts.

So, what is Pay-for-Performance and why does it matter to fighting recidivism and empowering returning citizens? PfP is an approach that focuses on investing resources in outcomes and paying for success. As documented by [Social Finance](#), “Pay for Success expands access to preventive, evidence-based programs like the Center for Employment

Opportunities, increasing the likelihood that these people secure stable employment and housing, which reduces their risk of returning to prison or jail.”

As discussed in our earlier comments about the Center for Employment Opportunities, their [Pay-For-Success project](#) in New York State is achieving incredible results by focusing on “evidence-based comprehensive employment services” rigorously designed to reduce recidivism through transitional job training and increased employment outcomes.

Ultimately, these types of innovative models can be a win-win-win for returning citizens, and taxpayers. Taxpayers benefit from less reliance on social services and reducing the cost of incarceration. Most important of all, returning citizens are given critical supports and a second chance through employment. To quote Social Finance, “A variety of criminal justice interventions meet the conditions needed for Pay for Success to be an appropriate tool.” Moving forward, such tools can and should be part of criminal justice reform.

Other examples showcase the growing power of social enterprise to combat the high rates of recidivism through public-private partnerships such as the [Second Chance Act Comprehensive Statewide Recidivism Reduction \(SRR\) Program](#). Likewise, [new social entrepreneurship models](#) such as the [Social Impact Bonds](#) used to combat recidivism among young prisoners at the [Peterborough Prison](#) in the United Kingdom deserve [close attention](#). We are just starting to see [similar efforts](#) launched in the United States such as the [Adolescent Behavioral Learning Experience \(ABLE\)](#) program [in New York](#) and the [Juvenile Justice Pay for Success Initiative](#) in Massachusetts.

Thus, we recommend that in order to better reduce recidivism rates and ensure the success of returning citizens, local, state and federal programs should look to pay-for-success or social impact bonds for funding.

- **Change the narrative from “three strikes” to “second chances” by focusing outreach on business leaders, human resources professionals and returning citizens.** Indeed stigmas, myths, misconceptions and stereotypes are barriers to employment faced by both returning citizens and the disability community. [Criminal records](#) will “keep many people from obtaining employment, even if they have paid their dues, are qualified for the job and are unlikely to reoffend.”

A study published in 2003 by researcher [Devah Pager](#) found that barely five percent of male African American job applicants with a criminal record ever received a call back on a job application. Such research shows not only the ugly reality of discrimination and the impact of stigma. The [necessary starting point](#) includes fair chance hiring policies among employers that will be the cultural change we need around attitudinal barriers to employment. In order to fight stigma, we recommend that a systematic, national communications effort be undertaken that will highlight the business benefits of inclusive hiring.

The best way to fight stigma is to let employers see the facts from other [employers who already are succeeding](#) by hiring people with disabilities, whether they were in the corrections system or not. Polls show that there are three types of audiences that need to be reached. First, business leaders need to understand the value proposition/business case

for their specific company as to why they should focus on putting people with disabilities into their talent pipelines and why they should give returning citizens second chances. This is best done through business-to-business success stories. Second, human resources professionals and on-the-ground supervisors need to have access to resources to ensure. Lastly, returning citizens, people with disabilities and their families need high expectations.

We need to celebrate people who have paid for their crimes and are working hard to build a better life for their families. Earlier, we pointed to the life and experiences of Eddie B. Ellis, Jr. as an example of someone who had challenges because of undiagnosed disabilities and who is now a returned citizen who is sharing his own experiences to better the lives of others. We need to showcase stories like his or those of those of others such as the actor [Ameer Baraka](#) who recently [testified to the Senate](#) about how dyslexia and other disability issues force people “[into the shadows](#).” Success sells success and we need to see more stories of returning citizens with disabilities who are building successful lives.

The Bottom Line: Disability and Criminal Justice Reform

In the past, national conversations around criminal justice reform have zeroed in on the role played by race and economic status. More recently, people have begun to include gender identity and sexual orientation. Far too often, however, despite the fact that there are more than 750,000 people with disabilities behind bars in our nation, people with disabilities have been forgotten, left behind or excluded from these critical conversations.

It is vital for us as a society to identify the many ways that the lack of support and understanding around disability intensifies the risk for both crime and negative interactions with the criminal justice system.

