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RESISTING CIVIL DEATH: ORGANIZING FOR ACCESS TO EDUCATION IN OUR PRISON NATION

ERICA R. MEINERS*

It is Thursday night, March 2009, and students are streaming into the classroom and shedding their coats, Discmans, cellophane snack wrappers, and cell phones. This is a diploma-based adult high school in Chicago full of very poor people who, like all of us, have made a few not-so-great choices. But, because of a severe lack of wealth and an excess of melanin, they were, and are, targeted for acquisition and destruction by our punishing public institutions. Formerly incarcerated, they are back in school—in their twenties, thirties, and some even in their fifties—trying again to be a high school student, and then, perhaps, a college student. Some days these goals seem impossible.

Today, William, with the scar swooping upside his bald head, a too young 34-year-old with at least 18 years inside our State's most generously endowed public institutions (Stateville Prison, Tamms Prison, and Cook County Temporary Juvenile Detention

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Center-Audi Home), tries to needle me because he has no homework to turn in today.

“Hey Erica, you do know those are bowling shoes, don’t you?”

“Hey Erica, you look like a U2 fan. You are, right?”

Tonight, like so many other nights, students are tired, frustrated, but also energized by trying, after several decades, to be a learner in a classroom.

Many prominent public figures, who are advocates for public education (including Jonathon Kozol, author of *Savage Inequalities*),¹ write and lecture about the dire need for educational reform because of the innocence and goodness of all *children*. Yet, this empathy, and more importantly, the right to a meaningful education, should not only be applied to ten-year-old children. For the last nine years, I have participated in this school, a free, community-based high school for formerly incarcerated men and women, and it is a persistent reminder that everyone, regardless of their age or history, should have the right to access a high-quality public education. Through outlining a relationship between two public pathways in our democracy, education and incarceration, this article offers some clear avenues for advocacy for those invested in social justice.

PRISON INDUSTRIAL COMPLEX AND CIVIL DEATH

For the past decade, activists and researchers have used the term *prison industrial complex* (PIC) to refer to a multifaceted structure in the United States that encompasses the expanding economic and political contexts of the corrections industry: the increasing privatization of prisons and the contracting out of prison labor; the political and lobbying power of the corrections officers union; the framing of prisons and jails as a growth indus-

¹ See JONATHON KOZOL, *SAVAGE INEQUALITIES: CHILDREN IN AMERICA’S SCHOOLS* (Crown Publishers 1991).

try in the context of deindustrialization; the production, marketing, and sales of technology and security required to maintain and expand the state of incarceration; the racialized and hyperbolic *war on drugs*; the legacy of white supremacy in the United States; and more.²

Over 2.3 million people are now housed in prisons and jails across the United States, one in every 99.1 adults.³ Compared to all other nations, the U.S. has the highest incarceration rate and the largest number of people locked behind bars.⁴ This expanding punitive system aggressively harms low-income communities of color and is also the direct result of public policy failures: *war on drugs*, *tough on crime*, *mandatory minimum sentences*, *three-strikes-and-you-are-out* laws, and on and on.⁵ The impact of the PIC extends beyond life in prison. I use the term *civil death* to refer to the consequences of conviction and incarceration that extend beyond life in the prison, including restrictions on voting, employment, and social services.⁶ According to a 2007 report from the Sentencing Project, “5.3 million

² See, e.g., ABOLITION NOW!: TEN YEARS OF STRATEGY AND STRUGGLE AGAINST THE PRISON INDUSTRIAL COMPLEX (CR-10 Publications Collective ed., AK Press 2008); ANGELA Y. DAVIS, ABOLITION DEMOCRACY: BEYOND EMPIRE, PRISONS AND TORTURE (Seven Stories Press 2005); ANGELA Y. DAVIS, ARE PRISONS OBSOLETE? (Open Media 2003); INVISIBLE PUNISHMENT: THE COLLATERAL CONSEQUENCES OF MASS IMPRISONMENT (Marc Mauer & Meda Chesney-Lind eds., New Press 2002).

