



“Billion Dollar Bets” to Decrease Over-Criminalization

Creating Economic Opportunity for
Every American

By Rose Martin, Devin Murphy, and Debby Bielak

PROJECT OVERVIEW

This document is part of a Bridgespan Group research project that focused on the question: *How could a philanthropist make the biggest improvement on social mobility with an investment of \$1 billion?* In answering this question, we have sought to understand “what matters most” for improving social mobility outcomes. To do this, we have drawn from extensive research conducted by leading scholars in the field. We have also outlined a range of tools to assist philanthropists seeking systemic and field-level changes that go well beyond scaling direct service interventions. Using the research and identified tools, we have created an illustrative set of “bets” that provide concrete roadmaps for high-leverage investments of \$1 billion with the potential for sustainable change at scale. (For the full report, please see [“Billion Dollar Bets” to Create Economic Opportunity for Every American.](#))

We identified a list of 15 high-potential bets through which philanthropists could have a significant impact on increasing upward mobility. In identifying these bets, we sought to elevate investments that are particularly timely, suited to the unique role of philanthropy, have the potential to create significantly outsized impact, and, as a package, could truly sum to \$1 billion. From this list, we have chosen to illustrate the following six investments. (For more information on how we selected the six bets, please see [“Overview of Research: ‘Billion Dollar Bets’ to Create Economic Opportunity for Every American.”](#)):

- Support holistic child development from birth through kindergarten
- Establish clear and viable pathways to careers
- Decrease rates of over-criminalization and over-incarceration
- Reduce unintended pregnancies
- Create place-based strategies to ensure access to opportunity across regions
- Build the capacity of social-service delivery agencies to continuously learn and improve

The concept paper below illustrates one of the six bets we have chosen to highlight.

Decrease Over-Criminalization

Concept: Support shifts in policies to reduce criminalization in schools and overall incarceration rates, especially for nonviolent crime; support effective diversion to alternate treatment options; facilitate rehabilitation and reentry into society

Context

“Incarceration carries significant and enduring economic repercussions ... former inmates work fewer weeks each year, earn less money, and have limited upward mobility. These costs are borne by offenders’ families and communities, and they reverberate across generations.”¹

Despite having just 5 percent of the world’s total population, the United States houses 25 percent of its prisoners. With more than two million people behind bars, the United States “imprisons more of its citizens than any other nation in the world.”² Even though crime rates have decreased substantially since the early 1990s, the US rate of incarceration remains high.³ Yet this level of incarceration is by no means necessary to keep crime low. In fact, states that are the most successful in cutting crime rates, such as New York and California, have done so while simultaneously reducing their rate of incarceration.

Despite these state efforts, the nationwide pattern of over-criminalization remains. Its effects are felt most acutely in low-income communities of color, especially African-American communities. Certain laws and policing practices, like the War on Drugs and mandatory sentencing laws, make matters worse. These laws contribute to overly punitive measures, regressive incarceration practices that do not lead to rehabilitation, and the over-escalation of policing. Each of these practices has disproportionately affected low-income communities of color.⁴ While the overall rate of arrest for men is high across all races (49 percent of black males, 44 percent of Hispanic/Latino males, and 38 percent of white males have been arrested by age 23),⁵ disparities become stark when considering incarceration: a black man born in 2001 has a 32 percent chance of spending time in prison, versus 17 percent for a Hispanic male, and 6 percent for a white male.⁶

Over-criminalization substantially reduces an individual’s chance of reaching middle class by middle age. Men who have been imprisoned are significantly

1 *Collateral Costs: Incarceration’s Effect on Economic Mobility*, The Pew Charitable Trusts, (September 2010).
2 Patrick Radden Keefe, “Dismantling the Prison State,” The Century Foundation, June 4, 2015.
3 Ibid.
4 Akiva Liberman and Jocelyn Fontaine, “Reducing Harms to Boys and Young Men of Color from Criminal Justice System Involvement,” Urban Institute, February 2015.
5 Ibid.
6 Ashley Nellis, Judy Greene, and Marc Mauer, *Reducing Racial Disparity in the Criminal Justice System: A Manual for Practitioners and Policymakers*, Washington, DC: The Sentencing Project (September 2008).

