
IN SPITE OF PRISON

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INTRODUCTION

How does a former gang-banging, gun-toting Latino serving a thirty-year prison sentence, the product of an elderly uneducated immigrant father and a drug-addicted mother, go from a prison cell to law school? It was not because of prison, but in spite of it.

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“The prosecutor is offering you a plea deal of seven years in juvenile prison, and if you don’t take it, they’re going to direct file and send you to the adult side. What do you want to do?”

Seven years seemed like an eternity — half of my life at the time to be exact. I was fourteen years old. I tried to process everything.

I responded, “So I either take juvenile prison for, like, forever, or I go to the adult jail where they have honey buns and radios and where I can maybe get a bond?”

To me, the choice was obvious. I refused the so-called offer. With my stomach growling, I went back to my cell, looking forward to the honey buns that I could get in the adult jail. In retrospect, there was something seriously wrong with my fourteen-year-old, shortsighted immaturity in focusing more on honey buns than on my future. I could not appreciate the fact that the rest of my life would be marred by an

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adult criminal record; in fact, I couldn't have cared less at the time. In my hood, jail was expected, almost like a rite of passage.¹ However, more concerning was the fact that the law permitted prosecuting a fourteen-year-old as an adult,² and that all the adults in the courtroom were happily complicit in doing so. Despite the fact that I was offered a juvenile plea indicating that I was still supposedly redeemable, I was quickly waved over to the adult side by laws that now rendered me an irredeemable superpredator.³

In this Essay, I will narrate experiences like these to bring readers into the lived reality of our prison system — its effects, its contradictions, and its failure to rehabilitate offenders or promote public safety. I use the terms “prison,” “prisons,” and “prison system” interchangeably in this Essay to mean the prison industrial complex, which refers to the symbiotic and reinforcing relationships among carceral institutions, private corporations, state-sanctioned violence, legalized exclusion, law enforcement workers, media narratives, technological imprisonment, politicians, and the court system.⁴ Therefore, when I speak of abolishing prisons, I mean contesting the relationships and psyche that create and reinforce the need for prisons and replacing them with alternatives that render prisons obsolete.⁵

If the first sentence of this Essay caught your attention, it is likely because it is packed with stereotypes and images that both sensationalize and dehumanize certain populations and justify prisons. The image of a “gang-banging, gun-toting Latino” may drum up enough fear to make us feel like prisons are necessary. Or the idea of uneducated and drug-addicted parents may allow us to focus on family dysfunction (or even cultural pathology⁶), while ignoring deeper societal dysfunctions that need correcting. Even success stories of people who thrive after prison are used to argue that prisons are not bad and are even effective. Our own amazement at those stories, however, shows that deep inside we are aware that prisons are not really expected to make people better.

¹ See ANGELA Y. DAVIS, ARE PRISONS OBSOLETE? 15 (2003).

² See FLA. STAT. § 985.557(1)(a) (2011).

³ See *infra* section II.C, pp. 1659–62.

⁴ DAVIS, *supra* note 1, at 84–88, 107.

⁵ See *id.* at 105–15; see also Dylan Rodríguez, *Abolition as Praxis of Human Being: A Foreword*, in *Developments in the Law — Prison Abolition*, 132 HARV. L. REV. 1575 (2019); Allegra M. McLeod, *Envisioning Abolition Democracy*, in *Developments in the Law — Prison Abolition*, 132 HARV. L. REV. 1613 (2019); Patrisse Cullors, *Abolition and Reparations: Histories of Resistance, Transformative Justice, and Accountability*, in *Developments in the Law — Prison Abolition*, 132 HARV. L. REV. 1684 (2019).

⁶ See Ta-Nehisi Coates, *The Black Family in the Age of Mass Incarceration*, THE ATLANTIC (Oct. 2015), <https://www.theatlantic.com/magazine/archive/2015/10/the-black-family-in-the-age-of-mass-incarceration/403246/> [<https://perma.cc/CMU8-W9NV>] (criticizing the Moynihan Report, a 1965 government report, for blaming the problems plaguing the black community on a “tangle of pathologies” instead of focusing on the “tangle of structural perils” that held the black community back).

This Essay deconstructs many of the stories we tell ourselves. Part I discusses the importance of having narratives and firsthand accounts in prison-abolition literature and challenges academic institutions to do their part in seeking out and equipping directly impacted individuals to produce such literature. The rest of the Essay narrates my experiences, taking the reader through aspects of the school-to-prison pipeline (Part II), the prison institution itself (Part III), and the so-called reentry process (Part IV), before concluding with the continuing effects of punishment and exclusion that endure long after the so-called debt is paid.

This Essay is not a “frontal” theoretical argument but rather an “insinuating” one allowing different audiences to extract different and even multiple meanings and applications.⁷ The nonabolitionist may learn how kids are tracked into prison and handicapped upon release, or how prisons are part of the problem and inherently inhumane. The directly impacted reader may be inspired with renewed motivation to keep fighting and even stirred to write about her experiences — especially those not addressed in this Essay. The abolitionist activist may derive insights on ways to combat the interconnectedness between the school-to-prison pipeline, the penal system, and the failing reentry process, while keeping in mind the real lived experience of those impacted. Some may even complain that this Essay has a reformist tone. I provide abolitionist sources to undergird my narrative; however, the narrative itself permits the reader to judge for herself what, if anything, ought to be done and how. I understand this may not be abolitionist enough for some. I also tend to focus on the treatment of prisoners and access to education within prison.⁸ Part of the reason for this is because after serving over a decade in prison (and having a sister who is currently in prison), I yearn to empower and alleviate the inhumane treatment of the imprisoned, even if it is within existing structures. I believe that the prison system is like a social cancer: we should fight to eradicate it but never stop treating those affected by it.

I. NARRATIVES FROM BEHIND THE VEIL

And, finally, need I add that I who speak here am bone of the bone and flesh of the flesh of them that live within the Veil? . . . [B]orn with a veil, and gifted with second-sight in this American world — a world which yields him no true self-consciousness, but only lets him see himself through the revelation of the other world. It is a peculiar sensation, this double-consciousness, this sense of always looking at one's self through the eyes of

⁷ See Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 MICH. L. REV. 2411, 2415 (1989).

⁸ See DAVIS, *supra* note 1, at 108 (“Schools can . . . be seen as the most powerful alternatives to jails and prisons.”).

*others, of measuring one's soul by the tape of a world that looks on in amused contempt and pity.*⁹

This is the first time that I have written an essay narrating my firsthand experiences within the prison system. It was painful and difficult rehashing some of the memories shared below. I am sure that some will argue that this is not academic enough because it is a narrative lacking detached objectivity. I used to subscribe to this line of thinking. When I first arrived at a university, I was led to believe that my personal experiences had no place in my academic writing. It was not enough to be neutral; I had to appear impersonally objective.

Heeding this advice, I created a pacified distance between my experience and me, hiding behind my writing. In doing so, I realized that I was censoring my own voice — and the voices of others who might share the same experiences but not the same platform. This was most evident in my undergraduate thesis.¹⁰ I exposed how the systematic misclassification of Latinx people as White (non-Hispanic) skewed Florida's Department of Corrections data, and I measured how disenfranchisement was impacting that group in Florida.¹¹ Yet nowhere in my thesis did I mention that I spent over twelve years in Florida's prison system misclassified against my will as White (non-Hispanic) and that I was personally disfranchised in Florida at the mere age of fifteen. In trying to appeal to mainstream academic readers, I forewent the opportunity to speak to the directly impacted readers and show them that someone like them was writing about their issues. I had dedicated that thesis to the voiceless,¹² yet I suppressed my own voice in the process.

Scholars have long argued that the demand for an impersonal voice is nothing more than a “false objectivity” that “improperly take[s] as a baseline norm white cultural patterns” and rejects “the possibility of grounding a scholarly voice in the material, aesthetic, emotional, and spiritual experiences of people of color.”¹³ I have since decided that if I must choose between being accepted or inspiring the marginalized, I choose the latter. For as long as my story inspires and my experience informs my work, they will have a place in my writing. Remaining silent is no longer an option for me; my improbable journey compels me to believe that I have been uniquely positioned for “such a time as

⁹ W.E.B. DU BOIS, *THE SOULS OF BLACK FOLK*, at vi, 3 (Univ. of Mass. Press 2018) (1903).

¹⁰ Angel E. Sanchez, *What Impact Is Felony Disenfranchisement Having on Hispanics in Florida?* (May 2, 2017) (unpublished B.A. honors thesis, University of Central Florida), <https://stars.library.ucf.edu/honorstheses/216/> [<https://perma.cc/2NER-WCQA>].

¹¹ *Id.* at 23–32.

¹² *Id.* at iv.

¹³ See *CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT* 314 (Kimberlé Crenshaw et al. eds., 1995) [hereinafter *CRITICAL RACE THEORY*].

this.”¹⁴ The value of storytelling and narrative analysis in the legal academy has been strongly established by Critical Race Theory (CRT).¹⁵ I believe CRT applies to prison abolition, because those impacted by prison are a socially constructed minority group in addition to their racial, class, and gender intersections. Storytelling allows members of the unimpacted dominant group, particularly those with goodwill, to see things from the perspective of the impacted group.¹⁶ Additionally, it provides a mechanism to “[a]ttack[] embedded preconceptions that marginalize . . . or conceal [the] humanity” of those impacted.¹⁷

Professor Angela Davis writes that people find it difficult to imagine a world without prisons, yet they are largely unaware of what goes on inside of prison and believe it is reserved for “evildoers.”¹⁸ Personal narratives, therefore, are necessary to shed light on the inhumanity that goes on inside of prison, the social problems that lead to prison, and the humanity of those impacted by prison. For example, Reginald Dwayne Betts used his personal experience in prison and his platform at Yale Law School to shed light on the inhumanity of solitary confinement in a piece titled *Only Once I Thought About Suicide*.¹⁹ That piece went on to be cited in a recent statement by Justice Sotomayor respecting the U.S. Supreme Court’s denial of a petition for certiorari.²⁰ Indeed, it was Betts who once mentioned to me that writing about our experiences was important ethnographic work that needed to be done. I agree.

While there are pragmatic reasons for highlighting or omitting one’s experience for persuasive effect, I see no academic value in diminishing the body of knowledge by depriving it of empirical, ethnographic, and phenomenological data communicated by those directly impacted. To the contrary, contributions by those directly impacted safeguard the body of knowledge from what Professor Alan Freeman calls the “perpetrator perspective” and from the paternalistic we-know-best attitude described in Professor Derrick Bell’s writings.²¹ For that reason, I thought it important enough to travel the distance between my pain and me to share uncomfortable firsthand experiences — experiences that my mind

¹⁴ *Esther* 4:14. Interestingly, *Esther* is one of the only books in the Bible that does not mention God. David R. Blumenthal, *Where God Is Not: The Book of Esther and Song of Songs*, 44 JUDAISM 80, 80–81 (1995). Yet God’s presence, I believe, is seen throughout the story. Likewise, I do not mention God in the body of this Essay, but it should be noted that my belief in God has been an important part of my journey. It has been the reason for my hope in times of despair, strength in times of weakness, and courage in my fight for others.