Through early interventions and appropriate accommodations for young people with disabilities while they still are in school, they can have a higher chance of obtaining degrees and jobs – keeping them out of the prison and jail systems and enabling success. For those who do become caught in the system, we need structural reforms at every stage to ensure that the basic human rights of people with disabilities are upheld. Upon release, the specific needs of people with disabilities must be addressed by those assisting with community re-integration so that the process is safe and successful.

Proposed criminal justice reforms have begun to address the disparate impact that our broken justice system has on racial and ethnic minorities. However, those same reforms need to consider the intersection and impact of disabilities. As such, we are including with our report an extensive collection of data on the justice system and people with disabilities. We hope that these statistics, data, tables, facts and figures will help to policy makers add the disability lens to our nation's conversation about criminal justice reform.

Appendix A: Glossary

- **Ableism** is discrimination in favor of able-bodied people; the belief that that people who have disabilities are somehow less human, less valuable and less capable than others.
- **Accommodation** is any change in the work environment or in the way things are done that enables an individual with a disability to have equal access and treatment.
- **Cognitive disability** is one that results in a person having greater difficulty than the average person with one or more types of mental tasks. There are numerous different kinds of cognitive disabilities, ranging from profound cognitive disabilities that require assistance with nearly every aspect of daily living to minor learning disabilities that are never discovered or diagnosed. (<http://webaim.org/articles/cognitive/>)
- **Disability** can be physical (i.e. vision, hearing, mobility), cognitive, intellectual, mental, sensory, developmental or some combination of these that substantially limits one or more major life activity. **According to the U.S. Census, there are 56 million people with disabilities in the United States – that is one-in-five Americans.** 8.1 million Americans have difficulty seeing, including 2.0 million who are blind or unable to see at all. 7.6 million Americans experience difficulty hearing, including 1.1 million who experience a severe hearing difficulty. About 5.6 million Americans use a hearing aid. (<https://www.census.gov/newsroom/releases/archives/miscellaneous/cb12-134.html>)
- **Discrimination** is the behavioral result of the attitudes or beliefs known as “stigma.” It occurs when people are unjustly deprived of their rights and opportunities due to the stigma the “discriminator” perceives. Discrimination marginalizes people and deprives them of their civil rights and life opportunities, including employment, education, fair housing and participation in society. (www.disabilityrightsca.org/pubs/CM0401.pdf)
- **Employment First** is a national movement that prioritizes employment as the preferred outcome for all people. It is a framework for systematic change, centered on the premise that **all** citizens, including individuals with significant disabilities, are capable of full participation in integrated employment and community life. (<https://www.dol.gov/odep/topics/employmentfirst.htm>)
- **Executive Function Disorder (EFD)** involves a pattern of chronic difficulty executing daily tasks. Some with executive function issues may struggle with analyzing, planning, organizing and completing tasks on time, or at all. (<http://www.additudemag.com/adhd/article/7051.html>)
- **Individuals with Disabilities Education Act (IDEA):** IDEA is a federal law that requires schools to serve the educational needs of eligible students with disabilities. Schools must evaluate students suspected of having disabilities, including learning disabilities. Not every child with learning and attention issues qualifies for special education services under IDEA.
- **Individualized Education Program (IEP):** The federal Individuals with Disabilities Education Act (IDEA) requires public schools to create an IEP for every student receiving special education services. Students between the ages of three and 22 are eligible for an IEP. The IEP addresses the child’s learning issues and sets specific

educational goals. It is legally binding. (<https://www.understood.org/en/school-learning/special-services/ieps/understanding-individualized-education-programs#item0>)