³ PEW CENTER ON THE STATES PUBLIC SAFETY PERFORMANCE PROJECT, ONE IN 100: BEHIND BARS IN AMERICA 5 (2008), available at <http://www.pewcenteronthestates.org/uploadedFiles/One%20in%20100.pdf>.

⁴ DIANA BRAZZELL, ET AL., FROM THE CLASSROOM TO THE COMMUNITY: EXPLORING THE ROLE OF EDUCATION DURING REENTRY 1 (Urban Institute 2009) available at http://www.urban.org/UploadedPDF/411963_classroom_community.pdf; See, e.g., MARC MAUER, RACE TO INCARCERATE (New Press 1999); LOIC WACQUANT, PUNISHING THE POOR: THE NEOLIBERAL GOVERNMENT OF SOCIAL INSECURITY (Duke Univ. Press 2009).

⁵ DAVIS, ARE PRISONS OBSOLETE?, *supra* note 2; MAUER & CHESNEY-LIND, *supra* note 2.

⁶ See also ORLANDO PATTERSON, SLAVERY AND SOCIAL DEATH: A COMPARATIVE STUDY (Harv. Univ. Press 1982); Dylan Rodriguez, “*I Would Wish Death on You. . .*”: Race, Gender, and Immigration in the Globality of the U.S.

Americans, or one in 41 adults, have currently or permanently lost their voting rights as a result of a felony conviction.”⁷ The Sentencing Project documents a national landscape of inconsistent disenfranchisement restrictions and cumbersome voting-rights restoration processes. The incoherent laws surrounding disenfranchisement and restoration across the states, and within states across counties, create confusion and mistakenly misidentify and disqualify voters. In addition to those housed in prison, or those with voting prohibitions linked to convictions, the Pew Hispanic Trust estimates that approximately 4% of the nation’s population and 5.4% of its workforce are undocumented and are also denied access to vote.⁸

We opened our high school in the fall of 2001, and in the subsequent eight years, our prisons and jails continue to expand. For the formerly incarcerated men and women I teach, civil death takes other forms. Disenfranchisement is often the least pressing, as securing living-wage employment is a constant battle and a recurrent theme in classroom discussions and writing. Often participants work all day, and then go to a night shift job after class ends. Others cannot work and are confined, via electronic monitoring, to nearby residences that provide financially and physically accessible housing for a fraction of the 30,000 people (2001 data) that exit prisons and jails every year in Illinois who mainly return to six of Chicago’s 77 neighborhoods—Austin, Humboldt Park, North Lawndale, Englewood, West Englewood, and East Garfield Park.⁹ Those with drug-related convictions are denied access to public housing and welfare

Prison Regime, SCHOLAR & FEMINIST ONLINE (Issue 6.3, Summer 2008), http://www.barnard.edu/sfonline/immigration/drodriguez_01.htm.

⁷ THE SENTENCING PROJECT, FELONY DISENFRANCHISEMENT LAWS IN THE UNITED STATES 1 (2008), available at http://www.sentencingproject.org/Admin/Documents/publications/fd_bs_fdlawsinus.pdf.

⁸ Jeffrey S. Passel & D’Vera Cohn, *A Portrait of Unauthorized Immigrants in the United States*, PEW HISPANIC CENTER (2009), available at <http://www.pewhispanic.org/files/reports/107.pdf>.

