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America at a Crossroads: Charting a New Course Toward an Integrative Justice Paradigm

By Catherine Vanchiere Beane

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By Catherine Vanchiere Beane*

America stands at a crossroads. Incarceration projections, fiscal realities, and political dynamics have converged with a growing body of evidence regarding the diminishing public safety returns of America's incarceration practices to reveal the shortcomings of "tough on crime" policies. Such policies emphasize policing, prosecution, and prisons as the principal means of dealing with crime, while committing insufficient resources to effectively address the broader socio-economic context of poverty, rampant unemployment, deficient housing, inadequate education, harmful health outcomes, and diminished life opportunities in which criminal and delinquent conduct typically occurs. This policy approach has come at a high price and with devastating consequences for state budgets, America's urban areas, and the millions of men, women, and children living in poverty. The economic recession and rising unemployment rates have exacerbated these issues, leaving those in greatest need without the community resources to navigate these hard times.

At this crossroads, we have a critical opportunity to chart a different path forward. This Issue Brief proposes that in order to comprehensively and effectively address the daunting challenges facing urban areas and ensure public safety, policymakers should embrace an "integrative justice paradigm" – a conceptual framework for making policy decisions that utilizes multidisciplinary analysis, research, collaboration, and problem-solving to address the underlying, interrelated social and economic issues that fuel cycles of inter-generational incarceration, and to create safe, fair, and equitable communities in which all are able to thrive, particularly those at greatest risk for court involvement. While recognizing the need for effective policing and law enforcement, an integrative justice paradigm shifts the policy focus to the front-end of the criminal justice continuum to address the systemic inequities and structural barriers related to education, economic opportunity, poverty, housing, family, child welfare, race, substance abuse, and mental health that often underlie one's initial entry into the cycle of incarceration, and significantly impact the American economy at multiple levels, including workforce readiness, revenue generation, and government budget expenditures.

This Issue Brief first describes emerging opportunities in the current policy landscape for advancing a more integrative approach to domestic policymaking. In subsequent sections, it then

* Catherine Vanchiere Beane is the Director of Behind the Cycle, a multidisciplinary network of individuals and organizations united by common concerns about the disproportionate impact of America's criminal justice system on low income communities and people of color, and by a common vision of safe, fair, and equitable communities in which all are able to thrive. See www.behindthecycle.org for more information. Ms. Beane is also a lawyer and the principal consultant of Beane Consulting, where she provides facilitation, advocacy, and organizational development services to nonprofits and public service agencies. This issue brief is derived from a longer article, Nkechi Taifa & Catherine Beane, *Integrative Solutions to Interrelated Issues: A Multidisciplinary Look Behind the Cycle of Incarceration*, 3 HARV. L. & POL'Y REV. 283 (2009), available at www.hlpronline.com/Vol3_2-TaifaBeane_HLPR.pdf, and from a panel discussion hosted by the American Constitution Society at the National Press Club on Dec. 9, 2009, *Reorienting U.S. Criminal Justice Policy: An Opportunity for a More Integrative Approach?*, AM. CONSTITUTION SOC'Y (Dec. 9, 2009), <http://www.acslaw.org/node/15000>.

sets forth a detailed description of the integrative justice paradigm, and proposes guiding principles and policy recommendations for implementing such an approach.

I. EMERGING OPPORTUNITIES IN THE CURRENT POLICY LANDSCAPE

The integrative justice paradigm proposed in this Issue Brief responds to emerging opportunities in the current policy landscape, most notably: the beginnings of a movement away from the siloed response that policymakers typically take to the interrelated social and economic factors that contribute to crime; growing realization of the fiscal impact and diminishing public safety returns of tough on crime policies; and the stark reality that recession-driven budget cuts undermine evidence-based delinquency and crime prevention efforts. An examination of each of these features lays the groundwork for a deeper understanding of the opportunities for change that exist, and the potential benefits that could be realized through an integrative justice paradigm.

A. Solving Interconnected Issues Requires Integrative Rather than Siloed Policy Responses

A wealth of social science research demonstrates the profound connections that exist between intergenerational cycles of incarceration and inadequately-addressed social and economic conditions. Indeed, living in poverty – particularly in areas of concentrated poverty – puts multiple stressors on families and communities, and triggers individual, family, educational, social, and community risk factors for court involvement while failing to support many of the protective factors that might counter-balance those risks.¹ These stressors and their corresponding criminal justice outcomes are exacerbated by over-burdened and under-resourced education, public health, housing, employment, and child welfare systems. These connections are so profound that one leading commentator has remarked, “[T]he national approach to solving social and economic problems in low-income communities of color in the United States has essentially become one of massive investment in a criminal justice apparatus that imposes punishment at record levels while draining resources from community-strengthening investments.”²

Despite these clearly-identifiable connections, policymakers most often analyze domestic policy issues as distinct and unrelated, separating them into disciplinary silos and viewing them within the confines of agency jurisdiction. The reasons for this response are varied: some are not aware of the connections between social and economic issues and criminal justice outcomes, while others view criminal and delinquent conduct as matters of individual behavior and personal accountability without regard for the systemic inequities and structural barriers that form the context within which the behavior occurs. Federalism, the structure of government agencies, and the often-rigid parameters of jurisdictional authority are among the factors that further inhibit the ability of policymakers to take a different approach. And underlying each of

¹ See CATHERINE BEANE, OPEN SOC’Y INST., MOVING TOWARD A MORE INTEGRATIVE APPROACH TO JUSTICE REFORM (2008), available at http://brennan.3cdn.net/36526eed589b696f2a_81m6iildg.pdf.

² Marc Mauer, *Getting Tough on Criminal Justice*, in KEEPING AMERICA OPEN 78, 84 (Open Soc’y Inst., 2006), available at http://www.soros.org/resources/articles_publications/publications/open_20061116/tenth_20061116.pdf.

these perspectives is the “tough on crime” paradigm that has come to dominate public policy discussions and law enforcement and corrections practices over the last 30 years.

