

Crime and Marriage in Minnesota and the Nation: If Wedding Rings Help Break Vicious and Violent Cycles, What's Impeding Them from Doing So More Often?¹

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(I) Introduction

This essay is about the role of crime in the demise of marriage and the loss of another generation of husbands in many American communities. In other words, it's about the loss of countless spouses who love and support their wives — the mothers of their children. It's also, therefore, about the loss of countless fathers who actually live with their children, under the same roof, nurturing and protecting them as they grow up. So it's an essay about losses borne by young people, too. And because of these subtractions, this is a paper about American neighborhoods that will remain unavoidably impoverished and dangerous. Although it sounds like dust-jacket hyperbole, we are in the midst of a dreadful crisis — often racially saturated — that afflicts the Twin Cities as much as most places in the nation, and by some measures, more.

What follows, though, was first conceived much more modestly more than two years ago as an essay about something called “collateral sanctions”: federal and state laws and rules that prohibit men and women with criminal records from holding certain kinds of jobs and obtaining certain kinds of occupational licenses. I was principally interested back then in finding ways of judiciously and safely helping now-law-abiding people (mostly men in practical terms) overcome such restrictions in order to land good jobs and build decent careers.

From there, however, my attention slowly expanded to encompass marriage; more specifically, my interest grew in examining ways in which collateral sanctions curtailed the likelihood of men ever marrying and how that pattern could be reversed.

But this focus also proved inadequate, as it became clear that it made more sense to examine how crime and irresponsible behavior in general, not just codified constraints, were eroding marriage as an institution, particularly in low-income communities. More specifically, it became important to address the general and multiple reentry problems offenders faced, starting with the fact that huge proportions of men who leave jail and prison every year do so without high school diplomas, without the ability to read or compute nearly well enough and, therefore, often without any discernible or marketable skills.

As for marriage, it has dwindled to a barely recalled institution in many neighborhoods in Minnesota and in the United States — and not only because of crime, of course. We'll get

to a number of those other reasons in a moment. But for the purposes of this analysis, please view crime at the hub of matrimony's rickety wheel, as in the following framing and questions.

Married men tend to commit significantly less crime than single men. But putting boulders and divots in their path to more law-abiding lives is the fact that women, understandably, are not usually enthused about marrying men with law-breaking histories, and they're probably even less enthused about marrying men who continue to have court dates even as they seek to court dates. Compounding matters is that men with criminal records frequently confront extra obstacles in finding good jobs and building careers precisely because of their records. Unsurprisingly, these additional barriers — which include the aforementioned collateral sanctions, as well as the increased ability of employers to peer via the Internet into every crevice of a person's rap sheet in real, job-denying time — cause such men to be even less marriageable. As a combined result, large numbers of disproportionately inner-city and minority men remain single, even if that is not necessarily their wish. In so doing, they remain dangerously disposed to lives of havoc — with many others, notably children, hurt in the process. I should add that this concern also applies to large numbers of people who simply come into *contact* with the criminal justice system, not just those who have spent time behind bars; people, usually young men, who get arrested but never charged, much less convicted, but whose good name may forever be compromised. Again, these men, often quite young, are heavily minority.

Questions: How does this spiraling pattern play itself out in Minnesota and the nation? And what will it take to short-circuit it? A core assumption in all that follows is that for all the attention focused on how involvement in the criminal justice system sabotages the possibility of healthy, non-violent, low-conflict, equal-regard marriages, greater attention is required still.

To be clear, *healthy, non-violent, low-conflict, equal regard marriages are the only kind I advocate here or anywhere.*

Also animating the essay are huge and sobering numbers, as they paint and portend fearsome nightmares. We'll return to evidence like the following, but for now, just try to imagine and begin to grasp the human and social implications of statistics like these:

Over the last three decades, the number of prisoners in this country has grown by more than 600 percent, giving the United States the highest incarceration rate in the world. According to one estimate made five years ago, over 12 million ex-felons lived in the United States, representing approximately 8 percent of our entire working-age population. That latter proportion is much higher in some communities than others, of course, with "communities" defined in both geographic and racial terms. Ninety-five percent of all individuals currently incarcerated will be released at some point. But if past is prologue, nearly two-thirds of them will be charged with new crimes within three years of their release, with 40 percent of the total number of people released sent back to

prison.² Difficulty in finding gainful employment because of criminal records is a powerful factor (among a rash of others) for this enormous level of recidivism.

And there are statistics like these, as gloomy as any I know in the social sciences.

Forty-four percent of all African American men between the ages of eighteen and thirty in Hennepin County (Minneapolis) were arrested in 1999. This is higher than the percentage of blacks who were arrested in South Africa at the height of Apartheid. Nothing in the last two sentences is a misprint, and there's little reason to believe things have changed much since 1999.³

Among young male high school dropouts between the ages of twenty and thirty-five nationally, the incarceration for whites in 1996 was 7.4 percent. This was terrible enough. But for blacks, it was an astonishing 36.3 percent. Translated in more human terms, this meant that more "young black low-education males were in prison or jail on an average day [that year] than were in paid employment."⁴

Ponder that last number for a bewildering moment. Male African American dropouts — not just "young" guys, but men upwards of midlife — were more likely to spend their days behind bars than holding a job and supporting a family. While these data are nearly a decade old, I have no reason to believe they aren't roughly accurate still. Whether questions of marriage are even a consideration, hard and mean numbers like these mean that hard times are guaranteed for wide and deep swaths of fellow citizens.

As with all other racial and ethnic groups, the great majority of African Americans live sharply on the right side of the law. But if there is one depressingly quotable passage in this paper, it may be this: unless crime rates among African American men — which are tied inversely to their marriage rates — change dramatically and quickly, not nearly enough will get adequately better in the black community anytime soon, be it in Minnesota or across the nation.

Before proceeding, permit me three essential caveats and elucidations.

First, even though fatherlessness lengthens the odds against children doing well, it does not inevitably consign them to troubled lives. Many kids growing up with only one parent at home (or in other "nontraditional" arrangements) are doing very well, while many other kids, growing up with both biological parents are not doing well at all. But in the main, growing up without a father at home, especially in tough neighborhoods, invites trouble.

Second, in no way is my intention to single out or gang up on single moms; I've always sought to make it clear that I respect and empathize with the very large number of unmarried women who are raising their children successfully, even heroically, under often very hard circumstances. I also always try to acknowledge that life is inescapably messy. I'm quick to point out, for instance, that my wife and I are each in our second

(and last) marriage. She was a single mom for a long time after her divorce and before we met. My three stepsons have turned out great despite it all. You get the idea.

In this recognition-of-reality vein, a researcher summing up a series of focus groups in which African American men in Hennepin County talked about their families wrote of how the participants understood “complicated family scripts.” They knew that “love and care, connection and responsibility, are not always neatly or simply bound up in a nuclear family arrangement.”⁵

Fair enough and I do very much appreciate complexity, especially when it comes to life’s most intimate chapters. Though having said that, readers deserve to know I’ve long been of the mind, and I remain as convinced as ever, that family breakdown and father absence are the overwhelming social disasters of our time.

And third, while this paper is not *about* race, it deals with questions of race a lot. A fair question (which I deal with at greater length in Sections II & V) is the extent to which I see racism as a cause for so much that’s sad in inner cities especially. One reviewer of a previous draft (politely and helpfully) accused me of acknowledging the existence of racism, but then in a next breath, “denying it has any power to ‘cause severe harm and social damage.’” He contended I wanted to have it both ways. If the kind of racism he was referring to was of the present variety (the kind I meant), he was correct in his charge. The racism of the vast bulk of American history, though, is an entirely different matter.

Slavery and racism were the original sins of our nation, and the effects of sin can linger long and hard. But I have no hesitation in describing the United States of recent decades as a fundamentally different nation from the United States of earlier decades and centuries, in the same way that the benign intentions of affirmative action are fundamentally different from the evil aims of Jim Crow. We’ve made more progress than we’re often comfortable in acknowledging.

Do I see racism as a factor in the various problems, behaviors, and responses discussed in this paper? Yes, needless to say. Do I believe racism is *as* powerful an impediment currently as many others frequently do? No, I don’t.

Do some people think answers like these are proof positive I’m naïve or worse? Yes, without a doubt. Do I believe, rather, that matters of race in this country can only be described as complicated? Yes, again.

Do I believe it’s manifestly inaccurate and unfair to focus exclusively on matters of race but not also on multi-faceted matters of poverty and loss of hope when discussing topics like these? Yes, I do.

Do I also believe that poverty — in addition to “causing” criminal and other maladaptive activities by some individuals — is just as likely to be the *result* of crime and other self-destructive behaviors, including non-marital births? Again yes.