⁹ Nancy G. La Vigne & Cynthia A. Mamalian, *A Portrait of Prisoner Reentry in Illinois*, URBAN INSTITUTE JUSTICE POLICY CENTER, at 2, (Apr. 2003),

benefits.¹⁰ Incarceration can also make one an “unfit parent.” The 2005 decision of the Illinois Supreme Court that found Debra Welch, one of our school’s graduates, to be an unfit parent, terminating her parental rights, was based only on her history of incarceration.¹¹

In addition to this diminishment of rights associated with *civil death*, incarceration also facilitates physical death through the hazardous and inadequate conditions in U.S. prisons and jails: overcrowding in unhealthy facilities, substandard health (including dental), and mental health care.¹² Men and women often arrive at our school with no eyeglasses, significant dental health problems, failure to get mammograms or to have problematic mammograms followed up on, struggles with years of over and under medication, and significant and unaddressed mental health problems. When the top three institutions in the world that house people with designated mental health issues are the jails in LA, New York, and Chicago (Rikers Island County Jail, Cook County Jail, and LA County Jails), our nation’s mental health system has more than failed.¹³

While the PIC typically refers to connections between jails and the economy, the definition of the PIC must be expanded to include relationships with education. These linkages are physical

available at http://www.urban.org/UploadedPDF/410662_ILPortraitReentry.pdf.

¹⁰ Patricia Allard, *Life Sentences: Denying Welfare Benefits to Women Convicted of Drug Offenses*, THE SENTENCING PROJECT 1, 8, 11 (Feb. 2002), available at http://www.soros.org/initiatives/baltimore/articles_publications/publications/lifesentences/03-18-03atriciaAllardReport.pdf.

¹¹ Tori Marlan, *Prisoner of the Past*, CHI. READER, Apr. 8 2005, available at <http://www.chicagoreader.com/gyrobase/prisoner-of-the-past/Content?oid=918455&mode=print>.

¹² Paul von Zielbauer, *As Health Care in Jail Goes Private, 10 Days Can be a Death Sentence*, N.Y. TIMES, Feb. 7, 2005 at 1; Cynthia Cooper, *A Cancer Grows*, THE NATION, May 6, 2002, available at <http://www.thenation.com/doc/20020506/cynthiacooper>.

¹³ *Ill-Equipped: U.S. Prisons and Offenders with Mental Illness*, HUMAN RIGHTS WATCH (2003), available at <http://www.hrw.org/reports/2003/usa1003/usa1003.pdf>.

and grotesquely evident in urban schools with the increased use of surveillance and incarceration tools: metal detectors, surveillance cameras, school uniforms, and armed security guards. Schools that house some of our most vulnerable youth often look an awful lot like prisons, and sometimes, schools look more like prisons than do real detention centers. In addition, global economic shifts in the last 30 years have radically restructured the welfare state and participated in the creation of prisons as a perceived growth economy in an era of deindustrialization.¹⁴ These economic and social changes that shape prison expansion, and subsequently participate in naturalization of prisons as inevitable, are frequently not linked to education, yet the development of our incarceration nation clearly impacts education. When California, Illinois, and other states build more prisons than schools or colleges, this shapes academic options for youth. When budgets for corrections balloon and funding for higher education contracts, the states' priorities about the future of *select* youth are clear. Understanding how and why prison expansion is possible necessitates connecting schools to prisons and the criminal justice system and redefining "what counts" as educational policy.¹⁵

EDUCATION AND THE PRISON INDUSTRIAL COMPLEX

In the last two decades, most states increased allocations for corrections exceeding increases for education. According to the Illinois Consortium on Drug Policies (ICDP), "Between 1985 and 2000 the State's budget for higher education increased by 30 percent, while the State's budget for corrections increased more

¹⁴ See also RUTH WILSON GILMORE, *GOLDEN GULAG: PRISONS, SURPLUS, CRISIS, AND OPPOSITION IN GLOBALIZING CALIFORNIA* 179 (U.C. Press 2007) (discussing the economics of prison expansion).

