



REALIZING YOUTH JUSTICE

Guiding Principles for Advocates
in the Trump Era



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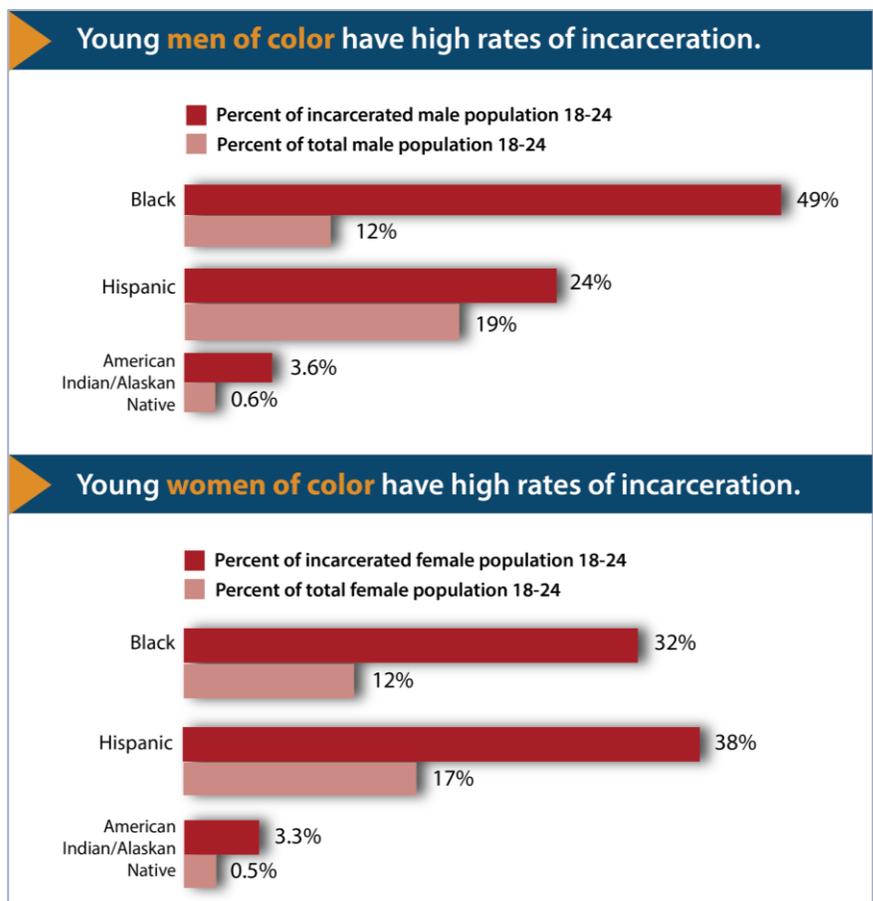
Introduction

Addressing inequality and economic opportunity through policy analysis and advocacy demands a sophisticated understanding of the historical, systemic, and political factors that drive low-income people's experiences and outcomes. CLASP's commitment to criminal and juvenile justice reform begins with recognizing that the American justice system has been deliberately structured to marginalize low-income communities and communities of color. Historically and currently, this leads to mass incarceration and has devastating consequences for employment,¹ educational,² and health outcomes.³ Any attempt to create just, equitable policy for low-income youth of color must acknowledge this context.

Over the past 30 years, communities of color have been severely affected by mass incarceration policies—a series of misguided efforts to “get tough on crime.” There are many reasons people of color are overrepresented; the primary drivers are implicit biases⁴ and structural racism,⁵ which manifest in federal and state criminal and juvenile justice statutes, judicial and law enforcement decision making, judicial sentencing, and school discipline policies. These factors intersect with structural disadvantages in poor and low-income communities of color, such as lack of investment in employment, training, and high-quality K-12 and postsecondary education opportunities.⁶ Consequently, young people of color—especially those who live in low-income communities and attend high-poverty schools—experience more school-based referrals, racial profiling, and inequitable policing practices. This leads almost inevitably to more frequent negative encounters with law enforcement.⁷

In recent years, policymakers have embraced bipartisan criminal and juvenile justice reform. Across the country, state and local governments,⁸ law enforcement agencies, school districts, and community stakeholders are coming together around restorative justice policies, alternatives to youth incarceration,⁹ school discipline reform, and reentry pathways to jobs and education. These efforts, while modest, reflect growing recognition that the over-incarceration of people of color is both inhumane and unsustainable economically.