less upwardly mobile, in both absolute and relative terms, than those who have not.⁷ Mobility is further stratified by race. Black men incarcerated as juveniles, on average, see a bigger reduction in their lifetime earnings than any other demographic category. This negative impact extends to families: Nearly 3 million children in the United States have at least one incarcerated parent. Here again, race matters: one in nine black children has an incarcerated parent, compared to one in 28 Hispanic children and one in 56 white children. These children are more likely to have a lower overall family income and increased difficulty in school; both factors are strong negative predictors of a child's chances of upward mobility.⁸

Moreover, the system of criminalizing behavior that is in no way criminal—such as attempts by two Alabama cities to ban saggy pants⁹—deliberately targets young men and boys of color. These and other efforts to codify into law bans on behavior has lasting effects on how society perceives this population, and on the internalization of violent behavior and low self-esteem within these communities.

These realities play out within neighborhoods, schools, and communities. For example, The US Department of Education's Office for Civil Rights reported in 2014 that for out-of-school suspensions of preschool children, black children represented 18 percent of preschool enrollment but 48 percent of those received more than one out-of-school suspension. By comparison, white students represented 43 percent of preschool enrollment but just 26 percent of preschool children received more than one out-of-school suspension.¹⁰ The department also found that across age groups, black males are three times more likely than white male peers to be suspended and expelled, even for similar infractions, resulting in the loss of valuable learning time.¹¹ Completing the connection to higher rates of contact with the criminal justice system, black students represent 16 percent of total student enrollment but account for 27 percent of students referred to law enforcement and 31 percent of students subjected to a school-related arrest. By comparison, white students represent 51 percent of enrollment, 41 percent of students referred to law enforcement, and 39 percent of those arrested.

In this way, the criminal justice system derails and categorizes young men as criminals before they have the chance to build the skills necessary to succeed. These abysmal statistics have made the cause of reducing over-criminalization and mass incarceration the preeminent civil rights movement of our time. To create equal opportunities for all children to succeed economically, the United States must address the unjust realities of over-criminalization.

7 *Collateral Costs*, The Pew Charitable Trusts.

8 *Ibid.*

9 Jeremy Gray, "Another Alabama city looks to ban saggy pants," *AL.com*, August 28, 2015, http://www.al.com/news/index.ssf/2015/08/another_alabama_city_looks_to.html.

10 *Civil Rights Data Collection: Data Snapshot* (School Discipline, US Department of Education Office for Civil Rights (March 21, 2014).

11 *Ibid.*

Why Philanthropy?

The criminal justice system is extremely costly. State and federal budgets reached an estimated \$80 billion in 2010.¹² Therefore, efforts to improve outcomes need not focus on increasing or developing new revenue streams. Rather, existing dollars should be redirected to more effective (and less costly) options. To this end, serious efforts to reduce over-criminalization must rely on significant policy changes. These changes should redirect funding streams from harmful punitive practices to evidence-based programs and interventions that focus on prevention and rehabilitation, with the goal of decreasing the size of the criminal justice system entirely.

Philanthropy can play an important role by partnering with public institutions to co-create solutions and by providing the seed capital to catalyze change. For example, attempts at systemized diversion (diverting individuals from the criminal justice system and into treatment) have not reached systemic or sustained scale. A sizeable investment could transform the status quo in a way that smaller investments have not been able to, given limited deal flow in the social investment bond market. Thus, the role of philanthropy is clear: to subsidize the required start-up costs and withstand the inevitable risks of restructuring public funding streams and fundamentally change how the criminal justice system operates in communities, schools, courtrooms, and correctional facilities.

Why Now?