¹⁵ See also JEAN ANYON, *RADICAL POSSIBILITIES: PUBLIC POLICY, URBAN EDUCATION, AND A NEW SOCIAL MOVEMENT* (Routledge 2005) (providing additional information on linking public policies).

than 100 percent.”¹⁶ Between 1984 and 2000, across all states and the District of Columbia, state spending on prisons was six times the increase of spending on higher education.¹⁷ The discrepancies are also evident at the K-12 level. In Illinois, the cost of incarcerating one adult is about “four and a half times the cost of one child’s annual [K-12] education.”¹⁸ States build new prisons and detention centers, but there are shrinking resources for new, already existing, public post-secondary institutions. These budgetary priorities and corresponding public initiatives are not economically sound. Research suggests that just one more year of high school would significantly reduce incarceration (and crime) rates. Raising the male high school graduation rate simply by one percent would result in the nation saving, by one estimate, \$1.4 billion.¹⁹

Not only is Illinois, like most states, diverting resources from K-12 and higher education to prisons, incarceration itself offers few opportunities for meaningful education. The 1994 Violent Crime Control and Law Enforcement Act (VCCLEA), a six-year bipartisan initiative, represented the largest crime bill in history of the country and provided resources for new police officers, prevention programs, and \$9.7 billion in funding for prisons,²⁰ despite the reality that crime rates had been on the

¹⁶ Kathleen Kane-Willis, Jennifer Janicheck & Daniel Clark, *Intersecting Voices: Impacts of Illinois’ Drug Policies*, THE ILLINOIS CONSORTIUM ON DRUG POLICY, ROOSEVELT UNIVERSITY INSTITUTE FOR METROPOLITAN AFFAIRS 13 (2006), available at <http://www.roosevelt.edu/ima/pdfs/intersectingvoices.pdf>.

¹⁷ JUSTICE POLICY INSTITUTE, *CELLBLOCKS OR CLASSROOMS?: THE FUNDING OF HIGHER EDUCATION AND CORRECTIONS AND ITS IMPACT ON AFRICAN AMERICAN MEN* (2002), available at http://www.justicepolicy.org/images/upload/02-09_REP_CellblocksClassrooms_BB-AC.pdf.

¹⁸ Kane-Willis, Janicheck & Clark, *supra* note 16, at 13.

¹⁹ Lance Lochner & Enrico Moretti, *The Effect of Education on Crime: Evidence from Prison Inmates, Arrests, and Self-Reports*, 94 AM. ECON. REV. 155, 183-84 (2004).

²⁰ U.S. DEPARTMENT OF JUSTICE, *VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994 FACT SHEET*, <http://www.ncjrs.gov/txtfiles/billfs.txt>.

decline.²¹ The Crime Bill provided \$2.6 billion in additional funding for the Federal Bureau of Investigations, Drug Enforcement Agency, Immigration and Naturalization Services, United States Attorneys, and other Justice Department components, as well as the federal courts and the Treasury Department.²² The VCCLEA also terminated the right of those incarcerated to apply for a Pell Grant (started in 1965) to support college tuition and book fees.²³ Politicians supported this ban by suggesting that the general public did not want their tax dollars going to support college programs for inmates.²⁴

Senator Kay Bailey Hutchison, a Texas Republican, introduced the ban on Pell Grants for inmates into the VCCLEA. Hutchison stated: “It is not fair to the millions of parents who work and pay taxes and then must scrape and save and often borrow to finance their children’s education.”²⁵ Public opinion polls from the mid-1980s into the 1990s suggested that the general public was in favor of academic, vocational, and substance abuse programs for those in prison and supported alternatives to incarceration. In poll after poll, even if respondents identified crime as the number one social problem in the United States, “when given policy choices the American public favors prevention over enforcement.”²⁶ Even if polls were inaccurate and public sentiment regarding education programs for inmates had

²¹ Jeremy Travis & Michelle Waul, *Reflections on the Crime Decline: Lessons for the Future?* PROCEEDINGS FROM THE URBAN INSTITUTE CRIME DECLINE FORUM 2 (August 2002), http://docs.google.com/gview?a=v&q=cache:DiXRk wC1jZoJ:www.urban.org/UploadedPDF/410546_CrimeDecline.pdf+national+statistics+Federal+Bureau+of+Investigations+drop+in+violent+rime+last+20+years+report&hl=en&gl=us&sig=AFQjCNHikEvRdndIDaCyXDS-poSxfEnIw.

