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PREVIEW

Families and Incarceration

A Dissertation
Presented to the Faculty of the Graduate School
of
Yale University
in Candidacy for the Degree of
Doctor of Philosophy

by
Donald Braman

Dissertation Directors:
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PREVIEW

Abstract
Families and Incarceration
Donald Braman
2002

This dissertation describes findings from a three-year ethnographic study of male incarceration's effect on family life in the District of Columbia. The central finding of the study is that the dramatic increase in the use of incarceration over the last two decades has in many ways missed its mark, often injuring the families of offenders as much as, and sometimes more than, offenders themselves.

The effects of incarceration on families include practical hardships related to incarceration such as lost income and childcare, legal costs, and telephone expenses. Because prisoners are prevented from reciprocating, their families are not only materially impoverished, but the relationships within the extended kinship networks are eroded.

Incarceration also forcibly restructures household composition, reshaping family life in ways that are entirely absent from policy debates. In addition to the direct effect of incarceration on gender ratios and father absence, incarceration also has more subtle effects on gender norms, encouraging behavior that is consistent with many of the common stereotypes of poor, black, inner-city families. What the stereotypes obscure, however, are the ways in which incarceration is intricately involved in the dissolution of the very families they describe.

The stigma associated with incarceration has also had broad effects on inner-city family and community life. Because stigma is associated with families of prisoners, and because families are in communities that are disproportionately victimized by crime, they often face far more difficulties managing the stigma of criminality during incarceration than do offenders. The result is that, at the individual and community level, relationships are often diminished and distorted to guard information about incarceration and, at a broader political level, familial covering and silence effectively hides the effects of incarceration from public view.

CONTENTS

INTRODUCTION	i
Invisible Families	iii
Anthropological Offerings	viii
CHAPTER ONE: WHAT DOES INCARCERATION MEAN?	1
Symbolic Politics	5
CHAPTER TWO: WHAT WENT WRONG?.....	11
A Brief History.....	11
The Rise of Incarceration.....	19
CHAPTER THREE: SOCIAL ECONOMIES AND SOCIAL COSTS	25
Arrested: Kenny's Family	25
Doing Time: Arthur's Family.....	37
Cycles of Release and Reincarceration: Clinton's Family.....	61
Material and Social Capital.....	83
CHAPTER FOUR: KINSHIPS	96
On the Ropes: Derrick's Family	98
Extended Families: Roberta's Family	124
Falling Apart: David's Family	142
Damaging Families	172
CHAPTER FIVE: PRAYING ALONE	182
Missing the Mark: Louisa, Robert, and Jimmy.....	185
Stigma and Race	194
Problems at Home.....	199
Work Worries	208
Coping.....	218
Church and Faith.....	230
Depression and Isolation.....	244
CONCLUSION: SOCIAL SILENCE.....	251
APPENDIX: METHODOLOGY AND DATA SOURCES	256
Location	256
Interviews.....	256
Statistical Sources	258

ILLUSTRATIONS, FIGURES, AND TABLES

Figure 1: Shifting Population in the District.....	16
Figure 2: Crime in the District & the Nation	20
Figure 3: Race and Incarceration in the District	23
Figure 4: Lifetime Likelihood of Incarceration in the District	24
Figure 5: Kenny's Family	26
Figure 6: Arthur's Family	38
Figure 7: Direct Annual Expenses Related to Arthur's Incarceration.....	60
Figure 8: Clinton's Family	62
Figure 9: Distributions of Incarceration and Income.....	85
Figure 10: Income Differences and Incarceration.....	86
Figure 11: Arrests and Incarceration in Londa's Neighborhood.....	99
Figure 12: Derrick's Family.....	100
Figure 13: Roberta's Family	125
Figure 14: David's Family	143
Figure 15: Incarceration and Father Absence	174
Figure 16: The Relative Impact of Other Variables on Father Absence	175
Figure 17: Incarceration and Father Absence by Median Household Income.....	176

There is only one sure basis of social reform and that is Truth — a careful detailed knowledge of the essential facts of each social problem. Without this there is no logical starting place for reform and uplift.

