

Restorative and Transformative Justice in a Land of Mass Incarceration

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CHRISTIAN THEOLOGIANS AND ETHICISTS have appealed to restorative justice as a viable alternative to prisons and as central to an adequate response to mass incarceration. For example, in his foundational text *The Protestant Ethic and the Spirit of Punishment*, Richard Snyder turns to restorative justice as “one of the most hopeful developments in the past few decades” in terms of creating alternatives to prisons.¹ He grounds his argument theologically by finding within these practices a source of “amazing grace,” in contrast to a stunted sense of grace that he finds in many contemporary Protestant theologies and that he names as consistent with the punitiveness of our criminal justice systems. Similarly, biblical scholar Christopher Marshall ends his book *Beyond Retribution* by arguing, “Restorative justice cannot manufacture repentance and forgiveness. But by placing a concern for the healing of hurts, the renewal of relationships, and the re-creation of community at the heart of its agenda, it makes room for the miracle of forgiveness to occur and for a new future to dawn. Nothing could be more compatible with the message of the New Testament than this.”² In *Good Punishment?*, ethicist James Samuel Logan calls restorative justice a “countercultural model of criminal justice.” He continues, “One of the best contemporary social experiments bringing a deep concern about crime and punishment together with the cultivation of better Christian (and ‘non-Christian’) participation in efforts to ontological intimacy can be seen in the work done under the name ‘restorative justice’.”³ The title of my first book, *Restorative Justice: Theories and Practices of Moral Imagination*, gives away my own advocacy of restorative justice.⁴ The

¹ T. Richard Snyder, *The Protestant Ethic and the Spirit of Punishment* (Grand Rapids: Eerdmans, 2001).

² Christopher D. Marshall, *Beyond Retribution: A New Testament Vision for Justice, Crime, and Punishment* (Grand Rapids: Eerdmans, 2001), 284.

³ James Samuel Logan, *Good Punishment? Christian Moral Practice and U.S. Imprisonment* (Grand Rapids: Eerdmans, 2008), 228-9.

⁴ Amy Levad, *Restorative Justice: Theories and Practices of Moral Imagination* (El Paso: LFB Publishing, 2011).

leadership of many Christian denominations echo these calls for restorative justice as an alternative to incarceration, including the U.S. Conference of Catholic Bishops, the Churchwide Assembly of the Evangelical Lutheran Church of America, and the General Conference of the United Methodist Church.⁵ While none of these authors, myself included, restricts their recommendations for alternatives to mass incarceration to restorative justice alone, it is striking how common this recommendation is among theologians, ethicists, and denominational leaders.

Studies revealing the effectiveness of some restorative justice programs in reducing recidivism rates and empowering people to return to their communities as healthy and functional neighbors and citizens suggest that this turn to restorative justice is well founded in criminological evidence.⁶ For example, one model of restorative justice, circles of support and accountability (CoSA), connects to the risk-need-responsivity (RNR) model of rehabilitation. CoSA, which I will describe in more detail below, are now used in the United Kingdom, some U.S. jurisdictions, and throughout Canada. Evaluations of the RNR model of rehabilitation demonstrate strong decreases in rates of reoffending, especially when compared with receiving no treatment (a common situation in U.S. prisons). While incarceration alone can increase rates of recidivism, RNR programs can decrease reoffending by about 25-30 percent.⁷ The innovation of CoSA is that these circles have integrated the advances of evidence-based rehabilitative programs with a restorative justice framework, translating the strengths of RNR models into restorative justice and vice versa. Studies of the effectiveness of CoSA suggest that they contribute significantly to reductions of recidivism. With people deemed high-risk sexual offenders (people who are often considered irredeemable), CoSA has been

⁵ U.S. Conference of Catholic Bishops, "Responsibility, Rehabilitation, and Restoration," <http://www.usccb.org/issues-and-action/human-life-and-dignity/criminal-justice-restorative-justice/crime-and-criminal-justice.cfm>. United Methodist Church, "Mission Plan for Restorative Justice Ministries," <http://www.umc.org/what-we-believe/mission-plan-for-restorative-justice-ministries>. Evangelical Lutheran Church of America, "The Church and Criminal Justice: Hearing the Cries," http://download.elca.org/ELCA%20Resource%20Repository/Criminal_JusticeSS.pdf.

⁶ For decades now, restorative justice advocates have argued that the purpose of restorative justice is not only to reduce recidivism, but also to address the needs of victims and to re-establish communal norms of behavior and relationship, among other things. While these are also important objectives, the objective that tends to convince policymakers is the reduction of recidivism, and so this topic has received the most social-scientific attention. For discussion of how and whether restorative justice achieves other ends, see my *Restorative Justice: Theories and Practices of Moral Imagination* (El Paso: LFB Publishing, 2011), 142-56.

⁷ Donald A. Andrews and James Bonta, *The Psychology of Criminal Conduct*, 5th edition (New York: Taylor and Francis, 2010). See especially 69-76.

found to reduce sexual recidivism by eighty-three percent, violent recidivism by seventy-three percent, and any type of recidivism by seventy-one percent.⁸ When the question of “what works” arises, evidence suggests rehabilitation and restorative justice.

Despite the common turn to restorative justice among theologians, ethicists, and denominational leaders, and despite evidence supporting these practices, it seems that a realistic understanding of the challenges of mass incarceration in the United States should temper our enthusiasm, or at least suggest that restorative justice may be necessary, but it certainly is not sufficient, for dismantling mass incarceration. I argue in my most recent book, *Redeeming a Prison Society: A Liturgical and Sacramental Response to Mass Incarceration*, that mass incarceration marks a crisis of our criminal justice systems in the United States.⁹ It is the jailing and imprisonment of a disproportionately large population, compared to international practices and historical precedents, especially affecting minority and impoverished individuals, families, and communities. Our criminal justice systems incarcerate more people and at higher rates than any other country; they also incarcerate people for longer terms.¹⁰ We are simply more punitive than other countries. Furthermore, our dependence upon prisons is both rooted in and a major catalyst of social injustice, contributing to the devastation of millions of lives and innumerable communities. We have become in the words of sociologist Loïc Wacquant a “prison society.”¹¹ Other phrases have become familiar in public discourse to describe our situation: “the New Jim Crow,” “the cradle-to-prison pipeline,” “the prison-industrial complex.”¹² In light of the scale of

⁸ Robin J. Wilson, Franca Cortoni, and Andrew J. McWhinnie, “Circles of Support and Accountability: A Canadian National Replication of Outcome Findings,” *Sexual Abuse: A Journal of Research and Treatment* 21, no. 4 (2009): 412-30. See also Grant Duwe, “Can Circles of Support and Accountability (CoSA) Work in the United States? Preliminary Results from a Randomized Experiment in Minnesota,” *Sexual Abuse: A Journal of Research and Treatment* 25, no. 2 (2013): 143-65 and Andrew Bates et al., “Circles South-East: The First Ten Years, 2002-2012,” *International Journal of Offender Therapy and Comparative Criminology* 58 (2013): 861-85.