²² U.S. DEPARTMENT OF JUSTICE, *supra* note 20.

²³ Joshua Page, *Eliminating the Enemy: The Import of Denying Prisoners Access to Higher Education in Clinton’s America*, 6 PUNISHMENT & SOC’Y 357, 359 and 362 (2004).

²⁴ *Id.* at 363.

²⁵ Jim Zook, *Ban on Pell Grants to Inmates Crushes Prison-Education Efforts*, 41 CHRONICLE OF HIGHER EDUC., Nov. 9, 1994, at A32.

²⁶ MAUER & CHESNEY-LIND, *supra* note 2, at 28.

really shifted, which is unlikely, it is still important to note that Pell Grants are essentially allocated on the basis of entitlement—all who are eligible are entitled. Only a small fraction of the Pell Grants were ever awarded to those incarcerated, for example, “approximately six-tenths of one percent of the \$6 billion in Pell Grant funds distributed in 1993 went to prisoner-students.”²⁷ The conflict that Senator Hutchinson constructs between working poor families’ access to Pell Grants and those in prison is not accurate. Furthermore, the subsequent denial of Pell Grants for those in prisons did not result in new non-incarcerated undergraduate students receiving *any* additional financial aid.

The VCCLEA directly contributed to the reduction of the numbers of education programs in prison. “From 1994–5 to 1997–8 the percentage of correctional systems offering PSCE programs declined from 82.6 to 54.9, and the percentage of students participating in those programs shrunk from 7.3 to 3.8.”²⁸ As precise data on programs vary, other researchers document that by 1994, 350 of the nation’s college programs in prisons were shut down.²⁹ The United States policy on education in prison stands in stark contrast to the April 2009 special report by the Special Rapporteur on the Right to Education for the United Nations Human Rights Council which recommends a litany of educational services, systems, and resources—assessment for all incarcerated, “well funded and accessible libraries,” current and qualified teachers, and educational services that follow

²⁷ J.M. Taylor, *Pell Grants for Prisoner Part Deux: It’s Deja Vu Over Again*. 8 J. PRISONERS ON PRISONS 4 (1997).

²⁸ Page, *supra* note 23, at 359.

²⁹ Michelle Fine et al., *Changing Minds: The Impact of College in a Maximum Security Prison*, *Changing Minds* (Sept. 2001), <http://web.gc.cuny.edu/che/changingminds.html>.

people when they are released—that are not available in most U.S. prisons.³⁰

Clearly public policy regarding education for those currently incarcerated has little relationship to research. For example, how does the elimination of education programs from prisons control violent crime? Research consistently documents that education reduces re-incarceration: the more education those in prison receive, the lower the recidivism rates. Post-secondary education, in particular, has the highest rate of reducing recidivism.³¹ Research also documents that those in prison clearly need education. The most recent data analyzed by the Urban Institute documents that as of 2004, 17% of all state prisoners have earned a high school diploma (compared to 26% of the general population in 2003).³² Post-secondary correctional education alone would produce net national savings of hundreds of millions of dollars per year, and in 2002, if post-secondary programs would have been offered to those incarcerated, Illinois would have saved “between \$11.8 million and \$47.3 million” from the reduced recidivism rates.³³ Research also indicates that educational programs in prisons facilitate stability inside the prison.³⁴

Betty Tyson, falsely convicted of murder by an all-white jury in the 1970s, who is now released, describes the need for meaningful programs in prisons and the shifts in these programs over time. Before her release, Tyson was the longest serving female in prison in the state of New York.

Things changed as I was in there over time. The program offerings were depleted from twenty vo-

³⁰ Vernor Munoz, *Report of the Special Rapporteur on the Right to Education*, 25, delivered to the General Assembly, U.N. Doc. A/HRC/11/8 (Apr. 2, 2009).

