



Carceral Non-Profits and the Limits of Prison Reform

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Abstract

Today there is a growing chorus to end mass incarceration ranging from leftists and liberals to some on the right. For abolitionists, decarceration—or the reduction of the prison population—is an important first step in a vision that seeks to do away with the social ills the present criminal justice system simply manages. While some attention has been paid to the growing bi-partisan consensus that acknowledges, at least rhetorically, the need to end mass incarceration, we know very little about one of its key players: criminal justice non-profits. In what follows, we devise a conceptual schema that we term carceral non-profits to interrogate the complex class position of certain non-profit organizations surrounding decarceration and criminal justice reform. We argue that the defining feature of carceral non-profits is their role in steering radical change towards piecemeal liberal reform, and the promotion of carceral expansion under the guise of decarceration. This paper is an attempt to engage with an audience of abolitionist activists and scholars trying to make sense of the shifting terrain of the non-profit industrial complex at the grassroots level.

Keywords

Decarceration, carceral non-profit, criminal justice reform, abolition

Introduction

The hidden horrors inside Rikers Island, the 420-acre penal colony on the East River have earned it the nickname “the Abu Ghraib of New York City” (Rakia and Jegroo 2018). The Rikers Island jail complex is unique in that its geographic location combines the disappearance logic of the prison (Gilmore, 2007; Story, 2019), while still being deeply embedded within the urban fabric of New York City (Shanahan and Norton, 2017). In recent years concepts like “million dollar blocks” have drawn attention to “the carceral expansion and urban divestment” which follows the flow of incarceration of residents from urban spaces into rural prisons (Story 2016, 2). But a focus on prisons alone ignores the reality of hundreds and thousands of people whose daily lives are marked by social control mechanisms at the neighborhood level. For example, in New York City the hypercriminalization and policing of racially segregated urban neighborhoods syphon poor and working class black and brown residents into Rikers Island only to be spit back out into the same neighborhoods to be managed through various programs, a concrete manifestation of what carceral geographers term the carceral “churn” (Peck and Theodore, 2008; Moran, 2015).

Since at least 2014, the Rikers Island penal colony has been targeted for closure by an increasingly organized network of abolitionists, including Resist Rikers, the Jail Action Coalition, and the Campaign to Shut Down Rikers. The grassroots work of these organizations in turn created a base for the Ford Foundation-funded #CLOSErikers campaign. #CLOSErikers gained significant activist support by demanding the closure of the last standing penal colony in the US, before morphing into a public advocacy project for expansive jail infrastructure to take its place. To date, several well-funded non-profit organizations, including the Vera Institute of Justice—who we focus on in this paper—along with the Katal Center for Health, Equity, and Justice, and the campaign’s leader, JustLeadership USA (JLUSA), have participated in different stages of the design, public relations, and political lobbying for the construction of skyscraper jails across New York City. But these plans were not unopposed. The abolitionist campaign No New Jails NYC has recaptured and mobilized the abolitionist roots of the #CloseRikers campaign, pushing against the skyscraper jails and arguing instead for the closure of Rikers alongside an ambitious program of investment in communities most directly impacted by mass incarceration (Rakia and Jegroo, 2018; No New Jails, 2019a; Sayegh, 2019).¹

The showdown of these campaigns in late 2019, which we discuss below, forced individuals and organizations previously inhabiting the hazy borderlands between abolitionism and progressive incarceration to pick a side. This process evinced an ascendant milieu of criminal justice reform organizations which don the mantle of prison abolitionism, but ultimately work to support new investments in prison facilities or other measures which expand the carceral net. When the matter of the new jails was put to a vote in October of 2019, Vera Institute of Justice endorsed the City Council’s recommendation to replace Riker’s Island with new jails—as long as city officials promised to maintain a nominal commitment to decarceration and to changing the culture of its jails by promoting architectural design focused on “human dignity” (“Embracing Human Dignity” Vera Annual Report, 2018a).

Vera’s support for these new jails mirrors their work on new carceral construction at the national level. Most recently, taking advantage of the political climate and support for addressing the collateral consequences of mass incarceration, Vera has become a vocal advocate for the building of smaller and more “humane” prisons. In 2016, Vera released its *Reimagine Prisons* report which justifies replacing the system of mass incarceration and its attendant institutions with a smaller correctional system based

¹ According to #CLOSErikers (<http://www.closerikersnow.org/partners>), Katal resigned from the campaign, which it co-founded, in the summer of 2017. The October 2019 statement from co-founder and co-executive Gabriel Sayegh in support of the new jails, however, demonstrates an enduring commitment to the campaign’s carceral non-profit vision.

on the principles of human dignity and rehabilitation. With support and funding from the criminal justice reform entrepreneurial firm Arnold Ventures, Vera has begun to test its ideas for a smaller correctional system on incarcerated people in Connecticut, Massachusetts and South Carolina. In the next year, Vera will expand these plans to three more states. In short, the recent plans to overhaul New York City's jail system are by no means singular.