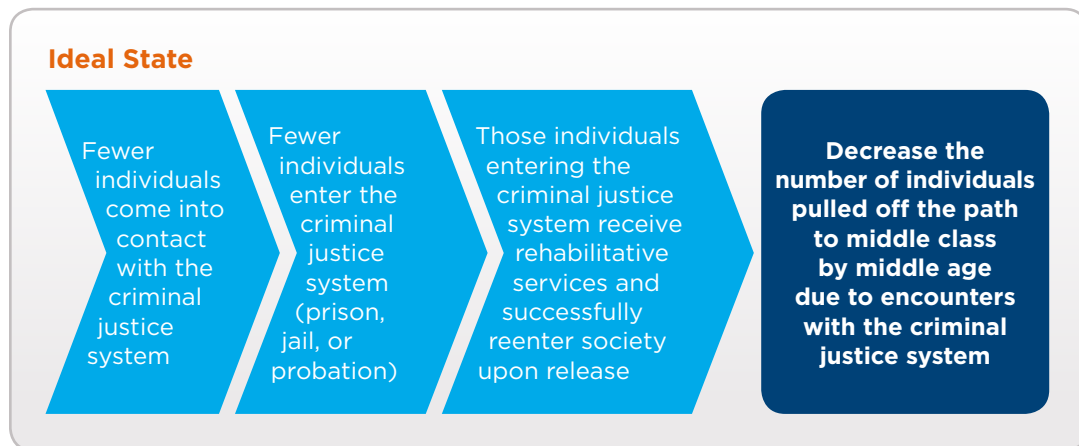
Today, strong and intransigent forces—including private-sector operators of prisons and law-and-order conservatives—benefit from the current system and will stand against sweeping shifts in policies. Overcoming these forces will be critical to achieving lasting change. However, there is growing momentum and cross-aisle consensus that the United States should counteract over-criminalization. Fueling the swelling bipartisan interest is increasing recognition of the system's exorbitant costs, evolving social justice issues regarding drug policies, and the lack of positive outcomes produced by the current system. Prominent funders and politicians have shared common proposals and campaigns. The 2016 presidential candidates also debated the perils of over-criminalization and the need to reform the criminal-justice system.

Promising examples of smart criminal justice reform already demonstrate the potential for states and the federal government to cut costs. Further research points to effective methods to reduce criminalization within public schools, increase quality options for diversion, and improve educational outcomes for people who are imprisoned. There is a real opportunity to use this emerging research to expand program offerings and continue to launch and test interventions.

12 *Smart on Crime: Reforming the Criminal Justice System for the 21st Century*, US Department of Justice (August 2013).

Ideal and Current State

We envision a world in which children are not criminalized for their (often developmentally appropriate) behavior, and where police don't target young men of color. We see a criminal justice system that only criminalizes violent behavior, and then seeks to educate and rehabilitate those few who continue to enter the system. We seek a world where families and communities are not split apart as large numbers of young men become "lost" to the system. Success will come when the nation's laws and norms support the appropriate treatment, intervention, and rehabilitation of individuals in a manner that's consistent across race and class, with the goal of supporting those at risk in becoming productive members of society.



Decrease high rates of adult and youth interaction with the criminal justice system

Research shows that any interaction with the criminal justice system almost inevitably produces a negative outcome. Thus, it's of paramount importance to prevent those interactions from occurring in the first place. However, the system almost guarantees that young men—particularly low-income men—will have some interaction with the system. This is particularly true for young men of color, whose introduction to the criminal justice system often begins in school. School disciplinary policies, especially suspension and expulsion, contribute to criminalizing adolescent behavior, with boys and men of color often facing harsher punishments than their white peers.¹³ Truancy officers and local police often act as security in schools, further contributing to escalated sanctions. Outside of school, a multitude of policies and laws disproportionately target young men of color for nonviolent crimes. These include stop-and-frisk rules, mandatory and disproportionate sentencing, and the Rockefeller drug laws.¹⁴

¹³ Information provided is based on expert interviews.

¹⁴ Jeffrey Fagan, Anthony A. Braga, Rod K. Brunson, and April Pattavina, "Final Report: An Analysis of Race and Ethnicity Patterns in Boston Police Department Field Interrogation, Observation, Frisk, and/or Search Reports" (June 15, 2015), <https://assets.documentcloud.org/documents/2158964/full-boston-police-analysis-on-race-and-ethnicity.pdf>.

There are several promising initiatives designed to reduce such consequential interactions with the criminal justice system. Starting with changes in school policies and practices, several community-based initiatives work with teachers and faculty to understand the disproportionate impact of disciplinary actions, to develop the tools for recognizing their own implicit bias, and to co-create policies that avoid criminalizing youth. Outside of school, there are programs that focus on improving community policing, as well as eliminating laws that disproportionately target and harm communities of color.