*W.E. Burghardt Du Bois and Augustus Granville Dill,
The Negro Artisan.*

PREVIEW

INTRODUCTION

Nearly one out of every ten of the District of Columbia's adult black men is in prison, and over half of the black men between the ages of eighteen and thirty-five are under some type of correctional supervision.¹ About seven percent of the adult black male population in the District returned from prison over the course of the last year, and most returned to the families and neighborhoods they lived in prior to their arrests.² If current conditions persist, well over seventy five percent of black men in the District and nearly all the men in the poorest neighborhoods can expect to be incarcerated at some time in their lives.³ Sadly, the District's incarceration rate is not particularly high when compared with other cities'.⁴ Incarceration has become the statistical norm for men in many poor urban communities across our nation.

While these numbers are striking, it is not immediately clear what they represent in terms of the lived experience of real people. What are the human consequences of our extensive reliance on incarceration? What does it mean for the families who live in the neighborhoods that these statistics describe? Are they better or worse off as a result of "tough" sentencing practices? Here, numbers simply fail us.

¹ ERIC LOTKE, NATIONAL CENTER FOR INSTITUTIONS AND ALTERNATIVES, *HOBBLING A GENERATION: YOUNG AFRICAN AMERICAN MEN IN D.C.'S CRIMINAL JUSTICE SYSTEM FIVE YEARS LATER* (1997). Figures assume incarceration rates have held constant since statistics were gathered in 1997. The latter figure includes jail, prison, parole, probation, and warrants.

² Author's estimate, based on DC DOC data and US Census population data.

³ Author's estimate, based on DC DOC data and US Census population data. See *infra* note? and accompanying text for further data lifetime likelihood. See Appendix for discussion of estimation methods.

⁴ For example, the overall rate of incarceration in the District is 1.8%, while in Baltimore, Maryland it is 2.1%, and in New Haven, Connecticut it is 1.7%. Estimates based on census data and data provided by the DC, Maryland, and New Haven Departments of Corrections.

This dissertation describes findings from a three-year ethnographic study of male incarceration's effect on family life in the District of Columbia.⁵ The central finding of the study is that the dramatic increase in the use of incarceration over the last two decades has in many ways missed its mark, often injuring the families of offenders as much as, and often more than, offenders themselves.

The effects of incarceration on families include practical hardships related to incarceration such as lost income and childcare, legal costs, and telephone expenses. As prisoners are prevented from actively participating in reciprocal relationships, however, the effects can ripple out through relationships between family members. As a result, their families are not only materially impoverished by incarceration, but more significantly the strength and quality of the relationships within the extended kinship networks of the family are eroded as well.

Incarceration also forcibly restructures household composition and kin relations, reshaping family life in ways that are entirely absent from policy debates. In addition to the direct influence of incarceration on gender ratios and father absence, incarceration also has more subtle effects on gender norms, encouraging behavior that is consistent with many of the common stereotypes of poor, black, inner-city families. What the stereotypes obscure, however, are the ways in which incarceration is intricately involved in the dissolution of the very families they describe.

The stigma associated with incarceration has also had broad effects on inner-city family and community life. Because stigma is associated with families of prisoners, and

⁵ See Appendix for description of study methods and data.

because families are in communities that are disproportionately victimized by crime, they often face far more difficulties managing the stigma of criminality during incarceration than do offenders. The result is that, at the individual and community level, relationships are often diminished and distorted to guard information about incarceration and, at a broader political level, familial covering and silence effectively hides the effects of incarceration from public view.

The result has been a steady and silent corrosion of family life and community life in our inner-cities and a public debate that fails to reflect how much families still matter in the ghetto.