Considering these efforts in sum, we argue that the struggle around #CLOSErikers and the demand to build supposedly humane prisons nationwide signals a new development in the involvement of what we call carceral non-profits in the reconfiguration of mass incarceration, one which necessitates a broader engagement with large scale neoliberal alignments in urban spaces that have long preoccupied carceral geographers and critical criminologists. Carceral geography in particular has grappled with spatial politics of mass incarceration, especially how "carceral spaces" are defined by their capacity "for securing, detailing, locking up any problematic populations of one kind or another" (Philo 2012, 4). Carceral geographers have expanded the often-narrow view of the prison as a site of punishment and social control and have demonstrated "the connections between, and, within and beyond carceral institutions" (Gill et al, 2016). For instance, Theodore and Peck's (2008) research in Chicago demonstrates how the prison also regulates life on the outside—the constant churning of incarcerated people produces an employability crisis whereby formerly incarcerated people are spatially fixed within low-wage economy which only further destabilizes racially segregated neighborhoods and entrenches urban poverty. The prison thus emerges as a "porous institution" (Garland, 2001), which has extended the carceral state beyond the prison and across multiple places, spaces, scales and reconfigured social relationships and urban spaces (Martin and Mitchelson, 2009; Moran, 2013; Moran, 2016, Story, 2019; Schenwar and Law, 2020). Following the work of scholars who have mapped the geography of carceral power (Gilmore, 2007a, 2007b; Norton, 2015; Moran, 2015; Story, 2019), we argue that criminal justice non-profit actors such as the #CLOSErikers campaign and Vera play an important role in shoring legitimacy for expanding the carceral net in a moment of penal crisis.

Today we find ourselves in a unique moment of penal crisis. Fear of crime does not register on a national level as it has in the past, at the exact moment the historic injustices of mass incarceration have become a matter of popular anger and disgust, forcing even President Trump to posture as a champion of prison reform as he simultaneously beats his chest on behalf of "law and order" and threatens to send federal troops to democratic-led cities, which he blames for rising violence and crime (Gottschalk, 2019; Long and Colvin, 2020). Important activist and academic work on the collateral consequences of mass incarceration is opening up possibilities for alternative visions of safety and security. Yet, criminal justice non-profits along with state actors are foreclosing these possibilities by embracing rhetoric of safety and security and human dignity to redesign prisons and jail spaces. We are reminded that concerns with safety and security have historically linked together the liberal and carceral logic of racial liberalism in the twentieth century (Murakawa, 2014; Hinton, 2016). Today similarly, carceral devolution trends are yielding important geographical shift in the nature of social control away from state institutions to local community and non-state actors (Miller, 2014; Cate 2016; Miller and Purifoye, 2016; Miller and Alexander, 2016; Kurti and Shanahan 2018; Shanahan and Kurti 2020). Yet, such shifts are not necessarily liberatory and such decarceration practices can strengthen "transcarceral spaces" that "have entangled state and non-state actors, education, mental health care and welfare practices, into the ever widening network of (neo-)liberal penal social control. (Allspach 2010, 707).

This article is continuation of our previous investigations into the effects of the reconfiguration of the carceral in marginalized urban spaces (Kurti and Shanahan, 2018). Previously, we critiqued the decarceral horizon of the Lippman Commission – which included representatives of Vera and JustLeadership USA, founders of the #CLOSErikers campaign – by examining in detail its plan for replacing Rikers with new jails and expanding community supervision and alternatives to incarceration

programs. We concluded that moments of great *aporia*, such as the present crisis of legitimacy facing mass incarceration, should not be squandered on measures that do not disentangle working-class black and brown lives from the carceral net, nor should the problems of old jails be solved with new ones.

In this paper, we introduce an additional technical distinction within INCITE's framework of the non-profit industrial complex (NPIC) – the “non-profit industrial complex,” the dizzying array of extra-governmental organizations increasingly deployed, amid the disinvestment of neoliberal capitalism, to mediate a variety of social antagonisms. We develop the concept of the carceral non-profit, to describe the complex of organizations presently advocating to expand the carceral net under the guise of reform and human dignity. These are entities which do not simply operate within and adjacent to carceral facilities—as do many non-profit organizations which provide services to incarcerated people—but actively campaign for, and even design, sites of human caging. To flesh out this formulation, we examine two recent examples: the campaign to replace Rikers Island with new jails and expanded “alternatives to incarceration,” and the Vera Institute of Justice's “Reimagining Prison” initiative. In both these instances, Vera provides key examples of a carceral non-profit as we define it. It is also an organization that is prominent in prison reform circles on the local level, and many activist scholars we meet are trying to make sense of its structural role in mass incarceration.

Much of our theory and the conclusions we draw from are based on our own activist-scholarship in New York City in a variety of campaigns adjacent to the NPIC, specifically the campaign against the NYC jail expansion in 2018-2019, and our subsequent participation in the George Floyd Rebellion. This paper is an attempt to share our conclusions with an audience of abolitionist activists trying to make sense of the shifting terrain of the non-profit industrial complex at the grassroots level. We hope that our preliminary sketch of the historical and contemporary roots of carceral non-profits will contribute to a conversation and debate about the unfolding struggle around decarceration. In particular, we argue that Vera's involvement in the plans to replace Rikers Island with an archipelago of new municipal jails and its assiduous work to build humane carceral institutions demonstrate a particular form the NPIC has taken amid the crisis facing mass incarceration, along with its possible fusion with the PIC, to develop and advance carceral strategies under the aegis of reform, and even abolition.