¹⁵ See RICHARD DELGADO & JEAN STEFANCIC, CRITICAL RACE THEORY: AN INTRODUCTION 43–45 (2001).

¹⁶ See *id.* at 38–39.

¹⁷ *Id.* at 42.

¹⁸ DAVIS, *supra* note 1, at 15–16.

¹⁹ Reginald Dwayne Betts, *Only Once I Thought About Suicide*, 125 YALE L.J.F. 222 (2016).

²⁰ *Apodaca v. Raemisch*, 139 S. Ct. 5, 9 n.8 (2018) (Sotomayor, J., respecting the denial of certiorari).

²¹ See CRITICAL RACE THEORY, *supra* note 13, at 2–3.

has longed to forget. Likewise, I hope the academy stands ready to do its part. If the academy does not want prison abolition literature (or any literature about prisons for that matter) to be dominated by what Professor Richard Delgado calls the “imperial scholar[s],”²² then it must seek out those impacted by prisons — especially those inside of prison — and equip them with the academic tools and frameworks with which to critically observe and write about their experiences.²³ This requires figuring out ways to get higher education into prisons and welcoming former prisoners into our universities once they are released.²⁴ Otherwise, the academy will be complicit in perpetuating the invisibility of the imprisoned. Even though I can speak about many intersecting issues involving prison, my perspective is still limited. I cannot speak about the experience of being a black woman in prison. I cannot speak about being LGBTQ, elderly, or a parent in prison. I have not even fully grappled with my own experience involving mental health and prison. Therefore, we need more, not fewer, voices from “behind the veil” contributing to this conversation.

II. SCHOOL-TO-PRISON PIPELINE

*The concept of the school-to-prison pipeline (the “pipeline”) has drawn important attention to the linkages between education, police power, and incarceration. . . . [M]easures and policies arose, in part, as a response to the infamous and racialized prediction by criminologists James Q. Wilson and John J. Dilulio, Jr., about the rise of the “youth superpredator,” which they envisioned would hit the streets of the United States in the mid-1990s. The “youth superpredator” never arrived, but the policies substantiating and perpetuating the pipeline remain. . . . We contend that scholars must commit to the abolitionist project of dismantling the pipeline and “redistributing” the state resources that sustain it.*²⁵

A. Poor Neighborhoods, Poor Schools

I arrived at Kelsey L. Pharr Elementary in the third grade. I was only eight years old and this was already my fourth elementary school. My father could barely afford rent, so he was forced to look for substandard housing in the hood. The homes were so substandard that we could barely live in them for more than a year: either the landlord failed

²² Richard Delgado, *The Imperial Scholar: Reflections on a Review of Civil Rights Literature*, in *CRITICAL RACE THEORY*, *supra* note 13, at 46, 51–53.

²³ See, e.g., Reginald Dwayne Betts, *What Break Do Children Deserve? Juveniles, Crime, and Justice Kennedy’s Influence on the Supreme Court’s Eighth Amendment Jurisprudence*, 128 *YALE L.J.F.* 743 (2019); Tarra Simmons, *Transcending the Stigma of a Criminal Record: A Proposal to Reform State Bar Character and Fitness Evaluations*, 128 *YALE L.J.F.* 759 (2019); Andrea James, *Ending the Incarceration of Women and Girls*, 128 *YALE L.J.F.* 772 (2019); Shon Hopwood, *The Effort to Reform the Criminal Justice System*, 128 *YALE L.J.F.* 791 (2019).

²⁴ See DAVIS, *supra* note 1, at 56.

²⁵ Judah Schept et al., *Building, Staffing, and Insulating: An Architecture of Criminological Complicity in the School-to-Prison Pipeline*, 41 *SOC. JUST.* 96, 96–97 (2015) (citation omitted).

a housing inspection or the conditions got so bad we had to move. Each time we moved, I had to make new friends at a new school. Ironically, though, making friends became easy because all the schools I attended were practically the same. They were in poor neighborhoods surrounded by drugs and crime. All the boys generally valued the same things: sports, clothes, and a willingness to fight. Focusing too much on grades or being afraid to fight left me ostracized and isolated, so I adjusted. I learned to belong.

In these schools, frustrated teachers told us that if we did not pay attention and behave, we were going to end up homeless or in jail when we grew up, prophecies their very words helped to fulfill.²⁶ I still remember one of my teachers pointing out a homeless man outside of the school one day and saying to us, “That’s what happens to troublemakers.” I internalized her comment. I got good grades in class to please my father who weirdly cared a lot about education, but I could not stay out of “trouble.” I got into fights when bullied and talked a lot in class. I loved finishing my work early so that I could start talking with my friends. This childish misbehavior prompted threats of future imprisonment. After hearing the same message repeatedly, in and out of school, I began to believe it.

I was eight years old when I was first taken out of my third-grade class, placed in handcuffs, and given a date to appear in court. That morning was no different from any other. Like most mornings, my father and I woke up late. We rushed to school, barely making it on time. As my father drove away, I saw my friends and joined them as we made our way to class. I quickly learned they were having problems with other kids who had tried to bully one of my friends the day before on his way home from school. Afraid, my friend brought a dinner knife to school, prepared to defend himself. Just as he expected, those kids tried to beat him up again that morning. He pulled out the knife and scared them away. I arrived right after all of this. When I got there, they told me everything that had happened and asked me to hide the knife in my book bag since I had not been around when it happened. I was hesitant but did not want to lose the approval of my friends, which mattered to me in this new school. Once we were in class, the principal showed up and got my friend. My friend told the principal that I had the knife in my book bag, so he came and got me next. I also admitted to everything. The principal told us he was calling the police and that we were going to jail.²⁷ I remember being eight years old, crying and afraid of what

²⁶ See DAVIS, *supra* note 1, at 38–39 (“When children attend schools that place a greater value on discipline and security than on knowledge and intellectual development, they are attending prep schools for prison.”).

²⁷ Cf. Allegra M. McLeod, *Prison Abolition and Grounded Justice*, 62 UCLA L. REV. 1156, 1227 (2015) (“[E]fforts to confront the ‘school-to-prison pipeline’ by eliminating zero-tolerance policies in schools that turn children who misbehave in school over to police are another significant measure to eliminate criminalization.”).

the police would do. When the police arrived, they immediately put us in handcuffs and kept us there until our parents arrived. After a while, I stopped crying. Instead of feeling fear, I became acclimated. I could not change my situation, so I just adjusted to it. In that moment, at eight years of age, for the first time, I accepted — rather than feared — going to jail. The police told our parents that they could take us to jail, but they were going to be nice and give us a notice to appear in court instead. This embarrassed my dad and broke his heart.

I appeared in juvenile court and was suspended before the case was eventually dropped. I was viewed as a problem by school administrators. To my classmates and friends, however, I was popular. I was “bad” and “cool” at the same time. The two seemed inextricable from each other. I became desensitized and accustomed to out-of-school suspensions. My father worked all day, so every suspension was a free week out of school. I was now even quicker to fight if bullied, which was often the case when we moved to a new school. My behavioral challenges compounded. With all the suspensions and moves, I began falling behind in my classes.²⁸ I did not see a future for myself outside of the things that I was told or the people that I saw. Since I could not stay out of trouble, I figured my destiny was to end up dead, homeless, or in jail.

B. So-Called “Troubled Teens”

By the time I entered middle school, I was a “troubled teen” attending “troubled schools.” The role models for my friends and me were definitely not homeless people or those in prison, but neither were they doctors or lawyers. For many of us, our role models were the athletes and music artists, or, more realistically, the dope boys and gang leaders we grew up around. They had the fancy cars, jewelry, and nice clothes valued in our American culture. Sure, they got locked up at times, but that was expected of us anyway. Plus whenever they got out they had more status than when they went in. Everyone talked about them and we all wanted to be like them. Even the people killed in our hood became legends. In my young mind, as I understood it, becoming somebody in the hood meant becoming somebody who would eventually get shot or locked up. It just came with the territory. And it was always better to be somebody than nobody. Unfortunately, this put many of us on the wrong side of the law. Police were ready to pounce on us and jails were ready to keep us from being that “somebody.” The police treated us as if we were inherently bad and despicable. In turn, we expressed our disdain for them. For as long as I can remember, avoiding

²⁸ See S. David Mitchell, *Zero Tolerance Policies: Criminalizing Childhood and Disenfranchising the Next Generation of Citizens*, 92 WASH. U. L. REV. 271, 273–74 (2014) (“[S]tudents that are punished under zero tolerance policies are being denied an education, because being suspended or expelled requires that students be removed from the school setting thereby causing them to miss out on classroom instruction.” (footnote omitted)).

the police was our main priority, because locking us up, for whatever reason, seemed like their main priority. The apparent pleasure with which police arrested and harassed us only made matters worse.

In middle school, my friends and I began hanging around the older teenagers in our neighborhood. We roamed the few square blocks near our houses without much to do other than smoke weed, make fun of each other, and do dumb things for thrills. At nightfall, we would cross the fence of a nearby school and come together on the basketball courts that gave us a place to call our own. The school was on Tenth Street, so we called ourselves Tenth Street Boys. This would be the start of what law enforcement would later call a gang. At first, we resented the gang label, but as teenagers in search of an identity we eventually embraced it. For a long time, we prided ourselves on not being a gang — we did not have any initiation or leader and were just a group of friends. But after being targeted by known gangs and harassed by the police, we began living up to the label. The harassment by police officers quickly taught us that the police were the biggest gang, the one that was above the law and had the law on its side.

Indeed, my first night in jail came at the hands of a sergeant who slapped me in front of my father and all my friends while we were hanging out on a street corner. That night, we were stopped and frisked as usual. My dad made his way over because he saw all the lights and cop cars on the corner. I was embarrassed. The sergeant called out to me and I responded with an attitude. The sergeant was angry at my response and slapped me across the side of my head saying, “Don’t ‘what’ me!” And as soon as I felt the hit, I instinctively lashed out in rage. In the process, I scratched the sergeant on the arm with the soda can I had in my hand when he slapped me. In a matter of seconds, three officers took control of my undersized thirteen-year-old frame, putting me in a chokehold and punching the wind out of my stomach. They placed me in handcuffs and arrested me for aggravated battery on a law enforcement officer. In that one incident, I learned what is common knowledge in the hood: the police can get away with abusing you while at the same time using the law to arrest you.²⁹

This incident pitted me against my father. I could not believe he would allow the police to do this to me in front of him. I did not understand at that time how afraid my dad was and how much he simply wanted me out of jail. As a non-English-speaking immigrant, my dad did not know what to do or where to start. His sense of gratitude for being in this country made him feel as if he had no place to complain.