⁹ Amy Levad, *Redeeming a Prison Society: A Liturgical and Sacramental Response to Mass Incarceration* (Minneapolis: Fortress, 2014).

¹⁰ U.S. Department of Justice, Bureau of Justice Statistics, “Correctional Populations in the United States, 2013,” <http://www.bjs.gov/content/pub/pdf/cpus13.pdf>.

¹¹ Loïc Wacquant, “Deadly Symbiosis: When Ghetto and Prison Meet and Mesh,” in *Mass Imprisonment: Social Causes and Consequences*, ed. David Garland (Thousand Oaks, CA: Sage, 2001), 82-120.

¹² See Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: New Press, 2012). The phrase “cradle-to-prison pipeline” is a registered trademark of the Children’s Defense Fund. For the first usage of “prison-industrial complex,” see Mike Davis, “Hell Factory in the Field: A Prison Industrial Complex,” *The Nation*, February 20, 1995, 229. This term is more commonly tied to the work of Angela Davis and Christian Parenti, although the latter has disavowed it as inadequately descriptive of our criminal justice crises. See Theodore

this problem and its relationship with social injustice, restorative justice in the United States could offer some hope at the margins of the issue of mass incarceration, but a comprehensive response demands more.

The juxtaposition of hope raised by restorative justice and despair elicited by a realistic account of mass incarceration presents a challenge to efforts to respond adequately to our criminal justice crisis. On one hand: There are alternatives to prisons! They work! They can help *everyone* do better by ensuring that *every one* does better! On the other hand, successful implementation of restorative justice requires rejecting punitiveness as a social norm; dramatically scaling up localized, community-based, volunteer-dependent practices, which might undermine the core of those practices; convincing policymakers to listen to reason and to act according to evidence; allocating enough funding and resources to restorative justice when a large portion of our resources and funding are directed to putting people in prison for a long time; and achieving these goals within at least fifty-one different criminal justice systems in the United States (including state and federal systems). This juxtaposition of hope and despair elucidates the difficulty of appeals to restorative justice as an adequate answer to mass incarceration.

The purpose of this article is to wrestle with the difficulties as well as possibilities for restorative justice in a land of mass incarceration. What can restorative justice offer in response to mass incarceration? What are the limitations of restorative justice in response to our criminal and social justice crisis? If restorative justice is a necessary, but insufficient, part of efforts to dismantle mass incarceration, what else ought we to be doing? In the next section, I will discuss two sets of restorative justice practices that might be useful and effective in at least disrupting mass incarceration: diversion programs and circles of support and accountability. In the final section, I will suggest that we need not only restorative justice, but also transformative justice to dismantle mass incarceration and mitigate its collateral consequences on individuals, families, communities, and ultimately, our society as a whole.

RESTORATIVE JUSTICE, MASS INCARCERATION, AND COLLATERAL CONSEQUENCES

Before discussing particular practices of restorative justice, it is important to recognize the complexity and diversity of restorative justice theories and practices. Appeals to restorative justice as an alternative to prisons may be almost meaningless unless we get specific about

Hamm's review of Parenti's *Lockdown America: Police and Prisons in the Age of Crisis* (New York: Verso, 2000). The review is "Our Prison Complex," *The Nation*, October 11, 1999, 23.

what we mean by “restorative justice.” This challenge is apparent in light of several problems in defining this term.¹³

First, “restorative justice” is used by a broad array of programs that on the surface seem to have little in common. It describes victim-offender mediation and dialogue, truth-and-reconciliation commissions, family-group conferences, community conferences, sentencing circles, and circles of support and accountability, among other types of programs. These various practices respond to various conflicts in markedly different ways. Truth-and-reconciliation commissions have been used in response to genocide and apartheid; family-group conferences have been used in response to child custody, abuse, and neglect. The type of practice that is appropriate in a given situation depends on the type of conflict, participants, and scale of the issue as well as the desired outcome. For example, truth-and-reconciliation commissions clearly aim for social reconciliation; community conferences do not necessarily prioritize reconciliation among victims, offenders, and community members as a goal. For the purposes of this article, I am concerned primarily with restorative justice practices used in criminal matters, versus practices used in response to post-conflict situations, such as the truth and reconciliation commissions in Rwanda or South Africa.

Second, many competing alternative conceptions of justice have arisen at the same time as restorative justice, such as “community justice” and “transformative justice.” Depending on whom you are speaking with, restorative justice advocates variously argue that restorative justice and these other conceptions of justice are identical, overlapping, or diametrically opposed to each other.

Finally, “restorative justice” has been widely abused as a concept, applied to practices that few advocates would recognize as restorative. For example, criminologists Gordon Bazemore and Mara Schiff note that although juvenile justice systems in the United States became increasingly punitive beginning in the 1970s, many states “also adopted restorative justice language into their juvenile court purpose clauses... administrative codes, or similar policy documents.”¹⁴ A generous interpretation of this contrast suggests that the people who put “restorative justice” into these laws did not really know what restorative justice entails and did not realize the ideological and practical tensions between restorative justice and practices such as transferring juveniles to adult courts and prisons or life-without-parole sentences for juveniles. Because of the complexity and diversity of restorative justice

¹³ For a more detailed discussion of the challenges of defining restorative justice, see my *Restorative Justice*, 97-107.

¹⁴ Gordon Bazemore and Mara Schiff, *Juvenile Justice Reform and Restorative Justice: Building Theory and Policy from Practice* (Portland: Willan Publishing, 2005), 6.

theories and practices, its unclear relationships to other conceptions of justice, and the abuse of the term “restorative justice,” appeals to restorative justice as a response to mass incarceration must be specific about what precisely we are talking about.