Managing the Crisis: The Role and Function of Carceral Non-Profits

Since the 1960s, the Vera Institute of Justice has played an important role in local and national criminal justice reform, lending its technical expertise to local counties, states, and national projects with the aim of fixing the criminal justice system and making it more efficient. Vera was founded in New York City in 1961 by journalist Herbert Sturz and wealthy businessman-cum-philanthropist Louis Schweitzer. It came amidst a period of jail crowding precipitated by a spike in postwar incarceration and a sluggish City response to expanding carceral capacities that embroiled the City jail system in bad press and precipitated a sharp decline in public confidence in the city's ability to incarcerate people safely and humanely. Mayor Robert F. Wagner subsequently granted Vera an office in the criminal court building to start the Manhattan Bail Project, Vera's first major initiative. A year later the Ford Foundation funded the program (Philips, 2012; Feely, 2018; DOC, 1966).

In these early days Vera also played a role in Mayor Lindsay's efforts to defeat militancy in working-class black and brown communities by co-opting leadership and preparing for the full-scale repression of urban rebellion (Shanahan and Kurti, 2020a). Vera was an early model for a number of contemporary foundation and non-profit organizations that provide reentry services, basic alternatives to incarceration, and diversion programs and are materially and ideologically invested in community supervision—practices which carceral geographers, scholars and activists argue displace the spatiality of the prison and jail into working-class black and brown communities (INCITE!, 2007; Gilmore, 2007a/b; Clear, 2007; Beckett and Murakawa, 2012; Moran, 2013; Story, 2019; Schenwar and Law

2020). Further, following Feeley's (1983, 2018) critiques of criminal justice reforms and diversion programs, we argue that Vera and other criminal justice non-profit organizations serve as the research and development arm of the criminal justice system. The reforms they have been innovating since at least the 1960s have had little to no effect on halting mass incarceration.

Vera is only an exemplar of a far broader field. Today's non-profits and foundations are heavily invested in criminal justice reform. For example, the Robin Hood Foundation, started by hedge fund managers, funds various alternatives to incarceration programs in New York City. The Robin Hood Foundation works closely with the Center for Court Innovation and City University of New York's Institute for State and Local Governance to develop effective electronic monitoring and community supervision programs (Lewis, 2016). Robin Hood also funds various initiatives in New York City that seek to address urban poverty. In this way, contemporary foundations like Robin Hood can be seen as part of a longer political history which originated in the progressive philanthropy movement of the nineteenth century, in which private social actors took upon themselves the disciplining of the working class and safeguarding harmonious class inequality. The rise of foundations in the early twentieth century signaled a shift away from concerns with large structural forces and social reform that motivated progressive reformers like Jane Addams. These foundations moved toward social science-based inquiries focused on producing knowledge about social ills, but not necessarily concerned with eradicating them (O'Connor, 2007). Foundations such as Vera thus assumed a certain value-neutrality about political decision making and most importantly shifted the focus away from structural inequality to a focus on "the weaknesses, behaviors and responsibilities of the poor" (Arenas, 2016, 7).

Social science-framed structural problems stemming from capitalist social relations as non-partisan and ideologically neutral. Social problems could easily be resolved through compiling empirical knowledge that could inform policy and reform. The social role of foundations and non-profits received further expansion and legitimization during Johnson's War on Poverty. In the 1960s, as scholars have argued, the Ford Foundation played an important role in engineering social change by funding Civil Rights and Black Power organizations (Allen, 1970; Gilmore, 2007a; Ferguson, 2013). The widespread state disinvestment from the social reproduction of working-class life that has occurred in the time since only created a larger and more vital role for the NPIC in managing the turbulence of capitalist society and disciplining working people to not challenge its constituent social relations (Gilmore, 2007b).

As activist-scholars have attempted to make sense of this transformation, perhaps no text has offered a sharper critique of the role that non-profit organizations play in derailing social movements than INCITE!'s *The Revolution Will Not be Funded*. Its authors drew an immediate link between Ford Foundation's management of racial unrest at home (Ferguson, 2013), with imperialist ventures abroad (Petras, 1999; Collins and Rothe, 2019). They charted how, beginning in the 1970s, the devolution of welfare services created an important yet understudied role for non-profit sector as handmaiden to austerity. Building from the work of Jennifer Wolch (1990), Ruth Wilson Gilmore (2007b) argues compellingly how the non-profit industrial complex functions as a "shadow state," and argues that social service non-profits are increasingly tasked with the "responsibility for persons who are in the throes of abandonment, rather than responsibility for persons progressing toward full incorporation into the body politic." For instance, the restructuring of the welfare state towards workfare relied heavily on non-profits who became tasked with managing and disciplining those receiving such services (Peck, 2001; Wacquant, 2009; Soss, Fording and Schram, 2011).

Moreover, following Gilmore's (2007b) invitation to conceptualize NPIC and prison industrial complex (PIC) as interrelated, while attempting to make sense of recent developments, seen most prominently in New York City, we are left wondering if today this correlation can be drawn much more directly. Is it possible to say that a certain subset of NPIC has effectively fused with the PIC? A glaring indicator this might be the case comes to us from Justice Reinvestment Initiative (JRI). Begun as a radical

vision of decarceration and redistribution of correctional resources into communities hit hardest by mass incarceration, the JRI project has morphed into one that simply re-directs these savings into crime control efforts and criminal justice programs (Tucker and Cadora, 2003; Martin and Price 2016; Martin, 2016a; Story, 2016). Support for Justice Reinvestment comes from various national non-profit organizations like the Urban Institute, The Pew Charitable Trusts, the Council of State Governments' (CSG) Justice Center in collaboration with the Department of Justice's Bureau of Justice Assistance. The CSG Justice Center brings in a team of experts to help local state officials analyze crime and incarceration trends and come up with policies that can curb corrections costs and reinvest the money saved into more efficient crime prevention programs.