²⁹ See Paul Butler, *The System Is Working the Way It Is Supposed To: The Limits of Criminal Justice Reform*, 104 GEO. L.J. 1419, 1446 (2016) (“[T]he crisis in criminal justice stems more from legal police conduct than illegal police misconduct. . . . The problem in Ferguson is not as much ‘bad apple’ cops as police work itself — what the law actually allows. . . . When we understand that features of a justice system that the federal government has found to be discriminatory are actually legal, the claims that critical race theorists make about law have more resonance.”).

He felt that as an immigrant he was less deserving and that he owed a “thankful to be here” attitude. I now understand this, because as a former felon, I often feel that I must be submissive and deferential whenever given a chance. I feel that I do not have the right to be assertive or to complain when things are not right. In fact, I am embarrassed to admit that far too many times others have had to speak up for me because I failed to speak up for myself.

Upset at my dad, I ran away as soon as I was released from the juvenile jail. I was determined to go back to the family that understood me, which the law called a gang.³⁰ My friends were there. Tenth Street was my hood and I was hooked on it. Before I ever did drugs, I had an addiction-like dependence on my hood. I was drawn to it like a magnet. I belonged. I was barely thirteen years old and my identity and sense of self were tied to the only world that I knew. Unfortunately, that was a futureless world destined to land me in prison or the cemetery.

C. Prosecuting Children as Adults — The False Superpredator Theory

One of the dope boys who had lots of money (I will call him Marco) let me stay at his house. A couple of other friends who sold drugs for him stayed there too. I felt that I was living with siblings, something I had never had. I felt so at home.³¹ We all had fancy clothes and rode around in Marco’s fancy cars. I was on top of the world. There was nothing I would not do for this guy — and unfortunately, he knew it. Inside of his house, he would constantly pressure me to smoke weed laced with cocaine until I was finally hooked on it. I knew something was wrong with this, but I did not have the fortitude to say no. Before long, I was holding his drugs and ready to shoot at rival gang members in exchange for a place to stay and the drugs he gave me.

Drive-by shootings around Tenth Street had become an almost-daily occurrence. Friends were getting shot left and right. One of my friends was killed in front of me around that time, when I was fourteen. At one point I was taken hostage, humiliated, and abused at gunpoint by rival gang members. After this incident, I said, “Never again!” I committed to getting my own gun. Ironically, when I should have been more concerned with video games than safety and protection, I traded a Super Nintendo (and sixty dollars) for my first gun at the age of fourteen. With

³⁰ MICHELLE ALEXANDER, *THE NEW JIM CROW* 172 (2010) (“Yet when these young people do what all severely stigmatized groups do — try to cope by turning to each other and embracing their stigma in a desperate effort to regain some measure of self esteem — we, as a society, heap more shame and contempt upon them. We tell them their friends are ‘no good,’ that they will ‘amount to nothing,’ that they are ‘wasting their lives,’ and that ‘they’re nothing but criminals.’ We condemn their baggy pants (a fashion trend that mimics prison-issue pants) and the music that glorifies a life many feel they cannot avoid. When we are done shaming them, we throw up our hands and then turn our backs as they are carted off to jail.”).

³¹ See generally *id.* at 169–72.

a willingness to use a gun came a sense of safety, respect, and acceptance. Unfortunately, I was an impulsive fourteen-year-old and easily manipulated by older guys. Sure, I was a tragedy waiting to happen, but that is not the same as saying I was inherently dangerous and violent. That is what society said about teenagers like me in the 1990s.³² I fit the profile of the mythical “super-predator”³³ teenager of the 1990s who allegedly was without conscience and irredeemable.³⁴ Despite being neither, I nearly became both thanks to these misguided beliefs.

You could hear just how misguided these ideas were by simply listening to none other than President Bill Clinton give an inadequate defense of Secretary Hillary Clinton’s “superpredator” comment and his 1994 crime bill. He made the argument by vilifying the gang leaders (most of whom were adults) who got thirteen-year-old kids on crack and sent them out to commit violent crimes.³⁵ What is misleading about President Clinton’s illustration is that the superpredator laws targeted the thirteen-year-olds, not the adults, in his scenario. Both the 1994 crime bill and the “superpredator” rhetoric made it easier to prosecute and imprison juveniles as adults,³⁶ and the 1994 bill effectively deprived them of any college education once they got to prison.³⁷ This cannot be anybody’s idea of making teenagers better.

As I mentioned in the beginning of this Essay, I would eventually be treated as a “superpredator” in 1996, at the age of fourteen. My friend and I were on the way to the mall to watch a movie when we got jumped by three older teenagers. I had a gun on me, so I instinctively reached for it and began shooting, hitting one of them in the leg. Afraid, I threw down the gun and tried to run away, before being quickly surrounded, arrested, and taken to juvenile jail. In a matter of weeks, I was declared irredeemable by the prosecutors, prosecuted as an adult, and sent to the Tenth Floor. The infamous Tenth Floor was the place where juveniles were sent when they were tried as adults. It was located on the tenth

³² See Nancy A. Heitzeg, *Criminalizing Education: Zero Tolerance Policies, Police in the Hallways, and the School to Prison Pipeline*, in FROM EDUCATION TO INCARCERATION: DISMANTLING THE SCHOOL-TO-PRISON PIPELINE 11, 14 (Anthony J. Nocella II et al. eds., 2014).

³³ *Id.*

³⁴ See *id.*; Taylor Wofford, *Bill Clinton Appears to Defend Hillary’s “Super Predator” Remarks*, NEWSWEEK (Apr. 7, 2016, 5:37 PM), <https://www.newsweek.com/bill-clinton-super-predators-black-lives-matter-445338> [<https://perma.cc/MUX2-UVMP>].

³⁵ See Wofford, *supra* note 34.

³⁶ Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, § 140001, 108 Stat. 1796, 2031 (codified as amended in scattered sections of the U.S. Code); Clyde Haberman, *When Youth Violence Spurred “Superpredator” Fear*, N.Y. TIMES (Apr. 6, 2014), <https://nyti.ms/1lrXioo> [<https://perma.cc/H9CK-XDVX>] (noting that the “superpredator forecast . . . energized a movement [where] one state after another enacted laws making it possible to try children as young as 13 or 14 as adults”).

³⁷ Violent Crime Control and Law Enforcement Act § 20411 (prohibiting the awarding of Pell Grants to prisoners).

floor of the main adult jail in Miami. Juveniles were afraid to go there not because of the adult prosecution, but because of the horror of abuse: getting beat down and having one's food and shoes taken were common. Landing in the wrong cell block would get you put on the Tenth Floor diet, in which your food was taken and you were forced to eat scraps left over from other prisoners.

It was never guaranteed that you would end up in the cell safest for you. If you pissed off a guard, they would move you to one of the cells in which you didn't "belong";³⁸ it was one of their disciplinary tools.³⁹ To make matters worse, the cells were overcrowded. There were four inmates in a two-bunk cell. That meant two had to sleep on the floor, and one of those two had to sleep next to the toilet as the others used the bathroom. Sleeping on a bunk instead of the floor was supposed to be determined by order of entry to the cell and by a willingness to fight for it. Whenever someone new came into the cell block, he could challenge you for your bunk. When the odds were against you in the cell block, you had to accept your dehumanized status — sleeping on the floor, having your food taken, and being continuously humiliated. On the other hand, if you were housed with your "kind" and had friends from the streets, then you could avoid the horror stories so long as you fought.

Fortunately for me, I had friends who had finally made it to the Tenth Floor, so instead of fearing it, I now looked forward to the honey buns and radio they had over there. Violence and abuse were the true deterrents that had made me afraid of an adult prosecution. But with that removed, my teenage mind saw no deterrent, at least not the ones intended by the law. I could not appreciate that the rest of my life would be marked by a felony conviction. Even worse, as an impressionable teenager I embraced the "worst of the worst" label. I toughened up and went into survival mode on the Tenth Floor. I started becoming the cold, apathetic "superpredator" that they said I was. Rehabilitation and redemption were nowhere in sight, much less in my vocabulary.

After a year in that adult jail, I was released on probation, worse than when I went in. I returned to my hood, popular with my friends and a target to my former enemies. My fifteen-year-old effort at doing "right" was hardly enough. I soon found myself targeted by gang violence. On different occasions, I was jumped, shot at, and sent bleeding to the hospital with a wound that required twenty-eight staples on my head. Before long, I returned to what I knew, and less than ten months

³⁸ Cell blocks were divided by hoods and ethnic groups. There were primarily four types of cell blocks: the "Chico Cell," housing Hispanics; the "Zoe Cell," housing Haitians; the "City and Towner Cell," housing African Americans from Liberty City and Overtown in Miami; and the "Down South Cell," housing African Americans from the black neighborhoods south of Miami. *See generally The Supreme Court, 2004 Term — Leading Cases*, 119 HARV. L. REV. 169, 229 (2005) (describing the practice of "racially segregating prison cells for [up to] sixty days after prisoners enter new facilities").

³⁹ *See* McLeod, *supra* note 27, at 1181 ("When [an inmate] sought protection from prison officials, he was told he would have to 'fight or fuck.'").

after my release, I was rearrested for multiple gang-related shootings and a robbery. This time I would get thirty years in state prison.

III. PRISON

Prisons are places of intense brutality, violence, and dehumanization. . . . In addition to the dehumanization entailed by the regular and pervasive role of solitary confinement in U.S. jails, prisons, and other detention centers, the environment of prison itself is productive of further violence as prisoners seek to dominate and control each other to improve their relative social position through assault, sexual abuse, and rape. . . . By removing the violent results of these regulatory approaches from the center of our attention, and often removing them entirely from our view, this same ideology [of criminal regulation] persuades us of the necessity and relative harmlessness of incarceration and punitive policing.⁴⁰

A. Violence: Confinement, Guards, and Prisoners

It was early August 1999. I sat handcuffed and shackled in a jumpsuit next to others waiting for their cases to be called. Lawyers got up, took the podium, spoke quickly, and moved on to the next case. Everything sounded predetermined, foreign, and rushed — a form of impersonal, assembly-line justice.⁴¹ I was always caught off guard by how quickly the process went, and I barely ever understood what was going on. This time, though, I knew exactly what was going to happen. I had violated my probation and was about to be sentenced for my underlying crime. The probation I had agreed to ten months earlier stipulated that if I violated my release conditions, I would get the top of the sentencing guidelines. Nobody explained what the guidelines were when I was placed on probation, but the maximum sentence they prescribed for my crime was 360 months (thirty years). Since I had violated probation, there was no room for judicial discretion. A machine could have produced the same exact “judicial” results.

My case was called. I stood up as the prosecutor quickly explained that the plea agreement — the one I agreed to as a fifteen-year-old after a year in the adult jail — required a sentence at the top of the guidelines in the event of probation violation. The judge announced that, being bound by the guidelines, he was sentencing me to 360 months in state prison and, just like that, moved on to the next case. In a matter of minutes, I was sentenced to more years than I had been alive. Almost

⁴⁰ *Id.* at 1173–80.