The ineffectiveness of such siloed policy responses to interconnected issues is beginning to be acknowledged. Pending legislative proposals and executive branch initiatives represent a critical change in thinking about domestic policy, and reflect openness in the current policy landscape to an integrative justice paradigm. For example, the White House Office of Urban Affairs (OUA) describes in its guiding principles the need for the federal government to “break from the siloed approach to urban policy development – where each facet of policy operates independently from all others – and replace it with an interdisciplinary approach that appreciates the interdependent nature of issues affecting urban communities.”³ In implementing these guiding principles, OUA’s Inter-Agency Working Group has launched several initiatives that “embody both a holistic and integrated approach to urban policy – an approach that appreciates that local and regional leaders often pursue interdisciplinary approaches to the highly complex and interrelated issues in their communities.”⁴

Notably, OUA’s “Neighborhood Revitalization Initiative” seeks to coordinate “Federal policies and programs to design a holistic effort that will maximize life outcomes for low-income children no matter where they live” by “align[ing] Federal housing programs (*e.g.*, Choice Neighborhoods) with Federal education programs, health services, and public safety initiatives.”⁵ This initiative acknowledges that “structural inequalities compacted by federal, state, and local policies have isolated fragile neighborhoods from sources of capital and economic growth, leading to long-term, localized recessions that pre-date the current economic downturn.”⁶ Moreover, leaders of the Neighborhood Revitalization Working Group have acknowledged that “high unemployment rates, rampant crime, health disparities, high prevalence of substance abuse and mental health disorders, struggling schools and other ineffective institutions work in tandem to intensify the negative outcomes of growing up in poverty,” and that “[t]o solve these interconnected problems, neighborhoods need interconnected solutions.”⁷ The much-publicized “Promise Neighborhoods” initiative housed within the Department of Education,⁸ and “Choice Neighborhoods” initiative of the Department of Housing and Urban Development⁹ are among the Administration’s place-based efforts to support programs that address these interconnected issues. Such federal initiatives demonstrate a movement in policy circles toward an integrative justice paradigm, and provide practical models that could be replicated and supported at federal and state levels.

³ See Urban Issue Summary, THE WHITE HOUSE, <http://www.whitehouse.gov/issues/urban-policy> (last visited Sept. 30, 2010).

⁴ See *Urban Policy Working Group*, OFFICE OF URBAN AFFAIRS, <http://www.whitehouse.gov/administration/eop/oua/initiatives/working-groups> (last visited Sept. 30, 2010).

⁵ *Id.*

⁶ See Thomas Abt, Larkin Tackett & Luke Tate, *Urban Update: Neighborhood Revitalization*, OFFICE OF URBAN AFFAIRS (Aug. 3, 2010, 4:37 PM), <http://www.whitehouse.gov/blog/2010/08/03/urban-update-neighborhood-revitalization>.

⁷ *Id.*

⁸ See *Promise Neighborhoods*, U.S. DEP’T OF EDUC., <http://www2.ed.gov/programs/promiseneighborhoods/index.html> (last visited Sept. 30, 2010).

⁹ See *Choice Neighborhoods*, U.S. DEP’T OF HOUS. & URBAN DEV., <http://www.hud.gov/offices/pih/programs/ph/cn/> (last visited Sept. 30, 2010).

In the legislative arena, justice reinvestment and reentry initiatives have made significant headway in opening the eyes of state and federal policymakers to the connections between broader social and economic issues and recidivism. So far, these connections are being made on the back end of the criminal justice system, and have manifested themselves as policies aimed at diverting low-level, non-violent offenders from prison, enhancing the use and effectiveness of probation and parole, and providing more robust support to formerly incarcerated people as they leave prison. These are critically important reform efforts that can and should be continued. Moreover, they provide an entrée for broadening the ways in which policymakers think about the underlying causes of initial entry into juvenile and criminal justice systems, as well as front-end policy solutions.

A number of proposals currently pending in Congress further demonstrate a movement in policy circles toward less siloed policy responses to interrelated issues, and provide opportunities to broaden the policy discussion. For example, the proposed Youth Prison Reduction through Opportunities, Mentoring, Intervention, Support, and Education Act (Youth PROMISE Act), addresses issues on the front-end.¹⁰ Introduced in the 111th Congress by Congressmen Robert C. Scott (D-VA) and Mike Castle (R-DE) and Senators Robert Casey (D-PA) and Olympia Snowe (R-ME), this bipartisan legislation would provide critical resources to communities to engage in evidence-based comprehensive prevention and intervention strategies to decrease juvenile delinquency and criminal street gang activity.

The Youth PROMISE Act embodies the kind of balanced, collaborative strategy that is necessary to comprehensively address the underlying interrelated risk factors that fuel the prison pipeline. The Youth PROMISE Act shifts the policy focus away from punishment and toward intervention, reflecting the type of multidisciplinary methodology that research has demonstrated will yield huge savings through reductions in violence, delinquency and crime, and other criminal justice costs.¹¹ Using an interagency and community-based approach, the Youth PROMISE Act empowers Indian tribes and local governments of communities facing the greatest youth gang and crime challenges to form local Promise Coordinating Councils. These councils would bring local parents and youths together with representatives from law enforcement, court services, schools, social services, public housing, health and mental health providers, community-based organizations (including faith-based groups), and local chief executives' offices to develop comprehensive plans for implementing evidence-based prevention and intervention strategies.¹² The bill also provides for the hiring and training of youth-oriented police officers¹³ and offers grants to localities to fund police and community collaborative programs that provide crime prevention, research, and intervention services with the goal of directing at-risk youth away from criminal activity.¹⁴

¹⁰ H.R. 1064, 111th Cong. (2009); S. 435, 111th Cong. (2009).

¹¹ See RYAN S. KING, MARC MAUER & MALCOLM C. YOUNG, THE SENTENCING PROJECT, INCARCERATION AND CRIME: A COMPLEX RELATIONSHIP 8 (2005), available at http://www.sentencingproject.org/doc/publications/inc_iandc_complex.pdf.

¹² See H.R. 1064 § 202; see also Press Release, Congressman Robert C. Scott, Rep. Scott Introduces Youth PROMISE Act (Oct. 16, 2007), available at http://www.house.gov/list/press/va03_scott/pr_071016.html.

¹³ See H.R. 1064 §§ 401–405.

¹⁴ See *id.* §§ 200–223.