Regrettably, this progress is endangered by today's politics. The new Administration vows to accelerate failed policy ideas that would deepen the impacts of mass incarceration and halt nationwide efforts to implement reform. In selecting Senator Jeff Sessions (R-AL)¹⁰ for attorney general, President Trump has doubled down on his “law and order” framework¹¹ for reducing violence in low-income communities. This strategy, which has never been successful and suppresses real solutions, has defined Mr. Sessions' career. For over 40 years as U.S. attorney, U.S.



SOURCE: Center for Law and Social Policy, *Unrealized Justice*, 2016
<http://www.clasp.org/resources-and-publications/publication-1/Youth-of-Color-Infographic.pdf>

senator, and state attorney general, Sessions has championed cruel policy¹² on criminal and juvenile justice reform, judicial sentencing, and police interaction. His appointment, along with the president’s severe rhetoric, also places in doubt the federal role in police investigations and accountability. These decisions come at a crucial time. With heartbreaking tragedies—such as the deaths of Freddie Gray, Rekia Boyd, Laquan McDonald, Eric Garner, and far too many others—becoming increasingly visible, the stakes continue to rise for federal actors.

Strong advocacy is more important than ever. Reformers across the country must steel their resolve for what’s to come. Regardless of Senator Sessions’ confirmation decision, the economic logic and moral force behind justice reform are as persuasive as ever. We need to remain anchored to a set of principles that promote equitable, evidence-informed solutions. This framework for realizing youth justice rests on protecting and expanding public, private, and philanthropic investments in workforce development, education, and health care for low-income communities and communities of color.

What does “law and order” mean for low-income youth of color?

The Administration’s law-and-order approach reflects an outdated, harmful understanding about the roles of policing and incarceration in people’s lives. Emerging in the 1960s in response to perceived social unrest, law-and-order rhetoric and its attendant policies emphasized the need for expanded police capacity and harsher sentencing practices as a means of social control, particularly for black and brown communities.¹³ The law-and order-framework contains several features particularly harmful to low-income communities and communities of color. These include:

- Use of law enforcement as a response to social distress;
- Criminalization of poverty and adolescent behavior;
- Expansion of law enforcement’s role and presence into nontraditional settings.; and
- Insufficient enforcement of civil rights protections.

These features are especially evident in practices promoted by the Fraternal Order of Police¹⁴ and supported by the Trump Administration. This includes “stop and frisk” policies, school-based police presence, rolling back recommendations from the 21st Century Policing Task Force,¹⁵ and ending the ban on local police purchasing military-grade weapons. Moreover, the law-and-order framework marginalizes low-income youth of color by:

- Charging youth as adults;
- Confining youth with adults in prison;
- Employing zero-tolerance policies in school;
- Forcing police to act as immigration agents;
- Threatening to deport young people protected by the Deferred Action for Childhood Arrivals (DACA) program;¹⁶ and
- Requiring mandatory minimum sentences.

These practices lead to disparate contact with the justice system and have been definitively shown to disproportionately harm communities of color.^{17, 18}

Law-and-order strategies hurt many communities and fail in their stated goals; they erode trust in the police,¹⁹ destabilize families²⁰ and broader social networks, and perpetuate gross disparities²¹ based on race, class, gender, and ability. Law-and-order interventions often result in higher rates of recidivism,²² which make them costly²³ and fiscally irresponsible by exacting even higher costs on already-strained state and local budgets. Nationally, state corrections spending has more than doubled between 1986 (\$20 billion) and 2013 (\$47 billion), after adjusting for inflation.²⁴ These practices are immoral and unsustainable.