Since 2007, 35 states have participated in Justice Reinvestment. Independent assessment of Justice Reinvestment has revealed that the program has not met its stated goals and objectives (Brown et al, 2016; Fox et al, 2013). Critical scholars like Marie Gottschalk (2015), Cecilia Klingele (2016), John Pfaff (2016) and Michael O'Hear (2017) have also heavily critiqued Justice Reinvestment and pointed out the contradictions and limits of relying on fiscal concerns as the main motivating factor to end mass incarceration. Sabol and Bauman (2020, 14.3) have argued that Justice Reinvestment has led to a reshuffling of reinvested money "from one sector of the justice system to another" as opposed to investing in actual "community-based, primary prevention efforts."

Decarceration trends signal an even more important geographical shift in social control away from the state to local community and non-state actors who are increasingly sharing the responsibility to punish and manage the urban poor. Reuben Miller (2014), for instance, deploys the terms "carceral devolution" or "devolution of incarceration" to explore how prisoner reentry relies on non-profit organizations to manage formerly incarcerated people. As Miller demonstrates, the role of criminal justice non-profit organizations in disciplining the urban poor will also grow as localities push for decarceration and "justice reinvestment" schemes that seek to reinvest money spent on incarceration to mostly local law enforcement agencies, community supervision institutions like probation and parole and also criminal justice non-profits. Other critical researchers have similarly cast a critical eye on the role of these organizations in expanding the carceral net into communities most impacted by the scourge of mass incarceration in the first place—most often working-class black and brown communities (Martin and Price, 2016; Martin, 2016; Rojo 2014; Carlton and Russell, 2018a, 2018b; Heiner and Tyson, 2017; Whalley and Hackett, 2017).

In recent years, scholars have employed the concept of "penal voluntary state" to capture how non-profits are increasingly tasked with managing urban poverty and effects of criminalization through service delivery in the wake of the neoliberal restructuring of urban space (Hucklesbery and Corcoran, 2016; Miller, 2014; Miller and Alexander, 2016; Miller and Purifoye, 2016; Tomczak, 2016; Stuart, 2016; Miller and Stuart, 2017; Tomczak and Buck, 2019; Quinn 2019). Today the relationship of these organizations to both welfare and penal institutions has changed, in large part due to larger systemic transformations both in the nature of the state and the reorganization of work which has figured central to the disciplining of the so-called "criminal classes" (Simon, 1993). Yet most of the scholarship focuses narrowly on the dual role that non-profits play, first in penal delivery services (Maquire 2002) in the wake of carceral devolution (Miller, 2014; Miller and Alexander, 2016; Miller and Purifoye, 2016), and second in extending and entrenching social control and the carceral net into urban spaces (Cohen, 1985; Foucault, 1985; Wolch, 1990; Gilmore 2016; Miller, 2014; Story, 2019).

We argue that Vera's involvement in #CLOSErikers campaign and the effort to reimagine prisons signals a departure from how scholars have thus far understood the role of the non-profit sector in the operation of punishment and social control. Engaging with this growing interest in understanding the role of non-profits in a moment of penal crisis, we have thus elected to affix the label carceral non-profits to those foundations and non-profit organizations with a hand in the design, public relations, lobbying,

or other forms of promotion, for the construction or expansion of carceral facilities or other aspects of the carceral net (Kurti and Shanahan, 2018). We offer a close reading of Vera's "Reimagining Prison" in conjunction with their active support of new jail construction in New York City as an example of the efforts to construct supposedly humane carceral spaces.

We build from the recent scholarship on "carceral humanism" (Kilgore, 2014; Schept, 2015; Kurti and Williams, 2018; Kurti and Shanahan, 2018) and "benevolent prison reform" that manage, reproduce and expand carceral capacity (Platt, 1969; Incite!, 2007; Gilmore, 2007b, Spade, 2011; Carlton and Russell, 2018a/b; Ben Moshe et al, 2013; Brown and Schept, 2017; Platt 2019). We are reminded by Gilmore (2015) that non-profit organizations often form an integral aspect of the left-liberal aspect of this bi-partisan consensus. The NPIC tends to co-opt the vocabulary of anti-racist abolitionist movements to create support for liberal reform efforts that do very little to challenge the structural racism and poverty that prisons and jails help manage. Also, per Gilmore, the NPIC warns us is not just the prison and the jail but also the many ways in which working class people across rural and urban communities are policed, disciplined and excluded. Extending Gilmore's analysis, we argue that today criminal justice non-profits wear many hats: they support various reentry programs for incarcerated people, conduct research about the criminal justice system, advocate for and fund various policy changes, and lastly in moments of crisis emerge as powerful advocates for the carceral status quo. It is particularly important to emphasize the changes presently underway, as we find ourselves in a new and distinct political moment.

Today, movements like Black Lives Matter (BLM) and the broader George Floyd Rebellion, with its attendant demands to defund and even abolish police and prisons, have breathed new life into critiques of mass incarceration that activists and academics had been pushing since the mid-to-late 1990s (Shanahan and Kurti, 2020b). The buzzword mass incarceration has become common shorthand for the increasingly deplored historical process by which America's sprawling penal system replaced an already-underdeveloped welfare state (Gilmore and Gilmore, 2016; Usmani, 2017). The term emerged as the primary way to deal with growing surplus labor (Gilmore, 2007a; Wacquant, 2009) and to make sense of how persistent structural racism in housing, hiring, and policing, lead to striking racial disparities in who gets arrested, sentenced, and locked up (Mauer, 1999; Beckett and Sasson, 2000; Mauer and Chesney-Lind, 2002; Gilmore, 2007a/b, Alexander, 2010; Wacquant, 2009; Richie, 2012).