Invisible Families

It is not unusual to hear that, for many poor urban families and communities today, prison has become a way of life.⁶ And, in fact, as things stand now, a fair majority of the men in our cities' most disadvantaged neighborhoods can expect to spend time behind bars.⁷ Yet it would be no exaggeration to say that we know practically nothing

⁶ See, e.g., Hilary Shelton (Director of the NAACP's Washington bureau), *quoted in* Louise D. Palmer, *Number of Blacks in Prison Soars*, THE BOSTON GLOBE, February 28, 1999 at A14 ("There are so many people in the community going to prison you start to have the welfare effect, where it becomes acceptable — a right of passage — for African-American men to go to prison."); Howard Manly and Zachary Dowdy, *Where prison is 'a fact of life'*, THE BOSTON GLOBE, July 7, 1993, at Metro 1 ("[Y]ouths today see prison as a rite of passage, something to brag about, not as the great divide separating the civil from the lawless. Many emerge from prison heads held high, unashamed."); John Hanchette, *Many Black Americans Resent GOP-style Conservatism*, USA TODAY, November 25, 1995 ("[P]rison is a rite of passage for most of our young men."); Gary Ivory, *Prison Overbuilding is a Bad Sign*, THE DALLAS MORNING NEWS, September 7, 1996 ("For some, especially African-American men and increasingly women, prison has become a 'rite of passage' — a rite that has become almost normal to aimless young men and women writhing in our urban caldrons and rural spaces."); and *Muggings In New York City Turn Violent*, NPR: MORNING EDITION, January 2, 1992 ("In the streets, in the — in the 'hood, going to prison is a rite of passage.").

⁷ For a more extensive discussion of crime and incarceration rates, see *infra* notes 71-84 and accompanying text.

about the effects of our most common criminal sanction on the social lives of families or communities.⁸

The extent of our ignorance is puzzling given that, for over a century, researchers have devoted considerable energy and time to understanding how basic social institutions like family and community and state institutions like the criminal justice system lend structure and meaning to our lives. Indeed, few subjects have garnered as much sustained attention, keen intellectual review, or extensive public debate as have the topics of family,⁹ community,¹⁰ and criminal sanctions.¹¹

⁸ Most accounts of inner-city life have been written by male ethnographers and focus on "male life." *See, e.g.,* WILLIAM FOOTE WHYTE, *STREET CORNER SOCIETY* (1943) (describing "corner boys" in the North End of Boston); ELLIOT LIEBOW, *TALLY'S CORNER* (1967) (Describing the lives of "Negro streetcorner men" in Washington, DC); ELIJAH ANDERSON, *A PLACE ON THE CORNER* (1978) (an account of "identity and rank among Black streetcorner men."); PHILIPPE BOURGOIS, *IN SEARCH OF RESPECT* (1992) (Describing the lives of a group of Puerto Rican crack dealers in Harlem); and MITCHELL DUNEIER, *SLIM'S TABLE* (1994) (Describing the lives of a group of older black men who frequent a Chicago eatery.). Fewer accounts, usually by female ethnographers, have focused on poor women. *See, e.g.,* CAROL STACK, *ALL OUR KIN* (1975) (describing social networks among welfare mothers in a Chicago housing project); and KATHERYN EDIN & LARUA LEIN, *MAKING ENDS MEET* (1997) (describing how single mothers on welfare and low-wage jobs survive."). While granting that women and men often have gendered experiences of the world, I feel that this pattern in urban ethnographies has furthered a sense of the inner city as populated by men and women living in different worlds, as if those worlds were natural occurrences and as if they rarely shared much with one another. With the exception of Katherine Newman's recent work, KATHERINE NEWMAN, *NO SHAME IN MY GAME* (1999), there have been few accounts of the inner-city that attempt to describe families as such. *But see also* SARAH J. MAHLER, *AMERICAN DREAMING* (1995) (describing the pull of international family ties on Latino immigrants living in a New York suburb).

⁹ *See, e.g.,* STACK, *supra* (describing the importance of extended family to material and emotional well-being of poor women in Chicago projects); *REBUILDING THE NEST* (Jean Bethke Elshtain, Steven Bayme, Jean Bethke Elshtain, eds. 1991) (a collection of essays assessing the importance of varied family arrangements); STEPHANIE COONTZ, *THE WAY WE REALLY ARE* (1997) (describing importance and diversity of family in American life); and SYLVIA ANN HEWLETT & CORNEL WEST, *THE WAR AGAINST PARENTS* (1998) (describing the impact of various public policies on family life in America).