Reduce the number of individuals entering the criminal justice system through prison, jail, or probation

Mass incarceration is incredibly costly, in terms of its impact on individual lives, families, and communities, and in terms of the \$80 billion that governments spend each year.¹⁵ Despite the reach and cost of this system, there is little systematic tracking of how many individuals are incarcerated and for what reasons, the kind of treatment or rehabilitative options (if any) they receive, and what outcomes are achieved. In short, we pay incredible sums for a system that we cannot prove is keeping us safe.

A growing body of evidence indicates that many imprisoned, nonviolent individuals could be better served by staying in their communities and receiving needed support via behavioral, mental health, and substance abuse prevention programs.¹⁶ As the vast majority of crimes committed are nonviolent, and entry into the system (via incarceration or probation) is both costly and ineffective, finding ways to divert individuals from the system is paramount. There are alternatives to incarceration that offer the potential for better life outcomes for individuals and overall savings to society. These include diversion programs, like the Juvenile Detention Alternatives Initiative (JDAI), which has led the way in demonstrating the effectiveness of alternatives to confinement for juveniles, with incredible results.¹⁷

Reducing the incarceration rate of these nonviolent offenders could lower correctional expenditures by as much as \$16.9 billion per year, according to an analysis by the Center for Economic and Policy Research. Dollar figures for societal benefits are harder to come by. But this much is clear: Increasing supports for nonviolent offenders and elevating the use of diversion programs could bring significant returns to society.¹⁸

15 Steven Raphael and Michael A. Stoll, *A New Approach to Reducing Incarceration While Maintaining Low Rates of Crime*, The Hamilton Project at the Brookings Institution (May 2014).

16 *No Entry: A National Survey of Criminal Justice Diversion Programs and Initiatives*, The Center for Health and Justice at TASC (December 2013).

17 The Annie E. Casey Foundation, "Juvenile Detention Alternatives Initiative," <http://www.aecf.org/work/juvenile-justice/jdai/>.

18 John Schmitt, Kris Warner, and Sarika Gupta, *The High Budgetary Cost of Incarceration*, Center for Economic and Policy Research (June 2010).

Ensure that incarcerated individuals receive rehabilitative services and successfully reenter society upon release

With 12 million people cycling through jails each year, and more than 600,000 people released from prison annually, it is vital to create effective pathways for reentry into society. Incarceration creates significant, long-term negative impacts and substantially decreases a person's chances of achieving middle class.¹⁹ Imprisonment confers an enduring stigma, creates legal barriers to many occupations, reduces or eliminates welfare benefits, and rescinds voting rights. Sadly, few individuals entering the system receive any treatment or rehabilitation services while incarcerated. Yet these services—whether instilling confidence or building skills—offer the very tools ex-offenders need to become contributing members of society.

Due to stigma, systemic barriers, and a lack of rehabilitation services, ex-prisoners experience more unemployment and earn lower wages than individuals who have not been incarcerated. That's exactly why several new state- and social service-led initiatives aim to reduce recidivism by helping individuals transition successfully back into their communities. The more successful of these programs couple reentry support with eliminating policy barriers in order to offer individuals a second chance.

These efforts also save taxpayers money. As part of a Department of Justice (DOJ) initiative, 17 states developed plans to reduce recidivism. Some have already averted significant costs. Texas has averted more than \$3 billion in anticipated prison spending,²⁰ primarily by eliminating the need to build a new correctional facility. Kentucky expects to save \$422 million by the time it completes its initiative.

Along with such policy shifts, attitudes must change amongst the US population at large. For instance, policies to “ban the box” (eliminate from hiring applications the check box asking if applicants have a criminal record) are necessary but not sufficient to entice employers who resist hiring ex-cons. If these individuals are to successfully reenter society, society's attitude towards them must change.

¹⁹ Brookings Institution Center on Children and Families, “The Social Genome Project,” <http://www.brookings.edu/about/centers/ccf/social-genome-project>.

²⁰ The Pew Charitable Trusts' Public Safety Performance Project, “Public Safety in Texas” (August 13, 2015), <http://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2013/01/14/public-safety-in-texas>.