⁴¹ See, e.g., William W. Schwarzer, *Dealing with Incompetent Counsel — The Trial Judge’s Role*, 93 HARV. L. REV. 633, 634–35 (1980) (“Criminal defense work . . . , because of economic considerations, is often performed on an assembly line basis.”); Recent Court Filing, *Statement of Interest of the United States*, N.P. *ex rel.* Darden v. State, No. 2014-CV-241025 (Ga. Super. Ct. Mar. 13, 2015), 129 HARV. L. REV. 875, 876 (2016) (explaining that criminal defendants are “merely ‘processed through the courts in assembly-line fashion’” (quoting Complaint for Injunctive and Declaratory Relief at 11–12, N.P. *ex rel.* Darden v. State, No. 2014-CV-241025 (Jan. 7, 2004))).

nobody in the courtroom noticed. On my way back to the jail, I began to ask myself how I was supposed to act or feel. I decided to act serious and solemn, but I honestly felt no different inside. I was too young to grasp the severity of my sentence or even the seriousness of my crimes. What did affect me was getting placed in an isolation cell once I got back to the jail. The thirty-year sentence I had just received made me “too dangerous” to be with others. There, in isolation, I fell into a state of depression. In just a matter of days, that solitary confinement cell was affecting me in ways that the thirty-year sentence had not.⁴² I told my lawyer that I was ready to accept the plea offers of additional thirty-year sentences running together for my other pending cases. I just wanted to get out of that hell, euphemistically known as the “special housing units.” Just days after celebrating my seventeenth birthday, I was back in court for the other cases. Without being old enough to have a career, I was labeled a career offender and sentenced to three more concurrent thirty-year sentences. I was happy to go to prison — just to get out of that isolation cell.⁴³

At the reception center, the guards were intent on using strip searches to show us who was in charge. Contraband was not a major concern because we were all coming from a secured facility already. Nevertheless, they yelled and threatened us with confinement and beatings, ready to make an example out of one of us.⁴⁴ We were herded into a large cage and made to stand there against the fence. They walked around and screamed at us to take off all our clothes until we all finally stood naked and cold. There I was — an adult in law, but a minor in fact — standing completely naked in front of older guards and dozens of similarly naked prisoners. Instinctively, we covered our private parts. The officers shouted at us to put our hands to the side. It was clear — this was about power, not contraband. Hesitantly, we obeyed. They ordered us to lift our testicles and rub our fingers through our mouths before forcing us to turn around and face the fence. They yelled at us to bend over at the waist, grab our butt-cheeks, spread them, and cough twice.⁴⁵ It had to be loud and in unison, or we would have to repeat it until we

⁴² See McLeod, *supra* note 27, at 1178–79 (“[P]risoners living in isolation suffer[] a constellation of symptoms including overwhelming anxiety, confusion, hallucinations, and sudden violent and self-destructive outbursts. This pattern of debilitating symptoms, sufficiently consistent among persons subject to solitary confinement (otherwise known as the Special Housing Unit (SHU)), gave rise to the designation of SHU Syndrome.” (footnote omitted)).

⁴³ Throughout my time in prison, I witnessed prisoners who had no intentions of killing themselves cut themselves, swallow razors, put feces on themselves, and even attempt to hang themselves simply to get a respite from confinement. Indeed, with few exceptions, the most aberrant behavior I witnessed in prison was always when someone was either in confinement or being sent to confinement.

⁴⁴ See CRAIG HANEY, REFORMING PUNISHMENT: PSYCHOLOGICAL LIMITS TO THE PAINS OF IMPRISONMENT 213–18 (2006) (describing how prison administrators “maintain[] control through force and intimidation”).

⁴⁵ See McLeod, *supra* note 27, at 1173 (citing *Florence v. Bd. of Chosen Freeholders*, 566 U.S. 318, 342–44 (2012) (Breyer, J., dissenting) (describing invasive cavity searches)).

got it right. By design, the first time was apparently not loud enough. We were forced to repeat the humiliating act over and over again for what felt like an eternity. With mocking grins, some of the guards yelled when it was over, “Welcome to prison!” I would go on to experience these humiliating power trips repeatedly throughout my twelve years in prison. I wonder if the guards ever stopped to consider (or care) that their power trips were a form of sexual violence or that they returned people to society desensitized and bitter, not better.

After the cavity search, I was given my dormitory assignment. Although I was barely 5’6” and weighed 130 pounds, I was assigned to the adult side of the prison because I had too much time and my crimes were too serious for me to be classified as a “youthful offender.” During intake, some of the other guys were dumbfounded that I was going to the adult side with them because of how little and young I was. They told me that as long as I did not snitch, borrow, steal, gamble, or get into homosexuality or drugs, I could avoid a lot of problems — but not all problems because I still had to stand up for myself and fight. They told me that I was lucky because the Latinos were probably going to have my back so long as I was willing to fight and did not come with some questionable reputation from the streets. As I walked into my assigned dorm, I was quickly approached by the Latinos there. I felt interrogated. They asked me if I was Latino, where I was from, and who I knew. As soon as I mentioned some mutual friends from the streets and the county jail, the conversation went from interrogation to acceptance. I breathed a sigh of relief. I was no longer alone in this place. I was so thankful for my streets when I later witnessed how others who did not know anybody and who were unwilling to fight got sexually assaulted, beaten, and extorted.⁴⁶

Each of the nine prisons that I went to over twelve years was filled with physical and psychological violence. Within my first few weeks in prison I was assaulted, not by a prisoner, but by a guard for talking back to him. Thankfully for me, the assault was short-lived, and I did not require medical attention. When it came to guards, I feared the common scenario in which they would beat a prisoner so badly that they had to justify it by lying and charging the prisoner with assaulting them. I spent twelve years avoiding this scenario but saw how it happened to others. On another occasion, some years later, I was violently slapped by a guard while I was handcuffed in confinement. I had just returned from the psychological ward, and the guards mistook me for another prisoner who “went psych” the day before.⁴⁷ The guards had a practice

⁴⁶ See *id.* at 1180–81 (detailing the prevalence of “assault, sexual abuse, and rape” in prisons, *id.* at 1180).

⁴⁷ “Going psych” means declaring a mental health emergency. Prisoners would often make requests, such as a request to see a counselor, so that they could get out of their cells. Those requests

of teaching prisoners who “went psych” a lesson by ganging up on them when they returned. Nonetheless, some of my most painful moments in prison — which I am still too ashamed to recount — came from psychological humiliation at the hands of the guards, particularly early in my sentence when I was not courageous enough to stand up to them or late in my sentence when I was too afraid of compromising my release date. Many guards often used their authority to entertain themselves (and each other) by thinking of ways to humiliate and dehumanize prisoners. Sadly, those moments of entertainment for guards could end tragically for a prisoner if he or she did not play along.

At my first prison, I was on edge. I knew the time was coming when I would have to “stand up for myself.” The last thing I wanted was to go to confinement or even get in a fight.⁴⁸ However, worse than confinement and fighting was being shunned and victimized in prison. So I suppressed my dread of fighting and confinement until I no longer feared either. I faked toughness, until I became tough. Swinging first, I got into my first fight. The situation seemed unavoidable. The guy, who was bigger than me, began putting on his boots in front of me and telling his friend that he was going to “whoop my ass” as I stood using the phone. He claimed it was his turn to use the phone and wanted me to get off. I knew I could not walk away, and telling the guards was not even an option. I had just arrived in prison, and what I did was going to set the tone for how I would be perceived for many years to come. Once labeled a coward, almost no amount of fighting can reverse it. You will become a constant target to all sexual predators, thieves, and extorters. That was not going to happen. I swung the first punch and let rage and fear take over. We fought until the guards came and I was thrown into confinement. I spent the next month there locked down. Those thirty days in confinement etched into my mind another isolating experience that I have yet to forget nearly twenty years later. I had only one choice: toughen up and prepare to endure more confinement to come. Confinement is the logical extension of imprisonment — the prison within the prison — even if it borders on torture.⁴⁹ I served nearly three years altogether in confinement during my twelve-year imprisonment. There, I saw officers at their worst. I witnessed officers lie to, assault, instigate fights with, pepper spray, and starve prisoners. My heart burned with anger whenever I saw officers order other prisoners — the orderlies — to put empty food trays in the cells so that it

would be ignored, so prisoners would declare a psychological emergency and threaten suicide to get attention. In other cases, individuals who were having medical issues but were not being taken to the medical department would also threaten suicide to get treatment.

⁴⁸ The one thing I wanted to leave behind most when I got out was this world of physical and psychological violence.

⁴⁹ See McLeod, *supra* note 27, at 1178–79.

would appear on the surveillance camera as if the prisoners had been fed. I also proudly admired the courage of other prisoners, many of whom belonged to militant-religious groups, when they refused to be complicit in this practice, even while knowing that the guards would fabricate disciplinary infractions against them, throw them in confinement, and not feed them for refusing.

In Florida, prisoners are forced into confinement cells with other prisoners.⁵⁰ In most confinement units, there are two prisoners to a cell. This situation replaces the violence of absolute isolation with the threat of violence from a cellmate.⁵¹ Unlike my first fight, where I fought until the guards came, in confinement someone could beat you up and abuse you without the guards ever noticing (or caring). One of the most traumatic memories still stuck in my head is that of an old, fragile man with throat cancer being beaten nearly to death by his cellmate in confinement. I was locked down in the cell next door. I did not have a cellmate at the time, so I often spoke to the people in the adjacent cell through the vent that allowed us to see slightly through to the other side. One day, a man who seemed in very poor health was brought in in handcuffs and shackles. It appeared that he was coming from the medical department. I watched as he was escorted past my cell. He appeared to weigh less than a hundred pounds and had a bib covering a hole in his throat. He could barely speak and wrote to communicate. I remember thinking, “This guy belongs in a hospital, not confinement.” However, the institution of prison is always afraid of losing control. It will do irrational, counterproductive, and even inhumane things to retain it. Security and control over humanity is a principle embraced by prisons and prisoners alike.⁵² Later that evening I heard some rumbling. It was a unique sound that I was familiar with, which came from bodies clashing against walls and footlockers and indicated a fight. But then it stopped. I walked to the front of my cell to see if I could detect where it came from when all of a sudden, through the holes in the vent, I saw the man in the cell next door stomping on the passed-out, fragile cancer patient. In shock, I banged on the vent and yelled repeatedly, “Yo! Yo! Stop!!!” but he ignored me. He was in a trance, fixated on beating the life out of the guy beneath him. I wanted to help, but I could not — I felt powerless. I knew I could not call the guards. The prison rules held me as captive as did the walls that confined me in that cell.