¹⁰ A growing number of ethnographies are focusing on the positive aspects of community life in urban America, and the strengths of community organizations. *See, e.g.,* STEVEN GREGORY, *BLACK CORONA* (1998) (describing political activism in an African American neighborhood in New York City.); KENNETH W. W. GOINGS & RAYMOND A. MOHL, *THE NEW AFRICAN AMERICAN URBAN HISTORY* (1997) (describing a "New African American Urban History" emphasizing "a sense of active involvement, of people empowered, engaged in struggle, living their lives with dignity and shaping their own futures."); RHODA H. HALPERIN, *PRACTICING COMMUNITY* (1998) (describing the daily activities of ordinary people that create community in an urban setting.). Generally, these accounts describe people working together to overcome adversity. Sadly, while there are national and even local organizations active on the issue of incarceration,

Our ignorance is all the more puzzling because social scientists are particularly concerned about the effects of public policies on disadvantaged populations. Indeed, during the last thirty years, as incarceration rates have risen precipitously, numerous and highly publicized analyses of criminal justice policy have told us precisely how disproportionate the rates of incarceration are among poor, urban, and minority populations.¹²

How is it, then, that we know so little?

* * *

Running through much of the news coverage, academic literature, and policy discussions about our inner-cities are a set of narratives about how people behave and about how the social world works. The narratives are, broadly speaking, designed to explain perceived material and moral failings. Most commentators view life in the inner-city as materially difficult: unemployment is high, jobs are scarce, public facilities like schools and hospitals are under-funded, and housing is substandard. Many also argue that the moral life of our inner-cities is in similarly dire straits: families and communities are falling apart, there is little respect for fellow citizens, little sense of shame, and crime is rampant.

the present study suggests why the type of community organizing described in these works failed to counter the effects of incarceration.

¹¹ See, e.g., MICHAEL TONRY, SENTENCING MATTERS (1995); GEORGE L. KELLING, CATHERINE M. COLES & JAMES Q. WILSON, FIXING BROKEN WINDOWS (1998).

¹² See, e.g., STEVEN R. DONZIGER, THE REAL WAR ON CRIME (1996); RANDALL KENNEDY, RACE, CRIME, AND THE LAW (1997); ELLIOTT CURRIE, CRIME AND PUNISHMENT IN AMERICA (1998); DAVID COLE, NO EQUAL JUSTICE (2000); MARC MAUER, RACE TO INCARCERATE (2000); and MICHAEL TONRY, MALIGN NEGLECT (2001).

The most common attempts at explaining these conditions emphasize either the former or latter as more causal, and the other as consequential. Those on the Left tend to argue that the decline in the moral order of our inner-cities is the result of prolonged material hardship. The state, having failed to provide adequate education, housing, and other services, has created desperation and demoralization so great that inner-city populations are forced to disregard many societal norms.¹³ Some go further, arguing that these behavioral adaptations eventually reshape social norms at the local level, creating a culturally distinct “underclass.”¹⁴

Those on the Right tend to argue the reverse: that material hardships are the result of a moral decline. In the conservative account, that some people are able to overcome the material hardships they face indicates that individuals can prevail if they approach life in the right way — that is, if they have the right values. The state also takes some blame in this narrative: through programs like AFDC, Food Stamps, subsidized housing, jobs programs, and unemployment insurance, conservatives argue, an overly interventionist state has undermined the values of individual industry, thrift, and responsibility.¹⁵ The values of the underclass, on this account, are what drives its impoverishment.

¹³ See, e.g., OSCAR LEWIS, *THE CHILDREN OF SANCHEZ* (1961); and BOURGOIS, *supra* note 8; Several studies also describe poverty and driving crime. See, e.g. R.E. Larzelere & G.R. Patterson, *Parental management: Mediator of the Effect of Socioeconomic Status on Early Delinquency*, 28 *CRIMINOLOGY* 2, 301-323 (1990) (one of the few longitudinal studies linking poverty with crime.); and William A. Niskanen, *Crime, Police, and Root Causes*, *POLICY ANALYSIS* 218 (1994) (“Crime rates are strongly affected by economic conditions. For example, an increase in per capita income appears to reduce both violent and property crime rates by a roughly proportionate amount.”); Robert Crutchfield, *Labor Markets, Employment, and Crime*, *NIJ RESEARCH PREVIEW* (1997).