The Investments²¹

Our research and discussions with experts suggested three investments that could catalyze significant change in the criminal justice system:

- Fund a research organization to collect, analyze, and disseminate hard data on incarceration across the United States
- Fund a national grant-based competition to incent states (in collaboration with their local jurisdictions) to develop comprehensive plans for reducing incarceration and recidivism rates while also reducing rates of crime
- Fund an independent organization to collect and analyze data on the results coming from states selected for the national grant competition

Investment #1: Fund a research organization to collect, analyze, and disseminate hard data on incarceration across the United States

This investment would provide evidence to reveal the simultaneous high cost and ineffectiveness of the current system. The US criminal justice system comprises disparate parts and people across federal, state, and local jurisdictions, which prevents us from having a holistic view. Research would clarify how much we are spending on the criminal justice system, and the return on that investment.

Investment #2: Fund a national grant-based competition to incent states (in collaboration with their local jurisdictions) to develop comprehensive plans for reducing incarceration and recidivism rates while also reducing rates of crime

The second, and by far the largest, investment would create a national grant-based competition to incent states to develop and implement plans for reducing incarceration and recidivism rates while simultaneously reducing crime. Much like what Race to the Top did for education, this competition will seek to kick-start efforts in a few selected states and aim to achieve greater impact as other states learn from those that have preceded them.

States will submit proposals for achieving the goals identified above. Reviewers will assess the states' submissions against a set of criteria (sample criteria identified below) and select winners based on the overall strength of their proposals. Prizes will vary by state, based on size and need.

²¹ To get to the set of investments detailed below, we reviewed numerous research and policy briefs from The Urban Institute, The Hamilton Project (Brookings Institution), the Vera Institute of Justice, and the Pretrial Justice Institute. We also reviewed evaluation reports of key initiatives, including the Safety & Justice Challenge (MacArthur Foundation) and the Economic Mobility Project (Pew Charitable Trusts). We conducted interviews and collaborative working sessions with researchers and funders in the space of criminal justice; included among these individuals are Roseanna Ander, executive director, the University of Chicago Crime Lab; Allison Brown, executive director, Communities for Just Schools Fund, and Cherise Fanno Burdeen, executive director, Pretrial Justice Institute.

Selection criteria could include:

- Revisions to existing laws and policies, state and local
- Policing practices
- School discipline
- Diversion (alternatives to incarceration)
- Confinement (shifting away from punitive practices and towards rehabilitation and education)
- Reentry practices and services
- Data systems (to track individuals and outcomes)
- Anticipated impact of changes on low-income and other disproportionately impacted populations

Many elements of these criteria are already being implemented across the country, such as the DOJ's plans to reduce recidivism, mentioned above. Private investment, however, would be catalytic in several ways.

First, a big investment would target states, which is critical to achieving change across multiple jurisdictions, particularly by improving laws and policies. Acting at the state level also ensures that the bet would directly reach large numbers of confined individuals. Second, by requiring states to include data systems, this effort would generate rigorous documentation of the process of shifting the current system. This information would then inform additional investments. Finally, by revamping school, policing, diversion, and incarceration practices, it addresses the entire criminal justice system and has the opportunity to spotlight the root causes of over-criminalization.

Note: During the course of this research, the MacArthur Foundation launched its Safety and Justice Challenge, a \$75 million investment in 20 jurisdictions that is similar in structure to this national grant competition. Any effort in this area should build on the work already starting in these jurisdictions and ensure that additional investments are complementary.

Investment #3: Fund an independent organization to collect and analyze data on the results coming from states selected for the national grant competition

Long-term success for this investment envisions that all states, not just those selected for the national grant competition, make substantive changes within their criminal justice systems. A critical enabler will be disseminating the outcomes, especially what works and lessons learned. This will require an investment in a research organization capable of tracking each state's process and progress, tying that data to key outcomes, and disseminating the findings so that other states can adopt policies and practices in order to achieve optimal change.

Sustainability Over Time

Funders will need to partner closely with cities and other public institutions in designing programs and pilots, as well as provide upfront investments to support data collection and analysis. While initial philanthropic capital may be essential, wherever possible interventions should be eligible for government funding, such as Title I.