- **Intersectionality** refers to the interconnected nature of social categorizations such as race, class and gender as they apply to a given individual or group, regarded as creating overlapping and interdependent systems of discrimination or disadvantage. The term was coined by [Kimberlé Williams Crenshaw](#) in, “Demarginalizing the intersection of race and sex: a black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics.” University of Chicago Legal Forum (Phil Papers) 140: 139–167.
- **Labor Force Participation Rate (LFPR)** refers to the number of people either employed or “actively looking for work.” It is an essential performance metric because it takes into account those who are not employed but want to be.
- **Multiple Minority Status or Dual Minority Status** is when an individual identifies or is identified as belonging to multiple demographic statuses such as disability status, race, age, ethnicity, gender identity and sexual orientation. (<http://engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?article=1057&context=greatlakes>)
- **Recidivism** is the re-arrest, reconviction or re-incarceration of an ex-offender within a given time frame.
- **Returning Citizen** refers to a person who has been found guilty of a crime, completed his or her sentence and is returning to the community.
- **School-to-Prison Pipeline (STPP)** refers to the policies and practices that push our nation's schoolchildren, especially our most at-risk children, out of classrooms and into the juvenile and criminal justice systems. This pipeline reflects the prioritization of incarceration over education. (<https://www.aclu.org/fact-sheet/what-school-prison-pipeline>)
- **Section 503** of the Rehabilitation Act of 1973 prohibits federal contractors and subcontractors from discriminating against individuals with disabilities in their employment practices, and requires these employers to take affirmative action to recruit, hire, promote and retain individuals with disabilities. New regulations establish a nationwide seven percent “utilization goal” for qualified individuals with disabilities. Contractors apply the goal to each of their job groups, or to their entire workforce if the contractor has 100 or fewer employees. Contractors must conduct an annual utilization analysis and assessment of problem areas, and establish specific action-oriented programs to address any identified problems. (<https://www.dol.gov/ofccp/regs/compliance/section503.htm>)
- **Section 504** of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability by programs and activities receiving or benefiting from federal financial assistance, and requires schools to provide students with disabilities “reasonable accommodations” comparable to those provided to their peers. Section 504 plans are broader than IEPs. Section 504 covers individuals who qualify as “handicapped,” whereas IEPs require the child to fall into one or more specific categories. (<http://www.ldonline.org/article/6086?theme=print>)

- **Stigma** refers to the attitudes and beliefs that lead people to reject, avoid, exclude and/or fear those they perceive to be different.
(<http://www.disabilityrightsca.org/pubs/CM0401.pdf>)
- **Supplemental Nutrition Assistance Program (SNAP)** offers nutrition assistance to eligible, low-income individuals and families. To receive benefits, households must meet certain tests, including resource and income tests.
- **Temporary Assistance for Needy Families (TANF)** is designed to help families in need become self-sufficient. The four purposes of TANF are to: Provide assistance to needy families so that children can be cared for in their own homes; promote job preparation, employment and marriage to reduce parents' dependency; prevent and reduce pregnancies between non-married couples; and encourage families to be "two-parent."
- **Americans with Disabilities Act of 1990 (ADA)** prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, state and local government services, public accommodations, commercial facilities and transportation.
- **Workforce Innovation and Opportunity Act (WIOA)** is designed to help job seekers access employment, education, training and support services to succeed in the labor market and to match employers with the skilled workers they need. It is the first legislative reform of the public workforce system in 15 years. WIOA supersedes the Workforce Investment Act of 1998 and amends the Adult Education and Family Literacy Act, the Wagner-Peyser Act, and the Rehabilitation Act of 1973. WIOA requires states to strategically align its workforce development programs, improve the American Job Center system, provides access to and promotes high-quality training, among many other things. It also requires the improvement of services to people with disabilities, including but not limited to: improving accessibility (physical and programmatic), increasing pre-employment transition services and engaging employers on best practices.
(<https://www.doleta.gov/WIOA/Overview.cfm>)

Core WIOA programs include:

- o **Title I** – Workforce Development Activities
- o **Title II** – Adult Education and Literacy (including education in the corrections system)
- o **Title III** – Amendments to the Wagner-Peyser Act
- o **Title IV** – Amendments to the Rehabilitation Act of 1973

Appendix B: Additional Resources and Bibliography

Below are the studies and other references cited in our report as well as additional resources.