¹⁴ See, e.g., LEWIS, *supra*; DANIEL P. MOYNIHAN, *THE NEGRO FAMILY* (1965); and WILLIAM JULIUS WILSON, *THE TRULY DISADVANTAGED* (1987).

¹⁵ See, e.g., MARTIN ANDERSON, *WELFARE* (1978); CHARLES MURRAY, *LOSING GROUND* (1989); MARVIN OLASKY, *THE TRAGEDY OF AMERICAN COMPASSION* (1992); MYRON MAGNET, *THE DREAM AND THE NIGHTMARE* (1993); CHARLES MURRAY, *THE UNDERCLASS REVISITED* (1999).

To the anthropologist, both liberal and conservative narratives overlook the ways that basic social institutions like family, community, and the law take shape and interact with one another in everyday life. By treating inner-city populations simply as groups of generic actors responding to market and state, both liberals and conservatives have failed to understand how fundamental forms of human organization shape individual behavior. As a result, liberal and conservative policy analysts alike have consistently been confounded by the unanticipated effects of the policy choices they advocate.¹⁶ Indeed, while both talk a good deal about family and community, the dominant debate among students of law and policy over the last thirty years has instead been about whether state regulation or unfettered market incentives provide more effective means of shaping individual behavior.¹⁷

Unfortunately, this sensibility not only permeates the world of academic writing, but also the more influential world of policy talk in which family and community life in our inner-cities is seen as a contradiction in terms rather than a realistic policy goal. In policy making the pervasive stereotype of “the underclass” as being uninterested in and unable to forge a coherent family or community life has had significant social and political effects. Policy makers, seeing no families or communities to protect in crime-stricken areas, have come to view residents of minority, urban, and low income

¹⁶ The federal government and nearly every state government in the nation, whether under Democratic or Republican control, were surprised by and unprepared for the rate of growth in incarceration rates. A large majority of states regularly violated court orders mandating steps to reduce overcrowding. See Helen G. Corrothers, *Letters to the Editor: “Packing the Prisons”*, WASH. POST, December 26, 1989, at A22 (“Our state prison systems face similar difficulties, with 35 states and the District of Columbia operating under court orders or consent decrees related to prison crowding.”). The District was no exception, as Jonathan Smith (an attorney working on the issue at the time) told me: “The District was in violation of several such orders throughout the 1980s and 90s.” Interview with Jonathan Smith, (Aug. 16, 1999).

neighborhoods as somehow outside of and untouched by the social norms of society at large. The result has been a set of studies and policies that, out of ignorance, have had a corrosive effect on many of the most vulnerable families and communities in our nation.

If we are to understand the full effects of our policy choices on what has for thirty years now been described as “the urban crisis,” we will need far richer and more nuanced descriptions of the social aspects of people’s lives than we have had to date.

Anthropological Offerings

The core concepts and methods that were employed in this study are not new. Descriptions of household economy, kinship, social networks, and social norms have been refined over nearly a century of ethnographic investigation and careful analysis.¹⁸ But they have taken on a new resonance as policy makers become more attuned their importance. Indeed, many of the concepts once of interest almost exclusively to anthropologists have been enjoying something a renaissance. The study of social networks, for example, has reemerged in popular studies of “social capital.”¹⁹ A number of popular works on social capital, most notably Robert Putnam’s *Bowling Alone*,²⁰ have helped to reassert the importance of family and community over and above the impersonal transactions that drive market capitalism. Similarly, the study of social norms,

¹⁷ See *supra* notes 13-15.