While the actual practices of restorative justice differ significantly depending on context, they tend to share “a wide array of face-to-face non-adversarial decision-making dialogue encounters between victim, offender, and community members in response to specific crime and/or incidents of harm.”¹⁵ The people who are most directly affected by a conflict are empowered to respond to that conflict and to seek ways to respond to it together. They do so through conversations facilitated, but not controlled, by professionals and volunteers trained to maintain respectful, open dialogue that empowers and includes all stakeholders. As a result of this stress on empowerment and inclusion, the interests and needs of other parties, such as the state, take a back seat to the interests and needs of victims, offenders, and community members. The outcomes of restorative justice practices are deemed “restorative” and “just” if they “repair the harm” caused by a crime or incident, however the participants define that harm. The emphasis on “repairing harm” in restorative justice serves to mitigate retributivism and punitiveness; harm, it is presumed, cannot be repaired by returning harm or inflicting pain for the sake of inflicting pain.

In a context marked by mass incarceration, which practices of restorative justice might be most useful and effective for repairing harm? With this question, I would like to expand the scope of “repairing harm” beyond the harms caused by criminal offenders, to consider the harms inflicted by mass incarceration—what have come to be called the “collateral consequences” of our criminal justice systems. Criminologists Meda Chesney-Lind and Marc Mauer describe these consequences succinctly as “the effects of policies that have transformed community and family dynamics, exacerbated racial divisions, and posed fundamental questions of citizenship in democratic society.”¹⁶ They continue,

Imprisonment was once primarily a matter of concern for the individual prisoner, but the scale of incarceration today is such that its impact is far broader—first, on the growing number of family members affected financially and emotionally by the imprisonment of a loved one; beyond that, by the way incarceration is now experienced by entire

¹⁵ Bazemore and Schiff, *Juvenile Justice Reform.*, 35. For an introduction to the basic ideas and practices of restorative justice, see Howard Zehr’s *The Little Book of Restorative Justice*, 2nd edition (New York: Good Books, 2014).

¹⁶ Meda Chesney-Lind and Marc Mauer in their edited volume, *Invisible Punishment: The Collateral Consequences of Mass Imprisonment* (New York: New Press, 2003), 1.

communities in the form of broad-scale economic hardships, increased risk of fatal disease, and marked economic and social risk for the most vulnerable children. And ultimately, a society in which mass imprisonment has become the norm is one in which questions of justice, fairness, and access to resources are being altered in ways hitherto unknown.¹⁷

If these are the harms, then what does restorative justice have to offer in terms of repairing these harms? Are there specific practices of restorative justice that could mitigate the collateral consequences of mass incarceration? Are there practices that could disrupt mass incarceration, if not contribute to the dismantling of mass incarceration? I would like to suggest two practices of restorative justice that might be helpful: *using restorative justice to divert people from traditional criminal justice systems* and *working for the reintegration of people in prison into their communities through circles of support and accountability*.

In suggesting these practices, I do not intend to indicate that other practices might not also be useful and important. Rather I point toward two specific ways in which these practices could “repair the harm” of mass incarceration. Moreover, I recognize that this argument is an unorthodox appeal to the virtues of restorative justice. I am advocating restorative justice here not necessarily for its intrinsic qualities, such as inclusiveness and equitability (qualities that I indeed admire and that I uphold in my book on restorative justice), but because of its extrinsic effects—effects that may not be the direct aim of restorative justice theories and practices. Finally, I do not intend to argue that these practices are sufficient for dismantling mass incarceration or addressing all (or even most) of its collateral consequences; I do not think that these practices alone will be enough for addressing our crisis of criminal and social justice. Nevertheless, they may be helpful in particular ways for beginning to ease the cruelty of mass incarceration while we endeavor to dismantle it.

Diversionary Restorative Justice Programs

First, diversionary restorative justice programs operate at the front end of criminal justice systems by “diverting” people to restorative justice, away from more traditional criminal justice proceedings. Imagine a criminal justice system as a stream, with the headwaters starting at the moment of arrest, flowing through arraignment, then plea or trial, to sentencing. Diversion programs remove or transfer people who are charged with a crime from this stream in order to process their case with alternative practices, such as restorative justice. Other examples of diversion programs aside from restorative justice include

¹⁷ Chesney-Lind and Mauer, *Invisible Punishment*, 1-2.

mental health, drug, and veterans' courts. With restorative justice, the diversion may occur at various points in the stream. For some programs, police officers divert cases, referring people whom they might have otherwise arrested or ticketed to restorative justice. Other programs have judges divert defendants, offering a suspended sentence to people who successfully complete the requirements of a restorative justice program. Regardless of where in the stream diversion occurs, a common incentive for choosing restorative justice is that upon completion of the program, any record of the incident may be expunged from an offender's criminal record; the offense often will not appear as a prior arrest or conviction.

While granting a clean record to an offender is not necessarily a stated goal of restorative justice (that is, it is an extrinsic effect), this feature of diversion programs can help to disrupt, even if not to dismantle, mass incarceration by lessening the effects of criminal histories on sentencing. One of the ways in which both our dependence on prisons in the United States and racial and ethnic disparities in our criminal justice systems have grown was through the use of sentencing guidelines. State and federal sentencing commissions created grids to guide judges in their sentencing decisions. These grids juxtapose severity of offense (first degree, second degree, etc.) against severity of criminal record (first offense, second offense, etc.). Offenders with longer criminal records receive more severe sentences because they are deemed "career criminals." On the face of it, this protocol may make sense and seem fair: people who commit a lot of crime are punished more severely than those who do not, regardless of other factors. Beneath the surface, however, this protocol has resulted in significant racial and ethnic disparities in our criminal justice systems, as well as more demanding sentences. Practices such as "stop-and-frisk," "zero-tolerance," and "broken windows" policing tend to disproportionately target young people with racial or ethnic minority identities. As a result, these young people are much more likely to accumulate criminal records filled with minor offenses such as public spitting, loitering, driving without a seat belt, or fare evasion on public transit. These offenses can then translate into much more punitive sentences when judges are required to follow the recommendations of a guidelines grid.¹⁸ Diversionary restorative justice programs have the potential of relieving people from marks on their criminal records from minor offenses, decreasing the likelihood of a more severe sentence in the future. They also have the potential of alleviating racial and ethnic disparities in our criminal justice systems by imposing less onerous sanctions on people targeted by policing practices for minor offenses.

¹⁸ For a more detailed discussion of the effects of criminal histories on racial and ethnic disparities in criminal justice systems, see Marc Mauer, *Race to Incarcerate*, 2nd edition (New York: New Press, 2006), 141-2.