In describing his motivation to “effectively reduce crime and dismantle the Cradle to Prison Pipeline,” Congressman Scott has stated that he introduced the Youth PROMISE Act to “put[] evidence-based approaches to crime reduction into legislative practice,”¹⁵ and that “[t]his legislation implements the recommendations of researchers, practitioners, analysts, and law enforcement officials from across the political spectrum concerning evidence- and research-based strategies to reduce gang violence and youth crime.”¹⁶ He has stressed that “[f]or years, we have been codifying slogans and sound bites that do nothing to reduce crime,”¹⁷ but that “[w]hen it comes to crime policy, we have a choice – we can reduce crime or we can play politics.”¹⁸

B. “Tough on Crime” Policies Yield Diminishing Public Safety Returns at High Financial Cost

America’s “tough on crime” approach has resulted in an unprecedented expansion of the criminal justice system, such that the United States has become “the world’s leader in incarceration with 2.3 million people currently in the nation’s prisons or jails – a 500% increase over the past thirty years.”¹⁹ The rapid expansion of the sheer number of people incarcerated in the United States is attributable to a “dizzying array of influences” that impact how many people are incarcerated at any given time, including such policy-level decisions as moving from indeterminate to determinate sentencing; abolishing parole and adopting truth-in-sentencing requirements; passing three-strikes laws; and establishing sentencing guidelines.²⁰ The number and rate of growth are also impacted by the discretion judges, prosecutors, and corrections officials exercise in individual cases, and by larger forces at work in society.

A growing body of research suggests that America’s choice to incarcerate in the name of being “tough on crime” is not the most effective means of achieving public safety. While one might expect that incarcerating more people would have a positive effect on public safety and that “crime rates will decline as the number of people in prison increases, and . . . crime will increase if incarceration rates fall,”²¹ some researchers posit that “other social and economic factors, such as poverty rates and education levels, have a greater impact on crime than imprisonment rates,” and “[t]he general consensus among criminologists is that crime rates are the product of a complex set of factors, including but not limited to imprisonment.”²² While “major studies of the relationship between incarceration and crime show[] disparate findings,”

¹⁵ Robert C. Scott, *Investing in Our Nation’s Youth to Help Disrupt the ‘Cradle to Prison Pipeline’*, 10 CBCF NEWS 1 (Cong. Black Caucus Found., Wash., D.C.), Spring 2008, at 40, available at http://www.cbcfinc.org/images/pdf/newsletter/spring_08.pdf.

¹⁶ Scott, *supra* note 12.

¹⁷ *Id.*

¹⁸ Scott, *supra* note 15.

¹⁹ *Incarceration*, THE SENTENCING PROJECT, <http://www.sentencingproject.org/template/page.cfm?id=107> (last visited Sept. 30, 2010).

²⁰ PUB. SAFETY PERFORMANCE PROJECT, PEW CHARITABLE TRUSTS, PUBLIC SAFETY, PUBLIC SPENDING: FORECASTING AMERICA’S PRISON POPULATION 2007-2011 iv, 3 (2007), available at <http://www.pewcenteronthestates.org/uploadedFiles/Public%20Safety%20Public%20Spending.pdf>.

²¹ *Id.* at 23.

²² *Id.*

there appears to be a consensus in the research that increased incarceration rates have some effect on reducing crime, accounting for perhaps 25% of the drop in crime during the 1990s.²³

However, research also makes clear that “continued growth in incarceration will prevent considerably fewer, if any, crimes than past increases did and will cost taxpayers substantially more to achieve.”²⁴ This “tipping point of ‘diminishing returns’ from our investment in prisons” is attributable to the expansion of incarceration by states, which now imprison people with shorter criminal records than in the past, such that “[i]ncreasing the proportion of convicted criminals sent to prison . . . has produced diminishing marginal returns in crime reductions.”²⁵ “This does not mean an absence of returns – just that the benefit to public safety of each additional prisoner consistently decreases.”²⁶

Moreover, America’s choice to incarcerate and the resulting rapid growth in prison populations are expensive. Between 1982 and 2003, national spending on criminal justice increased from \$36 billion to \$186 billion, with over \$61 billion allocated to local, state, and federal corrections.²⁷ Corrections spending grew by more than 570%, faster than any other aspect of the criminal justice system.²⁸ Growth in incarceration is not expected to dissipate: based on national and state estimates and trends, it is expected that state and federal prison populations will increase by 192,000 over the next five years,²⁹ costing as much as \$27.5 billion over that same period.³⁰

Even before the full force of the current economic recession hit, these fiscal projections had significant implications for other state spending priorities. Prisons are the fourth-largest state budget item, behind health, education, and transportation.³¹ At a time of significant budget shortfalls, corrections budgets account for 6.8% of all state budgets – one in every 15 dollars in the states’ main pool of discretionary money.³² This figure is expected to increase as prison populations rise and further limit the pool of available public resources for education, healthcare, and other state spending priorities.³³ The “diminishing returns” of incarceration further exacerbate the tension between the fiscal impact of criminal justice policy choices and other state spending priorities. Criminal justice policy choices that impact incarceration trends also have

²³ *Id.* at 24.

²⁴ *Id.* (quoting DON STEMEN, VERA INST. OF JUSTICE, RECONSIDERING INCARCERATION: NEW DIRECTIONS FOR REDUCING CRIME i (2007), available at http://employees.oneonta.edu/ostertsf/ReconsideringIncarceration_VeraInstitute.pdf).

²⁵ *Id.*; see also KING, MAUER & YOUNG, *supra* note 11, at 6 (as prison systems expand, an increased number of people convicted of lower-rate offenses are drawn into the system and an equal amount of resources are spent per person, but the state receives less return on its incarceration investment in terms of declining crime rates).

²⁶ PUB. SAFETY PERFORMANCE PROJECT, *supra* note 20, at 24.

²⁷ *Id.* at 2.

²⁸ *Id.*

²⁹ *Id.* at 9.

³⁰ *Id.* at 18.

³¹ *Id.* at 25.

³² PUB. SAFETY PERFORMANCE PROJECT, PEW CHARITABLE TRUSTS, ONE IN 100: BEHIND BARS IN AMERICA 2008 14 (2008), available at

http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/sentencing_and_corrections/one_in_100.pdf.