¹⁸ For a classic introduction to household economy, see Donald Bender, *A Refinement of the Concept of Household*, 69 AM. ANTHROPOLOGIST 493 (1967). On kinship, see DAVID M. SCHNEIDER, *AMERICAN KINSHIP* (1980); and COONTZ, *supra* note 9. For a review of social networks literature, see ULF HANNERZ, *EXPLORING THE CITY* 163-201 (1980).

¹⁹ See, e.g., Francis Fukuyama, *Social Capital*, in *CULTURE MATTERS* (Lawrence E. Harrison & Samuel P. Huntington, eds. 2000); ADAM B. SELIGMAN, *THE PROBLEM OF TRUST* (2000); ROBERT PUTNAM, *BOWLING ALONE* (2001).

²⁰ *Id.*

once an esoteric endeavor,²¹ has been taken up by economists and legal scholars with increasing interest, complicating and even displacing neoclassical economic theory in current legal analyses.²²

While this is heartening news for anthropologists, the lack of nuance and attention to ethnographic detail in much of the new work is troubling. For example, while the concepts that run through discussions of social capital — networks, reciprocity, and social norms — are useful analytical tools, their application in popular discussions has been more along the lines of thought experiments or statistical inference than hands-on-observation. Instead of accounts describing how real people make use of and are used by social networks, academics have instead developed rather broad and generic analyses describing one or another measure of social capital, asserting that it is rising or falling, or that it is, on the whole, either good or not so good.²³ What has been lost in these efforts is

²¹ Few outside of anthropology, I imagine, have read the early works in this area. *See, e.g.*, BRONISLAW MALINOWSKI, *CRIME AND CUSTOM IN SAVAGE SOCIETY* (1926) (Malinowski raised the issue of choice and negotiation in relation to norms); FREDRIK BARTH, *POLITICAL LEADERSHIP AMONG SWAT PATHANS* (1959) (developing an “interactionist” theory of norm formation); F. G. BAILEY, *TREASONS, STRATAGEMS, AND SPOILS: HOW LEADERS MAKE PRACTICAL USE OF VALUES AND BELIEFS* (1969) (describing the pragmatic negotiation of social norms in India, England, and France). *See also* ROGER M. KEESING, *KIN GROUPS AND SOCIAL STRUCTURE* 131, 142 (1975) (describing the dynamic negotiation of norms in relation to structural understandings of kinship).

²² There has been an “explosion of interest” in social norms over the last five years. Robert C. Ellickson, *Law and Economics Discovers Social Norms*, 27 J. LEGAL STUD. 537, 542 (1998). Those associated with bringing discussions about social norms into the legal mainstream have been called the “new Chicago school”—“new” because it has displaced much of the previous law-and-economics scholarship conducted by the “old” Chicago school. *See* Lawrence Lessig, *The New Chicago School* 27 J. LEGAL STUD. 661 (1998) (suggesting the utility of viewing the social norms analysis of the new Chicago school as the successor of the law-and-economics analysis of the old Chicago school).

²³ Putnam’s work has brought the importance of social networks to individual and collective well being to public attention, making three core arguments: (1) the last half century has been witness to several trends including an extended period of peace, declining leisure time, more television watching, and suburban sprawl; (2) as a result, social networks are both weaker and less dense than they used to be; and (3) this has a host of negative consequences. *See, generally*, PUTNAM, *supra* note 19. Unfortunately, because he does not observe any real people, his causal arguments are (as he admits) speculative and his policy recommendations vague. More importantly, the lack of grounded detail in Putnam’s work obscures the

an understanding that social capital is a way of talking about real people's relationships with one another, and that it is these real people rather than abstract concepts which must be attended to.

While popular depictions of social capital generally emphasize the positive aspects of social networks, norms of reciprocity, and resource sharing, the stories of families of prisoners also highlight their negative potential. By spreading the impact of incarceration across family and community ties, the rise of incarceration has not simply punished criminal offenders, it has devastated their families and communities as well. The result is that the relationships and norms described as social capital have become burdens rather than benefits to many inner-city families. This significantly alters the inferences that can be made from statistical studies of social capital in popular accounts and demonstrates the necessity of direct inquiry when asking how our most basic social relationships are developed, how they provide and tax common resources, and what they mean to the people in them.