In a sense, the fact that critical voices denouncing mass incarceration come from across the political spectrum should be no surprise. The so-called punitive turn of the 1970s and 1980s—which exponentially increased the role of policing, jails and prisons and community corrections in the lives of marginalized populations with devastating consequences—was also a bipartisan effort. This political movement successfully marginalized opposition, while building a powerful consensus equating safety and social stability with policing and incarceration, as part of the regime of law and order (Gottschalk, 2006; Murakawa, 2014; Hinton, 2016). Today, we see its decades-long hegemony falling apart.

For our purposes, this unfolding crisis facing mass incarceration has two interrelated effects. First, activism and critical scholarship that engages with abolitionist framework, once a fringe faction in the criminal justice reform movement, have gained traction and popularity, forcing into the mainstream the vital question of whether we should be striving to improve policing and incarceration, or building toward their abolition as part of overturning capitalist society itself. Second, this ascendant chorus of abolitionist voices confronts a mutated hydra of social-justice non-profit organizations, flush with funding from organizations like the Ford Foundation, Laura and John Arnold Foundation, Rosenberg Foundation, Open Society Foundations and others who embrace a version of decarceration shaped by fiscal concerns of the cost of incarceration and the need for reforms that make police, courts, jails, prisons, and community supervision more efficient. For abolitionists, decarceration was a "strategic launchpad for the politics of abolition" (Berger, 2013). Decarceration was linked to a larger social, political and economic

reorganization of society that wouldn't just simply reduce the carceral state but abolish it altogether (Mathiesen, 1974; Knopp, et al, 1976; Scull, 1984; Knopp, 1994). For some non-profit organizations, decarceration has provided the opportunity to enter into alliances across political differences and support reforms that seek to build a more efficient criminal justice system.

In this moment, decarceration, once a radical plank in the prison abolitionist vision, is being embraced by a motley crew of reformers ranging from social workers to right-wing think tanks. An illustrative example is the founding of the Smart Decarceration Initiative in 2014, a partnership between George Warren Brown School of Social Work at Washington University in St Louis and the University of Chicago School of Social Service Administration. The institute, conference and subsequent book brought together Glenn Martin of Justice Leadership USA, Vivian Nixon, alongside other scholars to flesh out ideas about how to transform the criminal justice system. Since the book's publication, Carrie Petus-Davis, co-founder of the Smart Decarceration Initiative, became the principal investigator of "Safe Streets and Second Chances." This program is funded by the right-wing Koch brothers, and aims to innovate supervised release programs in four states: Florida, Kentucky, Texas and Pennsylvania.

This bi-partisan consensus is of course built on shaky ground: a focus on fiscal concerns, sentencing reform for mostly non-violent offenses, and reliance on risk-assessment tools to manage early release and supervision programs. A good example of this is the passage of the First Step Act, hailed as "a win" by Van Jones, co-founder of the reform organization #Cut50. Ironically, the most lasting impact of the new legislation will be the incorporation of risk assessment technologies into early-release decisions at the federal level, channeling money saved from incarceration into policing and expanding incentives for formerly incarcerated people to participate in reentry programs aimed at disciplining and managing them (Gottschalk, 2019). Non-profit organizations also stand to benefit from the passage of the First Step Act because a small amount of federal grant money will be available to those organizations that can develop risk assessment tools and provide programming for reentry. The unique social position of the carceral non-profit is demonstrated even more clearly by a recent case in New York City, namely, a campaign by criminal justice reform organizations to erect a network of skyscraper jails.

Decarceration and the Fight to Close Rikers Island

In 2014, New York City had the lowest jail incarceration rate in the nation attributed largely to the decline in felony arrests (Greene and Schiraldi, 2018, 31). For many, New York's experience in reducing incarceration is "a promising anomaly to national trends" (Useem, 2010). Scholars like Greene and Schiraldi (2018) argue that New York's "advocacy driven decarceration efforts" should be emulated around the country. Yet these decarceration trends belie the rising number of technical parole violations that led to incarceration as well as an expansion in rural jail populations (Law, 2018; Martin 2016a, 2016b; Pragacz, 2016; Norton, 2019; Heiss and Norton, 2020; Justice and Unity for the Southern Tier, 2020). Parole violations demonstrate the limits of the criminal justice system to help formerly incarcerated people secure housing and employment. Further, people on parole and probation live in hyper policed neighborhoods that make it impossible to stay free of police contact. The decarceration efforts in New York have sparked serious debates about the future of incarceration in New York, creating an opportunity for non-profit organizations to push for an expansion of alternatives to incarceration programs like probation and a liberal reimagining of prisons as humane and therapeutic spaces.

In 2016, on the heels of New York City's decarceration and low-crime "miracle," coupled with the collapse of legitimacy for the Rikers Island penal colony amid a spate of public and private investigations (Kurti and Shanahan, 2018), then-City Council speaker Melissa Mark-Viverito launched the Independent Commission on New York City Criminal Justice and Incarceration Reform. Called the Lippman Commission (after its chair, former New York State Chief Judge Jonathan Lippman), this commission included top officials from the Open Society, the Ford Foundation, Vera President Nicholas

Turner and founder Herbert Sturz, and Glenn Martin, then President of JLUSA. Part of the Lippman Commission included the project “Justice in Design” (2017) a collaborative effort with the progressive Van Alen Institute, which purported to elicit feedback from formerly incarcerated people on how jails could be better built, and to incorporate this into plans for jails to replace Rikers.