And do I acknowledge that this essay is written from perspective of a fifty-seven-year-old white male, and not that of many of the people I talk about, especially the men? (I've been courteously accused of writing from a limited vantage point, too.) Once more the answer is yes, obviously so.

The rest of this paper is organized as follows. Section II talks about how and why marriage in the United States has weakened considerably in recent decades. Section III addresses some of the many ways in which crime damages families. Section IV discusses what are known in law enforcement circles as “collateral sanctions” and “collateral consequences.” In quick lay language, these terms refer to the many official and unofficial penalties and roadblocks offenders face once they are released from incarceration. Section V deals with additional reentry barriers faced by ex-convicts. Section VI focuses on how all this plays out in Minnesota. And Section VII offers conclusions and recommendations. Foreshadowing: several recommendations concern religion and faith and the utter necessity of young people *not beginning lives of crimes in the first place*.

Given the length of this essay, some people may want to jump immediately to the final section; doing so should not cause careful readers to draw misleading assumptions about any analysis or argument preceding it. Though please bear in mind that this last part makes no pretense of adequately summarizing all that comes before. Instead, it builds on the facts and fears presented earlier.

(II) The Weakening of Marriage and Its Decoupling From Child Rearing

Why has the institution of marriage eroded? Why are one-third of all American children now born out of wedlock, with that already immense and crippling proportion twice as high among African Americans nationally, and somehow higher still in inner-city neighborhoods? Much has been written about why these numbers began to explode in the middle of the twentieth century, first in the black community, and more broadly across other groups shortly thereafter.⁶ Center of the American Experiment, to pick just one organization and voice, has focused more on this issue since opening its doors in 1990 than on any other, except education.⁷ Personally, I've usually cited three clusters of causes for family breakdown, which I take to subsume not only out-of-wedlock births, but also the more middle-class revolution in divorce.

The first set of causes, I've argued, pertains to governmental policies, and how their unintended consequences often have weakened rather than strengthened the “mother-father-child-rearing-unit,” as my colleague [David Blankenhorn](#) puts it. The best example here was federal and state welfare policies in the decades before Aid to Families with Dependent Children⁸ gave way to Temporary Assistance for Needy Families in 1996. With the best of intentions, AFDC encouraged single-parenthood, even if less extensively than some critics, usually on the right, have contended. TANF, with its more stringent

work requirements and other stipulations, including time limitations, contains fewer incentives for non-marital births and divorce than did AFDC.

The second main cause of family dismantling, I've contended, deals with economics; particularly the way in which "deindustrialization" — the urban exodus of good-paying factory and other jobs for low-skilled men — has turned many men into increasingly inadequate providers and, therefore, increasingly unattractive marriage partners.⁹ As with the role of welfare policies, too much weight is often invested in this theory, though the loss of these jobs clearly has had an impact. Many other economic factors can be cited here, some of which pertain to *increased*, rather than decreased, occupational opportunities and incomes. This has been the case particularly for millions of well-educated women who have done very well professionally. Economic changes of this latter and brighter sort are considered in a moment.

And third, I've focused on the pivotal ways in which much of our "culture" (a giant and elusive notion to be sure) has eaten away at a host of established, "middle-class values," starting with the normative glue that previously had persuaded generations of young men and women that bringing babies into this world was something one should do *after* getting married, not before. Remember Diana Ross's "Love Child"? Remember how she sang about the shame of being one?

Don't think that I don't need you.
Don't think I don't wanna please you.
No child of mine [will] be bearing
The name of shame I've been wearing.

How long after MTV started its cabling to hormonal teenagers do you think it was before "Love Child" and its message of restraint and delay became an anachronistic relic? This is just one example of how American culture has deteriorated — by no means all ways, but in key ways.

While I'm at it, what about poor little Susie? After chastely falling asleep with her boyfriend while watching a movie, the Everly Brothers sang worriedly of what others might think:

What are we going to tell your mama?
What are we going to tell your pop?
What are we going to tell our friends
When they say "ooh-la-la?"

Times change, and not necessarily benignly or by a little.

I continue to use this tripartite frame — bad public policies, changed economics, and a metastasis of cultural trapdoors — when talking about family problems. From another angle, two unusually fair-minded scholars at Harvard University's Kennedy School of Government, David Ellwood and Christopher Jencks, argue for a different (though not

incompatible) set of causes, which they describe as constituting a “fairly plausible hypothesis.”¹⁰ They write of how the “relationship between economic opportunity and marriage has changed over the years,” with three related factors having likely “altered the preferred timing of marriage and parenthood.”

First, as many others have, they contend that the invention and widespread use of birth control pills and the legalization of abortion weakened the connection between marriage and childbearing. Previous means of contraception, they write, were not only less reliable, but they also gave a measure of control to males. The pill and legalized abortion, however, “gave sexually active couples, and particularly women, far more control over the timing of births, allowing other factors (including economic incentives) to exert more influence on the timing of marriage and parenthood.”

Second, Ellwood and Jencks speak of how a changed cultural landscape — changed “sexual mores,” as they put it — made it more “acceptable” for unmarried couples to cohabit.

And third, they write of how “women’s economic opportunities now play a more important role in the timing of motherhood than they did a generation ago.” College educated women, they acknowledge, probably have always had more economic incentives to delay childbearing than poorly educated women. Think, for instance, of how female lawyers, in their quest to become partners, are expected to invest large amounts of time and energy in the early years of their careers. But this difference in incentives and circumstance, Ellwood and Jencks continue, has “widened over the past generation, both because college educated mothers now spend more of their life working and because the earnings gap between more- and less-educated women has widened.”

Put another way, while many well-educated women now delay marriage and childbearing for professional and economic reasons, poorly educated and low-income women are also likely to delay marriage, though in their instance, more “because their potential spouses have fared so badly in the labor market.” But that is *not* to say, Ellwood and Jencks critically conclude, less-educated women are similarly likely to delay having children.

This brings us to a recently published and meticulous ethnographic study of 162 low-income single mothers — African American, white, and Puerto Rican — in Philadelphia and adjacent Camden, New Jersey, by sociologists [Kathryn Edin](#) and [Maria Kefalas](#).¹¹ The two authors don’t give much weight to the role of welfare policies in spurring out-of-wedlock births. They give substantial weight to a variety of economic causes. But they attribute strongest influence to cultural factors — which, critically, they conceive as entwined with the many economic limitations routinely faced by inner-city men and women. Deeply embedded in this interpretive mix is the powerful poison of crime — the main point I want to drive home.

The views of Americans generally, Edin and Kefalas write, about almost all aspects of family life “have shifted dramatically to the left since 1960 — shifts that now mean that having sex, establishing a common household, and having children have all become

decoupled from marriage.” In the ’60s, they write, two-thirds of all Americans thought that sex before marriage was morally wrong. By the ’80s, that proportion had fallen by half, to one-third. Similarly, in the ’60s, half of Americans believed that married couples who didn’t get along should stay together for the sake of their children. Only about one-fifth now believe unhappy parents should tough it out and remain married.

This is not to say, they take pains to add, that low-income women believe that having children outside of marriage is ideal. In fact, they claim that surveys show (surprisingly, it seems to me) that low-income women are *more* likely than middle-class women to say they believe that children raised by two married parents are better off than children raised by one parent alone. However, and the following point is central to Edin and Kefalas’s analysis, “these abstractions are largely irrelevant to their lives,” as the poor women spoken about here “must calculate the potential risks and rewards of the actual partnerships available to them and, given their uncertain future prospects, take a ‘wait and see’ attitude toward the relationships with the men who father their children.” Meaning, they are not quick to marry.

More harshly to the point, Edin and Kefalas argue that this approach “makes enormous sense, as the men in the neighborhood partner pool — the only men they can reasonably attract, given their own disadvantaged place in the marriage market — are of fairly uniformly low quality.”

What do Edin and Kefalas mean by the uncommonly acerbic stricture for an academic study of “low-quality” men? Dispiriting descriptions like the following are repeated throughout their book.