The latter concern — the matter of meaning — has been the subject of renewed interest in the law under the rubric of social norms.²⁴ In many respects, like the literature on social capital, the new scholarship on social norms poses a direct challenge to economic models based on generic, wealth-maximizing individuals.²⁵ Rather than simply measuring economic efficiency and individual interests in material gains, discussions

ways that pursuit of social capital may force compliance with oppressive norms. *See, e.g.*, PIERRE BOURDIEU, *THE LOGIC OF PRACTICE* 108-110 (1980).

²⁴ *See, e.g.*, Robert C. Ellickson, *Law and Economics Discovers Social Norms*, 27 J. LEGAL STUD. 537, 542 (1998);

about social norms have forced scholars of law and economics to confront the richer kinds of meaning that humans create through their social interactions.²⁶ Ironically, though, studies of social norms have been conducted largely in the methodological shadows of the economic models they challenge. Like popular discussions of social capital, recent analyses of social norms have focused on generic reactions to the structure of legal and nonlegal norms rather than focusing on the histories of actual relationships in which those norms become meaningful.²⁷

For example, recent scholarship on social norms has suggested the useful role of shame in criminal sanctions. But, as the accounts in this study show, the effects of stigmatization can be spread across families and communities with unanticipated results. As a result, it is not simply criminal offenders who manage the burdens of stigma, but a

²⁵ Dan M. Kahan, *Social Meaning and the Economic Analysis of Crime* 27 J. LEGAL STUD. 609 (1998) (“Economic analyses of criminal law that abstract from social meaning fail, on their own terms, because social meaning is something people value.”)

²⁶ Though there have been many attempts to pull social norms scholarship back into the fold of economic analysis. See, e.g., [list of people]. There have also been attempts to expand the scope of economic analyses to account for non-material meaning. But accounting for meaning has left this kind of analysis without much ability to predict market interactions generically using mathematical models — arguably the core undertaking of economics-as-science.

²⁷ This is acknowledged in the literature and is a matter of regular complaint. Mark Tushnet, for example, notes that:

The problem [...] is that norms are really complicated things. Indeed, they are hardly “things” at all. They are unstable, subject to constant renegotiation and redefinition through processes of interaction that lead the new Chicago school to develop models. But modeling requires abstraction, and abstracting from norms is quite likely to generate either models that have essentially nothing to do with the real world of norms, or entirely formal results. Moreover, to the extent that one is interested in real norms in the real world, one would have to do a fair amount of empirical investigation. Aficionados of law and society studies know that legal academics are not well-trained to do such research and, even more, that the legal academy’s reward structure actively discourages it. This may account for the fact, as it seems to me, that articles associated with the new Chicago school have a rather high ratio of programmatic statements and illustrative (and short) anecdotes to actual investigations of real norms in real social settings.

Mark V. Tushnet, *Forum: “Everything Old Is New Again”: Early Reflections on The “New Chicago School”*, 1998 WIS. L. REV. 579, 586-587 (1998) (footnotes excluded). See, also, Ryan Goodman, *Beyond the Enforcement Principle*, 89 CALIF. L. REV. 643, 645 (2001) (“These scholarly efforts have developed

host of non-offenders as well. The broad impact of this stigma can make minefields of family members' relationships with relatives, neighbors, and co-workers. The social silence that incarceration's stigma encourages extends to the political arena as well, making it difficult for families to seek remedies for the problems they encounter. The ethnographic accounts in this study will, I hope, serve as a cautionary supplement to more theoretical scholarship on social norms and stigma.

These are more than academic issues and, by describing the ways that social capital and social norms interact on the ground, this study should do more than simply complicate theoretical concerns. It is my hope that this study will contribute to a more realistic assessment of how those living in our nation's inner-cities are forced to struggle with the powerful and often contradictory worlds of family, community, and the law under conditions that all too often set these social institutions against one another. More generally, I hope that it will draw attention to the importance of attending to the everyday lives of real people when thinking about and developing public policy.

analytic models to describe law's impact, but little empirical work has been conducted to examine law's actual effects in society.").