The verbiage of Justice in Design closely resembled the “Public Health and Safety Centers” lobbied for by JLUSA. “The traditional structure of correctional facilities deliberately prevents the development of partnerships among stakeholders that can enable the creation and pursuit of shared goals and outcomes,” argues an internal JLUSA document from October 2016, months before the Justice in Design workshops. “The proposed Public Health and Safety Center model, to replace the current mode of barbaric confinement at Rikers, emphasizes the interlocking principles of human rights, individual development, and community partnership working together, both as an anchor and a north star.”² Justice in Design is one of three reports issued by the Lippman Commission, all steeped in the rhetoric of carceral humanism, advocating the centering of carceral facilities as anchors of community social life (Kurti and Shanahan, 2018). For present purposes it suffices to point out that these documents served as the foundation for the final plan which passed City Council in October 2019, which resolved that new jails would be constructed, but not that Rikers would close.³

This was however not the only plan on offer. In the weeks before City Council’s vote, the campaign for No New Jails (NNJ), an active presence in the unfolding debate over the future of the city’s carceral system, released the program for action *Close Rikers Now, We Keep Us Safe* (2019b). This plan, written in conjunction with a number of people presently incarcerated in New York City, argues compellingly for a definition of “safety” rooted in the reallocation of resources to communities directly impacted by mass incarceration. In place of the estimated \$11 billion the current jail expansion plan will cost, NNJ argues for an expansive reinvestment in public housing, homeless services, health care, and other vital resources for the working-class black and brown communities represented disproportionately at Rikers Island and other city facilities. The gauntlet was thus thrown down for proponents of so-called social justice to get behind a movement-based decarceration plan rooted in the redistribution of both resources and social power and coupled with zero new jail construction.

Sadly, the plan was not widely embraced by the left-wing of the city’s NPIC. Veteran movement lawyer and non-profit executive-director Soffiyah Elijah (2019), a former criminal defense attorney and the executive director of the Alliance for Families for Justice (AFJ) took to the pages of the tabloid *Daily News* to oppose NNJ. She argued, perplexingly, that their plan did not go far enough to decarcerate the city, and the plan should therefore be set aside in favor of considerable carceral expansion in the name of “abolition.” Accepting a startling vision of what Reuben Miller (2017) calls “carceral citizenship,” Elijah (2019) argued “‘No new jails’ would mean no new mental health services, no new safe, humane and sanitary living conditions, no new accommodations for pregnant women and LGBT people, no reduction in New York City jail capacity.” When challenged by a chorus of abolitionist organizers, including activists from neighborhoods hit hardest by mass incarceration, Elijah typified the carceral non-profits’ attitude toward NNJ and abolition and continued to share her approach to this policy when she took to Twitter, responding: “To the mud slingers, haters & folks who are upset that I told the truth

² JLUSA, “White Paper,” October 7, 2016, pp. 32-34, in possession of the authors.

³ For a more detailed chronology of these events, see Anakwa Dwamena, “Closing Rikers: Competing Visions for New York City’s Jails,” *New York Review of Books*, October 4, 2019, <https://www.nybooks.com/daily/2019/10/04/closing-rikers-competing-visions-for-the-future-of-new-york-citys-jails>.

about the Rikers situation & think they're capable of challenging me - forget about it. I only debate my peers, all others... I TEACH! Later..."⁴

The anger of Elijah and others is understandable. The NYC jail fight has not only pressured left-talking non-profits to take a position which, however principled, might contradict their structural role on the left-wing of capital, it has also brought considerable and likely unwanted attention onto the funding and political horizons of some of the organizations closest to the campaign to build new jails. NNJ's effort even brought Ford Foundation President Darren Walker into the fray. In his annual address as president of the Ford Foundation, "In Defense of Nuance" (2019), Walker, who participated in the Lippman Commission, calls attention to the polarized political climate and takes the opportunity to assert Ford's historic mission: building liberal leadership and social engineering through market-based solutions. Walker cites climate change and mass incarceration as examples of issues which have created widespread injustice. Speaking to the growing popularity of abolitionist demands against jail expansion, Walker cautions activists "to seek more nuanced solutions and reject unproductive extremes." For Walker nuance means acknowledging that "our capitalist systems have broken down" and proposing to end mass incarceration through favoring reforms that prioritize technical innovations and market-based solutions.

Walker's telling words seek to reinvigorate racial liberal ideology, or the belief that racism could be eliminated through government sponsored policies and programs, that the Ford Foundation has historically supported (Ferguson 2013). Today this belief is threatened by the downward grind of neoliberal dismantling of working-class standards of living, a growing right-wing nationalism, and left-wing anti-capitalist movements and struggles. But in contrast to prior years, when Ford-funded non-profits could claim the mantle of the most viable organized left force in a city like New York, Walker's words were met with pushback from abolitionist organizers. A day after he released this statement, activists and community members gathered at Riverside Church to hear Angela Davis speak about building intergenerational justice movements. An activist with NNJ asked Davis what they should do to challenge Ford's position. Davis encouraged them to challenge the Ford Foundation itself. Activists took this up, staging a rare picket outside Ford Foundation's New York City office, complete with chants like "No more cages, no more jails, Ford Foundation go to hell!" Simultaneously, a letter criticizing Walker's position on the new jails was signed by 237 Ford fellows, many, as the Foundation enjoys pointing out, coming from the same disadvantaged communities the criminal justice system affects (Artforum, 2019).