It is the drug and alcohol abuse, the criminal behavior and consequent incarceration, the repeated infidelity, and the patterns of intimate violence that are the villains looming largest in poor mothers’ accounts of relational failure. About one in three mothers we talked with said that crime, usually drug dealing, and the almost inevitable spell in jail or prison were what broke them apart. More than a third blamed their partner’s alcoholism or drug addiction for the strain on the relationship. Four in ten said their relationship broke down because their child’s father couldn’t manage to stay faithful. An even higher proportion — nearly half — say that they could no longer take the chronic abuse they suffered at his hands. Taken together, fully two-thirds of the mothers say they’ve had a relationship disintegrate for one or more of these reasons, and about half have encountered these problems with more than one man.¹²

- Across the country, studies show that more than 40 percent of low-income men who father a child out of wedlock have already been in jail or prison by the time their first son or daughter is born.¹³
- Almost half of them have not graduated from high school. About a quarter do not have a job. Nearly half earned less than \$10,000 in the year before their baby’s birth.¹⁴

- While about 56 percent of male inmates in state prisons have children under eighteen, only about 20 percent of them are married.¹⁵
- And a recent study by the Minneapolis-based Council on Crime and Justice estimates that 10 million children in the United States have had a parent in prison sometime in their lives.¹⁶

A fair and incumbent question at this point is, what about racism? Keeping in mind that the problems discussed here stretch far beyond African American community alone (remember Edin and Kefalas 's sample included almost equal numbers of blacks, whites and Puerto Ricans), what needs to be said about slavery, Jim Crow, and their aftereffects? I know of no two scholars who have written about this hard subject with more subtlety and persuasiveness than sociologist Orlando Patterson and political scientist James Q. Wilson. Their arguments about racism have bearing, even though the proportion of non-marital births nationally among African Americans has grown by a factor of almost three since the early 1960s. The point being, the rate of out-of-wedlock births in the black community has nearly tripled during the very same period in which more progress has been made in eliminating racial injustices than ever before in our nation's history. (While the black out-of-wedlock birth rate has nearly tripled since the early '60s, the comparable rate for whites has multiplied by a factor of nearly six, from about 5 percent to 29 percent.¹⁷) Here's just one set of observations by Wilson that draws importantly on Patterson's work. It deserves to be quoted at length.¹⁸

It's hard to believe that two or three centuries of slave life followed by a century or so of Jim Crow left no lasting impression on African Americans, but of course proving such a connection is virtually impossible. But let us for a moment conduct a mental experiment. Given what slaves endured, what would we imagine would be the legacy that their children and grandchildren inherited? We would probably suppose that boys would grow up with little close identification with their fathers and some interest in repeating the youthful sexual exploits that transient work and long absences from home made possible. Few would recall many happy experiences associated with a two-parent family.

Girls, on the other hand, Wilson continues:

would grow up thinking that men were irresponsible and that women would have to make their own careers out of whatever opportunities presented themselves. Children would expect to be raised by their mothers and grandmothers and possibly by other women, perhaps distant ones, and would not be surprised if there were no fathers present. . . . Of course, these predictions must be stated cautiously, for it is obvious that among millions of African Americans there would be a great variety of adaptations; some would struggle to conform to white American marital patterns, others would try to create a unique marital system of their own, and still others would be unaffected by anything that happened in the past.

“What is striking,” Wilson finishes the point, “is that these predictions accord with reality for a large (albeit a minority) of African Americans today.”

Germane here, and staying with the African American community a minute longer, is the fact that many neighborhoods are home to much smaller numbers of black males compared to black females, further depressing the likelihood of marriage. The incarceration of enormous numbers of black men — not to mention their premature deaths, often by homicide — has much to do with this sorrowful imbalance. Just one local ratio to illustrate the problem: in the Near North Side of Minneapolis, for every 100 African American women between the ages eighteen to thirty-four, there are only seventy-five African American men in the same age range.¹⁹

Permit me to cite one more important finding from the Edin and Kefalas study before moving on to a wider discussion about what other researchers have concluded about the many interwoven connections between marriage and crime.

Notwithstanding what respondents said about how it’s less than optimal for children to grow up with only one parent at home, it’s stunning to read of the extraordinary value they invest in bearing children — regardless of their marital state at the time. According to polling, the same can be said of low-income women generally across the country. Edin and Kefalas write one more time:

The poor view childlessness as one of the greatest tragedies in life. Surveys show that the differences between social classes are striking: female high school dropouts are more than *five times* as likely and male high school dropouts more than *four times* as likely as their college-educated counterparts to say they think childless people lead empty lives (emphasis in the original).

Or as Edin and Kefalas sum up a few pages later: “[P]oor women consider marriage a luxury — one they desire and hope someday to attain, but can live without if they must. Children, on the other hand, are a necessity.”

(III) The Familial Ruins of Crime

I’ve reported and asserted several things so far about the interplay between different types of criminal (and otherwise irresponsible) behavior and marriage. What does the research literature say more precisely about these ties? The best source I know regarding marriage’s full range of personal and demographic effects is *The Case for Marriage*, by sociologist Linda J. Waite of the University of Chicago, and syndicated columnist Maggie Gallagher.²⁰ Drawing on hundreds of studies, here is a sampling of pertinent findings from their book.

1. What's the connection between marriage (or its absence) and violence, including domestic abuse?

- Marriage seems to help men desist not just from domestic violence, but all types of lawbreaking. A study of 500 chronic juvenile delinquents, conducted by researchers who sought to understand why some young people stopped their criminal activities while others continued into their early thirties, found that a good marriage made a significant difference. Men in the study who improved their ways were very similar to men (in terms of childhood and family characteristics) who did not shape up. As children they had had similar rates of poverty, similar IQs, were rated as equally as “difficult” and “aggressive.” They also were arrested as teenagers about as often. But over time, those who entered a good marriage reduced their criminal activity sharply. Over time a good marriage decreased offense rates by hardcore delinquents by about two-thirds compared to criminals who did not marry or who did not establish good marriages, researchers estimated.²¹
- When it comes to all crimes of violence (including domestic violence), a 1994 Justice Department Report based on the National Crime Victimization Survey showed that single and divorced women were four to five times more likely to be victimized in any given year than married women. (Widowed women, however, were the least likely to be victimized.) Single and divorced women were almost ten times more likely than wives to be raped and about three times more likely to be the victims of aggravated assault. The evidence is overwhelming that being unmarried puts women at special risk for domestic abuse. A large body of research, for example, shows that marriage is much less dangerous than cohabitation.²²

2. What's the connection between marriage (or its absence) and substance abuse?

- Single men drink almost twice as much as married men of the same age. In a recent national survey, one out of four single men, ages nineteen to twenty-six, reported that drinking causes them problems at work or problems with aggression. Only one in seven married men in the same age range reported these same problems with alcohol. Obversely, only one out of six single males drink so little as to be virtual abstainers, compared to one out of four married men. Differences like these, analyses of the data show, are not simply a matter of more sober men being more likely to marry.²³
- As for marijuana, its use decreases two or three times more rapidly among those who marry than among their single counterparts. Meanwhile, their high school classmates who do not marry increase their use of cocaine and experience more bouts of heavy drinking.²⁴

“[T]he evidence suggests that men actually mend their ways as they first approach and then actually get married,” according to Waite and Gallagher. They cite another writer,

George Akerlof, who puts it even more definitively. When men delay or avoid marriage, he argues, they continue pursuing the often antisocial and destructive behaviors of single men. What helps them shape up is not becoming a boyfriend or a father, but rather a husband. Having children by itself, he contends, does not work the same transformation in men's lives.²⁵

3. What's the connection between marriage (or its absence) and the well-being of children?

- Even after researchers control for factors such as neighborhood characteristics, race, mother's education, and cognitive ability, boys raised in single-parent homes are twice as likely to have committed a crime that leads to jail or prison by the time they reach their early thirties. What about boys raised in stepfamilies? They're three times as likely to commit crimes leading to incarceration.²⁶
- Living without both parents not only increases the risk that a child will commit a crime, but it increases the chances he or she will be the victim of a crime as well, especially the suffering of abuse in their own home. Stepfathers and mothers' boyfriends are disproportionately likely to sexually and otherwise abuse children.²⁷
- An unmarried mother's boyfriend appears to pose an extra danger. One study found that although boyfriends contribute less than 2 percent of non-parental child care, they commit almost half of all reported child abuse by non-parents.²⁸
- Where fathers play only a marginal role (as is typically the case with unwed fathers or in long-divorced families), children grow up with only half the network of kin and half the adult friendships that can provide support, guidance, and access to technical expertise, school recommendations, and job referrals. The social capital created by married families accrues not only to the children of that marriage, but to other young people in the neighborhood as well. The risk that a teenager will engage in juvenile crime, for example, is heavily influenced not just by whether or not his own biological parents are married to each other, but whether or not he lives in a neighborhood where single-parent families are common.²⁹

I know of no sphere of life — not a single statistical category — in which boys and girls who grow up in single-parent homes do as well, on average, as kids who grow up under the same roof with their married biological parents. The same bad news (frequently even worse news) applies to children living in stepfamilies. A recent report of the National Marriage Project at Rutgers University sums things up succinctly: “The trend toward single-parent families is probably the most important of the recent family trends that have affected children and adolescents. This is because the children in such families have negative life outcomes at two to three times the rate of children in married, two-parent families.”³⁰ Criminal behavior, of course, is one of those outcomes.