Some caution, however, is necessary in suggesting that diversionary restorative justice practices may help to disrupt mass incarceration in these ways. One area of concern is that these programs run the risk of what criminologists call “net widening,” in which *more people* end up having contact with criminal justice systems as an unintentional result of introducing an alternative practice. For example, using electronic tracking devices such as GPS ankle monitors can be used to reduce incarceration in jails and prisons; people can be sent home rather than imprisoned, reducing the extent of their contact with criminal justice systems. Unfortunately, another possibility is that such devices can instead be used to increase monitoring of people who might not have otherwise been monitored. Low-risk offenders may have previously been sent home with no monitoring at all, but now the ankle bracelets are used to exert more control over them than they would have previously experienced. In addition, people deemed to be higher risk offenders are left in prison or jail, and the resources necessary to enable them to return to the community safely have already been expended on people deemed to present a lower risk. Net widening is a danger with any alternative to criminal justice systems, including diversionary restorative justice programs. Young people who would have previously been dropped off with their parents following a stem conversation with a police officer may now have to go through a restorative justice conference as well. Restorative justice may then extend the social control of the criminal justice system and increase demands upon low-risk offenders who may have been ignored in the past. For diversionary restorative justice programs to work against mass incarceration, they must be true alternatives to criminal justice practices, not add-ons to criminal justice systems that lead to intensified power—even if friendlier power—over the populations most frequently targeted for arrest and prosecution.¹⁹

Another area of concern is that diversionary restorative justice programs may be used only with offenders who seem relatively non-threatening, regardless of the actual threat they may present to their communities. Given our cultural associations of criminality with blackness, brownness, and socio-economic disadvantage, a common error in our society is to assume that affluent white people are not to be feared, but that poor black people, especially young men, present a constant and severe danger. Racialized cultural tropes of “black brutes” and “super predators” reinforce these assumptions.²⁰ We assume that

¹⁹ For analysis of net widening and its consequences with restorative justice programs, see Jeremy Prichard, “Net-Widening and the Diversion of Young People from Court: A Longitudinal Analysis with Implications for Restorative Justice,” *Australian and New Zealand Journal of Criminology* 43, no. 1 (Apr 2010): 112-29.

²⁰ Beth Caldwell and Ellen Caldwell explore how tropes such as these influenced criminal justice policy in their article, “‘Superpredators’ and ‘Animals’: Images and California’s ‘Get Tough on Crime’ Initiatives,” *Journal of the Institute of Justice and*

Trayvon Martin, Tamir Rice, and Michael Brown are dangerous, but not Dylan Klebold, Eric Harris, James Holmes, Dylann Roof, or Adam Lanza. When choosing to divert young people to a restorative justice program and away from traditional criminal justice practices, it may be tempting to divert the affluent young white male who lives in the suburbs, but to incarcerate the impoverished black or Hispanic male who lives in an inner-city neighborhood. Such tendencies are evident when police officers drive the former home to their parents and drive the latter to a holding cell.²¹ If these patterns play out with diversionary restorative justice programs, they may reinforce racial, ethnic, and class disparities in a context of mass incarceration rather than disrupting them.

It would be a mistake for advocates to assume that restorative justice is immune from these risks with all diversion efforts simply because restorative justice seeks to repair harm and empower stakeholders rather than to inflict punishment through court systems. Restorative justice may be less demanding or damaging than traditional criminal justice practices, but it may still be demanding and it can potentially cause damage. If we recommend diversionary restorative justice programs despite these cautions, we must also be vigilant about addressing the potential problems that net widening and discrimination present. Kathleen Daly, a restorative justice advocate and researcher, reasonably asks, "Can restorative justice deliver a 'better' or 'more effective' kind of justice in diverse societies, that is, those structured by socio-economic and political inequalities, and with age, gender, and racial-ethnic divisions?"²² Based on her evaluation of programs in Australia, Daly answers with a qualified "yes." Her qualifications are that restorative justice must be well resourced and that it must be tied to political processes that aim to achieve a more just society. She concludes,

Restorative justice principles and practices have the *potential* to deliver a better kind of justice than what exists currently. With respect to racial-ethnic and cultural differences, the potential exists in the openness of the process to differing cultural sensibilities and to addressing relations of inequality. It has the potential to promote a "dialogic view of morality" compared to a "monologic voice of law." It can make the justice system process more humane. But that potential cannot be assumed in the abstract or by passing a new law. It needs to

International Studies 11 (Jan 2011): 61-74. See also Linda S. Beres and Thomas D. Griffith, "Demonizing Youth," *Loyola of Los Angeles Law Review* 34 (2001): 747-67. For the introduction of the term "superpredators," see John J. Dilulio Jr., "The Coming of the Super-Predators," *The Weekly Standard* 1, no. 11 (1995): 23.

²¹ For stark examples of this disparity, see the Twitter hashtag, #crimingwhilewhite.

²² Kathleen Daly, "Restorative Justice in Diverse and Unequal Societies," *Law in Context* 17, no. 1 (2000): 167.

be part of a broader engagement with the politics of race, class, and culture.²³

Daly's analysis, grounded in extensive research of restorative justice programs in the Antipodes, suggests that diversionary restorative justice programs may be helpful in disrupting mass incarceration in the United States, but we will still need to exercise caution about net widening and disparities. "Otherwise, restorative justice will be mere window dressing as racial disproportionalities in rates of imprisonment continue."²⁴

With these cautions in mind, restorative justice programs ought to be evaluated in terms of their capacity to reduce criminal justice disparities and avoid net widening. In addition to tallying numbers of community service hours and recidivism rates or asking questions about stakeholder satisfaction, restorative justice programs also need to consider who is referred to their programs, who enters their programs, and who completes their programs. Would their participants have been sent home with a warning were it not for the restorative justice program, or would they have been sent to jail? Do the demographics of people referred match the demographics of people who actually commit particular offenses? Are there roadblocks to enrollment and completion of the program based upon the gender, socioeconomic status, race, ethnicity, or sexual identity of people referred to the program? For example, are restorative justice conferences scheduled at times and places accessible to all groups of people? Do the people who volunteer and work for the program come from the same communities and backgrounds as the people who are referred to it? Does the program have the capacity to conduct its practices in languages other than English? These questions move beyond questions directly related to repairing harm caused by specific offenders to examining how restorative justice may repair harms caused by mass incarceration and the social injustices related to it. Diversionary restorative justice programs must remain vigilant about addressing net widening and disparities in order to help disrupt mass incarceration.