³¹ Taylor, *supra* note 27; Fine et al., *supra* note 29.

³² DIANA BRAZZELL, ET AL., *supra* note 4, at 7.

³³ Kane-Willis, Janicheck & Clark, *supra* note 16, at 4.

³⁴ Fine et al., *supra* note 29.

cational programs to about five. Vocational programs help people learn skills that they need once they leave prison; they help rehabilitate prisoners. The programs just kept getting cut. We would learn a skill and then work for a quarter a day. The most we made each week was two dollars and fifty cents. Taxpayers want to punish us, but what we really need are prisons that rehabilitate prisoners, teach them a skill and help them deal with their problems.³⁵

The elimination of meaningful education programs does not contribute to the reduction of public fear of violence, and there is no evidence that eradicating these programs makes society safer.

The denial of Pell Grants for those in prison parallels contemporary debates about extending “in-state tuition” for undocumented students. For example, even if accepted at public or private institutions, most undocumented students, who would like to attend post-secondary institutions, attend the overflowing public community colleges in Chicago because they are not eligible to receive any federal or state financial aid. Although Illinois (as well as nine other states including Texas, California, Utah, Washington, New York, Oklahoma, Kansas, New Mexico, and Nebraska) is a supportive state in terms of access to post-secondary education—and undocumented students pay in-state tuition as long as they meet the required admission criteria—their ineligibility for most grants and scholarships makes accessing higher education prohibitive. In most other states, undocumented students must pay out-of-state tuition, generally triple the cost, if they cannot prove legal residency. Again, this public educational policy actively harms communities and restricts access to education for many of our most vulnerable.

³⁵ PAULA JOHNSON, *INNER LIVES: VOICES OF AFRICAN AMERICAN WOMEN IN PRISON* 166 (NYU Press 2004).

Tough on crime policies, particularly the lack of access to quality public education, continue to shape, not just individuals' lives but also the pathways of generations. The impact is so significant; researchers have begun to name how these policies have remade, not only *access* to categories such as adolescence and childhood, but also the categories themselves. Petit and Western identify that the risks of incarceration are "highly stratified by race and education,"³⁶ and those without a high school education are more like to be incarcerated.

High school dropouts are 3 to 4 times more likely to be in prison than those with 12 years of schooling. Blacks, on average, are about 8 times more likely to be in state or federal prison than whites. By the end of the 1990s, 21 percent of all young black poorly-educated men were in state or federal prison compared to an imprisonment rate of 2.9 percent for young white male dropouts.³⁷

The dramatic number of low-income men, particularly African-Americans without a high school diploma in prisons, indicates that prison is not unlike joining the military or parenting: a "life stage" event for low-income, undereducated men *and women*. Those without a high school diploma or college education are the most vulnerable, and "the novel pervasiveness of imprisonment indicates the emergence of incarceration as a new stage in the life course of young, low-skill black men."³⁸

For other segments of the population, different factors are emerging as "life stage" events. While for some segments of the United States (and global) population, the start of adulthood is being contracted, for others, adolescence is elongated. Some psychologists are moving to define the "life course stage" of

³⁶ Becky Petit & Bruce Western, *Mass Imprisonment and the Life Course: Race and Class Inequality in U.S. Incarceration*, 69 AM. SOC. REV. 151, 160 (2004).

³⁷ *Id.*

³⁸ *Id.* at 151.

emerging adulthood to refer to those who, at 25 years of age, return home after college to live.³⁹ Recent research on development suggests the “life course stage” of emerging adulthood, defined as between 18- to 25-years-old, is a temporal stage:

It is a period characterized by change and exploration for most people, as they examine the life possibilities open to them and gradually arrive at more enduring choices in love, work, and worldviews.⁴⁰

While suggesting that this “new” life stage is clearly complicated by culture and class, Arnett proposes the category of emerging adulthood:

“The new life course has become much more spread out and flexible,” Arnett says, noting the fact that many of today’s young people are staying in school longer, marrying later, and delaying having children.⁴¹