³³ See *id.* at 21.

negative impacts on families and communities, and contribute to increased recidivism and future criminality.³⁴

Spending priorities dictated by tough on crime policies have left insufficient resources to adequately support those programs and services that would better address the underlying risk factors for criminal and delinquent conduct. Consider this analysis from Congressman Scott:

If you target the money to where it's needed – to the one-third of children at risk – you can spend \$10,000 per child per year getting them on the right track and keeping them on right track. Or you could . . . just wait 'til they mess up, drop out of school, join a gang, and spend \$10,000 per year . . . just in incarceration that has been shown to be counterproductive. We know, on the other hand, how you can actually use that money more constructively. We know . . . you can create a cradle to college or cradle to workforce pipeline cheaper than you're wasting in counterproductive incarceration.³⁵

As Congressman Scott's analysis suggests, continuing a policy that invests limited public resources in building more prisons and jails in which to house those who commit crimes, instead of a policy that invests in the social and economic infrastructure that would decrease the likelihood that those same individuals would commit crime in the first place, can only be described as absurd. Indeed, the limits and irrationality of the prevailing tough on crime paradigm have led an increasing number of policymakers and law enforcement officials to acknowledge that "we cannot prosecute our way out of this challenge,"³⁶ nor can we "jail [our] way out of a problem like this."³⁷

C. Recession-Driven Budget Cuts Hinder Existing Evidence-Based Prevention Efforts to the Detriment of Children and Vulnerable Populations

Addressing the shortcomings of current policy approaches is all the more urgent in the face of what has been described as "the worst financial crisis since the Great Depression."³⁸ According to the National Conference of State Legislatures, in an effort to close an overall budget gap of \$174.1 billion in FY2010 and anticipated budget shortfalls of \$89 billion next

³⁴ KING, MAUER & YOUNG, *supra* note 11, at 7.

³⁵ Congressman Robert C. Scott, Remarks at the American Constitution Society Panel on Reorienting Federal Criminal Justice Policy (Dec. 9, 2009), *available at* <http://www.acslaw.org/node/15000>.

³⁶ Walter M. Beglau, Dist. Att'y, Marion Cnty., Or., Remarks at the American Constitution Society Panel on Reorienting Federal Criminal Justice Policy (Dec. 9, 2009), *available at* <http://www.acslaw.org/node/15000>.

³⁷ Senator Jim Webb, Remarks at the American Constitution Society Panel on Reorienting Federal Criminal Justice Policy (Dec. 9, 2009), *available at* <http://www.acslaw.org/node/15000>.

³⁸ Liz Willen, *Hard Times Derail Growth of State-Funded Preschool*, EDUCATION WEEK (May 4, 2010), http://www.edweek.org/ew/articles/2010/05/04/31preschool_ep.h29.html?tkn=MOBFpZtM24MRYFzbUzT6dz8IMmxnaEZNW%2FHh&cmp=clp-ecseclips (describing financial struggles of early-education programs documented in annual survey of state-funded programs by National Institute of Early Education Research at Rutgers University); *see also* Elizabeth McNichol, Phil Oliff & Nicholas Johnson, *Recession Continues to Batter State Budgets; State Responses Could Slow Recovery*, CTR. ON BUDGET & POLICY PRIORITIES, 1 (July 15, 2010), <http://www.cbpp.org/files/9-8-08sfp.pdf>.

year, states across the country have been forced to make historic cuts, including “slashing services to the one population they have long protected: children.”³⁹ Even a cursory review of available data reveals the unprecedented scope of cuts to programs that address the underlying risk factors for delinquent and criminal conduct, and that have long been linked to improved outcomes for children and families. For example:

- The budget for Hawaii’s nationally recognized child-abuse prevention program, Healthy Start, has been reduced over the past several years from \$15 million to \$1.3 million.⁴⁰
- Oklahoma’s health department is shutting 17 of its 33 guidance centers where children with behavioral problems can be assessed.⁴¹
- When combined with 2009 budget cuts, Illinois’s proposed budget could lead to a 24% reduction in funding for early childhood education, resulting in 23,000 children losing eligibility.⁴²
- Illinois is also poised to reduce community mental health programs by almost 24%, triggering an additional loss of federal funds that will, when combined, result in a 40% cut in funding for FY2011 and end mental health services for over 74,000 people in Illinois, including over 4,000 children who need medication and psychiatric visits.⁴³
- Thirty-three states and the District of Columbia have cut K-12 education funding in 2008 and 2009, with further cuts expected.⁴⁴
- Clayton County, Georgia (a suburb of Atlanta), shut down its entire public bus system starting April 1, 2010, stranding 8,400 daily riders, and impacting the ability of many to commute to and from work.⁴⁵

³⁹ Don Babwin, *States’ budget woes hitting programs for kids hard*, ASSOCIATED PRESS, May 16, 2010, available at <http://www.bet.com/News/BudgetWoesHitKids.htm?cid=idnb>.

⁴⁰ *Id.*; cf. BEANE, *supra* note 1, at 24 (describing research that links child abuse and neglect with significant risk for future delinquent/criminal behavior).

⁴¹ Babwin, *supra* note 39; cf. BEANE, *supra* note 1, at 21-23 (describing individual risk factors for future delinquent or criminal conduct, including antisocial behavioral problems).

⁴² *Illinois Law Enforcement Leaders: Cutting Preschool Funding Today Means Bigger Prison Costs Tomorrow*, FIGHT CRIME: INVEST IN KIDS (Apr. 15, 2010), <http://www.fightcrime.org/page/illinois-law-enforcement-leaders-cutting-preschool-funding-today-means-bigger-prison-costs-tom-0> (quoting law enforcement leaders as saying “The research speaks for itself. We can either invest in preschool classrooms now and prevent crime, or wind up spending more on prison cells and cleaning up after tragedies.” “The numbers make it crystal clear: compared to incarceration, preschool is a bargain.”).

⁴³ See Lorrie Rickman Jones, *Illinois Department of Human Services Division of Mental Health FY2011 Budget Impact*, http://cca-il.site-ym.com/resource/resmgr/advocacy/mental_health_fy_11_budget_i.pdf (last visited Sept. 30, 2010).

⁴⁴ Nicholas Johnson, Phil Oliff & Erica Williams, *An Update on State Budget Cuts: At Least 46 States Have Imposed Cuts That Hurt Vulnerable Residents and the Economy*, CTR. ON BUDGET & POLICY PRIORITIES 1, 4 (Aug. 4, 2010), <http://www.cbpp.org/files/3-13-08sfp.pdf>; cf. BEANE, *supra* note 1, at 25-27 (describing research that links educational attainment with delinquent and criminal conduct).

⁴⁵ Michael Cooper, *Budget Ax Falls, and Schools and Streetlights Go Dark*, N.Y. TIMES, Aug. 7, 2010, at A1.