Might one expect matters to improve any time soon? Not if answers to a survey question that has been asked of thousands of high school students over nearly three decades continue on their same injurious trajectory. Starting in the mid-to-late 1970s, national samples of high school seniors have been asked if they agreed that “having a child without being married is experimenting with a worthwhile lifestyle and not affecting anyone else.” Going back to 1976-80, 41.2 percent of boys said yes, while a smaller proportion, 33.3 percent of girls said yes. By 2001-03, however, the proportion of boys agreeing with the claim had grown to 55.5 percent, with the proportion of girls agreeing having grown even faster to a near-identical 54.8 percent.³¹ It’s understandable that seventeen- and eighteen-year-old kids are not familiar with arcane research about families. But what upside-down media and other cultural messages are they absorbing to believe that out-of-wedlock births don’t affect *anyone*?

This datum just in: the National Center for Health Statistics recently reported that 55 percent of all births in the United States in 2004, to women ages 20 to 24, were out of wedlock. Coincidence? The NCHS also announced that non-marital births overall in 2004 reached an all-time high of 1.5 million.³²

(IV) Collateral Sanctions and Collateral Consequences

It’s a sign of something telling, personal, societal or both, but I don’t recall ever hearing the term “collateral sanctions” — or its more encompassing twin, “collateral consequences” — before I started thinking about the issue that first prompted this paper more than two years ago. Given that people with criminal records regularly face unusually large obstacles in getting good jobs and building careers, might there exist any new or mostly untried ideas for affording them a more promising second chance of doing so — *all the while, and without waver, maintaining public safety as the highest possible priority?* (Or as a skeptical friend put it when I asked him the same question: Don’t you mean giving people with criminal histories a seventh or eighth chance?)

My inquiries led me to Robert M. A. Johnson, longtime county attorney of Anoka County, Minnesota, and former president of the National District Attorneys Association. In a column he wrote as president of the NDAA in 2001,³³ Johnson noted that, “Increasingly we see situations in which the collateral consequences of a criminal conviction exceed the consequences that are imposed by a judge upon sentencing.” By this he meant that it’s only *after* satisfying their sentences that offenders frequently learn the full consequences of their convictions.

Politicians both in Washington and in the states, he wrote, often propelled by public revulsion at highly publicized crimes, have “opened the dam on a stream of laws that impose subsequent consequences on those convicted of certain crimes.” These consequences are over and above those of the courtroom sentence itself, and they don’t take into consideration the particular circumstances of either the offender or his offense. As prosecutors, Johnson wrote, “our job, our duty, is to seek justice.” But he asked, “How can we ignore a consequence of our prosecution that we know will surely be

imposed by the operation of law?” Consequences and penalties, he added, that often last a lifetime.

The most precise definitions of collateral sanctions and collateral consequences I’m familiar with are found in a 2004 report of the American Bar Association.³⁴ While the two terms are often used interchangeably in conversation and in the literature, the ABA defines collateral sanctions more technically and narrowly than it does collateral consequences.

The term collateral sanction, according to the ABA, refers to a “legal penalty, disability or disadvantage, however denominated, that is imposed on a person automatically upon that person’s conviction for a felony, misdemeanor, or other offense, even if it is not included in the sentence.”

A collateral consequence, on the other hand, refers to “both those consequences that occur by operation of the law at the time of conviction” (i.e., collateral sanctions), as well as those that “occur as a result of some subsequent intervening event or discretionary decision.” The ABA report goes on to say that the term collateral consequences is sometimes used in reference to the overall “social effects” of incarceration; namely, the full range of bad and debilitating things that regularly happen to people *after* they’ve served their sentence. Margaret Colgate Love, in a very useful law review article that we’ll return to in the last section, captures the governmental and nongovernmental breadth of collateral consequences when she refers, not only to the “specific sanctions imposed by the legal system,” but also to the “degradation of social status often called the ‘stigma of conviction.’”³⁵

What are some specific examples of collateral sanctions and collateral consequences as they apply to employment and other parts of life?

In a 2001 letter, a Minnesota assistant attorney general listed four pages of jobs that persons convicted of felonies are prohibited to hold in the state, adding that there are “countless other jobs from which those persons *may* be excluded at the discretion of the hiring employer or applicable licensing agency (emphasis in the original).” He also pointed out that in some cases, the ability of a person to hold a job is dependent on the length of time since his or her conviction. The key line here is the one about the “countless other jobs” that may be off limits for men and women with records, as the four-page list is made up of many jobs that most ex-prisoners, in truth, probably don’t aspire to or clamor for: jobs such as jockey, lottery retailer, agricultural commodity merchant, physician, or membership on the National Indian Gaming Commission.³⁶

Then, again, the list does contain a fair number of other jobs that individuals with records might, in fact, be interested in and regularly capable of performing — not that most citizens would ever countenance such posts filled by anyone who has ever committed a particularly abhorrent crime, such as those involving sex. Such off-limit occupations (either forever or specified lengths of time) include school bus driver, property manager,

collection agent, and any position “involving direct contact with persons receiving services from a child care, adult care, or foster care provider.”

My focus here is on how the connection between crime and employment affects marriage. But as noted, abridged employment options are only one form of collateral consequences that depress chances for healthy marriages. An organization called the Legal Action Center, for example, is one of many groups that have critically examined the effects of criminal records on pursuits such as the right to vote, live in public housing, hold a drivers license, become an adoptive or foster parent, or qualify for public assistance, food stamps, or student loans. The Legal Action Center’s summary: “Our research found that people with criminal records seeking reentry face a daunting array of counterproductive, debilitating, and unreasonable roadblocks in almost every important aspect of life.” Putting aside the fact that not all of the group’s concerns are equally compelling, its report does reinforce the larger point that once a person is convicted of a crime — and sometimes merely arrested without ever being convicted — life can spiral under.³⁷

This Legal Action Center report ranks all fifty states on the extent to which it believes their respective laws and policies are “unfair or counterproductive” barriers to reentry in terms of the several spheres noted right above (e.g., employment, voting, public assistance, etc.). Minnesota is in the “average” category, coming in tied for twenty-fourth along with West Virginia. By the center’s lights, Louisiana, which ranks twenty-third, is a tad fairer. Connecticut, which ranks twenty-sixth, is judged a bit harsher. New York comes out fairest of all, with Colorado the least. We’ll return to Minnesota more amply in Section VI. But to close this part of the discussion, let’s return to Anoka County Attorney Robert M. A. Johnson.

In his same 2001 column cited above, he wrote of how “a problem arises when the degree of these collateral consequences reduces the possibility that convicts can return to be productive members of our society.” In these instances, he continued, society has effectively created a subclass of citizens who, even after doing their time and doing what they ordered to, are not only barred from jobs, but denied other rights and opportunities, “and continually labeled as criminals.” To the surprise of no one, he concluded, people in such straits “may believe they have no recourse but to continue to live outside the law.”

Johnson concludes: “At times, the collateral consequences of a conviction are so severe that [prosecutors and judges] are unable to deliver a proportionate penalty in the criminal justice system without disproportionate collateral consequences. There must be some reasonable relief mechanism.”

A fair and sound call for remedy? Yes. But at the risk of a simplism, and to preview what’s to come, the only way to make more than small dents in this big problem is for people — to be exact, mostly young men — never to be outlaws in the first place. Or, if past misdeeds preclude that, by getting straight in their tracks by going criminal cold turkey. Might any of this be feasible?

Given the way crime rates have fallen in many cities much more steeply than most officials and observers ever thought possible ten to twenty years ago, yes, dramatic and continued improvements are imaginable. Rudy Giuliani, for example, claims that overall crime in New York City fell by 65 percent during his eight years as mayor from 1993 to 2001, with homicides dropping by a remarkable 70 percent.³⁸ Yet it's critical to keep in mind that prime reasons for the successes of the last two decades have been tougher laws and sentencing, as well as improved, computer-assisted policing strategies; changes and practices which, by definition, have led to sizable increases in the number of lawbreakers arrested, convicted, and removed from the streets. But here's the rub: since 95 percent (and maybe more) of everyone who is imprisoned in the United States eventually gets out, literally millions of people, in continuing and ceaseless torrents, will confront the mountains of employment and other problems we've been talking about — causing powerful doubts to be in order about further improvement. Never starting down criminal alleys to begin with is the most likely route for getting us where we need to go.

To use the American Bar Association's definitions, and despite Bob Johnson's colloquial terminology above, we've been focusing more on collateral sanctions than collateral consequences, the latter of which, to repeat, pertain comprehensively to commonly recognized reentry problems. It's to such problems we now turn, though one in particular — easy electronic access to both conviction *and* arrest records — is “common” only in the sense that it's an increasingly routine complication.