These twin life stages—mass incarceration for low-income communities of color and “emerging adulthood” for college participating “youth”—bear note as they are directly related to access to education. But it would be a mistake to see these differential “life stages” as arbitrary, flexible, or new. As legal categories conferring particular privileges, “childhood” and “juvenile” have never been available to all, and race, class, gender, immigration status, ability, and more have always afforded differential pathways towards adulthood. The absence of a private safety net translates in to radically differing pathways through childhood, adolescence, and adulthood. For some—the tempo-

³⁹ Martha Irvine, *Adult at 18? Who Are You Kidding? The Age Is Now 26*, LA TIMES (Oct. 26, 2003), available at <http://articles.latimes.com/2003/oct/26/news/adna-grownup26>.

⁴⁰ Jeffrey Jensen Arnett, *Emerging Adulthood: A Theory of Development From the Late Teens Through the Twenties*, 55(5) AM. PSYCHOL. 469, 479 (2000).

⁴¹ Irvine, *supra* note 39.

ral category of adolescence is elongated, and for others, it is contracted.

This is reflected throughout our public institutions. For example, while children as young as nine-years-old are being moved into juvenile court, 14-, 15-, and 16-year-old juveniles are being transferred to adult court either automatically or through a process known as the “direct file transfer” where the prosecutor uses “his or her sole discretion in determining whether a child is to be charged in juvenile or adult court.”⁴² These processes clearly expand the court’s jurisdiction, yet they grotesquely impact youth of color. The National Center on Crime and Delinquency documents staggeringly disproportionate incarceration rates for youth of color and highlights that youth of color are more likely than white youth to be removed from the home, transferred to adult court, sent to adult prison, and more. For example, from 2002 to 2004, African-Americans were:

- 16% of youth.
- 28% of juvenile arrests.
- 30% of referrals to juvenile court.
- 37% of the detained population.
- 34% of youth formally processed by the juvenile court.
- 30% of adjudicated youth.
- 35% of youth judicially waived to criminal court.
- 38% of youth in residential placement.
- 58% of youth admitted to state adult prison.⁴³

Childhood, and its key characteristic of “innocence,” is not available to all. While innocence is “a lot like air in your tires:

⁴² B. Dohrn, *Look Out, Kid, It Is Something You Did: The Criminalization of Children*, in *THE PUBLIC ASSAULT ON AMERICA’S CHILDREN: POVERTY, VIOLENCE, AND JUVENILE INJUSTICE*, 177 (Valerie Polakow ed., Teacher’s College Press 2000).

⁴³ B. Krisberg, *And Justice for Some: Differential Treatment of Youth of Color in the Justice System*. NATIONAL CENTER ON CRIME AND DELINQUENCY 3 (2007), available at http://www.nccd-crc.org/nccd/pubs/2007jan_justice_for_some.pdf.

there is not a lot you can do with it but lose it,"⁴⁴ the consequences of being a child or a juvenile who is perceived to be *without* innocence is punishing. Schools and prisons are public pathways, and these pathways signify individuals' deep histories of structural inequities. These pathways are visible *as early as pre-school*, where youth of color are expelled and suspended at higher rates than white children.⁴⁵

CONCLUSIONS: ACTION

Participants in our high school program often recognize, astutely, that they are fighting civil death but are often only in the economic, political, and personal position where the most radical change they can advocate for is their own flourishing, not just survival. Earning a high school diploma is part and parcel of resistance, survival, and as Adrienne Rich so eloquently spoke in 1978, political resistance can be *claiming your own education*.⁴⁶ But the work and learning of the students in my high school classes must be supported. Our expanding incarceration nation calls out for radical interventions and for actions from those in positions of power and privilege, and promoting full and equal educational access for all is one way to continue to resist. If we are invested in social justice, we must challenge institutions and practices across the spectrum. It is not enough to challenge regressive and racist tough-on-crime policies, *we must name how our democratic institutions continue to shut out millions from access to full humanity and then remake these institutions*. This has never been more vital as it is today. Horrified at the "downstate" trips to adult prison offered to Chicago's 15-

⁴⁴ JAMES KINCAID, *EROTIC INNOCENCE: THE CULTURE OF CHILD MOLESTING*, 53 (Duke University Press 1998).