By diverting people away from traditional criminal justice proceedings, diversionary restorative justice programs can reduce the negative impacts of these proceedings upon the lives of people who may have otherwise been arrested, jailed, arraigned, tried, convicted, and sentenced. Restorative justice may enable offenders to repair the harms they have caused, while meeting the needs of victims and communities. In doing so, diversionary programs can erase particular incidents from the criminal records of offenders through expungement. Where a long record of minor offenses can add up to severe criminal

²³ Daley, "Restorative Justice," 188.

²⁴ Daley, "Restorative Justice," 189.

sentences because of sentencing guidelines, restorative justice may disrupt mass incarceration through diversion, removing from criminal justice systems people targeted for minor offenses by certain policing practices. As a result, diversionary restorative justice programs have the potential to decrease both our dependence on prisons and disparities in our criminal justice systems.

Circles of Support and Accountability

Another set of restorative justice practices, circles of support and accountability (CoSA), may also be useful and effective for decreasing our reliance on prisons in the United States. As discussed above, CoSA integrate the advances of evidence-based rehabilitation into a restorative justice framework, thus leading to radical reductions in recidivism even among some of the highest risk offenders. In contrast with diversionary restorative justice programs, CoSA function at the end of the criminal justice stream, typically working with people who are re-entering their communities after time spent incarcerated.

Reverend Harry Nigh, the pastor of a small Mennonite congregation in Hamilton, ON, pioneered CoSA in the early 1990s. "Charlie," a high-risk sexual offender, was returning to Hamilton after seven years in prison for an offense against a young boy. Charlie's picture and history had been distributed throughout town, including through a flyer sent home with children from school, and the community was deeply distressed about his return. Nigh writes about feeling "a dual responsibility: to be a *caring* community for Charlie in the midst of the hostility of the larger community, but also to be a *responsible* community, concerned that there be no more victims."²⁵ To fulfill this responsibility, Nigh organized church members to meet with Charlie regularly as a group and to follow meetings with daily contact on an individual basis. During these individual encounters, circle members would listen to him as well as help him cope with the daily tasks of living outside of prison. "Charlie's circle of support filled a number of roles: *advocating* with the system to secure the benefits that were rightfully his; *confronting* Charlie about his attitudes and behavior; *walking* with him through emergencies; *providing financial* backing when his kitten needed emergency surgery; *mediating* landlord-tenant conflicts; and *celebrating* anniversaries, milestones and all the small advances in Charlie's journey of reintegration."²⁶ Because of Nigh's innovation, Charlie lived safely in Hamilton for twelve years, without victimizing anyone else, until he died of a heart attack.

The circle surrounding Charlie became the prototype for CoSA. Each circle has several types of members: the core member (for ex-

²⁵ Harry Nigh, "Testimonies," http://www.circles4.eu/default.asp?page_id=143.

²⁶ Nigh, "Testimonies."

ample, Charlie), the circle coordinator (for example, Nigh), community volunteers (for example, members of Nigh's church), and professional support persons (for example, parole officers, psychologists, social workers, educators, etc.). The circles are then organized concentrically with the core member at the center, surrounded by community volunteers, who are then surrounded by professional support persons. The circle coordinator facilitates communication between the layers of the circle, ensuring that the inner layers (core members and community volunteers) adequately express their needs and the outer layers (professional support persons) adequately meet those needs. The role of the outer layers of the circle is to empower people in the inner layers to meet their needs in responsible ways. Robin Wilson, a psychologist who works with CoSA around the world, describes these circles as surrounding people with problems with people who already know to how to be functional and healthy, so that people with problems can become functional and healthy.²⁷

Based on CoSA, Community Justice Initiatives (CJI) in Kitchener, ON—a seedbed of western restorative justice practices since the 1970s—developed a program to empower women leaving a Canadian federal prison, the Grand Valley Institute, to “build informal networks of support that assist them as they reintegrate back to the community.”²⁸ The focus of transformation, however, falls not only on women leaving prison, but also on the communities to which they are returning. The program, Stride, is described as “also preparing the community to receive [these women] safely and supportively.”²⁹ Julie Thompson, the Director of Programs at CJI, describes Stride as both building the capacity for women returning to the community to change and building the capacity of the community to support this change.³⁰ The program aims to reduce the isolation, fear, and stigmatization often felt by women leaving prison while also assisting them with the challenges of poverty, low employability, inadequate education, and family reunification—that is, with the collateral consequences of incarceration.

Stride begins this work with Stride Nights in the prison, in which community volunteers come weekly to socialize with women in the Grand Valley Institute over crafts, sports, or other recreational activities. These evenings help breakdown stereotypes held by both incar-

²⁷ Robin Wilson, “Restorative Justice: Between Movement and Public Policy,” Panel Presentation at the Annual Meeting of the Society of Christian Ethics (Toronto: January 2016).

²⁸ Community Justice Initiatives, “Stride,” <https://cjiwr.com/stride/>.

²⁹ Community Justice Initiatives, “Stride.”

³⁰ Julie Thompson, “Restorative Justice: Between Movement and Public Policy,” Panel Presentation at the Annual Meeting of the Society of Christian Ethics (Toronto: January 2016).

cerated women and communities of each other (“ne’er-do-wells” versus “do-gooders”), while also fostering positive relationships. A woman who wants the support of Stride when leaving prison may choose two or three community members to form a circle that offers support and accountability for her as she completes her sentence and re-enters her community. The staff of CJI serves as professional support for the circle, ensuring the capacity of the circle to assist a woman leaving prison. These circles can last from two to six years and provide a long-term commitment to the flourishing of women returning to community from prison.

Practices like CoSA and their development in CJI’s Stride program have the potential to repair some of the harms caused by mass incarceration, especially some of the collateral consequences of our criminal justice systems. These practices can attend to the psychological traumas of incarceration by building support circles around people in prison. By bringing community members into prison and eventually bringing prisoners back into communities, the effects of isolation, fear, and stigmatization can be mitigated. With adequate professional support, community members can help people re-entering their communities to do better financially, emotionally, and socially. They can work to ensure that these people can access resources such as housing, healthcare, education, counseling, and substance abuse treatment. One woman who drew on the resources of Stride as she left prison reflected, “In the face of such support and compassion, how can one help heal and change?”³¹ Those who heal and change also include communities, as their members become active participants in, and not bystanders to, their criminal justice systems. Community empowerment is thus fostered, also thereby mitigating another collateral consequence of mass incarceration. The power and effectiveness of CoSA can be seen most obviously in the remarkably low rates of recidivism of people who complete these programs, as discussed above.

These benefits could be especially powerful in the context of U.S. criminal justice systems. Every year over 650,000 people return to their communities from state and federal prisons in the United States; each week more than 10,000 people are released from our prisons.³² By 2014, more than 850,000 people were on parole in the United States.³³ If CoSA programs could empower people returning to their

³¹ Thompson, “Restorative Justice.”