(V) Other Reentry Problems

Keeping in mind that a main interest is in how criminal behavior leads to limitations on remunerative employment, which, in turn, further depress chances for healthy marriages, please consider demographic facts like these:

- Almost 65 million Americans have a state rap sheet. That represents approximately one-third of all men and women eighteen or older. “Rap sheets” contain not just records of convictions, but also of arrests in which a person is never prosecuted or convicted and, in fact, may be as innocent as the driven Minnesota snow.³⁹
- Significantly because of mandatory sentencing laws, the chances of being sent to a state prison after being arrested for a drug offense increased by 547 percent between 1980 and 1992. From another angle, in 1980 approximately one out of every sixteen state inmates was imprisoned for a drug crime. By 1999, that ratio had increased to one out of every five inmates.⁴⁰
- About 650,000 people are released from prison in this country every year — with another 7 million discrete individuals released from jails annually.⁴¹

- A slightly more modest estimate of the total number of people released from prison every year still has 1,600 inmates, mostly men, coming out *every day*, seeking to “find their way back into society, typically with little planning, counsel, or support.”⁴²
- Even though spending on corrections increased almost sevenfold from 1982 to 2002 — from \$9 billion to \$60 billion annually — the chances of a former inmate “succeeding in the community upon his or her release” did not improve over those two decades.⁴³
- Nationally, 70 percent of offenders and ex-offenders are high school dropouts.⁴⁴
- Based on at least one study, about half of all offenders and ex-offenders are functionally illiterate.⁴⁵
- About three-fourths of offenders and ex-offenders have had substance-abuse problems sometime in their lives.⁴⁶
- Almost half of those leaving jails earned less than \$600 per month immediately prior to their incarceration.⁴⁷
- Among the small proportion of ex-offenders who are women, “large numbers suffer from depression and/or past sexual abuse.”⁴⁸

The effects of poor reading, computing, and other academic skills on the ability of ex-convicts to find and keep decent jobs are obvious and well recorded, leaving no need to embellish and drive home the point further. The same holds with what are often called “soft skills”: the ability of workers to take direction from supervisors, get along with co-workers and customers, show up for work on time every day, etc.

Likewise, there is no need to spend more than a few words on the fact that drugs and alcohol are implicated in an extraordinarily high percentage of crimes and re-entry failures. A veteran public defender once told me that in his dozen years in Minnesota courtrooms, only about a dozen of his clients had been sober while committing their crimes. That averages out to one clean and sober client a year — a rate similar to what former Minnesota Gov. Al Quie used to say during his time on the state’s pardon board (1979-83). Actually, I may have heard him say back then that *none* of the people who came before the pardon board had been straight when breaking the law.

Then there is racism. As was the case when discussing the implosion of marriage in large parts of the African American community, it would be an unacceptable omission to ignore the possible role of bigotry in making it particularly difficult for ex-convicts of color to reconstruct their lives — or, as the case may be, to adequately construct them for the first time.

Let me note here that I've long argued that charges of racism, in all spheres of American life, are often thrown around promiscuously, inaccurately, and unfairly, with racism's supposed dominance of national life too frequently blamed for almost all disappointments and bad news, especially in our great cities. As my colleague Peter Bell and I wrote more than a decade ago, "We clearly grant that racism is broadly found." But breadth is not the same as depth, by which we meant, "while racism may be 'all around,' it no longer has the cutting power in this country, generally speaking, to cause severe human and social damage."⁴⁹

That's not to say that racism is a baseless concern when talking about the reentry problems faced by immense numbers of disproportionately minority offenders. Perhaps the most authoritative and persuasive research on this topic in recent years is a study by sociologist Devah Pager in which black and white "testers" applied for actual, entry-level jobs in Milwaukee, with half of all white testers and half of all black testers identified as having police records, and with the other half of all testers (again both black and white) identified as *not* having records. Pager found that while 34 percent of the white testers without criminal records received callbacks from employers, only 14 percent of blacks without criminal records did. Similarly, while 17 percent of whites with criminal records received callbacks, only 5 percent of blacks with criminal records were so contacted. In other words, and Pager makes the point with emphasis, "whites *with* criminal records received more favorable treatment (17 percent) than blacks *without* criminal records (14 percent)."⁵⁰ She sums up:

This evidence is suggestive of the way in which associations between race and crime affect interpersonal evaluations. Employers, already reluctant to hire blacks, appear even more wary of blacks with proven criminal involvement. Despite the fact that these testers were bright articulate college students with effective styles of presentation, the cursory review of entry-level applicants leaves little room for these qualities to be noticed. Instead, the employment barriers of minority status and criminal record are compounded, intensifying the stigma toward this group.⁵¹

With no interest on my part in committing racial sophistry, and without seeking to let employers in Pager's study (all of whom were white) off all hooks, let me suggest another way of evaluating their suspect behavior.

Given that young black men commit significantly disproportionate amounts of crime — and given that this is well known — is it really surprising that employers in Pager's experiment tended to gauge them more skittishly than they did white applicants? Is it really surprising that many employers in such situations are scared?

I trust many people reading this partial interpretation of Pager's results will claim it to be, not terribly distant, if distant at all, from the very sort of racially stained doublespeak I disavowed above. But the hard and ugly fact of the matter is that it's unreasonable — in fact, it's asking the impossible — for employers and others in positions of authority to be wholly oblivious in thought and deed to racially demarcated crime patterns that are

frightening and recognized by all. This is no less inevitable than it's dreadfully unfair to many.

Does this describe a tangible racism that hurts and stymies many completely innocent people? Yes. Is it erasable at this stage of national life? The answer is a grievous no as long as crime patterns remain mostly the way they are.

Adding significantly to the travails of offenders is the explosion in the number of firms and other sources that provide potential employers (as well as landlords, casual friends, et al.) with instantaneous electronic access to everything in those criminal records — the good, the bad, and the ugly. For unhelpful measure, also made readily and globally accessible by this huge and fundamental high-tech change is every scrap of incorrect information that may dwell in the file of a person straining to go straight.

“While it never has been easy for a former convict to secure a full-time job,” Mike Meyers of the (Minneapolis) *Star Tribune* wrote earlier this year, “the rise of the electronic background check and fear of lawsuits among potential employers are creating ever-higher barriers to work for those leaving prison.” Myers cited one estimate of 450 Internet firms offering criminal background checks that are “easy, fast, and cheap.” While such background reports have been known to be incomplete or mistaken, that shortcoming doesn't seem to be slowing down their use. This is not surprising given the possible legal exposure of employers if an ex-con should offend again while on the job.⁵²

The Wall Street Journal reported in 2004 that about 80 percent of big U.S. companies were doing criminal-background checks, compared to 56 percent in 1996. Suffice it to say both numbers are sizably larger than whatever the rate was before the Worldwide Web. But as businesses rely increasingly on electronic vetting, they “risk imposing unfair barriers to rehabilitated criminals.” The societal implications of this are huge, the two *Journal* reporters contended, because if “former offenders can't find legitimate jobs, they may be driven back to crime.”⁵³

The issue of easy access to criminal records begs a list of exceedingly difficult questions, each calling for an exquisite balance between playing fair and mercifully with people who have done their time and paid their debt, while also protecting public safety and heeding the public's right to know just about everything their government does. These dilemmas are salient across the nation, Minnesota very much included. We'll return and expand on them in the next two sections: the first focuses on crime (and to a lesser extent, families) in Minnesota; the final section offers summary points and recommendations.

(VI) Minnesota

All the entwined problems of crime and marriage we've been talking about are often particularly acute in the Twin Cities. Here is a review of some numbers already mentioned plus additional data. While many of these examples pertain to African

Americans specifically, please keep in mind that our interest is in all individuals (realistically, mostly men) with police records.