I had the courage to tackle the crazed guy if I had been able to, yet I did not have the courage to call the guards. Unable to get myself

⁵⁰ See FLA. ADMIN. CODE ANN. r. 33-602.222 (2016) (discussing “placing inmates in the same cell” in disciplinary confinement).

⁵¹ See MUMIA ABU-JAMAL, *JAILHOUSE LAWYERS: PRISONERS DEFENDING PRISONERS V. THE U.S.A.* 186 (2009) (quoting *Ruiz v. Estelle*, 503 F. Supp. 1265, 1281 (S.D. Tex. 1980) (describing the dangers inmates pose to each other)).

⁵² See McLeod, *supra* note 27, at 1182–83 (explaining how the structure of the U.S. prison system creates dynamics of domination and subordination, producing dehumanization and violence).

physically involved, which was all I knew how to do, I panicked. I began yelling to others in the wing and banging on the door until finally those in protective custody (who already carry the highest disgrace as snitches in prison) began calling for the guards. When the guards arrived, the man screamed at them, “I told y’all to get me or this nasty ass guy out the cell!” Evidently they both had told the guards earlier that day that they were having problems, but the guards had not done anything about it.⁵³ The guards were unwilling to open the cell without more backup because the guy was unwilling to be handcuffed. It had already been about twenty minutes before the guards had arrived, and now they were going to wait even longer. In a sudden burst of rage, the guy turned to the unconscious, old, fragile man and began stomping on his head, yelling at the guards, “This is what you want?” At that point the guards could wait no longer and finally ordered the door open, subdued the man, and took him away. They dragged the old man out and laid him in front of my cell. He lay there unconscious until the trauma helicopter arrived, landing on the prison yard. I felt horrible. Someone was being beaten to death, and I was afraid to “call the police.” I had nightmares for weeks of the image of the fragile, old man being beaten nearly to death in front of me. I felt so much guilt knowing that in my hesitation to call the guards, I put personal security over humanity — something that still haunts me to this day.

B. *Self-Educating Behind Bars*

“What societal interest is served by prisoners who remain illiterate? What social benefit is there in ignorance? How are people corrected while imprisoned if their education is outlawed? Who profits (other than the prison establishment itself) from stupid prisoners?” . . . Abu-Jamal and many other prison writers have strongly criticized the prohibition of Pell Grants for prisoners, which was enacted in the 1994 crime bill, as indicative of the contemporary pattern of dismantling educational programs behind bars. . . . The contemporary disestablishment of . . . prison educational programs is indicative of the official disregard today for rehabilitative strategies, particularly those that encourage individual prisoners to acquire autonomy of the mind.⁵⁴

1. *Gangs Introduce Me to Books.* — Some of the most respected prisoners that I met were leaders of so-called prison gangs, which I am calling prison groups.⁵⁵ Many of them happened to also be college educated because they came from an era over a quarter century ago when college

⁵³ *Contra* ADMIN. r. 33-602.222 (“Prior to placing inmates in the same cell, the inmates shall be interviewed by the housing supervisor to ensure that none of the inmates constitute a threat to any of the others.”).

⁵⁴ DAVIS, *supra* note 1, at 55–57 (footnotes omitted) (quoting MUMIA ABU-JAMAL, *LIVE FROM DEATH ROW* 65–66 (1995)).

⁵⁵ Unauthorized militant religious, ethnic, and/or political organizations are often labeled prison gangs or security-threat groups by prison officials. *See, e.g.*, Christie Thompson, *Are California Prisons*

education was still available to prisoners.⁵⁶ Those who were not college educated were self-educated through books and materials shared within the groups. All of these leaders had Malcolm X demeanors: respectable, tough, and educated. Admittedly, they were not many, but they were the most influential.⁵⁷ From them, I learned that I could be feared if I was tough, but respected if I was educated. It was from my so-called prison gang that I got my first books on history, religion, anti-imperialism, and revolutions. The young men around me who were leaders within their prison groups prided themselves not only on being tough, but also on being intellectual. The older men served as mentors to us.

After I earned my GED, there were no other courses available to me, so my education had to come from the prison yard rather than a classroom. I was fortunate to get pointed in the right direction by the older men in my prison group. Hip-hop had introduced me to names such as Machiavelli,⁵⁸ Nat Turner,⁵⁹ and Sun Tzu,⁶⁰ but I was now actually studying them. I learned about the history of groups such as the Nation of Islam, the Young Lords Party, and the Soledad Brothers.⁶¹ I longed to learn about anything that was not taught in school, especially if it exposed the injustices of the system that imprisoned me. At eighteen years of age, I was learning in prison from so-called gang leaders what I should have been learning in college from college professors. Some of the material I

Punishing Inmates Based on Race?, PROPUBLICA (Apr. 12, 2013, 7:00 AM), <https://www.propublica.org/article/are-california-prisons-punishing-inmates-based-on-race> [<https://perma.cc/S4T8-2F45>]. In my experience, many of these organizations do not identify as gangs, but rather as religious, ethnic, and/or political organizations. Many of them operate under a set of moral rules and a commitment to defend the organization and its members with violence if necessary.

⁵⁶ See DIANA BRAZZELL ET AL., URBAN INST. JUSTICE POLICY CTR., FROM THE CLASSROOM TO THE COMMUNITY: EXPLORING THE ROLE OF EDUCATION DURING INCARCERATION AND REENTRY 14 (2009), <https://www.urban.org/sites/default/files/publication/30671/411963-From-the-Classroom-to-the-Community.PDF> [<https://perma.cc/NNJ3-7LWQ>] (“Perhaps the most widely discussed reductions in federal funding have been in post-secondary education, specifically the 1994 elimination of access to Pell Grants for students incarcerated in state and federal prisons. Up to that point, Pell Grants had been the primary source of funding for higher education programs in correctional facilities. In the year following the ban, the number of incarcerated individuals receiving post-secondary education dropped 44 percent.” (footnote omitted)).

⁵⁷ That is why I advocate for educating those who are not getting out, just as much as those who are: it was “lifers,” not prison officials or classes, that got me involved in education and intellectual conversations.

⁵⁸ MAKAVELI, *THE DON KILLUMINATI: THE 7 DAY THEORY* (Death Row Records 1996).

⁵⁹ Travis Kitchens, *Unfortunate Son: The Roots of Tupac Shakur's Rebellion*, BALTIMORE CITY PAPER (Nov. 29, 2016, 5:14 PM), <https://www.citypaper.com/music/music-features/bcp-113016-music-tupac-shakur-and-baltimore-20161129-story.html> [<https://perma.cc/RLE9-2SJ6>] (“Tupac has a tattoo across his back, ‘1831’ — the year Nat Turner unleashed a brutal slave uprising in Southampton County, Virginia — inside of a Roman cross underneath the word ‘Exodus.’ Before his death, Tupac was planning a biopic based on ‘The Confessions of Nat Turner’ with himself in the lead role.”).

⁶⁰ RAEKWON, *Incarcerated Scarfaces, on ONLY BUILT 4 CUBAN LINX* . . . (Loud Records 1995).

⁶¹ See generally SOLEDAD BROTHER: THE PRISON LETTERS OF GEORGE JACKSON, at ix–x (Lawrence Hill Books 1994) (1970).

studied provided context for how I ended up in prison. It let me know that I was not inherently bad or the worst of the worst. However, as I began to think critically, I noticed that although my prison group was correct in part, it was one dimensional: it was critical of the system, but not critical of itself. Like curricula that talk about atrocities perpetrated by other nations but gloss over the cold brutality and injustice of this country (past and present), we seemed to gloss over the contradiction we embodied by criticizing prison while selling drugs and using violence against each other. We criticized the system that laid the traps, but never seemed to develop a sustainable culture to avoid falling into those traps. Maybe it is that illegitimate status inevitably breeds justifications for illegitimate behavior. There were no legitimate avenues for prison groups to organize, protest, or speak collectively. The slightest organizing was labeled a disturbance or riot and resulted in immediate lock-downs and transfers. With no legitimate means to sustain or assert themselves, prison groups retreated to the margins and into the black market, participating in self-defeating behaviors such as selling drugs and using the same violence they organized against.

2. *Learning the Law.*⁶² — The revolutionary material from my prison group ignited my intellectual interest and made me ripe for discovering a passion in the law. One of the men in my prison group happened to be one of the best law clerks in the prison, despite also being the youngest. When I asked for his help on my case, he responded with his rule: I will help you help yourself — I will not do it for you. I accepted. I began going daily to the law library where he worked. I was lost and intimidated. I would read and reread the books he gave me. I could not understand them. I just wanted to sneak out and go back to the prison yard where I did not feel dumb. I could not just leave the law library, however, because I knew he would hold me accountable and not help me with my case.

I knew my friend had done a paralegal course over the mail, so I figured maybe doing the course would help me understand this legal stuff. I told him that my dad would possibly be able to scrape up the twenty-five dollars a month for the course. His eyes lit up. He said that if I enrolled in the course, he would fight to get me a job in the prison law library because they needed somebody who spoke Spanish. I did not think it was such a big deal, and I did not think working in a room full of books that I did not understand was appealing. I agreed, however, because I did not expect to get the job. I was considered too young and wild for the job, and I had already been in confinement multiple times. To my disbelief, I got it. During my first day at work, I was surprised by two things: I was given my own desk, and there were no guards harassing or watching us. I remember feeling empowered and free in that moment. I felt responsible for that space and accountable

⁶² See, e.g., ABU-JAMAL, *supra* note 51, at 35–49.

to my friend and the librarian for the job. Much like a high-school senior acting more mature than his age, I began emulating the mature behavior of the others. I became a different eighteen-year-old. I started developing my vocabulary by listening to National Public Radio and enhancing my writing skills by reading and analyzing case law. I imitated maturity until I gained it. I figured I could research anything once I understood the organization of law books. In fact, I noticed that this was how most book collections are organized regardless of subject. My understanding of secondary and primary sources and systematic “key word” searches later made my transition to the internet world a lot easier.

It was here, working in the prison law library, that I asked two questions that gave rise to the dream that got me where I am today: Could I be an attorney? And if so, what would it take? I found a case that gave me the answers. A man was imprisoned while attending college in Florida, continued his college education in prison, and went to law school upon release.⁶³ The bar rejected his application for admission due to his prior convictions, concluding that he did not “meet the standards of conduct and fitness required” to be an attorney.⁶⁴ He appealed, and the Florida Supreme Court detailed his journey. The court noted his commitment to continuing his education even while in prison, his attainment of a law degree and a master of laws in taxation, and the recommendations he earned from his professors.⁶⁵ The court reasoned that he had shown enough rehabilitation and ordered that he be admitted to the Florida Bar.⁶⁶ This was all I needed; it became the blueprint for my journey. From then on I became fixated on getting whatever college education I could in prison. I was determined to go to law school some day despite the fact that my release date was nearly thirty years away: December 30, 2028.