These examples are indicative of cuts to education, mental health, youth development, early childhood, child welfare, and other programs in almost every state in the country – cuts to already cash starved programs, which further decrease states’ ability to meet human and social service needs just when those needs are increasing.⁴⁶ The long-term juvenile and criminal justice impacts of these budget and policy decisions have yet to be adequately projected, but are certain to be felt for decades to come. As one expert noted, “We’re looking at all these cuts in human services – in health care, in education, in after-school programs, in juvenile justice. This all points to a very grim future for these children who seem to be taking the brunt of this financial crisis.”⁴⁷

Moreover, the impact of the economic crisis is not limited to those who officially live below the poverty line. High unemployment rates and the continuing foreclosure crisis have increased economic instability in the middle class.⁴⁸ Many in the middle class now find themselves facing similar challenges as those who live in lower income communities, living paycheck to paycheck with inadequate access to jobs and housing.

Against this backdrop of state budget crises and more widespread economic vulnerability across middle class and low-income populations, some federal policymakers are loudly calling for sharp domestic spending limits in the name of “fiscal restraint” and “deficit reduction.” Strong arguments, however, have been set forth that short-term deficit reduction must take a backseat to putting people back to work and restoring the economy. One such analysis notes, “Persistently high unemployment drives poverty up, makes it harder for families to find decent housing, increases family stress, and, ultimately, harms children’s educational achievement.”⁴⁹ Each of these impacts is a known, documented risk factor for delinquent or criminal conduct, and ultimately for contact with juvenile and criminal justice systems. These same authors note further, “We must be careful to maintain the type of public investments that can help fuel broad-based economic growth while strengthening the safety net for our most vulnerable populations.”⁵⁰

Even within the tight budget constraints that exist, the challenges we face in communities across the country and their potential impact on public safety demand that we prioritize opportunities to strengthen our domestic programs, policies, and infrastructure around an integrative, inclusive, interdisciplinary approach – around a national domestic policy strategy that embraces an integrative justice paradigm.

⁴⁶ Johnson, Oliff & Williams, *supra* note 44, at 1 (“The cuts enacted in at least 46 states plus the District of Columbia since 2008 have occurred in all major areas of state services At the same time, the need for these services did not decline and, in fact, rose as the number of families facing economic difficulties increased.”).

⁴⁷ Bob Herbert, *A Ruinous Meltdown*, N.Y. TIMES, Mar. 20, 2010, at A17 (quoting Irwin Redlener, M.D., president of the Children’s Health Fund); *see also* McNichol, Oliff & Johnson, *supra* note 38, at 7 (“To date, budget difficulties have led at least 45 states to reduce services to their residents, including some of their most vulnerable families and individuals.”).

⁴⁸ *See, e.g.*, James Kvaal & Ben Furnas, *Recession, Poverty and the Recovery Act: Millions are at Risk of Falling Out of the Middle Class*, CTR. FOR AM. PROGRESS (Feb. 11, 2009), http://www.americanprogress.org/issues/2009/02/middle_class_report.html.

⁴⁹ Lawrence Mishel & David Walker, *Address jobs now and deficits later*, POLITICO (Feb. 24, 2010), <http://www.politico.com/news/stories/0210/33444.html>.

⁵⁰ *Id.*

II. BALANCING THE LEDGER: THE INTEGRATIVE JUSTICE PARADIGM

[W]e need to be aggressive in combating both crime as well as the causes of crime. Neglect, apathy, and insufficient attention to prevention are among those causes. Without a proactive focus to prevent crime by addressing its causes, a reactive, expensive focus only on one side of the ledger is not going to benefit the American people.⁵¹

As we begin a new decade for America, we face daunting economic challenges contemporaneously with the need to address domestic policy issues that have been neglected for far too long. “Tough on crime” policies and decision-making paradigms represent the kind of reactive and expensive focus on only one side of the ledger that has not benefited the American people. The adoption of an integrative justice paradigm and the implementation of integrative justice strategies are necessary if we are to balance America’s approach to ensuring public safety, and combat the underlying causes of crime just as aggressively as we currently combat crime itself.

A. Integrative Justice: The Concept

An integrative justice paradigm is a conceptual framework for making policy decisions that utilizes multidisciplinary analysis, research, collaboration, and problem-solving to address the underlying, interrelated social and economic issues that fuel cycles of incarceration, and to create safe, fair, and equitable communities in which all are able to thrive, particularly those at greatest risk for court involvement. While recognizing the need for effective policing and law enforcement, an integrative justice paradigm shifts the policy focus to the front-end of the criminal justice continuum to address the systemic inequities and structural barriers related to education, economic opportunity, poverty, housing, family, child welfare, race, substance abuse, and mental health that underlie the cycle of incarceration. An essential component of this approach is collaboration across agencies, systems, and sectors, which requires the intentional staffing and facilitation of cross-sector dialogue, information-sharing, goal-setting, and problem-solving.

This approach is, at its core, an effort to shift the way we think about crime prevention and the way we expend limited resources to ensure public safety. Rather than continued escalation of policing, incarceration, and corrections expenditures, an integrative justice paradigm seeks a more balanced approach to public safety through human service and community-strengthening investments that would better address the individual, family, school, peer group, and environmental risk factors for delinquent and criminal behavior. This approach prioritizes investments in programs, services, and policies that build protective factors and promote resilience by emphasizing prevention, intervention, and effective delivery of needed services in such areas as early childhood development, education, child welfare, family support,

⁵¹ Mariano-Florentino Cúellar, Special Assistant to the President for Justice & Regulatory Policy, Remarks at the American Constitution Society Panel on Reorienting Federal Criminal Justice Policy (Dec. 9, 2009), *available at* <http://www.acslaw.org/node/15000>.

engagement of disconnected youth, public health, housing, career training, and economic opportunity.