- Minnesota has one of the biggest – perhaps *the* biggest – black-to-white disparity in prison rates in the nation. In 2000, 37 percent of the state’s prison inmates were black, even though blacks made up less than 4 percent of the state’s population. For violent offenses, the arrest rate of African Americans in Minnesota in 1999 was 1,621 per 100,000. The parallel rate for whites was 76 per 100,000. This meant African Americans were twenty-one times more likely to be arrested for crimes of violence than whites.⁵⁴ And while they make up only 1 percent of the Hennepin County’s total population, African Americans represent 36 percent of its murder victims.⁵⁵
- Going back a decade, the violent crime rate in U.S. cities with more than 250,000 people decreased 29 percent from 1991 to 1997. In Minneapolis, however, the violent crime rate *increased* by 17 percent during that period. In tepid keeping with improvements the rest of the nation, the violent crime rate in St. Paul fell by 11 percent over those half-dozen years. If one is intent on ferreting out a glass-half-full interpretation of these numbers, as a state, Minnesota remained substantially safer, on average, than the other forty-nine states — and positively innocent compared to places like the District of Columbia⁵⁶
- As of the year 2000, only 23 percent of young black men in Minneapolis were graduating from high school in four years.⁵⁷ Nationally, the drop-out rate for African Americans is between 50 and 60 percent. For seventeen year-olds of all races, it’s 30 percent.⁵⁸
- Yet somehow, if these next figures are accurate, there’s at least a cup of good (if hard-to-understand) news to be had when talking about Minnesota’s prison population: 71 percent of all inmates at the Minnesota Correctional Facility in Oak Park Heights report having either a high school diploma or a GED. At the facility in Stillwater, it’s 73 percent. And at Lino Lakes, it’s 74 percent.⁵⁹ I seem to recall a judge once saying what this country needs was a higher class of prisoners. Maybe Minnesota really has them.
- Fifty-four percent of African American children in Hennepin County are raised by single mothers. The rate is 58 percent in Minneapolis.⁶⁰
- As for rates of live births to unmarried women in Hennepin County, the numbers in 2003 broke down this way by race and ethnicity: Hispanic/Latina, 54.2 percent; Asian/not Hispanic, 22.9 percent; American Indian/not Hispanic, 83.4 percent; white/not Hispanic, 15.9 percent; U.S.-born-black/African American, 78.6 percent. Overall, 29.9 percent of live births in Hennepin County in 2003 were to non-married women.⁶¹

So much for statistics. Two of the issues discussed above — the multiplicity and reach of collateral sanctions, along with fast and cheap Internet access to criminal records — have been objects of debate in Minnesota in recent years.

As for the former, the Minnesota Legislature earlier this year (2005) passed a law requiring the Reviser of Statutes to publish an up-to-date list of Minnesota-based collateral sanctions. In addition, the Minneapolis-headquartered Minnesota Council on Crime and Justice is developing an electronic database of state and federal collateral sanctions.⁶² These two steps constitute concrete progress because, as Anoka County's Robert M.A. Johnson argued earlier, judges, prosecutors, and defense attorneys have been hard-pressed to inform defendants of the full details of their punishments, as hardly anyone — if indeed anyone at all — has had an adequate grasp of all pertinent, down-the-road sanctions and penalties. This legislation was the direct result of research and activism by a group of public officials and other citizens that included the just-mentioned Mr. Johnson, as well as Thomas L. Johnson, president of the Minneapolis-based Council on Crime and Justice, and perhaps not incidentally, a former county attorney for Hennepin County. If there is a similarly energetic drive currently under way to actually reduce the number and severity of collateral sanctions in Minnesota, I'm not familiar with it.

More complex than compiling lists of sanctions all in one place are questions concerning easy public access to criminal records, as witness the proceedings of a full-day continuing legal Education program in Minneapolis in June: "Old Police Records Never Die and They Don't Fade Away Either." The subtitle for the meeting, sponsored by Council on Crime and Justice, was "An Analysis of the Ethical and Racial Issues Raised by Public Access to Criminal Justice Records." What are some of these issues?

An afternoon panel, for instance, included, a television news reporter for whom the First Amendment meant he had the right to peruse, and if he and his producer so chose, report immediately anything and everything about an arrest — no matter how shaky that arrest might be; no matter how the airing of still-fuzzy details might damage a person's life; and regardless of whether the person in question was guilty as sin or innocent as an angel.

Also on the panel was an African American politician who, if he didn't necessarily have the Constitution and law fully on his side, passionately made the case for journalists more frequently stifling themselves and for governmental agencies sealing records of arrests that don't lead to convictions, lest youthful mistakes — and perhaps racially tinged police practices — further stymie a person's life.

Figuring out where public safety and the public's right to know leave off, and where reasonable and decent chances for new and redeemed lives begin, is difficult enough without race intruding. This is especially the case when employers and others have instantaneous access to tens of millions of criminal records, since disproportionately large numbers of minorities stand to be hurt.

Given these tangles, and in light of passionate assumptions in many quarters that police, prosecutors, judges, and everyone else implicated in the criminal justice system are part of an implicitly and systemically racist endeavor, it's incumbent for people who don't believe such bias exists to explain explicitly why not. Making such an exculpatory case is not just a matter of fairness — in this instance to cops, county attorneys, jurists, as well as to our understanding of the truth. It's also essential if we are to correctly decipher what our life-and-death problems really are and then have a prayer of fixing them. Another way of putting this is that rote attacks on law enforcement officials, especially police, are diversionary and counterproductive. So permit me to be drawn from two cogent refutations of supposed racist law enforcement practices in Minnesota.

The most attended-to report in recent decades claiming that deep-seated discrimination in Minnesota's criminal justice system is the case was the product of a more-than-two-year study commissioned by the Minnesota Supreme Court and released in 1993. Conclusions of the court's "Task Force on Racial Bias in the Judicial System" included ideologically fevered conclusions like the following. They warrant being quoted at length.⁶³

The issue of attempting to use legal means to limit certain choices or specific groups of people brings into sharp focus an extremely critical aspect of the dynamics of racism: that people who live in the midst of a culture, yet have been relegated to the status of permanent outsiders, must somehow be controlled. It appears that the more a racial/cultural group finds its members locked out of equal economic opportunity by prejudice, the more it will find its members disproportionately locked up or otherwise under the direct control of state authorities. This is because maintaining a racial caste system, something we as a nation have always been loath to admit we have, requires a complex system of formal and informal controls [*italics in the original*].

And then, on the chance that the first paragraph didn't sound enough like a bad term paper, the report went on:

In the specific case of African Americans, although the justice system is no longer made to enforce the ultimate social control of slavery or the complex codes of legal segregation that took its place, the justice system still finds itself used as a powerful tool of the pervasive prejudice and the subtle, often elaborately camouflaged discrimination that still deeply scars our national life.

There are two big problems, among others, with these two paragraphs.

The first, as first pointed out by two Twin Cities attorneys, John Hinderaker and Scott Johnson,⁶⁴ is that the actual evidence collected and analyzed by the task force's own staff proved that Minnesota's criminal justice system was not biased against African Americans. But such hard data were mostly confined to the report's appendix, while unsubstantiated, more politically charged rhetoric prevailed in its main text — the only part of the report that most journalists and others read.

The report's conclusions depended on statistical analysis of thirty sets of data that concern aspects of the criminal justice system such as the likelihood of pretrial release on bail, size of bail, amount of time spent in jail, frequency of dismissed misdemeanor charges, likelihood of legal representation in juvenile cases, adjustments (both up and down) in prison sentences for convicted felons compared to sentencing guidelines, etc. What did the task force actually discover?

“In eleven of the thirty data sets,” Hinderaker and Johnson unearthed, “there was no material difference between minorities and whites. In eight of the data sets, minorities fared better than whites. . . . Thus, in nineteen of the thirty data sets, minorities fared as well as, or better than, whites.” As for the remaining eleven data sets, raw number discrepancies in five of them were judged not statistically significant by task force researchers themselves. While in the remaining six, according to Hinderaker and Johnson, “proper controls for obviously important variables (such as the number and severity of prior convictions) were lacking.” Overall, they correctly conclude, “the data simply do not support the assertion that racial bias permeates [Minnesota's] criminal justice system, as systemic bias simply would not produce results like these.”

The second critical problem with the two incendiary task force paragraphs above is that they're oblivious to the terrible and painful fact — but fact nonetheless — that African Americans commit many more crimes, especially crimes of violence, than their share of the population would suggest. Crimes, it's important to recognize, in which African Americans themselves are disproportionate victims. The national rate of murders committed by blacks, for example, is seven times higher than that for all races combined; the black robbery rate is eight times higher.⁶⁵

Not to belabor the point, Hinderaker and Johnson cite the distinguished political scientist John DiIulio, who wrote in 1996:

Is there anything social science research can do to help dispel all the ambivalence and confusion crowding around the subject of race and crime? At least it can tell the truth, as the data disclose it, about the reality of black crime and punishment. The bottom line of most of the best research is that America's justice system is not racist, not anymore, as it undoubtedly was a generation agoIf blacks are overrepresented in the ranks of the imprisoned, it is because blacks are overrepresented in the criminal ranks — and in the violent criminal ranks at that.