³² United States Department of Justice, “Prisoners and Prisoner Re-Entry,” www.justice.gov/archive/fbci/brogmenu_reentry.html.

³³ Thomas P. Bonczar, Danielle Kaehle, and Laura Maruschak, Bureau of Justice Statistics, “Probation and Parole in the United States, 2014,” <http://www.bjs.gov/content/pub/pdf/ppus14.pdf>. Not everyone who is released from prison is on parole; some people are simply released without on-going supervision by the state. This situation has become increasingly common over the last forty years, as states have eliminated parole systems in favor of determinate sentencing through sentencing guidelines and

communities from prison, they could improve hundreds of thousands of lives as well as innumerable communities.

The prospects of people leaving prison in the United States, however, are bleak in comparison with the prospects provided by CoSA programs. About three-quarters of people released from prison are required to complete some period of parole or post-release supervision.³⁴ The conditions of supervision vary according to jurisdiction, and the types and number of conditions have changed historically, increasing over the last several decades.³⁵ Currently, typical conditions include requirements related to criminal behavior (for example, obeying the law, refraining from use of controlled substances, refraining from possession of fire arms and other dangerous weapons, and waiving extradition). Other conditions often placed on people released from prison aim at supervision and control. These conditions include requirements such as restrictions on residency and employment, reporting demands, limits on out-of-state travel, and permitting home and work visits by officers. In addition to these conditions, people under supervision after release from prison may be required to participate in employment, education, or substance abuse treatment programs, to avoid certain people or places, or to refrain from alcohol use.

When people on parole violate these conditions, their parole can be revoked. Parole officers determine whether to file a complaint, and the parole board decides whether to return a person to prison.³⁶ When parole is revoked, people can thus be returned to prison without the due process afforded to people who have committed a crime, even if their parole is revoked for committing a crime. Parole officer and parole board—not judge and jury—decide the fate of parolees. Because some conditions of parole concern criminal acts, parole revocation can thus be used as an end-run to due process. Also, because some conditions are concerned not with criminal behavior, but with control and supervision, some people may be reincarcerated for technical violations such as failure to appear for an appointment with a parole officer or failure to report a change of address or employer. While these conditions may not seem difficult to satisfy for a functional and healthy

mandatory minimum sentences. As a result, the number of people on parole in the United States does not adequately capture the number of people returning to their communities after a period of incarceration.

³⁴ William J. Sabol, Heather C. West, and Matthew Cooper, Bureau of Justice Statistics, “Prisoners in 2008,” <http://www.bjs.gov/content/pub/pdf/p08.pdf>. As noted above, since the late 1970s, parole has been eliminated in many jurisdictions in the United States, so post-release conditions are not necessarily understood as parole.

³⁵ Lawrence F. Travis III and James Stacey, “A Half Century of Parole Rules: Conditions of Parole in the United States, 2008,” *Journal of Criminal Justice* 38, no. 4 (Jul-Aug 2008): 604-8.

³⁶ Sara Steen, Tara Opsal, Peter Lovegrove, and Shelby McKinzey, “Putting Parolees Back in Prison,” *Criminal Justice Review* 38, no. 1 (2012): 70-93.

adult with adequate resources and trust to navigate complex systems, many people returning from prison struggle with a number of barriers. Michael Jacobson, former commissioner of the New York City Departments of Correction and Probation, observes, "Given all the social, economic, and health deficits of those coming out of prison, it becomes less than surprising that so many parolees are sent back to prison for rule violations. When one combines these problems with conditions that are routinely set for parole...a recipe for failure results."³⁷ As the conditions imposed upon people released from prison have multiplied, so has the likelihood of people on parole returning to prison without due process or because of technical violations.

Parole revocation is a major contributor to mass incarceration in the United States. The size of the population under post-release supervision grows almost every year, as does the number of parole revocations.³⁸ Each year, only about one-third of people on parole successfully complete its requirements. In contrast, about one-quarter of people on parole—more than 200,000 people—are reincarcerated every year. With some year-to-year variation, about twice as many people on parole who are reincarcerated have had their paroles revoked, versus have had been convicted of a new crime. Overall, about forty percent of people are returned to prison before completing parole because of either a new crime or a technical violation. As a result, since the 1990s, parole revocations have constituted *one-third of prison admissions* in the United States.³⁹

One way to disrupt mass incarceration in the United States, then, would be to work toward decreasing parole revocations. This strategy may be achieved through several means. One tactic would be to reduce the conditions placed upon people leaving prison, and in so doing, reducing the likelihood of technical violations. Another tactic would be to strengthen the due process rights of people on parole, and by these means, decreasing the likelihood of being returned to prison through the power of parole officers and boards alone. In addition to these tactics, CoSA could better enable people on parole to overcome the barriers to re-establishing their lives after incarceration. Many people violate the rules of parole because the conditions of parole demand accountability without providing support. By drawing upon community volunteers, CoSA offers support as well accountability because these volunteers act as intermediaries and advocates between the core members of the circle (that is, the person on parole) and professional service providers (such as parole officers). Through CoSA, people on parole could be empowered to become functional and healthy despite the

³⁷ Michael Jacobson, *Downsizing Prisons: How to Reduce Crime and End Mass Incarceration* (New York: New York University Press, 2005), 150.

³⁸ Travis and Stacey, "A Half Century of Parole Rules," 604.

³⁹ Jacobson, *Downsizing Prisons*.

barriers to re-entry into their communities and the conditions of their release.

Of course, in the United States, several challenges impede the implementation of these tactics. The most obvious is scale. Although I suspect Julie Thompson might fairly protest my use of the word “only” in this statement, as a citizen of the United States, I cannot help but note that the Grand Valley Institute, where Stride began, incarcerates *only* two hundred women; GVI releases far fewer than two hundred women every year. In the United States, we release fifty times as many people from prison *every week* as are held in GVI. The demands of scaling up a program like Stride for even a fraction of the people released from prison in the United States are overwhelming. One of these demands would be finding enough mature, stable community volunteers who could commit two to six years of their lives to people returning to their communities. CoSA needs to be implemented in a piecemeal fashion in the United States simply because of scale, but even if not implemented comprehensively, the problems presented by the scale of our criminal justice systems are massive.