A multitude of Ford Fellows calling the organization out in a public way indicated a breaking of ranks within a milieu of talented leaders intended by the NPIC to manage their communities on its behalf. Whereas Walker's response to activists acknowledged Ford Foundation's "commitment to ending mass incarceration," NNJ activists have used this public controversy to highlight the role that foundations play in the criminal justice reform movement, pushing for more efficient jails and prisons instead of addressing the social ills that mass incarceration and policing manage. This confrontation marked the depths of the conflict within the NPIC, endemic to its contradictory role as the responsible manager of often-explosive moments of social change. A similar picture emerges from the broader campaign "Reimagining Prison" amid a sustained crisis of mass incarceration, Vera is positioning itself as a central advocate for more humane carceral construction.

Reimagining Prison Yet Again

⁴ <https://twitter.com/SoffiyahElijah/status/1183050004916817920>. See also Elijah, Soffiyah, 'No new jails' means same old jails *Daily News* October 11 (2019).

We couldn't find a better place to launch this initiative than here at Eastern State Penitentiary to put this effort in this historical context. This is a place of great history, of contradiction, of good intentions, the birthplace of solitary confinement as we know it in this country, intended for different purposes than the way we understand it now. And it's important to think about history as we undertake this reimagining prisons effort not just because where we are here but we are at a particular moment in time in this country where we are really trying to reassess our criminal justice system, what it produces, whether it produces the kind of benefits that we have been told and believe that it produces, what we are trying to achieve. There's been a big conversation recently about mass incarceration and for Vera it became increasingly important for us to ask the question: If we are arriving at a consensus that mass incarceration needs to be eradicated, for those who are incarcerated what are we in fact trying to achieve? We are indeed at a moment of contradictions and of shifting goals which makes this conversation really important.

-Nick Turner, President and Director of Vera Institute of Justice, at "Reimagining Prison: the Journey Begins" event held at Eastern State Penitentiary (Philadelphia), June 20, 2016

With these words, Vera Institute of Justice launched "Reimagining Prison", a substantive report and corresponding program of action of the same name. The eighteen-month initiative, drawn from Vera's visits to 17 states in the nation as part of its National Prison Visiting Week (Vera, 2016b), is designed to win over criminal justice institutions, state actors, and the American public to a vision of ending mass incarceration through decarceration and building smaller carceral facilities centered around "a single core principle of respect for human dignity" (Vera, 2018, 7). The program is built around what Vera calls an "ethos of confinement" which seeks to "move away from the language of rehabilitation in favor of a focus on providing incarcerated people the tools for success, and the need for a significantly smaller system as a prerequisite to real change" (Vera, 2018, preface).

While Vera highlights racial motivation as the main factor in the expansion of prisons, and acknowledges that incarceration affects the poorest black communities, it is nonetheless committed to atoning for America's sins with still more carceral construction, albeit more humane this time around. The prison in their view is a problem insofar as it "enforces idleness and denies access to productive activities" (Vera 2018, 3). Vera is thus committed to a liberal vision of prison reform that seeks to replace mass incarceration with "a new set of normative values" that are framed around human dignity and productive rehabilitation (Vera, 2018, Preface). Fittingly, Turner's announcement was held at Eastern State Penitentiary (open 1829 to 1971), the quintessential 19th century American "model penitentiary." Like the facilities Vera touts today, Eastern State Penitentiary was designed and marketed by the experts of its time as a state-of-the-art rehabilitative facility grounded in the most modern penological science—until its facilities became better known for inducing mental breakdowns through prolonged solitary confinement (McLennan 2008).

The accompanying program Vera released included research, publications, expert symposia, a podcast, and a "a national prison visiting week" where more than 400 people attended public tours of 30 facilities in 17 states. Most importantly, Vera partnered up with MASS Design Group (an "architecture innovator" who sees their designs as a "medium for healing") to imagine what future facilities which incorporate the principles of human dignity could look like in the practical terms of design (MASS Design Group, 2021).

In a video MASS Design Group has produced for the program,⁵ prison architecture is isolated as the main issue of mass incarceration: the dehumanization and isolation of the built environment reinforces mass incarceration. Deploying euphemisms which almost defy parody, these expert architects reimagine what future prisons could look like: prisoners are recast as “clients” who wake up not in dingy shared cells but in their own individual rooms furnished with sleek minimalist furniture where large windows allow for natural light. So-called clients also have their own restrooms in stark contrast to the shared showers of contemporary prisons and instead of being idle, they attend individual and collective therapy sessions, socialize freely with others, and even cook healthy gourmet food.

The prisons of MASS Design resemble a college campus more so than a prison. Vera works closely with prison staff and correctional officers. If the prisons that MASS Design imagines resemble an Ikea commercial, it is because Vera’s visits to Dutch and German prisons provided the inspiration. Naturally Vera’s selective fetishization of a handful of European prisons completely misses out on the horrid prison conditions elsewhere in Europe, as well as racist policing practices against immigrants and new brutal forms of border control aimed at newly arrived refugee populations in the European states.