In bringing this uncomfortable section to a close, it's important to note that while the Minnesota Supreme Court report is now a dozen years old, its basic message has been reiterated many times in more recent years in equally unsupported claims that police in Minneapolis, as well as in other cities across the country, are routinely racist in who they pull over in traffic stops. This is not the time to challenge this assumption in the detail it demands. For that matter, neither is it time to absurdly claim that racism is *never* a factor in American life, including traffic stops and law enforcement more generally — not that I know of any Earth-bound person who believes such Utopian precincts exist. Let me just note that those who claim that something called “racial profiling” is the norm in traffic

stops invariably ignore many key factors and circumstances, starting with the paramount point that police would be failing in their jobs if they spent more time patrolling neighborhoods where there's hardly any crime rather than neighborhoods where crime is rampant. Needless to say, and once again sadly, many more minorities tend to live, and therefore drive, in the latter (and dangerous) parts of town, rather than in the former (and safer) parts.⁶⁶

Even so, a new survey of 80,000 civilians by the U.S. Department of Justice found that identical proportions of white, black, and Hispanic drivers — 9 percent — were stopped by police nationally in 2001, with the stop rate for blacks actually being lower during the day than at night when the race of drivers can be more readily determined.⁶⁷ (If you doubt this difficulty, next time you're driving —day or night — try to figure out the race of the drivers in front of you.)

(VII) Conclusions and Recommendations

The subtitle on page one asked: “If Wedding Rings Help Break Vicious and Violent Cycles, What’s Impeding Them from Doing So More Often?” The shortest answer is crime itself. Not only violent crime, but lawbreaking and self-destructive behavior of many sorts, by offenders of many groups and many ages, both young and old.

Reentry problems posed by collateral sanctions are consequential, of course, in blocking routes to redemption. As are problems caused by immediate and universal access by employers to criminal records. As are prejudices, hesitations, and liability fears of many such employers. As are poor academic and work skills on the part of ex-prisoners. As is their common abuse of drugs and drink. All of these and more are reasons finding the kind of gainful employment that is conducive to marriage, can be very hard tasks for former offenders. But it's essential to understand that the core and overriding problem that must be ameliorated is not the various ways in which society and individuals *respond* to criminal behavior, but rather, the extraordinary amount of criminal behavior that provokes societal and individual responses in the first place, be those reactions wise and productive or not. Any other dominant focus is ethically wrong and, in the sequencing of things, misplaced. Yet, and the next point is central: to the oft-made charge that too-little societal attention to obstacles such as poor work skills inevitably leads to new rounds of crime and higher rates of recidivism, the only fair and accurate answer is yes, that's inescapably true, too.

It's similarly true that prisons (to use the language of the trade) frequently have criminogenic effects themselves. Minus the jargon, prisons often serve as entry points — graduate schools, if you will — for careers in crime. “If the prison experience made men more prone to violence or abuse,” Bruce Western and Sara McLanahan have written, “incarceration would have large negative effects on family welfare.”⁶⁸ Or, for our purposes, prison terms do not necessarily lead to healthy marriages and close fathering.

Helping ex-convicts build new lives so they can stay out of prison and be good husbands and fathers is a requirement of both morality and self-interest. I think here of something a friend wrote in critiquing a draft of this paper: “I continue to be amazed that the fundamental teaching in most faiths of forgiveness is not part of the discussion in a society that considers itself so religious.”

This may well speak poorly of us. But digging deep enough within oneself to find and maintain sufficient stocks of fellow-feeling and charity for those attempting to remake their lives can be tough. Failure to assist offenders in this way, I would argue, is less a matter of compassion fatigue and more a matter of durable compassion never kicking in to begin with, in large part because of ceaseless streams of bloody news reports.

Consider this minute sampling of headlines that blared in the (Minneapolis) *Star Tribune* as I worked on this paper; the first three of them all in one day, with the fourth, notably, on the morning I started writing the Minnesota section. When it comes to lists, this one can be expanded every month of every year by scores and hundreds.⁶⁹

- “Four Charged in Double Murder: But One Suspect is at Large in Shootings of Minneapolis Businessman, Worker.”
- “A 90-Second Chase, and She Was Dead: An Escaped Felon Was Driving the Stolen SUV that Killed a New Brighton Woman.”
- “In Drunken Fury: Suspect Made Car a Weapon: Investigators Piece Together Details of Fatal Hit-and Run.”
- “3 More Shootings Add to Anger Over Crime: 63-year-old, Two Boys Probably Were Hit by Mistake.”

This last story bespoke of even more anger and exasperation than suggested by the headline, given the randomness of the shootings and the ages of the three innocent victims. Council Member Barbara Johnson, a Democrat, who represents a ward on the North Side of Minneapolis where the shootings took place, was quoted as saying: “We have far too many people in our midst who have multiple — triple-digit — contacts with our police department who are out walking around. Normal people cannot live with these people out walking the streets.” Please keep this not-unreasonable comment in mind as I discuss the assertion that we already lock up too many people. The latter is a view I have some sympathy for, though I’m the first to admit it’s a position that’s regularly at the mercy of infuriating crimes like this one.

(As I finished writing the sentence above, radio reports were just starting about looting in New Orleans during and following Hurricane Katrina. Amazing — though not surprising, and all the more reason to emphasize that protecting public safety must be the superseding consideration always. Plus, in any rush to empathize with those who have been imprisoned, I would like to think it’s clear that their victims deserve at least equal sympathy and tangible help in rebuilding their lives.)

I quoted Princeton University social scientists Bruce Western and Sara McLanahan above about how imprisonment can further contribute to the non-formation and breakup of families. They likewise have written about how the “impact of incarceration also continues well after release.”

Incarceration is a watershed event that can disrupt key life course transitions[,] setting in motion a downward spiral of accumulating disadvantage. The stigma of incarceration can produce strong feelings of shame and anger, both for inmates and their families. Incarceration is thus likely to be a significant shock to family relationships, contributing to marital strain among ex-inmates.⁷⁰

All manifestly true. And as argued similarly by Edin and Kefalas in their study of unwed mothers in Philadelphia and Camden, Western and McLanahan acknowledge that “single mothers are reluctant to marry or live with fathers of their children if the father has a history of incarceration.”⁷¹

Mammoth numbers of American men are in jail or prison on any given day. I note this even while recognizing that Minnesota has the second lowest incarceration rate in the nation, behind only Maine.⁷² Still, the question needs to be asked in this state no less than elsewhere: is the rate in which we lock people up in the United States counterproductively high? Might there be more effective and less disruptive (as well as cheaper) ways of fighting the excessively named war on drugs? Did the federal government and the states go overboard, starting in the 1980s, in mandating long sentences for many first-time and repeat offenders, especially where drugs are involved, and in so doing, diminishing the discretion of judges in meting out what they might view as more just, prudent, and perhaps merciful punishments? In taking a closer look at some of the data and patterns, it’s hard not to think that we’re possibly too quick to imprison too many people for sentences that are too long. As of 2000, for instance, the incarceration rate for just drug offenses in the United States was comparable to the total rate of incarceration for *all* crimes in the entire country for much of the twentieth century.⁷³ Does this explosive rise make sense? Does it serve justice?

The answer would seem to be no, it doesn’t make sense or serve justice — *except* for the overpowering fact that drug trafficking continues to destroy all in its urban wake by serving as cause and ammunition in gang wars. Likewise, huge imprisonments in a free country would seem to make little sense and suggest even less justice — *except* for the enraging fact, as Council Member Johnson decried earlier, Minneapolis is home to “far too many” people who continue prowling streets, making life miserable, and sometimes fatal, for city residents despite their having “triple-digit contacts” with police.” It’s hard to square claims that the American judicial system is too eager in putting people away with the fact that nearly every time a person is arrested for a particularly terrible or perverted crime, his rap sheet is found to be pages long. And each time it happens, citizens legitimately want to know how and why, given such a record — often thick with violence — such a predator had been free amongst them? (Ninety-three percent of inmates in state prisons are either convicted violent offenders or convicted recidivists, “not the first-time nonviolent offender we hear so much about.”⁷⁴)

1. Ideas and Recommendations

So what to do? If solutions to malignant ties between crime and the possibilities of marriage were clear and easy, they would have been pursued in earnest and successfully demonstrated eons ago. Similarly, if the handful of ideas and recommendations that follow were to adequately correspond to the gravity and bugle call of problems as mourned in these pages, it would be a near first, as “recommendations for further action” are invariably inadequate and limp when compared to the urgency of the crises they’re intended to fix. Either that is the case, or recommendations often over stride to starry regions. With such caution and modesty in mind, I would urge consideration of seven clusters of proposals. Purposely not included are recommendations that are more commonly made, such as those regarding vocational and substance abuse programs for offenders both in and out of prison, community-based mental health programs especially for at-risk youth, better housing, and more. Such programs are frequently, perhaps usually worthwhile — starting with especially strong ones such as Twin Cities Rise! — an initiative for job training and more, founded by former General Mills executive Steve Rothschild.⁷⁵ However, given the amount routinely written and advocated on behalf of such programs, it’s unnecessary to make a case for them again.