3. *Barriers to a College Education.* — I had no knowledge of how college worked. Nobody in my family had ever completed high school, let alone college. I remembered asking as a kid what the difference was between an associate of science and an associate of arts degree — which I thought were college’s highest degrees — and nobody was able to explain it. Yet there I was, in prison, trying to figure out on my own the academic track for becoming a lawyer. For the first time, I learned that there was a difference between graduate and undergraduate degrees. I was shocked to learn that degrees required dozens of classes — I used to think that they consisted of a single class in a single subject that lasted four years.

⁶³ *In re Diez-Arguelles*, 401 So. 2d 1347, 1347 (Fla. 1981).

⁶⁴ *Id.* at 1348.

⁶⁵ *Id.* at 1348–49.

⁶⁶ *Id.* at 1349–50.

I learned from another prisoner about Ohio University, which had a special correspondence program for incarcerated individuals.⁶⁷ I figured out how college worked from their brochure. I needed forty courses for a bachelor's degree. Sadly, I could not afford the cost of over \$600 per course totaling over \$24,000 for a bachelor's degree. My dad could barely budget \$20 a week, which was more than most prisoners ever got. I was fortunate, though, because the paralegal school that I was getting my books from for \$25 a month began offering associate's degree textbooks. The classes were not regionally accredited and I had to teach myself from the textbooks, but that was good enough for me. I was nineteen years old when I got my first ever college textbook. It was one of the happiest moments I could remember. I sat on my prison bunk, proud, thinking to myself, "I'm in college." I was intimidated but excited — this was college, after all. I would later have this same feeling when I arrived at my community college, university, and law school. To my surprise, the material was learnable. I struggled through compounding math without a calculator. I taught myself correct sentence structures (for the first time) and learned how to compose an email even though it would be a decade before I could ever send my first email in 2011. I dissected and engrossed myself in every chapter of every book, taking copious notes.

Every time I was sent to confinement, transferred, or subjected to search-downs I was at risk of losing my textbooks. Sometimes they would be carelessly misplaced by the guards, and at other times they would be intentionally thrown away. My notes, however, often survived because they were mere sheets of paper that appeared to have little value in comparison to my textbooks. My notes often made it into confinement, so I had a makeshift library out of notes; but whenever the guards found out, the notes would get thrown away. Taking notes to serve as outlines of my textbooks eventually made me a great note-taker and was a big part of why I did well in college and do well now in law school.

Other barriers to self-educating in prison included the confiscation of textbooks that exceeded the four-book limit, the prohibition against reading after certain hours under threat of confinement, the lack of access to basic computer education, and rejections of my mail orders of books. For example, I wanted to learn how to type but was consistently denied the opportunity to take a computer class because I had too much time left in my sentence. I knew typing was necessary in society, so I was forced to figure out how to teach myself to type. I went looking and found an old donated typing manual in the library. There was a computer at my job assignment that was unattended during lunch. So during lunch when nobody was around, I would sneak in and start practicing. I sat there typing combinations of "ASDF" and "HJKL,"

⁶⁷ *Correctional Education*, OHIO U., <https://www.ohio.edu/ecampus/print/correctional/> [<https://perma.cc/KQ3B-MAZY>].

stopping suddenly whenever my supervisor walked by, until I learned how to type without looking.

Another unreasonable barrier to my education appeared during a year's stay at the Miami-Dade County facility pending my appeal. I was denied access to a textbook because it was not sent directly from the publisher. My dad was unable to get the publisher to sell a single copy of the textbook despite trying for months. I was unable to study for nearly half a year. A GED teacher at the facility was so frustrated with this that he took it upon himself and risked his job to sneak the textbook into the jail so that I could continue my correspondence program. These experiences make clear that my education was not because of prison, but in spite of it. If it were up to the prison system, I would have left uneducated, angry, and more likely to commit crimes in the future.

The one barrier that permanently disrupted my correspondence education was the correspondence course provider's shift to online education. In Florida, there is virtually no access to online education for prisoners. I happened to be lucky enough that this shift occurred near the end of my sentence, but had it happened sooner or had I gone to prison later, much of the educational transformation I discuss here would not have come about: no paralegal course, no law clerk job, and no college textbook program. It is bad enough that prisoners who cannot afford higher education cannot receive it, but now higher education is virtually unattainable without internet access. There are colleges and universities that have fought (and continue to fight) many of these barriers by providing higher education directly to prisoners through customized technological programs that work around the internet ban.⁶⁸ These programs are our only hope for meaningful education in prison, but they are too few and far between. If there is one thing I hope my story does, it is to highlight the importance of higher education and its transformative power for prisoners. Access to education in prison should not be left to chance and wealth. Higher education must be accessible to all prisoners, including those who are not getting out. I mention those who are not getting out because I was repeatedly denied access to computer classes simply because of the length of my sentence. The rationale was that those who are getting out sooner need the classes most,⁶⁹ and I had a thirty-year sentence at the time. I argued, to no avail, for a few spots to be reserved for those who were not getting out

⁶⁸ See, e.g., U.S. DEP'T OF EDUC., EDUCATIONAL TECHNOLOGY IN CORRECTIONS 2015, at 12–19 (2015), www2.ed.gov/about/offices/list/ovae/pi/AdultEd/policybriefedtech.pdf [<https://perma.cc/2UKE-SAX4>].

⁶⁹ See SARAH LAWRENCE ET AL., URBAN INST., THE PRACTICE AND PROMISE OF PRISON PROGRAMMING 4 (2002), <https://www.urban.org/sites/default/files/publication/60431/410493-The-Practice-and-Promise-of-Prison-Programming.PDF> [<https://perma.cc/ZUV8-29WX>] (observing as a “general characteristic” of prisoner education programs that “participation is timed to be close to an offender’s release date”).

so that we could be the stable and experienced tutors and culture carriers for the program. I use the term “culture carriers” to describe those individuals who set the tone in their cell blocks — in other words, influencers — many of whom have been and will be in prison for a long time. I believe in the value of college-educated culture carriers because I myself was influenced by those “lifers” who were able to get a college education before Pell Grants were eliminated. Educating people who have a lot of time left on their sentence is not mere coddling. Education humanizes, dignifies, and empowers individuals. It gives them the tools to advocate and produce literature from behind bars. It even allows them to mentor and equip those who are getting out to stay out, stay connected, and become the face and voice for those on the inside. I really believe that college education is to the imprisoned what learning to read and write was to the enslaved — it is central to the abolition movement.⁷⁰

I often tell people that every prisoner is learning something in prison, especially young prisoners. The question is, what are they learning? If it is up to prison administrators and guards, it will not be the skills and knowledge taught by higher education. The prison system’s priority is control and security over humanity. Even when education is provided or permitted, it is perceived by most guards as getting in the way of their “job” and viewed by the greater public as coddling prisoners. This is why moderate efforts at reform will always fall short. For education to succeed in prison, there must be structural and cultural transformation to support it.

IV. REENTRY

After having experienced the violence and inhumanity of prison for more than a decade, I was thrown from a high-security facility straight into society. My “reentry” process took place ten hours’ travel from my family. Disconnected from my family and my community, I was denied programmatic opportunities and left without any transitional support, despite all the difficulties that awaited me.⁷¹

A. Extreme Physical and Psychological Distance

In 2000, the Florida Supreme Court in *Heggs v. State*⁷² held that the sentencing guidelines under which I had received a thirty-year sentence

⁷⁰ See DAVIS, *supra* note 1, at 55–57.

⁷¹ For information on the reentry process for prisoners, including longitudinal reentry studies, see BRUCE WESTERN, *HOMEWARD: LIFE IN THE YEAR AFTER PRISON* 11–25 (2018).

⁷² 759 So. 2d 620 (Fla. 2000).

for violation of probation violated the state constitution.⁷³ The constitutional guidelines allowed for only a thirteen-year sentence.⁷⁴ However, I still had to fight through multiple appeals to withdraw the concurrent thirty-year plea agreements that I had taken for the open cases. I was eventually successful in getting those pleas vacated and received a new sentence of fifteen years followed by ten years of probation.⁷⁵ For the first time, the possibility of getting out was no longer a fanciful idea many decades removed, but rather a reality just a few years away.

This was very comforting for my father, whose health was failing, making it impossible for him to make the ten-hour drive to visit me. Fortunately, around the time I was resentenced, I happened to be transferred to a facility near Miami, where he could visit me more easily. During our visits, my father told me how proud he was that I had become a “paralegal” in prison. He reminded me that all he had ever wanted was for me to get an education and become somebody. He said that his only prayer now was to live long enough to see me free someday. But even if he could not, he said he could finally rest in peace because he had lived to see me become educated and knew I was going to get out soon. Six months later, he passed away. I was unable to go to his funeral because I did not have the hundreds of dollars necessary to pay for the correctional transport. This was devastating, as my father was and remains the most important person in my life.

Soon after my father’s passing, I was transferred ten hours away from Miami. Contact with my loved ones became strained — no visits, few calls, and barely any letters. Collect calls were inexplicably expensive.⁷⁶ Early in my sentence, my mother had sobered up and helped my father financially, which allowed them to make the nearly prohibitively expensive trips to visit me together. Though I argued with my dad about visiting me because of his health and the costs, he believed that family should always visit loved ones whenever they are in a hospital or a prison, so he had to visit me at least on my birthday. As if fearing that I would grow isolated and lonely, he wanted me to know that he was always there for me. Having and recognizing his unconditional love was undoubtedly the most transformational thing in my life. I had taken him for granted as a teenager, but once I matured, I realized how special he was. Many of my friends in prison (including my half-sister, who is in prison today) never had a chance to meet their fathers, yet I had a

⁷³ *Id.* at 627.

⁷⁴ Sentence at 1, *State v. Sanchez*, No. F97-020839MM (Fla. Cir. Ct. Feb. 26, 2002) (resentencing to imprisonment for 13.06 years).

⁷⁵ See *Sanchez v. State*, 829 So. 2d 387 (Fla. Dist. Ct. App. 2002); *Sanchez v. State*, 871 So. 2d 1069 (Fla. Dist. Ct. App. 2004).

⁷⁶ See Sam Gustin, *A New Bill Could Finally Ban Predatory Inmate Phone Costs*, THE VERGE (Mar. 13, 2018, 10:04 AM), <https://www.theverge.com/2018/3/13/17113712/prison-phone-call-bill-reform-senate> [<https://perma.cc/AQK4-6MF4>] (noting “the frequently exorbitant cost of inmate phone calls, which can run up to \$17 for a 15-minute local phone call”).

father who came to every court date, who wrote me letters, who visited me, and who never gave up on me even when people told him he should. He is the person to whom I owe so much. He instilled in me the value of education and scraped up money to buy me my first college textbook (and many more books after that). He preserved my humanity in a place that was determined to destroy it. My success has not been because of prison — it has been because of my father.