Principles for Realizing Youth Justice

It's patently unjust to punish people unevenly based on race, ethnicity, gender, or status. We can't rehash the same failed policies that have consistently damaged communities. Realizing youth justice must begin with a set of principles based on empowering young people, providing alternatives to incarceration, and supporting reentry for those who were justice involved. These principles include:

1. *Equity: **Just policy frameworks must proceed with a racial and gender equity lens.*** Absent this lens, we risk maintaining or exacerbating disparities in arrests, charges, adjudication, sentencing, and reentry experienced by young people of color as well as the community challenges that place young people at risk for contact with the justice system. In order to address disparities in the criminal justice system based on race, economic status, ability, gender identity, immigration status, and other differences, we must recognize the roles of structural racism and systemic barriers in creating our current outcomes. Equity analysis should also drive practice and policy solutions as well as funding decisions in the public and private sectors.
2. *Recognize youth as assets and center their voices: **Investing in young people begins by embracing their innate assets, supporting their empowerment, and listening to their experiences so we understand what they need.*** Solutions should start with young people's voices. Comprehensive investment strategies should promote a sense of agency in shaping their lives, families, and communities by securing their basic needs and ensuring access to resources and supports.²⁵ The cumulative effect when young people of color are over-policed and over-incarcerated is dehumanization.²⁶ Comprehensive reforms to the criminal and juvenile justice systems require breaking this cycle of dehumanization and affirming young people's humanity. Young people powerfully made this point at the 2016 Opportunity Youth Network Conference: "*Nothing about us without us.*"²⁷
3. *Data-informed, community-driven solutions: **Public and private investments should support effective community solutions.*** Throughout the country, communities have developed proven interventions that effectively reduce justice involvement, promote successful reentry, and reduce recidivism. Public dollars should be invested in *these* efforts—not law-and-order measures that have never delivered results. Every neighborhood deserves peace and security, which is best achieved when police are allies and partners. Law enforcement tactics should not stigmatize youth; rather, they should encourage positive non-enforcement interactions in schools, churches, and other community spaces.
4. *Culturally relevant and developmentally appropriate approaches: **Young people's lives are powerfully shaped by their culture, family, and community.*** True justice requires seeing families—including parents, grandparents, and other caregivers—as partners in creating structure for healthy youth development. It's also important realize that the adolescent brain is still growing and developing well into young adulthood. Science shows that young people's minds are categorically different from adults.²⁸ Therefore, the supports young people receive throughout their development should reflect that distinction as well as their culturally specific experiences.

Toward an Investment Framework

These principles direct us away from "law and order" toward an investment framework²⁹ to realize youth justice. This framework emphasizes how expanded investments in youth-serving systems, including workforce development, education, and health care, can coordinate in a systemic anti-incarceration strategy. In the current context, an investment framework also requires defending core youth-serving systems against unjustified budget cuts and structural changes that would undermine youth services.

Policymakers and community leaders should build large-scale employment and postsecondary pathways for young people who are at risk of justice involvement as well as those already involved. Education stakeholders, including students, parents, teachers, and administrators, should reform school discipline policies and practices. Instead of driving young people *toward* prison, policies should keep young people in school and reengage those who are out of school. National, state, and local leaders must address young people and their families' physical and mental health by maintaining—not dismantling—health, nutrition, housing, and economic supports. The Affordable Care Act (ACA) represents one core investment under threat of repeal by Congress.³⁰ Repeal would undermine gains in mental health parity and coverage expansions that have opened the door to traditional and community-based mental health services for low-income youth and young adults.

Moving forward, we will continue to affirm these principles in our advocacy and policy analysis. We urge national, state, and community leaders to join us in opposing failed law-and order-policies that threaten young people's healthy development and civil and human rights.