For our purposes it is particularly noteworthy that the sum total of Vera’s research and analysis was not meant simply to advocate for carceral reform, but to take an active role in carceral construction. In 2017 Vera collaborated with the Connecticut Department of Corrections to design and pilot a young men’s unit in Cheshire Correctional Facility. The T.R.U.E program focused on young men between the ages of 18 and 25, the age group often blamed by correctional staffers for the culture of violence inside of America’s prisons. The participants comprise only 2 percent of the overall adult population held there, are paired with an older incarcerated mentor and put through various therapeutic mentoring programs to isolate and address the behaviors that led to their incarceration. Besides a focus on behavioral programming and mentoring, Vera also works closely with DOC staffers to change the culture of incarceration (Vassar, 2017; Chammah, 2018; Chen, 2018). In practical terms this means attempting to convince prison guards to embrace progressive changes, while extending some forms of freedom to incarcerated youth, like allowing them to wear street clothes, and be mentored by adult lifers. In the same year, Vera worked with the sheriff’s department in Massachusetts to develop a similar program in one of its jails. In 2018, with Vera’s assistance, the Connecticut DOC helped open a similar unit in a women’s prison at York Correctional Institution. Redesign of carceral spaces is part of Vera’s *Restoring Promise initiative*, a collaboration with MLPA which seeks to expand this model to other states, including in Middlesex County, Massachusetts and in South Carolina where it has similarly partnered with the Department of Corrections to transform incarceration experience for young adults between the ages of 18 and 25. In November 2019, Vera announced the expansion of its work into North Dakota, Colorado, and Idaho. Vera’s focus on therapy and behavior change is not new and has been a central component of youth detention historically which as Alexandra Cox (2018) argues has expanded state intervention in the lives of youth under the guise of paternalism and benevolence. Vera’s “Reimagining Prison” is not concerned with addressing any of the social ills and structural inequalities that prisons and carceral spaces seek to manage. Instead, it seeks to take advantage of the opening created by decarceration trends and build smaller “humane” prisons that seek to improve the culture of incarceration, not do away with it. If “Reimagining Prison” is any indication, this is just the beginning of a private-public partnership to build more efficient human cages.

The irony of Turner’s rhetorical questions—posed afresh, as if for the first time, on the site of Eastern State Penitentiary of all places—calls to mind Michel Foucault’s (1972, 47) famous characterization of criminology as a “garrulous discourse” which repeats itself endlessly, declaring the urgent necessity for humanistic carceral expansion plots over and over again as if for the first time. Yet

⁵ The video can be found at <https://www.vera.org/research/human-dignity-and-prison-design>.

these questions are in fact being posed afresh, amid the erosion of the law and order consensus which has held together, however tenuously, for roughly four decades. Within this opening, a growing abolitionist zeitgeist is asserting itself, to the endless repetition of carceral reform. In this moment abolitionism offers great hope for an emancipated future and poses a great threat to the structural role, political power, and very purpose of the carceral non-profits.

Conclusion

The contemporary crisis of mass incarceration is generating an interest in political alternative, abolitionism, that articulates the connections between free housing, education and various social goods, and a world free of cages. Carceral non-profits and foundations, like their Progressive Era forebears, are assiduously performing the political function of neutralizing radical threats to the capitalist order, while simultaneously obscuring their own position and the class content of the unfolding struggle in the United States and beyond.

In this paper, we explore how starting in the 1970s devolution of welfare services buttressed the role of the third-party non-profit sector which were increasingly tasked with doling out social services provisions in an environment of dwindling resources which were increasingly subject to free market principles. Recently, scholars have begun to turn to the criminal justice system to understand how similar shifts have shaped the state's role in punishment and social control. Scholars have noted that carceral devolution trends are shifting the geography of punitive social control away from large scale state institutions like the prisons towards community corrections spearheaded by non-state actors and third-party penal voluntary sector (Miller, 2014; Cate 2016; Miller and Purifoye, 2016; Miller and Alexander, 2016; Kurti, 2018; Kurti and Shanahan 2018; Shanahan and Kurti 2020).

It is within these larger spatial transformations in punishment and social control that we locate the important role of what we term carceral non-profits. Following the work of scholars who have mapped the geography of carceral power beyond the prison and into everyday life (Gilmore, 2007a, 2007b; Norton, 2015; Moran, 2015; Story, 2019), we argue that criminal justice non-profit actors such as Vera Institute of Justice play an important role in defending and expanding the carceral net in a moment of penal crisis. Thus, we contribute to this important and growing body of scholarship and activism by bringing to light the key players involved in the reconfiguration of punishment and the carceral net, their class position, and their political function in the wider struggle against mass incarceration.

We are heavily indebted to INCITE!'s work on NPIC for helping to clarify the position of such third-party organizations in moments of pitched social struggles. As INCITE! authors and activists argue, non-profit industrial complex derail social movements from radical demands to piecemeal reforms. We add to their formulation and focus on how large foundations and non-profits have taken advantage of the demand to end mass incarceration and are actively involved in political projects that seek to build a more efficient criminal justice system. As conditions of working-class life take a turn for the worse and the carceral net expands to all facets of social life, carceral non-profits will increasingly fill in the vacuum and articulate a vision for humane punishment. We hope that this paper has clarified this dangerous position and that abolitionists reading our work continue to struggle against such forces wherever they attempt their dirty work of resolving the present crisis in the favor of stable capital accumulation unto a vanishing horizon of working-class misery.

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