I arrived at my last facility with about thirty-six months remaining on my sentence. Around the same time, a policy went into effect barring individuals with ties to any security-threat group (that is, gangs) from working in any programmatic job, which included jobs at the law library.⁷⁷ I was also told that I did not qualify for work release, which I needed to transition into society. Work release centers (also known as “halfway houses”) are out-of-prison locations where prisoners can go to get a job in society so they can be acclimated and working upon release.⁷⁸ I was denied this opportunity because work release was reserved for model prisoners with less serious offenses. Like many others, I spent the last years of my sentence warehoused in a cell block and prison yard, rotating between mundane work and idle time. However, my mother did everything she could to send me books, letters, and a little money. Today, she continues to struggle with addiction and has barely enough to eat every day. Yet amidst these struggles, she managed to help me while I was over six hundred miles away. While society may look down on her, I still love her deeply and am proud to call her my mother.

Reentry was certainly not a priority or even a real concern for the prison administration, which did not care that I would get out unprepared, disconnected from my community, and with a higher likelihood of committing crime. This experience taught me that prisons are primarily concerned with optics. If I went to work release and committed a crime under their watch, they would be afraid that the blame would fall on them.⁷⁹ However, if I instead committed that same crime once I was released, the prison would not care because I was no longer under their watch. It would not matter if the prison’s inhumane treatment and poor reentry efforts were to blame. The incentives get more perverse when one considers that rearrested individuals return to fill beds, which secures contracts for private corporations and jobs for prison guards and staff. Moreover, because most prisons are located in rural areas, prison guards have little concern about how unprepared and

⁷⁷ Had this policy been in place early in my prison sentence, I would have never discovered my passion for the law and pursued a college education.

⁷⁸ GRANT DUWE, U.S. DEP’T OF JUSTICE, THE USE AND IMPACT OF CORRECTIONAL PROGRAMMING FOR INMATES ON PRE- AND POST-RELEASE OUTCOMES 9 (2017), <https://www.ncjrs.gov/pdffiles1/nij/250476.pdf> [<https://perma.cc/UN4U-2B9G>].

⁷⁹ See John Pfaff, *The Never-Ending “Willie Horton Effect” Is Keeping Prisons Too Full for America’s Good*, L.A. TIMES (May 14, 2017, 4:00 AM), <https://www.latimes.com/opinion/op-ed/la-oe-pfaff-why-prison-reform-isnt-working-20170514-story.html> [<https://perma.cc/E7W7-PXY5>].

worse off the prisoners are, because it is not the guards' community that the prisoners are returning to. Prisons are not structured to invest in reentry or foster their prisoners' success. The lack of accountability for failed reentry allows prisons to focus on warehousing people — however inhumane it may be — and then releasing them cold turkey for society to deal with. The blame ultimately falls on the individual who “fails,” not the institutions that exacerbate or even ensure his or her failure. Prison cannot be our best option. Indeed, prisons are our laziest, most inhumane — but lawfully permitted — option.

B. Choosing Homelessness

Upon my release, I wanted to go back home, but home was a high-crime neighborhood with a mother battling drug addictions and a sister who was getting arrested over and over again. Being in the wrong place at the wrong time could easily land me back in prison, and in poor neighborhoods, everywhere is always the wrong place at the wrong time. I decided I would give myself a fighting chance by moving into a homeless shelter in a different city and starting from the bottom. To my surprise, all the shelters I could find were drug rehabilitation programs. I would have had to feign a drug problem if I wanted to get into a shelter. Fortunately, there was one shelter in Orlando that was not a drug rehab shelter and offered me a bed.

I had no reentry guidance or model to follow. All I had was the image of Will Smith in the movie *The Pursuit of Happyness*,⁸⁰ which I was lucky enough to watch while I was in prison. This was a scary idea. I was going to be an adult in society for the first time and entering an unknown city as a homeless convicted felon. However, I was emboldened to pursue my goals when I got a letter from Valencia Community College in Orlando. I had written the community college to inquire about their programs. I was surprised when someone wrote back with a course catalogue and a note that said, “Come see us when you get out!” I decided right then that I was going to go through with my plan to live in the homeless shelter in Orlando. As was often the case, I got pushback from the prison. My release officer was adamant that I had to be released to the county of my arrest and had to provide an actual home address. I said that I did not know my mother's address and insisted on giving them the shelter's address. After much resistance, they confirmed the Salvation Army's offer of a bed and approved it before my release. Finally, in April 2011 — after more than twelve years in prison, with almost a quarter of that time in confinement — I was released at the age of twenty-eight, homeless and unemployed, without more than an untested, makeshift plan for reentry.

⁸⁰ THE PURSUIT OF HAPPYNESS (Columbia Pictures 2006).

C. *Resisting Recidivism: In Need of a Prison-to-College Pipeline*

Leaving incarceration is most often a transition from prison to poverty. . . . Motivation is often held out as the special ingredient that distinguishes those who do well after release from prison. Among the reentry study sample, motivation was abundant, particularly in the first few months after release. Opportunities for work, however, were distributed unequally, partly because of the racial and social structure of occupations and partly because of family connections.⁸¹

To enter mainstream, middle-class America, I needed real pathways and support. Statistically, I was predicted to fail.⁸² My ten years of probation guaranteed that if I violated the terms of my release, I could get up to three life sentences.⁸³ A mere violation of probation would prove right the guards who said I would be back and would effectively end the one chance I had at life outside of prison. My anxiety — my fear of failure — overwhelmed me. For months, I could not indulge in anything. I was too anxious to have an appetite.⁸⁴ I was scared that if I got comfortable, everything would fall apart.

Life in a homeless shelter involved waking up, eating breakfast, and getting kicked out at 5:00 a.m. daily. I wandered the streets until 4:00 p.m., when we were allowed to return and stand in line for a bed. Every morning, I followed the crowd of homeless people toward the nearby bus station, where we stayed warm or cool depending on the weather. Later in the morning, the crowd would move again toward the public library. From other chronically homeless people, I learned to be resourceful. They taught me where to access internet, bathrooms, and lunch bags throughout the day. The public bus system and addresses in Orlando were challenging. I was clumsy: I got on the wrong buses, missed stops, and turned two-hour trips into day-long events on the bus.⁸⁵

My probation was nearly violated my first week out. I reported to the address given to me to meet my probation officer. When I got there, I was told that I had to go to another address. Before I reported to the new address, my probation officer had visited the shelter, but to protect my privacy, the shelter did not tell him I was living there. I did not know that I had to sign a release-of-information form for my probation officer — more clumsiness on my part. The shelter told me this, so I

⁸¹ WESTERN, *supra* note 71, at 98–99 (footnote omitted).

⁸² See, e.g., MARIEL ALPER ET AL., BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, 2018 UPDATE ON PRISONER RECIDIVISM: A 9-YEAR FOLLOW-UP PERIOD (2005–2014) (2018), <https://www.bjs.gov/content/pub/pdf/18uprgyfupo514.pdf> [<https://perma.cc/7PS9-WMDF>] (reporting that “83% [of] state prisoners released in 2005 across 30 states were arrested at least once during the 9 years following their release”).

⁸³ See Meek Mill, Opinion, *Prisoners Need a New Set of Rights*, N.Y. TIMES (Nov. 26, 2018), <https://nyti.ms/2zoEYU7> [<https://perma.cc/QB87-QSRZ>].

⁸⁴ Cf. WESTERN, *supra* note 71, at 6, 27 (describing the anxiety experienced during the first few weeks out of prison).

⁸⁵ Cf. *id.* at 26–27, 26–45.

called him. He told me to report before the end of the day or he was going to report that I had violated my probation. I panicked and nearly cried. I explained that I was at the DMV on the other side of town. He did not care. I dropped everything that I was doing and began catching buses. I called after every bus stop because I knew it would take hours to get there. He told me to stop calling and just get to his office. When I finally made it, he asked me why I had not reported earlier or signed a release-of-information form for him at the shelter. I explained that I had reported to the other office, did not know about the release form, and was forced to spend the last few days going back and forth to the DMV trying to get an ID.⁸⁶ He said he was on the verge of reporting a probation violation to cover himself, because he thought I was already halfway to another state ready to commit a crime.

I bottled up my frustration at hearing this. I had to stay on my probation officer's good side. After speaking with him for a while, I began to focus on finding a job. I hoped that he would point me to employers that were hiring former felons. People on work release got jobs with the help of the work-release staff, so surely my probation officer could help me get a job now that I was free, at least more free than a work-release prisoner. To my surprise, he had no leads. He simply gave me a photocopied flyer for a resource center and the local workforce center. After talking to him, it was obvious that his primary concern was not to help me get a job, but rather to supervise me and report a probation violation if needed.⁸⁷

Still, I was hopeful because I remembered the workforce center visiting the jails and touting their ability to get former felons jobs. They told us that all we needed to do was show up, be motivated, and have a willingness to work. I arrived and told them that I was recently released, on probation, and looking for work. To my surprise, they did not have any job leads either. They simply placed me in line to wait my turn to use a computer. When my turn came, I was placed in front of a computer, instructed to search for jobs on sites like monster.com, and told to raise my hand if I had any questions.

I had never used the internet before. I did not know where to start. I kept raising my hand for help. The assistant became frustrated with me, especially when he learned that I did not have a resume. He closed

⁸⁶ Cf. Reginald Dwayne Betts, *Could an Ex-Convict Become an Attorney? I Intended to Find Out*, N.Y. TIMES MAG. (Oct. 16, 2018), <https://nyti.ms/2AcOoVm> [<https://perma.cc/G8S5-E2FF>] ("I'd left prison with enough money for bus fare and a fast-food meal — but without the knowledge of how to enroll in college. It had taken me nine trips to the D.M.V. to get my license, each time learning that a different thing was needed: proof of residence, Social Security card, birth certificate. I'd just learned to search for things on the internet and had barely set up an email account.").

⁸⁷ See WESTERN, *supra* note 71, at 126–27.

out the browser, opened a Microsoft Word document, and before walking away, told me to spend the rest of my computer time creating a resume. I still did not know where to start. I had no employment history or template to follow. I felt defeated. I wanted to just quietly sneak out of that room and leave. I really wanted to succeed in society, but I did not know how.⁸⁸ I caught the attention of the other assistant. When she came over, I nearly broke down as I explained what was going on. She asked me what jobs I had had in prison. My eyes lit up. I proudly told her that I had been a law clerk and an educational tutor at one point. I told her that I had studied a lot, was a quick learner, and just needed an example of what to do. She turned my computer off, took me with her, and explained to me what I needed to do. She asked if I had an ID with an Orlando address, which I now did. She instructed me to go next door to the public library, get a library card, and sign up for free Microsoft Office workshops, and then she handed me a resume template. My voice cracked as I thanked her. I rushed out the door before I began crying. I walked around the building looking for privacy and there behind the building, by myself, I just started crying. Sitting on the floor with my arms wrapped around my knees, I cursed myself and this idea of being homeless. I was so thankful for being helped, but I felt so vulnerable and pitiful. This could not be the way I was going to make it in society: depending on chance sympathy, begging and hoping someone would help me. I was homeless, unemployed, and felt incompetent, stigmatized, and lonely.