Choosing the wrong path would devastate communities, shred state budgets, and endanger our economic future. We affirm the humanity of all people, especially young men and women of color, who have long suffered the consequences of draconian policy. CLASP commits to redoubling our work to advance policy solutions that create opportunity and realize youth justice.

About CLASP

The Center for Law and Social Policy (CLASP) is a national, nonpartisan, anti-poverty organization advancing policy solutions that work for low-income people. We offer nearly 50 years of trusted expertise, a deeply knowledgeable staff, and a commitment to practical yet visionary approaches to opportunity for all. We lift up the voices of poor and low-income children, families, and individuals, equip advocates with strategies that work, and help public officials put good ideas into practice. Our solutions directly address the barriers that individuals and families face because of race, ethnicity, and immigration status, in addition to low income. We know there is no silver bullet, so we put good ideas together for maximum impact—such as “two-generational” approaches that help both children and parents escape poverty.

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Endnotes

- ¹ Harry J. Holzer, Paul Offiner, Elaine Sorenson, *Declining Employment among Young Black Less-Educated Men: The Role of Incarceration and Child Support*, Urban Institute, April 2004, <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/411035-Declining-Employment-among-Young-Black-Less-Educated-Men.PDF>
- ² Wayne Taliaferro, Duy Pham, Anna Cielinski, *From Incarceration to Reentry: A Look at Trends, Gaps, and Opportunities in Correctional Education and Training*, CLASP, October 2016, http://www.clasp.org/resources-and-publications/publication-1/2016.10.27_fromincarcerationtoreentry.pdf
- ³ David Cloud, *On Life Support: Public Health in the Age of Mass Incarceration*, Vera Institute of Justice, November 2014, <https://www.vera.org/publications/on-life-support-public-health-in-the-age-of-mass-incarceration>
- ⁴ Cheryl Staats, Kelly Capatosto, Robin Wright, Danya Contractor, *State of the Science: Implicit Bias Review 2015*, Kirwan Institute, 2015, <http://kirwaninstitute.osu.edu/wp-content/uploads/2015/05/2015-kirwan-implicit-bias.pdf>
- ⁵ Andrew Grant-Thomas, John Powell, "Toward a Structural Racism Framework," Poverty and Race Research Action Council, 2006, <http://www.racialequitytools.org/resourcefiles/kubisch.pdf>
- ⁶ Taliaferro, *From Incarceration to Reentry*
- ⁷ Nia West-Bey, *Unrealized Justice*, CLASP, 2016, <http://www.clasp.org/resources-and-publications/publication-1/Youth-of-Color-Infographic.pdf>
- ⁸ Matt Smith, "Georgia's Gov. Nathan Deal: 'The Ultimate Criminal Justice Reform'," Juvenile Justice Information Exchange, November, 24, 2015, <http://jjiie.org/2015/11/24/georgias-gov-nathan-deal-the-ultimate-criminal-justice-reform/>
- ⁹ *Juvenile Status Offenses Fact Sheet*, Act 4 Juvenile Justice, 2007, http://www.act4jj.org/sites/default/files/ckfinder/files/factsheet_16.pdf
- ¹⁰ LCCHR, "An Open Letter to the United States Senate: Civil and Human Rights Organizations Oppose Confirmation of Jeff Sessions", December 1, 2016, <http://www.civilrights.org/advocacy/letters/2016/civil-and-human-rights.html?referrer=http://www.naacpldf.org/press-release/almost-150-civil-rights-and-progressive-groups-announce-opposition-sessions-attorney-g>
- ¹¹ Yamiche Alcindor, "Minorities Worry What a 'Law and Order Donald Trump Presidency Will Mean,'" New York Times, November 11, 2016, https://www.nytimes.com/2016/11/12/us/politics/minorities-worry-what-a-law-and-order-donald-trump-presidency-will-mean.html?_r=0