The advantages of an integrative justice paradigm are clear. This approach enables each agency, system, and sector within the broader field of domestic policy to work toward the common goals of supporting the healthy development of individuals, families, and communities; of ensuring the safety of our communities; and of using our limited public resources cost-effectively and cost-efficiently. The policies and programs that most effectively accomplish these common goals are those that promote protective factors and decrease risk for delinquent or criminal conduct, thereby achieving the positive outcomes of enhanced public safety and decreased reliance on incarceration. As stated aptly by Congressman Scott, “Research clearly demonstrates that a comprehensive approach – a strategy of prevention, early intervention, and rehabilitation – will significantly reduce crime and usually save more money than you spend in the process.”⁵²

The multidisciplinary infrastructure of an integrative approach bridges divides between criminal justice, juvenile justice, youth development, housing, health, education, child welfare, faith, and social justice communities to marshal otherwise disconnected stakeholders and policy solutions to address the range of social and economic issues that converge at the front-end of the criminal justice continuum to increase risk of court involvement. As has been observed, this is the “real key with the integrative approach. It’s not just looking through the lens of a criminal justice perspective, but it’s looking across all of those social domains.”⁵³

Articulation of a comprehensive, national integrative justice framework in the United States would offer policymakers a significant opportunity to better understand the causes of crime and to craft and invest in effective policy and programmatic responses. Such a framework would draw on existing models (*e.g.*, health promotion, positive youth development, justice reinvestment, opportunity, inclusion, and crime prevention through social development) to allow advocates, researchers, service providers, policymakers, and others to communicate and collaborate more effectively with each other regarding domestic policy reforms. An integrative approach thereby offers the opportunity to develop the kind of cohesive, cross-sector strategies that seem so elusive in this era of escalating incarceration and corrections costs, but that could make a significant difference in breaking the cycle of incarceration in socio-economically vulnerable communities.

B. Implementing an Integrative Justice Strategy: Guiding Principles and Policy Recommendations

The following guiding principles and policy recommendations have the potential to significantly advance emerging trends toward a more integrative justice paradigm, while remedying the shortcomings of prevailing policy approaches.

⁵² Scott, *supra* note 35.

⁵³ Gina E. Wood, Dir. of Policy & Planning, Joint Ctr. for Political & Econ. Studies, Remarks at the American Constitution Society Panel on Reorienting Federal Criminal Justice Policy (Dec. 9, 2009), *available at* <http://www.acslaw.org/node/15000>.

1. *Balance investments in law enforcement, courts, and corrections with investments in human service and community-strengthening programs that address risk factors for delinquent and criminal conduct*

The most critical step policymakers should take to better ensure public safety is to find a more appropriate balance between fighting crime on the one hand, and combating the causes of crime on the other. This requires increased public investment in social and human services that prevent crime by addressing the risk factors for delinquent and criminal conduct. This should include investments in safe and affordable housing, high quality education, early childhood development, comprehensive healthcare, prevention of child abuse and neglect, robust non-discriminatory employment opportunities, job training, and a host of other programs and services. A strong social and economic infrastructure is essential, and should include an adequately-resourced social safety net to protect those at greatest risk for contact with juvenile and criminal justice systems, particularly in this time of continuing economic crisis.

In furtherance of these objectives, the Administration should continue its efforts to align funding and programs across agencies to support federal, state, and local efforts to maximize public safety outcomes. The Administration should continue to focus on supporting place-based solutions, with specific emphasis on the provision of needed health and human services that are accessible, are provided in the community, and are adequately-resourced to respond to the true scope of need that exists. This should include access to treatment for substance abuse and mental health issues.

A number of Administration initiatives and legislative proposals provide ready-made opportunities for bringing greater balance to America's approach to ensuring public safety. The Youth PROMISE Act and the Promise Neighborhoods, Choice Neighborhoods, and Neighborhood Revitalization initiatives (referenced in preceding sections of this Issue Brief) provide opportunities to bring the potential of an integrative justice paradigm to reality. In addition, the "Social Innovation Fund" targets millions of dollars "in public-private funds to expand effective solutions" in the areas of economic opportunity, healthy futures, and youth development and school support, in order to "directly impact thousands of low-income families and create a catalog of proven approaches that can be replicated in communities across the country."⁵⁴ These existing legislative proposals and Administration initiatives provide a means to aggressively combat the causes of crime while strengthening communities.

In addition, federal and state legislatures should require that legislative proposals include an "integrative justice impact statement." Such a provision would require legislative proposals to articulate the impact proposed policies or expenditures would have on incarceration rates and corrections spending; the impact increased law enforcement or corrections spending or changes in criminal law would have on the availability of funds for social and human services that address underlying risk factors for delinquent and criminal conduct; and an assessment of the extent to which the proposed legislation furthers the goal of balancing investments in law enforcement and corrections with investments in prevention and intervention programs. Explicit articulation of these impacts would provide policymakers and the American public with a more

⁵⁴ See *Social Innovation Fund*, CORP. FOR NAT'L & CMTY. SERV., <http://www.nationalservice.gov/about/serveamerica/innovation.asp> (last visited Sept. 30, 2010).

holistic view of proposed legislation, and provide a basis for making policy decisions on the basis of data rather than sound bites and slogans.

2. *Strengthen and sustain the work of the Office of Urban Affairs through a White House Initiative on Prevention and Integrative Justice*

The White House Office of Urban Affairs (OUA) has played a pivotal role at the federal level in coordinating and implementing the type of interdisciplinary, cross-agency policies and projects that are necessary to strengthen communities and support the healthy development of those at greatest risk for juvenile and criminal court involvement. Given the on-going work of the Inter-Agency Working Group, OUA is uniquely situated to play a strong leadership role in translating the theoretical framework of an integrative justice paradigm into practice within the White House, in Congress, across federal agencies, and at local, state, and regional levels.

In order to strengthen and sustain this important work, the director of OUA should designate a National Advisor on Prevention and Integrative Justice⁵⁵ to provide leadership, expertise, and guidance on juvenile and criminal justice prevention policies through a focused White House Initiative on Prevention and Integrative Justice. The national advisor should be provided with the appropriate staff, budget, and authority to undertake the following:

- Model an integrative approach by working with a multidisciplinary advisory group, comprised of members from such fields as education, health, housing, economic opportunity, child welfare, juvenile justice, and criminal justice to identify and promote policies and programs that would decrease risk of delinquent and criminal conduct in the most socio-economically challenged communities.
- Support the on-going work of the Inter-Agency Working Group by encouraging cross-agency and cross-disciplinary communication and collaboration through convenings and policy discussions.
- Develop a National Integrative Justice Strategy (see Recommendation 3 below).
- Increase policymaker understanding of the interconnections between the issues with which each agency deals and the cycle of incarceration.
- Coordinate policy and programmatic efforts across federal agencies aimed at aligning resources and programs to more effectively address the risk factors for crime.
- Liaise with the White House advisor on justice issues and the Department of Justice (in particular the Office of Justice Programs and the Office of Juvenile Justice and Delinquency Prevention).
- Identify specific legislative proposals across a range of issue areas (education, criminal justice, housing, healthcare, economic opportunity, child welfare, etc.) that reflect the

⁵⁵ The creation of the position is key, not the exact title.

integrative approach to justice described above and decrease the government's reliance on incarceration as the primary response to public safety concerns.