Another major challenge is political will. While many states have begun to downsize their prison populations, and while several presidential candidates in 2016 have identified mass incarceration as a major problem, we are historically not far from the days when the Willie Horton ad torpedoed a presidential campaign. Fear still drives much political discourse around criminal justice issues, contributing to calls for isolation and stigmatization of people deemed criminal. Too often our interpretations of who is “criminal” are still shaped by racialized cultural tropes, undergirding practices that isolate and stigmatize both individuals and entire communities. Our policy decisions seem rarely to be based on evidence, and they seem to do little to strengthen communities or to employ resources and funds in ways that adequately address the needs of victims or offenders. Although CoSA have been demonstrated to reduce re-offending, especially with people who are at high risk of recidivism, implementing CoSA even on a small scale will require significant political will.

THE NEED FOR TRANSFORMATIVE JUSTICE

In a land marked by mass incarceration, the harms that need to be addressed to realize justice go beyond those caused by individuals engaged in criminal behavior. As a society, we must address the harms—the social injustices—that helped to create and are sustained by our dependence on prisons. The work of justice requires dismantling mass incarceration while addressing its collateral consequences for individuals, families, communities, and ultimately our society as a whole.

Advocates have typically argued for the effectiveness and usefulness of restorative justice as a means of addressing individual wrongdoing in a way that is inclusive and empowering for victims, offenders,

and community members. In doing so, they appeal to the intrinsic strengths of restorative justice theory and practice. My argument for diversionary restorative justice programs and CoSA, in contrast, appeals to these practices not only for their inherent virtues, but also because extrinsically, they can help to disrupt mass incarceration and mitigate some of its collateral consequences. Diversionary restorative justice programs can pull people out of the stream of traditional criminal justice proceedings, offering less punitive sanctions to them while also freeing them from the burden of lengthy criminal records for relatively minor offenses. In doing so, these programs can then decrease the likelihood of severe punishments determined by sentencing guidelines for any subsequent offenses. CoSA provide the support necessary for people leaving prison to do well, decreasing the likelihood that they would be reincarcerated because of parole revocation, a major contributor annually to prison admissions in the United States. These circles also help to address some of the collateral consequences of imprisonment through the wrap-around care provided by community volunteers and professional service providers to core members. Together these restorative justice practices may be useful and effective not only for addressing individual criminal actions but also for disrupting mass incarceration and mitigating its collateral consequences in these specific ways. Of course, other restorative justice practices could also be useful and effective for these purposes and merit further consideration. For example, restorative justice in schools could help to breakdown the cradle-to-prison pipeline.⁴⁰ Another possibility is that restorative justice processes that respond to conflicts between police forces and communities that have experienced harsh policing practices can lead to shifts in those practices to be less damaging to those communities while also contributing to lower rates of incarceration.⁴¹

Many difficulties remain in light of our criminal and social justice crises in the United States. Mass incarceration is rooted in legacies of

⁴⁰ Lorraine Stutzman Amstutz and Judy H. Mullet, *The Little Book of Restorative Discipline in Schools* (New York: Good Books, 2005).

⁴¹ The National Network for Safe Communities, a project of the John Jay College of Criminal Justice, has incorporated such practices within their model of policing, particularly in efforts to intervene in overt drug markets. After finding that conflicts between police and communities impeded efforts to break up drug markets and make communities safer—even when members of those communities wanted the drug markets broken up and their communities made safer—NNSC began employing restorative justice practices to restore trust between police and community members. The subsequent strategies to intervene in overt drug markets work to avoid incarcerating people whenever possible, while also successfully making the communities safer. For a fuller discussion of these efforts, see National Network for Safe Communities, “Drug Market Intervention: An Implementation Guide,” https://nnscommunities.org/uploads/DMI_Guide.pdf.

racism and ethnocentrism as well as economic exploitation in our society.⁴² In turn, it exacerbates and sustains the effects of poor healthcare systems, inadequate educational institutions, poverty, under- and unemployment, and failing housing policies, among other social injustices. The restorative justice practices I have discussed here do not begin to repair all of these harms. The challenges that remain suggest that efforts to dismantle mass incarceration and undo its collateral consequences cannot appeal to restorative justice alone.

As proposed by Kathleen Daly, restorative justice must be tied to political processes that aim to achieve a more just society if it is to work toward a “better” or “more effective” justice in diverse and unequal societies, such as the United States in an age of mass incarceration. That is, restorative justice must be accompanied by transformative justice. Arguing for the need for transformative justice in addition to restorative justice may strike some theorists and practitioners of restorative justice as odd. The distinction between these two conceptions of justice has not generally been maintained, as discussed by Kay Harris in her article, “Transformative Justice: The Transformation of Restorative Justice.”⁴³ Harris delineates four ways of understanding the relationship between transformative and restorative justice. Among the first three are tendencies among restorative justice advocates to see restorative justice as “creating spaces” for transformative justice, as a stepping-stone to transformative justice, or as transformative justice itself. The former two ways of conceptualizing this relationship are possible, provided conscientious efforts to incorporate concerns with inequality, marginalization, and exclusion in restorative justice processes. However, without addressing these concerns explicitly, restorative justice will not necessarily result in transformation of unjust social structures, and many restorative justice processes intentionally strive to avoid consideration of these concerns, instead focusing on individual incidents of harm and personal culpability of offenders. Thus, the view that restorative justice *is* transformative justice seems untenable, and I propose that Harris’s fourth conceptualization of this relationship—“restorative justice and transformative justice are distinct and should be so treated”⁴⁴—ought to be maintained if we are to work toward ending mass incarceration.

Several aspects of restorative justice distinguish it from transformative justice. With its focus on isolated criminal incidents, restorative justice places responsibility for harm almost exclusively on persons

⁴² For a history of the creation of mass incarceration, see my *Redeeming a Prison Society*, especially the first chapter.

⁴³ M. Kay Harris, “Transformative Justice: The Transformation of Restorative Justice,” in *Handbook of Restorative Justice: A Global Perspective*, ed. Dennis Sullivan and Larry Tift (New York: Routledge, 2006), 555–66.