⁴⁵ See, e.g., Walter S. Gilliam, *Prekindergarteners Left Behind: Expulsion Rates in State Prekindergarten Programs*, FCD BRIEF SERIES No. 3. (2005), at 1 and 6, available at <http://www.fcd-us.org/PDFs/ExpulsionFinalProof.pdf>.

⁴⁶ Adrienne Rich, *Claiming an Education*, in *ON LIES, SECRETS, AND SILENCE: SELECTED PROSE 1966–1978*, 231, 231 (W.W. Norton 1979).

year-old youth of color? Depressed at the reality that the majority of men and women warehoused in our state's prisons do not have a high school education? Reshape institutions to ensure that *other* downstate trips and public pathways are not just imaginable but materially feasible *and expected*.

The work is to challenge the annihilating public policies, including educational policies and their corresponding public fears that shut out so many of our brothers and sisters. We must build an abolition-democracy, to use the term of Angela Davis (and W.E.B. DuBois). Opening up education for all is as central for social justice activists today as it was 100 years ago. Prisons, jails, and other punitive institutions, Davis states, have “thrived over the last century precisely because of the absence of those resources and the persistence of some of the deep structures of slavery. They cannot be eliminated unless new institutions and resources are made available to those communities that provide, in large part, the human beings that make up the prison population.”⁴⁷ To challenge our incarceration nation, we must do the difficult work of opening up and reconfiguring educational institutions that have shut their doors to the men and women who have been abandoned by our punishing democracy.

For those in relative positions of privilege, the solutions are visible and bold: be a radically ungrateful apprentice. What makes our democracy flourish is when schools and colleges are full and prisons and jails are empty. Here are some small suggestions of places to work from for those who are inside and invested in higher education:

- Dismantle educational policies that disenfranchise vulnerable communities and those educational policies that actively criminalize. For example, reinstate Pell Grants for those in prison as education in prison has the highest rates of reducing recidivism; remove question #36, “have you ever been convicted of a drug related offense,” from the Free Appli-

⁴⁷ DAVIS, ARE PRISONS OBSOLETE? *supra* note 2.

cation for Federal Student Aid (FAFSA) because it is discriminatory; and, as it appears the current U.S. House might do in 2009, require that undocumented students are always eligible for “in-state tuition” rather than the often triple, out-of-state tuition costs.

- If you are a student, staff, or faculty, audit your post-secondary educational institution. What are the available points of access for those formerly incarcerated? What resources are available to assist these students, who are also often parents, low-wage workers, and so much more, to be successful? What programs does your institution have with any prisons or jails? If there are no programs, research what programs were running in the 1970s or in the 1990s and identify why were they disbanded and how they could be re-ignited?
- Support and replicate fledging programs that are attempting to provide educational access for those incarcerated, such as the Prison University Project (PUP) at San Quentin Prison in California and the Education Justice Project (EJP) that currently offers classes at Danville Prison through the University of Illinois at Urbana-Champaign. These programs provide high-quality college education for those in prison.
- Advocate for free post-secondary education! Community colleges in some U.S. states used to be free, and there is no reason why this cannot be a reality again. Every year college-qualified high school graduates do not attend college because they, and their families, cannot afford the cost. And, with two out of every three college students currently owing an average of more than \$22,000,⁴⁸ change all student loan debts to grants. By opening up access to a high-quality education for all, let’s rebuild our futures, together.

⁴⁸ Liza Featherstone, *Out of Reach*, THE NATION (June 10, 2009), available at <http://www.thenation.com/doc/20090629/featherstone>.