- Provide leadership that will promote integrative approaches at all levels of government and policymaking.

Additionally, the OUA director should establish a multidisciplinary National Advisory Council on Prevention and Integrative Justice to provide the national advisor with an unparalleled resource of experts from a range of disciplines to advise the Administration on key prevention policies. Experts appointed to this council should be leaders in the fields they represent, knowledgeable about the inter-connections between social and economic issues and the cycle of incarceration, as well as the ways in which federal policy can be used to remedy these issues. Council members should also be willing to serve as spokespersons and advocates for the goals of the initiative, both within their disciplines and in the broader policy realm. Such a White House initiative within an office focused on urban policy would send a strong message to policymakers at the federal, state, and local levels that effectively addressing the underlying social and economic issues that fuel the cycle of incarceration is a national priority, is a more cost-effective means of promoting public safety, and requires strong multidisciplinary communication and collaboration.

3. *Develop and formally adopt a National Prevention and Integrative Justice Strategy*

Crime and violence play a profound role in urban areas, and U.S. criminal justice policies continue to have an acute and disproportionate impact on low income communities and communities of color living in urban areas. These facts, which have been extensively briefed elsewhere, suggest that justice and public safety issues should be integral components of the White House's efforts to revitalize America's urban areas and an integral part of the national dialogue about urban policy and domestic spending. Accordingly, the Office of Urban Affairs should be tasked with developing and formally adopting a national criminal justice strategy that embraces an integrative justice paradigm.

The goals of a National Prevention and Integrative Justice Strategy would be to (1) ensure the safety of our communities through policies and programs that balance investments in law enforcement, courts, and corrections with investments in human service and community-strengthening programs and services that address risk factors for delinquent and criminal conduct; (2) create safe, fair, and equitable communities in which all are able to thrive, particularly those at greatest risk for court involvement; and (3) ensure the cost-effective and cost-efficient use of limited public resources. Related objectives, tactics, and benchmarks should be established with multidisciplinary input through the auspices of either the existing Inter-Agency Working Group or the White House Initiative on Prevention and Integrative Justice proposed in the preceding recommendation.

To more fully develop the essential components of a national strategy, a White House Summit on Prevention and Integrative Justice should also be convened to provide a forum for researchers, service providers, academics, advocates, and policymakers from across the

disciplinary spectrum to “drill down” into the issues and to inform the policies and strategies adopted by the Administration to address domestic policy challenges, prevent delinquent and criminal conduct, enhance public safety, and more effectively respond to the serious economic and social crisis that exists in America’s urban areas.

While much related to criminal justice happens at the local and state levels, federal leadership is both appropriate and necessary. The interconnected issues that fuel the cycle of incarceration are the same domestic policy issues that for decades have received short shrift in public policy debates at all levels of government. Federal leadership would send a strong message to the many individual county, municipal, and state jurisdictions that an integrative approach to justice is a national priority, is a more effective means of ensuring public safety, and addresses community and state fiscal needs.

4. Support integrative approaches at local, state, and regional levels

Building healthy communities – communities with functional systems of education, justice, housing, healthcare, economic development, child welfare, and family support – is critical to supporting the development of healthy families and healthy individuals, and requires the use of integrative approaches at local, state, and regional levels. The impact of public investments in the community-level systems and structures that support such healthy development are potentially profound, and include: improved public safety; decreased corrections and criminal justice expenditures; decreased poverty; an expanded workforce; and increased tax revenue.

A number of steps can be taken to support integrative approaches at local, state, and regional levels. For instance, federal grants provide critical resources, and in so doing are an important mechanism for advancing policy priorities. The federal government should introduce an “integrative justice” element into all federal grant solicitations related to domestic policies and programs to require multi-sector collaboration in proposal development and project implementation. Federal grant solicitations should also require that all requests for federal grant dollars address domestic issues include an “integrative justice impact statement” and evaluation components that address the proposed program’s impact on the criminal and juvenile justice systems (*e.g.*, the extent to which a proposed program decreases such things as school disciplinary referrals, incarceration rates, recidivism rates, disproportionate minority confinement, and other racial disparities); how the program will help address the needs of those most at risk for future court involvement; and how the program will help people who have already been justice-involved.

Steps should also be taken to provide technical assistance and informational resources to support cross-system collaboration at the local and community levels. Transforming the theoretical concept of multidisciplinary, cross-sector collaboration into practice is difficult, particularly at the local level where direct service providers and community based organizations face a host of everyday challenges as they seek to make a difference in the lives of the people they serve. As noted earlier in this Issue Brief, OUA has spent considerable effort coordinating an Inter-Agency Working Group to focus on initiatives that “embody a holistic and integrated

approach to urban policy.”⁵⁶ The efforts of the Inter-Agency Working Group are ripe for study and evaluation, with an eye toward creating informational resources that: (a) document the goals and objectives of the multi-agency working groups, the processes utilized to facilitate the working group, challenges encountered, lessons learned, and outcomes achieved; (b) identify “best practices” related to collaborating across disciplines, systems, and government agencies; and (c) make recommendations for replicating these models. The ongoing federal effort could thus provide guidance for similar efforts at local, state, and regional levels.

Pilot projects provide another avenue for supporting integrative approaches at local, state, and regional levels. Existing federal grant funds, potentially drawn from grant programs in multiple agencies, should be used to convene and support the development, facilitation, assessment, and eventual replication of integrative justice councils or working groups in urban areas. Modeled after OUA’s Inter-Agency Working Group, these pilot projects would implement an integrative justice strategy to address local challenges and build healthy communities. The Office of Urban Affairs is ideally situated to provide technical assistance and informational resources to support such cross-system collaboration.