⁴⁴ Harris, “Transformative Justice,” 556.

identified as offenders without much consideration of the broader context of criminal behavior, in terms of either personal histories of offenders, communal dysfunction, or larger social issues. Restorative justice is reactive; it follows trauma rather than tries to prevent it. In contrast, transformative justice moves beyond consideration of isolated criminal incidents to examine the harms caused by social injustices such as marginalization, exploitation, structural violence, cultural imperialism, and disempowerment.⁴⁵ Responsibility for harm is placed upon all members of a modern liberal society, although people in positions of privilege bear more culpability for social injustice. Transformative justice is not limited to criminal matters, but works toward justice wherever social structures unfairly disadvantage certain groups of people. Rather than viewing crimes as isolated incidents, transformative justice aims to account for how incidents of harm are interwoven in our social cloth. In some ways, transformative justice pushes against restorative justice by asking, "Restoration to what?" If restorative justice reinstates conditions of injustice (as, for example, diversionary programs might do with net widening or disparities in criminal justice systems), then transformative justice stands as an opposing vision for holding restorative justice accountable for its broader social effects. By actively working toward a vision of society in which all members are included and empowered, transformative justice is creative, not only reactive.⁴⁶

Practices of transformative justice are also distinct from practices of restorative justice. One model of transformative justice can be found in justice and peacebuilding frameworks. Adam Curle, an early innovator in peace studies as an academic discipline, proposes four phases for practices that can address conflicts through the creation of more just social conditions.⁴⁷ Education begins the process of transformative justice by exposing hidden patterns of relationship that disadvantage certain groups of people. Increased consciousness of social

⁴⁵ This interpretation of social injustice is informed by Iris Marion Young, "Five Faces of Oppression," in *Justice and the Politics of Difference* (Princeton: Princeton University Press, 1990), 39-65.

⁴⁶ A fuller presentation of the contrast between restorative justice and transformative justice can be found in Ruth Morris, *Stories of Transformative Justice* (Toronto: Canadian Scholars Press, 2000).

⁴⁷ Adam Curle, *Making Peace* (London: Tavistock Publications, 1971). John Paul Lederach builds upon Curle's work in *Preparing for Peace: Conflict Transformation across Cultures* (Syracuse, NY: Syracuse University Press, 1995) and *Building Peace: Sustainable Reconciliation in Divided Societies* (Washington, DC: Endowment of the United States Institute for Peace, 1997). David Dyck applies this framework to restorative justice in "Reaching Toward a Structurally Responsive Training and Practice of Restorative Justice," in *Handbook of Restorative Justice: A Global Perspective*, ed. Dennis Sullivan and Larry Tift (New York: Routledge, 2006), 527-45.

injustices can then catalyze confrontations in which people in positions of power are pressured to facilitate change. This second phase shifts the latent conflicts of structural injustice into overt conflicts from which power imbalances can be confronted and people who have been disempowered, exploited, excluded, and marginalized can assert their needs and interests against structures that have denied them. Confrontations can include active nonviolent movements that use actions such as protests, legal and public advocacy, or boycotts. These actions open the next phase of transformative justice, negotiation, which, if successful, can create more just relationships and social structures, the final phase. The practices of transformative justice go beyond practices of restorative justice by examining the harms caused by social injustice. They also require analysis of power dynamics, which might not be included in restorative justice processes. Furthermore, transformative justice can foster conflict—or rather, can expose conflict that already exists in hidden forms—in order to generate the possibility of more equitable conditions for negotiation. These political processes are necessary to achieve a more just society in which restorative justice can achieve a “better” or “more effective” justice than traditional criminal justice systems.

In response to mass incarceration and its collateral consequences, the process of transformative justice might begin where this article began: by identifying how exceptional U.S. criminal justice systems have become, both historically and in comparison with other nations, in terms of size, disparities, and punitiveness. Cultural awareness of mass incarceration seems to have expanded over the last few years, perhaps best exemplified by the popular reception of Michelle Alexander’s *The New Jim Crow* or Bryan Stevenson’s *Just Mercy*.⁴⁸ Education about our society’s interweaving social and criminal justice crises, however, must be deepened and expanded, and it must be followed with confrontation. We need an interfaith, multi-racial, cross-class movement to dismantle mass incarceration.⁴⁹ Inklings of such a movement may be seen already with Black Lives Matter. I believe that as a society we are still in the midst of education and confrontation, not yet fully prepared for negotiation, which at this point may be counterproductive to a far-reaching response to mass incarceration and its collateral consequences. We may disrupt mass incarceration to some degree now, through efforts like criminal justice reform or expanding restorative justice programs, in order to alleviate some of the real human suffering caused by our dependence on prisons, but as a society,

⁴⁸ Stevenson’s book was even sold in Starbucks. See *Just Mercy* (New York: Random House, 2014).

⁴⁹ I make this argument much more fully in the final chapter of my *Redeeming a Prison Society*.

we have much work to do to dismantle mass incarceration comprehensively. Through education and confrontation, the roots of mass incarceration in social injustice must become more fully exposed so that we may change our consciousness—and actions—surrounding issues of race, ethnicity, class, and crime in the United States.

An important risk in the proposal here, of drawing upon restorative and transformative justice complementarily to disrupt and dismantle mass incarceration, is that restorative justice may too quickly move to negotiation in response to both latent and overt conflicts rooted in our criminal and social justice crises. We might become satisfied with the shifts provided by restorative justice, and then fail to continue to work to address the roots of mass incarceration comprehensively. However, restorative justice practices might provide opportunities for education and confrontation insofar as they bring together groups of people who may not regularly engage in discussions of social injustice that empower and include all participants.⁵⁰

Despite the hopefulness provided by innovations in restorative justice theory and practices over the last few decades (There are alternatives to prisons! They work! They can help *everyone* do better by ensuring that *everyone* does better!), in the United States, we must confront the challenges presented by mass incarceration and its collateral consequences. To some degree, diversionary restorative justice programs and CoSA, along with other restorative justice practices, can disrupt mass incarceration and mitigate some of its negative effects on individuals, families, communities, and ultimately, our society as a whole. Transformative justice, however, must accompany restorative justice. Through practices of transformative justice, we may begin to name and confront the punitiveness of our culture and the ways we have connected punishment to racialized cultural tropes that demonize young men of color. We may begin to recognize the devastation wrought by our dependence on prisons. Practices of transformative justice could be implemented to confront policymakers who have too often drawn upon the political power of fear in claiming to be “tough on crime” to instead begin to act more positively for the well-being of all members of our society. In response to mass incarceration, restorative justice may be necessary, but it will not be sufficient for achieving a more equitable, inclusive, and healthy society. Through transformative and restorative justice together, we must face these challenges, lest the justice we hope for remains but a fantasy. **M**

⁵⁰ David Dyck suggests specific training protocols to help foster education and confrontation in restorative justice practices. See Dyck’s “Reaching Toward a Structurally Responsive Training and Practice of Restorative Justice,” in Dennis Sullivan and Larry Tift, eds., *Handbook of Restorative Justice* (New York: Routledge, 2006).