CHAPTER ONE: WHAT DOES INCARCERATION MEAN?

A PUBLIC DEBATE

Two elderly women have come to blows. As they shove and wrestle, scuffling across the hard floor of the District government office building, they are yelling at each other. “That’s my grandson you’re talking about. Don’t you talk about my grandson that way!” shouts one. “You love him so much, move to Ohio!” responds the other. The first woman is sent sprawling onto the floor, and the two are separated by others in a long line, all waiting to enter a public hearing about a proposed private prison slotted for an abandoned industrial dump in wooded area on the outskirts of Ward Eight, the poorest ward in our nation’s capital city.²⁸ The Corrections Corporation of America, the company proposing to build the prison, already runs a private prison in Ohio that holds many District inmates.

The small meeting room quickly fills to standing-room only, and people begin waving signs and shouting at each other. On one side of the room is a small group of people, mostly women relatives of prisoners, there to support a local prison; on the other side is a much larger group of residents and local business members, opposed to the prison. At first the chants and shouts are direct:

Keep them home! We are family! Don’t send them away!
No prison gates in Ward Eight! We don’t need it, we don’t want it!

Someone hands out t-shirts emblazoned with “KEEP THEM HOME,” and most of the people in the family group put on the t-shirts, some a little hesitantly. The calls opposing

the prison become heated. “Move the trash out of DC!” shouts one man, and it is clear that he is not talking about industrial waste.

If your man had stayed home, he wouldn’t be locked up now!
Thugs not wanted!

The small room is not made to hold this many people, and those packed into it begin to wipe their brows as the heat and humidity rise. A rumor circulates that the woman leading the prison family group is on the payroll of the company that wants to build the prison; another rumor goes around that the t-shirts were paid for and the families “bought and brought” with money and busses by the private corrections company. A new chant goes up:

Prison pimps go home!
Say no to prison ho’s!

As the phrases are taken up as a chant, the families grow silent; some on both sides of the room begin to look very angry. A local council member announces that the meeting has been cancelled for security reasons and will be rescheduled. Sweaty and worked up, a hundred or so people, most of them neighbors, begin to file into the street and go home.

* * *

This strange public demonstration took place early in my fieldwork, and provided a striking introduction to both local city politics and the increasingly complex politics of

²⁸ Ward Eight is located in the southern corner of the District.

incarceration. It was followed by five public hearings,²⁹ the last two of which were open for comments from the general public. But even at the first hearing, the divergent perspectives within the community were quite clear.

The proposal that the Corrections Corporation of America (CCA) was presenting seemed, at least on the surface, to be an easy sell. Here was a community with the highest unemployment rate in the District, one where many families of prisoners lived. A large new correctional facility would not only provide hundreds of well-paying, recession-proof jobs to local residents, but it would keep prisoners closer to home, where family, counselors, and clergy could help with their rehabilitation. The proposed prison was to be state-of-the-art, including a host of educational and job-training programs for inmates — in fact, the proposed programs were so extensive that some residents complained that they were “better than what we get out here,”³⁰ and CCA promptly added community scholarships and neighborhood job-training programs to the proposed package. To top it off, CCA noted, there were plenty of other communities around the country that would be happy to have the facility if the residents of Ward Eight refused it.

This was the point that the former mayor, Marion Barry, made in his testimony at the hearings:

²⁹ There were five subsequent Zoning Commission hearings. See Zoning Commission Hearings In the Matter of: Consolidated PUD and Related Map Amendment at Oxon Cove — D.C. Correctional Facility, Case No. 98-16C, November 16th, 1998, November 19th, 1998, May 17th, 1999, May 24th, 1999, and May 27th, 1999 (hereinafter “November 16th Hearing,” “November 19th Hearing,” “May 17th Hearing,” “May 24th Hearing,” and “May 27th Hearing.”).

³⁰ Rebecca Charry, *Job Training Programs Come to Ward Eight — But You’ll Have to Go To Prison to Get It*, THE COMMON DENOMINATOR November 19, 1998, at A2.