5. *Create a national cross-sector, multi-agency center on evidence-based practices*

Policymakers at all levels of government have given increasing attention to the concepts of “evidence-based programs” and “promising innovations” over the past several years. This is a positive development, as it signals a move toward more accountability, responsibility, and effectiveness in policymaking and the administration of public funds. However, there are no uniform definitions or criteria across sectors for these concepts, and many programs lack sufficient financial resources and technical expertise to demonstrate success as an evidence-based practice. This causes several issues of concern: the pool of evidence-based practices and promising innovations remains unduly restricted, leaving policymakers with fewer options from which to choose as they seek to solve problems; inconsistent definitions and criteria inhibit the ability of policymakers to truly know that something is “evidence-based,” thus undermining their ability to make better and more informed decisions; and programs that do effectively achieve results cannot access funding streams because they lack the resources and expertise to demonstrate their success.

Moreover, as this Issue Brief has made clear, a host of interrelated social and economic issues contribute to crime, suggesting that a similarly broad base of programs and services across a range of disciplines could enhance public safety. The sheer volume of information about “what works” is overwhelming, inhibiting the ability of policymakers at all levels to implement an integrative justice approach. Combined, these issues threaten to undermine the ability of the Administration to “find those programs that work, to support them, and to make sure that they get the attention they deserve.”⁵⁷ They also undermine efforts to move from patronage in earmark and budget processes toward more accountable and responsible policymaking.

⁵⁶ OFF. OF URB. AFF. (Sept. 30, 2010), <http://www.whitehouse.gov/administration/eop/oua>.

⁵⁷ Cúellar, *supra* note 51.

In response to these issues, the federal government should create a national multi-agency center on evidence-based practices to provide critical resources of information, technical assistance, and financial support to the field to increase the number of rigorously-assessed evidence-based practices and promising innovations that could produce positive public safety outcomes. Increased federal resources would assist community-level and direct-service programs in assessing their impact and effectiveness, and support their development as evidence-based practices. Such a center could provide technical assistance in the crafting of proposals and implementation of programs to maximize positive outcomes. Inclusion of funding for assessment of promising innovations in the Department of Education's "Investing in Innovation Fund" (I3) and other federal grant solicitations is a positive step in this direction that should be continued.

A national center would also address the needs of policymakers by serving as a central repository of knowledge and information from the various departments, systems, and disciplines that impact the cycle of incarceration, and by providing guidance as policymakers seek integrative solutions to pressing domestic policy challenges. Such a center could help to ensure that federal funding supports those evidence-based practices, promising programs, and local innovations that will most effectively decrease risk, thereby enhancing public safety and decreasing the numbers of people in prisons and jails. The center would build upon initiatives such as the Department of Justice's "Evidence Integration Initiative" (E2I), "an ongoing, agency-wide effort to integrate science and research into . . . programs"; to use evidence "to inform both program and policy decisions at every level"; and "to develop[] an information clearinghouse that will distill criminal and juvenile justice evidence and get it out to the field."⁵⁸

To help ensure that its work and any resulting policy recommendations are academically rigorous, practically grounded, and broadly applicable, the center should include representation from multiple agencies, disciplines, and systems, as well as representation from research, service delivery, and policymaking communities. While a multi-sector approach may make the process more challenging, it will ultimately help to ensure that the center's recommendations and resources are principled, practical, and effectively utilized.

III. CONCLUSION

Up to recently, we have proceeded from a premise that poverty is a consequence of multiple evils: lack of education restricting job opportunities; poor housing which stultified home life and suppressed initiative; fragile family relationships which distorted personality development. The logic of this approach suggested that each of these causes be attacked one by one. Hence a housing program to transform living conditions, improved educational facilities to furnish tools for better job opportunities and family counseling to create better personal adjustments were designed. In

⁵⁸ *Justice Resource Update: Advancing the Field of Criminal Justice, Understanding and Using Evidence-Based Practices*, OFFICE OF JUSTICE PROGRAMS (June 2010), <http://www.ojp.usdoj.gov/justiceresourceupdate/june2010/index.htm>.

combination these measures were intended to remove the causes of poverty.

While none of these remedies in itself is unsound, all have a fatal disadvantage. The programs have never proceeded on a coordinated basis or at a similar rate of development They have been piecemeal and pygmy At no time has a total, coordinated and fully adequate program been conceived. As a consequence, fragmentary and spasmodic reforms have failed to reach down to the profoundest needs of the poor.⁵⁹

Although written more than 40 years ago in discussing strategies to abolish poverty, these words of Dr. Martin Luther King, Jr., still ring with truth and clarity today. What is needed now, more than ever, is a shift in how we think about domestic policy – from compartmentalized, siloed, fragmentary thinking toward a comprehensive understanding of the interconnections between issues and toward coordinated, integrative solutions.

Recent Administration initiatives and legislative proposals reflect the beginnings of a movement away from siloed policy responses and toward an integrative justice paradigm that addresses the systemic disparities and structural inequities underlying the cycle of incarceration. These are positive steps in the right direction that must be continued even in the face of current budgetary pressures. Rather than bowing to those who would divest federal funds from proven programs and interventions in the name of deficit reduction and fiscal restraint, now is the time to invest in the social infrastructure that can support economic growth and opportunity over the long haul. Now is the time to ensure that accountable and effective programs and services are available to support those born into the recession generation and who are at increasing risk of contact with juvenile and criminal justice systems during their lifetimes.

We have before us an opportunity for transformational change – a moment in time that lends itself to fundamental, positive change with respect to the way domestic policy decisions are made, and the way in which government invests limited public resources. This is a moment of significant challenge, and also a moment of significant opportunity. The stakes have never been higher, both with regard to the devastating impact that America’s criminal justice policies have on low income communities and communities of color, and with regard to the budgetary implications of continued utilization of incarceration as our primary means of addressing crime.

America indeed stands at a crossroads. Will we choose to perpetuate costly and ineffective “tough on crime” policies? Or will we choose to invest in a social and economic infrastructure that will better respond to human and community needs for generations to come? The answers to the daunting challenges before us do not lie in throwing good money after bad to build more prisons and jails, or in throwing up our hands and hoping the problems will go away. The answers lie in drawing on the American ingenuity that has always allowed us to solve our problems, and throwing our weight and political will behind policies that will move us forward even in the face of adversity. Reorienting U.S. policy toward an integrative justice paradigm is a critical step in charting our course forward.

⁵⁹ MARTIN LUTHER KING, JR., WHERE DO WE GO FROM HERE: CHAOS OR COMMUNITY? (1967).