Reduce Over-Criminalization—Projected Impact

The projected direct impact of this bet is the increased social mobility of individuals who, if not for the interventions listed here, would end up with a conviction by age 19. Through the Social Genome Model, this impact is calculated as a projected increase in lifetime earnings. Further impacts would be expected from additional benefits for families of these individuals, including a higher likelihood of completing high school and college as well as marrying someone with a higher level of education.

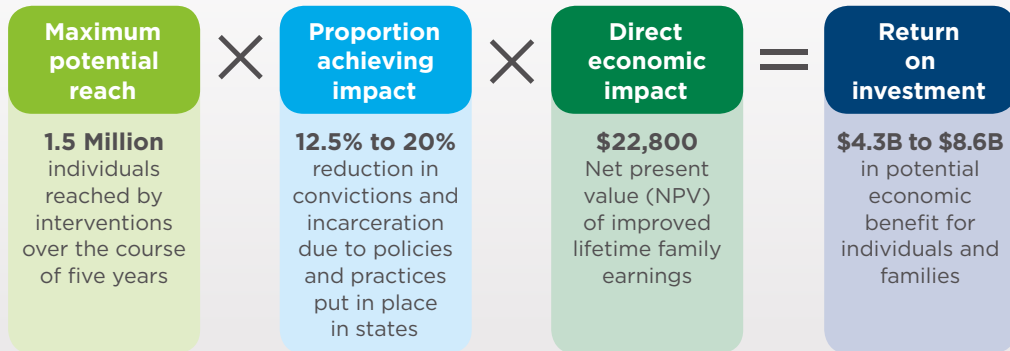
The Social Genome model calculates an increase in family lifetime earnings of \$22,800 for individuals who avoid a conviction before the age of 19. However, that aggregate figure masks significant variance in terms of race. For example, avoiding a criminal conviction by age 19 leads to a \$3,488 increase in annual income by age 29 for non-black males; however, that figure is nearly tripled (\$10,240 increase in annual income by age 29) for black males.

Currently, there are 612,000 juveniles who are placed on probation, detention, or formal release each year nationally. It is assumed the investments here, through the incentives for state-level competitions, have the potential to reach 50 percent of that target population. Assuming an annual potential cohort of nearly 300,000, there would be a total of 1.5 million potential individuals who would be within the targeted jurisdictions over five years.

The concept estimates a potential effect size of a 12.5 percent to 25 percent reduction in these convictions over the course of five years, based on the benchmark rates of reductions achieved through similar efforts for overall prison populations in California and New York in recent years. Using the estimated increase in lifetime earnings for the general population, it can then be projected the investments here would, over five years, **result in between 185,000 and 375,000 individuals avoiding criminal convictions. The resulting increase in lifetime earnings for the affected individuals would be between \$4.3 billion and \$8.6 billion.** Due to the disparate impact on black men, it is assumed that if the investments specifically targeted this population, the range would be significantly higher.

Aspirational individual outcome

Reduce incarceration rates with an emphasis on avoiding a criminal conviction by age 19



Risks Involved

Risk is inherent in any change program. The most notable involves today's stakeholders, many of whom benefit from the current system and are likely to stir political backlash. As with any large-scale proof-of-concept investment, success depends on many moving parts (and people) working together across multiple jurisdictions. If these separate pieces don't align, there's a greater risk that the investment won't live up to its promise.

Breakout of Costs by Investment Area

To gauge the likely cost of the investments outlined above, we researched applicable benchmark programs and investments. We then multiplied benchmark costs to represent the scale of the above-noted recommendations. We used the following programs and organizations as benchmarks: Center for Alternative Sentencing and Employment Services, Race to the Top, National Institute of Health research grants, Vera Institute of Justice, MacArthur Foundation's Safety and Justice Challenge, and the Laura and John Arnold Foundation's criminal justice grants.

Pathway	Investment Area	Estimated Cost
Shift incentives and behavior	Fund research organization to collect, analyze, and disseminate hard data on incarceration across the United States	\$60,000,000
	Fund a national grant-based competition to incent states (in collaboration with their local jurisdictions) to develop comprehensive plans for reducing incarceration and recidivism rates, while also reducing rates of crime	\$930,000,000
	Fund an independent organization to collect and analyze data on the results coming from states selected for the national grant competition	\$10,000,000
TOTAL		\$1,000,000,000

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