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- **Maria Town** <https://www.whitehouse.gov/blog/author/maria-town>
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- **Todd Honeycutt** <https://www.mathematica-mpr.com//our-people/staff/todd-honeycutt>
- **David Wittenburg** <https://www.mathematica-mpr.com/our-people/staff/david-wittenburg>
- **David Stapleton** <https://www.mathematica-mpr.com/our-people/staff/david-stapleton>
- **Lindsey Jones, Esq.** <http://www.ncld.org/archives/mission-and-history/our-team/lindsay-e-jones>
- **Meghan Casey** <http://www.ncld.org/archives/mission-and-history/our-team/meghan-casey>
- **Nancy Smith** <http://www.vera.org/users/nancy-smith>
- **Sandra Harrell** <http://www.vera.org/users/sharrell>
- **Martin F. Horn** <http://www.jjay.cuny.edu/faculty/martin-f-horn>
- **David Osher** <http://www.air.org/person/david-osher>
- **Simon Gonsoulin** <http://www.air.org/person/simon-gonsoulin>
- **Trish Campie** <http://www.air.org/person/patricia-e-campie>
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Appendix D: Author Biographies

Jennifer Laszlo Mizrahi is the co-founder and president of RespectAbility, a nonprofit organization working to empower people with disabilities to achieve the American dream. She also is the publisher of www.TheRespectAbilityReport.org, which covers the intersection of politics, policy and disability. She works regularly with disability organizations, national, state and local policy leaders, media, employers, philanthropists, celebrities and faith-based organizations in order to expand opportunities for people with disabilities. Previously, on behalf of GOVERNING magazine, she organized and led major training seminars on best practices on crime and corrections issues. She has published more than a hundred op-eds and publications on disability issues, including in USA Today, Huffington Post, The Hill and other publications. Dyslexic herself, she also knows what it means to parent a child with multiple disabilities. She can be reached at JenniferM@RespectAbilityUSA.org.



Janie L. Jeffers is founder and president of Jeffers and Associates, LLC. President Bill Clinton appointed her a Commissioner on the United States Parole Commission in 1999. She has had a distinguished career in public policy, education, management, health care, and criminal justice at the federal and local levels. Ms. Jeffers served as Executive Deputy Director for the Federal DC Interagency Task Force at the White House Office of Management and Budget, where she coordinated technical assistance to the District of Columbia government on economic development, education, childcare, and public/private partnerships. She also served as Policy Advisor for the President's Crime Prevention Council, chaired by Vice President Gore. From 1992-1996, she was Chief of the National Office of Citizen Participation for the Federal Bureau of Prisons at the Department of Justice and, from 1985-1991, she was Deputy Commissioner for the New York City Department of Correction, rising through the ranks to become the first civilian to achieve that position. She managed city-wide delivery of health care, education, and legal services for more than 20,000 inmates with a \$50 million budget.



Eddie B. Ellis Jr., Criminal Justice Associate. Ellis created One by 1, which works with communities and partners to provide youth development workshops and mentoring services to keep youth out of the justice system and those exiting the system to stay out. A champion for change, his experience as a former convict with multiple disabilities provides insight and depth to his work allowing him to connect with and engage audiences. Ellis wrote and published several resource guides offering service referrals, practical tips and inspiration to former offenders and parolees returning to the Washington, D.C., area.



Philip Pauli is the Policy and Practices Director of RespectAbility. His role with RespectAbility includes communicating with state leaders and workforce agencies on best practices for employing people with disabilities under WIOA and addressing issues related to competitive integrated employment. Raised by a single mother with serious chronic health issues, he is deeply committed to helping build a better future for people with disabilities. You can reach him at PhilipP@RespectAbilityUSA.org.



With Editorial Assistance from David M. Perry, a disability rights journalist and Associate Professor of History at Dominican University, in River Forest, IL. His work has appeared at CNN.com, The Chronicle of Higher Education, The New York Times, The Atlantic, Al Jazeera America, The Guardian, The Washington Post, Pacific Standard Magazine and many other publications. He is writing a book called *Disability Is Not a Crime* for Beacon Press (expected Fall, 2017). Perry is the father of a nine-year-old boy with Down syndrome. He can be reached at lollardfish@gmail.com.



Edited by Lauren Appelbaum, Communications Director of RespectAbility. Her role includes managing the presidential outreach and #RespectTheAbility stigma and social media campaigns. Coordinating outreach, she and her team have talked with all of the presidential candidates about the importance of engaging the disability community, reporting all interviews in [The RespectAbility Report](#). She previously worked for NBC News as a digital political researcher. Appelbaum has a lifelong commitment to equality for people with disabilities. Contact her at LaurenA@RespectAbilityUSA.org.