These breakdowns became almost-daily occurrences. Under my covers in the shelter, I cried myself to sleep. On the streets, I would find myself crying alone behind buildings. I felt alone, but the one thing that kept me hopeful was the idea that college would give me new friends, a good routine, and a way of proving myself. However, back at the shelter, my plan of enrolling in community college became a problem. If I enrolled before I had secured full-time employment, I could not live at the shelter anymore. I was commended for my interest in college, but was told that the shelter was a work program, not a college program. I applied to over 150 jobs before I was offered a part-time job at a fast-food restaurant. To my surprise an assistant manager at the shelter — a former correctional officer — advocated on my behalf. Thanks to him, I was allowed to enroll in college and remain at the shelter with just a part-time job.

I arrived at Valencia Community College — the school that had welcomed me even while I was in prison — excited and nervous. I clumsily stumbled through the application and enrollment process, but another barrier emerged. I was ineligible for federal grants or loans because I had not registered with the Selective Service between the ages of

⁸⁸ *Cf. id.* at 99 (“Among the reentry study sample, motivation was abundant, particularly in the first few months after release. Opportunities for work, however, were distributed unequally . . .”).

eighteen and twenty-five. Of course, I had been incarcerated during those years. I went to the public library, started researching, discovered that there were exceptions for individuals who had been incarcerated, and submitted that information to the school. The financial aid manager was so impressed that she wanted to meet me. Despite having my prison record in front of her, she decided to offer me a work-study position to work in her office. This offer was beyond my wildest dreams. I was about to attend college with a job on campus and a shelter to live in. Finally, I had discovered my prison-to-school pipeline — not because of prison (or my probation officer), but in spite of it.

CONCLUSION: DEBT PAID, BUT NEVER SATISFIED

Criminals, it turns out, are the one social group in America we have permission to hate. In “colorblind” America, criminals are the new whipping boys. They are entitled to no respect and little moral concern. . . . Once released, they find that a heavy and cruel hand has been laid upon them. . . . [They] will also be told little or nothing about the parallel universe [they are] about to enter, one that promises a form of punishment that is often more difficult to bear than prison time: a lifetime of shame, contempt, scorn, and exclusion. In this hidden world, discrimination is perfectly legal. . . . “In this brave new world, punishment for the original offense is no longer enough; one’s debt to society is never paid.” Other commentators liken the prison label to “the mark of Cain” and characterize the perpetual nature of the sanction as “internal exile.” Myriad laws, rules, and regulations operate to discriminate against ex-offenders and effectively prevent their reintegration into the mainstream society and economy.⁸⁹

I chose to conclude on this note because one might assume that I finally overcame prison and its barriers, that is, that prison can be overcome. I sometimes fool myself into believing this, before I am suddenly reminded of prison’s hidden heavy hand.

Entering my second year of college, I had achieved more than I ever dreamed of while I was in prison. I finished my first year of college with a 4.0 GPA, earned an honors scholarship, and was promoted to a financial aid specialist. The promotion enabled me to move out of the shelter, and a schoolmate allowed me to rent a room in his apartment. On campus, I became a student leader, and I was elected President of the Honor Society. Word of my inspiring story made it to the Honor Society’s national headquarters, resulting in an unfortunate surprise. Evidently, there was a policy prohibiting from membership people who had been convicted of a felony and had not undergone a three-year waiting period after the completion of their sentence. I was on ten years of probation, so I would not be eligible for membership for another thirteen years. This Honor Society was essential for building social and cultural capital at the community college, yet it excluded some of the people who

⁸⁹ ALEXANDER, *supra* note 30, at 141–42 (footnotes omitted).

needed it most. Although I had done nothing wrong, the national organization removed me from my position, demanded my regalia, and ordered that I never say that I was a member of their organization. I could not believe it. I had given two years of my life to this organization, and now I had to act like it never happened. The entire chapter was devastated. In private, I cried to myself, asking what else the world wanted from me. I caught myself continuously saying to myself, “I am not a bad person.” I was too far along in my new identity as a student to quit, but deep inside I wished I could go back — back to my world where my criminal record was not a stigma.

Early on, my advisors had pushed me to start believing that I could compete for the Jack Kent Cooke Scholarship, which was the most prestigious scholarship in the country for graduating community college students. It was extremely selective: only two students in our school’s history had ever been selected. But almost every recipient had been part of the Honor Society, which I was not allowed to be in. Almost all my campus leadership had been lost because of my removal. As if I needed any more barriers, I was now at a scholastic disadvantage along with having a criminal record and a lengthy probation. I had little motivation to spend the long nights filling out and polishing the twenty-plus page application just to get another rejection, but I did it. I poured my heart into that application. And in an unexpected turn of events, the Cooke Foundation decided to break with tradition and name me one of its 2014 national recipients. I have had many pivotal moments in my journey, but this was the most transformational for my path. With it came a measure of academic credibility, privilege, and social capital that I had never had. However, I was still denied admission by the local university’s administration when transferring to get my bachelor’s degree. A school policy prohibited admission to people who were on court-ordered probation and had not completed more than half of it. The articulated agreement between my community college and the university did not apply to those with criminal records. I was once again discouraged. I had earned the Cooke Scholarship, graduated with a 4.0 GPA, was named my school’s Distinguished Graduate, gave the commencement address, satisfied the requirements for acceptance to the university’s honors college, and even made it onto the front page of the local newspaper.⁹⁰ Yet I could not gain admission to continue my education. Imagine what happens to the students with criminal records who do not have all of those accolades.

I came up with the idea of getting in front of the sentencing court and asking for a reduction from ten years of probation to six years so that I could be admitted into the university. The school supported this

⁹⁰ Kate Santich, *Felon Goes from Prison to Valencia Honor Student*, ORLANDO SENTINEL (Apr. 12, 2014), <https://www.orlandosentinel.com/news/os-xpm-2014-04-12-os-gang-member-honor-student-20140411-story.html> [<https://perma.cc/3HGN-KHL3>].

move. My probation officer, however, would not openly support the reduction because he said that their office policy was to make probationers complete at least half their sentence before recommending any reduction or termination. It did not matter that this was good for my reentry or that I was his so-called “best” probationer. Likewise, the first prosecutor opposed the reduction. However, my case was moved to another prosecutor, who was impressed by all I had done and agreed to the reduction. The judge was also impressed, particularly with the Cooke Scholarship, and after conferring with the prosecutor, she decided not just to reduce my probation but to terminate it altogether. Then, in another unlikely turn of events, the judge offered me a judicial internship in her chambers. She said she wanted to open doors for me in the legal field. While interning, I met another judge with whom I would go to speak to at-risk youth. He later brought me back for my second judicial internship, and his family took me in that summer. Back at the university, I co-authored a law review article,⁹¹ produced a thesis,⁹² became a statewide advocate for restoring voting rights and juvenile justice, received the university’s highest honor, and graduated from the honors college, again with a 4.0 GPA. It is troubling to think that all of this was nearly made impossible because I had too many years of probation. The probation that was supposed to make me a productive member of society almost prevented me from becoming one.

I had insecurities about going to law school. I would have to acquire a lot of debt in exchange for a future in the legal field that was very uncertain, considering my past. However, that worry was partly removed when the Cooke Foundation named me a Graduate Cooke Scholar and awarded me enough funds to attend law school.⁹³ The Cooke Foundation, like my late father, has continuously believed in me in ways that have made me believe in myself. Although I was rejected from twenty-one different law schools, two schools gave me a chance. The University of Washington — which had been instrumental in giving students like Shon Hopwood⁹⁴ and Theo Shaw⁹⁵ a chance — offered me

⁹¹ Barry Edwards, Angel Sanchez, Tyler Yeargain, Michael Crespín & Jessica Hayden, *Can Independent Redistricting Commissions Lead Us out of the Political Thicket?*, 9 ALB. GOV’T L. REV. 288 (2016).

⁹² Sanchez, *supra* note 10.

⁹³ Angel Sanchez, JACK KENT COOKE FOUND., <https://www.jkcf.org/scholar/angel-sanchez/> [<https://perma.cc/M9P9-4RVK>].

⁹⁴ Steve Kroft, *Meet a Convicted Felon Who Became a Georgetown Law Professor*, CBS (July 8, 2018), <https://www.cbsnews.com/news/60-minutes-meet-a-convicted-felon-who-became-a-georgetown-law-professor/> [<https://perma.cc/5EZ3-SWWW>].

⁹⁵ Angela Helm, “Jena 6” Defendant Gives University of Washington Law School Commencement Address, THE ROOT (June 9, 2018, 11:45 AM), <https://www.theroot.com/jena-6-defendant-gives-law-school-commencement-address-1826695984> [<https://perma.cc/8V3E-STNM>].

acceptance. Indeed, former Dean Kellye Testy even sent a warm personal note letting me know of her commitment to giving students like me a second chance. The other school was the University of Miami, which was moved by my hometown story and support from the legal community in Miami. These two schools chose to do something different. Just like the owner of the fast-food place; the former correctional officer at the shelter; the financial aid manager at the community college; the Cooke Foundation; the prosecutor and the judge who terminated my probation; and the judge's family, who welcomed me into their home; they created an unlikely opportunity for me.

Ranking in the top five percent of my class; making it onto the school's law review; and earning a federal judicial internship: with no box to check,⁹⁶ these accolades earned me an unparalleled number of interviews from employers — until they learned about my past. Once I shared my story, they became too hesitant to extend an offer. According to them, their concern was not whether I could be trusted, but whether they could trust the system to give me a chance to practice. So it was not my qualifications or character that made me questionable; it was the system itself. No level of hard work, no amount of academic success, and no degree will ever shield me from this. This experience reminded me how the idea of finality is nothing more than an illusion. A system that we can trust to punish, but not to restore those it punishes, can hardly be called a “justice system.” For as long as we are a society that is willing to cast people into prison, we will be a society that uses those same rationales to extend prison's punishment in the form of contempt, shame, scorn, and exclusion.⁹⁷ “Pay your debt” is what we say, but as it stands, the debt will never be satisfied.

⁹⁶ Thirteen cities and counties in Florida, including Miami-Dade County and Orlando, have adopted a “ban-the-box” policy, which “remove[s] the conviction history question from job applications.” This mirrors the practices of thirty-one states which have adopted similar state-wide policies. See BETH AVERY & PHIL HERNANDEZ, NAT'L EMP. L. PROJECT, BAN THE BOX 1–3 (2018), <https://s27147.pcdn.co/wp-content/uploads/Ban-the-Box-Fair-Chance-State-and-Local-Guide-September.pdf> [<https://perma.cc/P8HN-2T8P>].

⁹⁷ ALEXANDER, *supra* note 30, at 142.