- ¹² NAACP LDF, *NAACP Legal Defense and Educational Fund, Inc. Report in Opposition to the Nomination of Jefferson Beauregard Sessions III to be Attorney General of the United States*, January 2017, <http://www.naacpldf.org/files/our-work/LDF-Jefferson-Sessions-Report-in-Opposition-FINAL-1-9-2017.pdf>
- ¹³ Julia Azari, "From Wallace To Trump, The Evolution of 'Law And Order'," FiveThirtyEight.com, March 13, 2016, <https://fivethirtyeight.com/features/from-wallace-to-trump-the-evolution-of-law-and-order>.
- ¹⁴ "The Trump Administration: The First 100 Days," National Fraternal Order of Police, 2016, <https://fop.net/CmsDocument/Doc/TrumpFirst100Days.pdf>
- ¹⁵ *Final Report of The President's Task Force on 21st Century Policing*, Office of Community Oriented Policing Services, May 2015, https://cops.usdoj.gov/pdf/taskforce/TaskForce_FinalReport.pdf
- ¹⁶ Helly Lee, "Update: Deferred Action for DREAMers!", CLASP, June 2012, <http://www.clasp.org/issues/poverty-and-opportunity/in-focus/update-deferred-action-for-dreamers>
- ¹⁷ Jacob Kang-Brown, Jennifer Trone, Jennifer Fratello, and Tarika Daftary-Kapurhttps, "A Generation Later: What We've Learned about Zero Tolerance in Schools", Vera Institute on Justice/Center for Youth Justice, Issue Brief: December 2013, www.vera.org/publications/a-generation-later-what-weve-learned-about-zero-tolerance-in-schools.
- ¹⁸ Michelle Alexander, *The New Jim Crow: Mass incarceration in the age of colorblindness*, 2010.
- ¹⁹ Nancy La Vigne, Pamela Lachman, Shebani Rao, Andrea Matthews, *Stop and Frisk: Balancing Crime Control with Community Relations*, Urban Institute, 2014, <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/413258-Stop-and-Frisk-Balancing-Crime-Control-with-Community-Relations.PDF>
- ²⁰ Angela Carter, Bill McCarthy, *Reducing the Effects of Incarceration on Children and Families*, Center for Poverty Research UC Davis, July 2015, http://poverty.ucdavis.edu/sites/main/files/file-attachments/cpr-mccarthy_carter_parental_incarceration_brief.pdf
- ²¹ West-Bey, *Unrealized Justice*
- ²² *Economic Perspectives on Incarceration and the Criminal Justice System*, Council of Economic Advisors, April 2016, <https://obamawhitehouse.archives.gov/sites/whitehouse.gov/files/documents/CEA%2BCriminal%2BJustice%2BReport.pdf>
- ²³ Michael Mitchell, Michael Leachman, *Changing Priorities: State Criminal Justice Reforms and Investments in Education*, CBPP, October 2014, <http://www.cbpp.org/research/changing-priorities-state-criminal-justice-reforms-and-investments-in-education>
- ²⁴ Mitchell et al., *Changing Priorities*

²⁵ *Our Youth, Our Economy, Our Future: A Road Map for A Stronger Talent Pipeline*, Campaign for Youth, 2016, <http://www.clasp.org/resources-and-publications/publication-1/Campaign-for-Youth-Road-Map-2016.pdf>

²⁶ West-Bey, *Unrealized Justice*

²⁷ Opportunity Youth Network Annual Summit: Driving Best Practices, and Deepening Policy Activities, 2016, OYN, <https://aspencommunitysolutions.org/the-fund/opportunity-youth-network/>

²⁸ *The Teen Brain: Still Under Construction*, National Institute of Mental Health, 2011, <https://www.nimh.nih.gov/health/publications/the-teen-brain-still-under-construction/index.shtml#pub10>

²⁹ Bird et al, *Realizing Youth Justice*

³⁰ Suzanne Wikle, “Defying the evidence, Congress rushes to repeal the ACA,” CLASP, January 2017, <http://www.clasp.org/issues/work-supports/in-focus/defying-the-evidence-congress-rushes-to-repeal-the-aca>