(i) Review collateral sanctions with an eye to safely reducing their number and reach.

When compared to all the problems faced by former inmates trying to turn their lives around, my sense is that specific laws and rules prohibiting them from filling certain jobs — collateral sanctions — are usually not the main obstacle they face. That’s not to say that such restrictions don’t constitute a serious blockage in many instances. Obversely, it’s also not to say that the rationale for many sanctions isn’t clear-cut. For example, recently released felons shouldn’t hold any job in which they are regularly alone with children.

That said, it seems reasonable to assume that at least *some* collateral sanctions don’t make as much sense as others; that some might be the product of overkill. Minnesota has made recent progress in collecting state and federal collateral sanctions in electronic registries. A logical next step would be to review all sanctions with dual goals in mind. First and foremost, continuing to protect public safety. Second, considering revisions aimed at helping offenders go straight by possibly reducing the reach and duration of some — maybe more than a few — sanctions. Who should lead such a study for eventual shipping to the governor and legislature? A broad collection of men and women who make their living both in and out of law enforcement, is the answer. If pressed as to who should convene and lead it, mark my vote for Anoka County Attorney Robert M. A. Johnson, though Minnesota does not lack for other talented and equipped chairs.

(ii) Come to realistic grips with widespread Internet access to criminal records.

Notice that this recommendation doesn't necessarily suggest sometimes restricting public access to criminal records. This is because I have little faith that any law written to remove certain records from public scrutiny in order to protect the privacy and good name of individuals *who indeed deserve to be so protected* can withstand the onslaught of high technology.

For example, it can be a crime of a very different and unfair sort for people to carry around arrest records for the rest of their lives when they've never been charged or convicted of anything beyond a parking ticket. This is especially the case when, in fact, they were wholly innocent of whatever they were arrested for. Yes, there are procedures to seal or expunge such abbreviated records, but it always takes time and often money to do so, and by the time all bureaucratic hurdles have been jumped, serious damage can already have been done, since documentation of the perhaps hollow arrest is likely already deep within, and therefore, forever irretrievable from cyberspace. By serious damage, I mean unfair penalties such as being denied jobs, apartments, etc. Viewing the issue in terms of race, I presume that some share of the immense number of young African American men arrested in the Twin Cities every year really do get picked up because they are hanging around the wrong place at the wrong time.

One possible safety valve would be for police to make greater use of citations (which don't necessarily wind up on the Net) rather than actual arrests. This idea, which has been proposed by the Minneapolis-based Council on Crime and Justice, presumably would help a significant number of disproportionately minority kids avoid life-scarring records.⁷⁶ "[T]he police," the council urged, "should use the citation process for low-level offenses . . . unless an arrest is justifiable because the offender presents an articulable threat to public safety." In contemplating the idea, which I believe has merit, I nonetheless would urge all concerned to once again recall what Council Member Barbara Johnson had to say about young men with "triple-digit" police contacts" who nonetheless remain sufficiently unencumbered to maim and kill on Minneapolis streets.

Still, all this is less a recommendation than a resignation. In terms of more tangible policies, where does "coming to grips" with widespread electronic records lead? Please see the next recommendation.

(iii) Investigate safest possible ways of helping former offenders cleanse their name.

Traditional means for helping individuals who have completed their sentences to get on with their lives have included legal and administrative devices such as pardons, certificates of rehabilitation, and the expunging of records. Each is flawed in one way or another. For example, expunging records requires a willingness to "rewrite history," something that is "hard to square with a legal system founded on the search for truth." Also, to the degree it involves efforts to "conceal an individual's criminal record from public view, it tends to devalue legitimate public safety concerns."⁷⁷

This critique of expungements is by Margaret Colgate Love, whom we heard from earlier regarding the “stigma of conviction.” While she fails to adequately appreciate the public’s fear and anger at growing crime in the 1970s and 1980s, which in turn led to government at all levels coming down harder on criminals, she is compelling when she writes: “We sentence, we coerce, we incarcerate, we counsel, we give probation and parole, and we treat — not infrequently with success — but we never forgive.”⁷⁸ How, exactly, to forgive — safely?

Drawing on a “Model Penal Code” drafted by the American Law Institute more than forty years ago, in 1962, Love (what a name under the circumstance) offers a route worth investigating. Her aim is integrating offenders into society “not by trying to conceal the fact of conviction, but by advertising the evidence of rehabilitation.”⁷⁹ She and the model code propose doing this in a two-tiered process. First, she writes, the original sentencing court “may issue an order relieving all legal disabilities after an offender has satisfied his sentence.” And second, after a further period of “law-abiding conduct” (the model code suggests five years) the sentencing court “may issue an order ‘vacating’ the conviction.”⁸⁰ (The emphasis each time is mine.) What might this approach accomplish that others do not? Love concludes:

The resulting scheme provides the offender both incentive and reward for rehabilitation, and satisfies the need for a ritual of reconciliation. In relying primarily on the sentencing judge, it provides a more reliable and accessible process than pardon or other executive restoration devices, and a more respectable one than automatic statutory provisions. In contrast to expungement [as noted above] it does not sacrifice the legitimate concerns of law enforcement or undermine respect for the value of truth in our legal system.

Also, neither does the plan “fly in the face of technological reality,” such as Internet access to criminal records. Nor does it “encourage either the offender or the community to evade their respective responsibilities for coming to terms with mistakes in the past.”⁸¹

(iv) Come to realistic grips with the inability of current educational arrangements to adequately serve many low-income and minority students — no matter how much money we spend.

Funding for Minneapolis Public Schools, from all sources, totaled more than \$13,500 “per pupil unit” in 2003.⁸² What has been won with sums like these, which are larger — and not by a little — than per-pupil spending across Minnesota and the country on average? Many very good and also, no doubt, stunning things are being achieved nationwide, as talented and brilliant teachers and principals pursue their calling and ministry in almost all American schools. Yet at the very same time — and for reasons that are by no means only the fault of public schools themselves — unconscionably immense numbers of poor and minority students in Minneapolis public schools are neither learning very much nor sticking around to graduation. What to do — other than essentially more of the unsuccessful same?

Research is clear that African American boys in particular tend to perform better academically in private, perhaps especially Catholic schools.⁸³ The possible reasons for this are beyond the scope of these recommendations. Let me simply say that I know of no educational reform that holds out the same promise for helping flailing students fly as school choice programs that make it possible for parents to send their children to schools that are best equipped to serve them, be those schools public or private, religious or not. And by “best equipped,” I’m not talking about schools with the biggest budgets, the biggest labs, the biggest library, or the biggest anything else. Furthermore, I know of no policy that is more likely to spur public schools to improve (thus better serving students who remain enrolled in them) than the healthy competition that only serious school choice programs can provide.

(v) Continue supporting the bureaucratically modest and face-to-face approaches to helping young men as advocated by Hennepin County’s African American Men Project.

“Crossroads: Choosing a New Direction,” the frequently cited final report of Hennepin County’s African American Men Project, is remarkable for its candor and, therefore, courage. Many of the most distressing statistics cited in this essay about blacks in Minnesota, for example, are from the 2002 report. But beyond numbers, contributors of the study correctly understood that relying on big government to help young men in distress historically has led to little gain. Rather, framers had programs such as Right Turn in mind. Right Turn is a partnership of two faith-based non-profits in heavily African American neighborhoods: Urban Ventures in South Minneapolis and Holding Forth the Word of Life Church in North Minneapolis.

Gary Cunningham, a principal leader of the AAMP, said, “Everything Right Turn does is community based. The rationale is that if young African American men are to be restored to the community — and if a sense of community is to be restored in them — they must begin restoration in the community, rather than through the county bureaucracy.” Young men signing up with the program begin two relationships immediately. One with a single advocate, called a Systems Navigator, and a second with a faith-based organization embedded in the community. This is a fundamental departure, Cunningham writes, “from the typical bureaucratic approach in which citizens get in many different lines to receive uncoordinated services from many different impersonal government programs.”⁸⁴

A tad cynically to be sure, I’ve long said if people need “programs” to learn the basics of responsible adult life, almost all is lost before it begins. I’ve also, however, long said we cannot hope to fix the most seemingly intractable problems we face as a state and nation without taking fuller advantage of our religious institutions and traditions — while scrupulously respecting American variety and the Constitution. To attempt otherwise amounts to foolishly tying muscular arms behind weakened backs. If any “program” is to succeed in turning lives around it’s more likely to resemble Right Turn than most

anything on the ACLU's list of approved social agencies eligible to work with government. We'll return to matters of faith below.

(vi) Regain our public voice about the importance of marriage.

The final report of the African American Men Project is brave about many things; marriage, I'm afraid, isn't one of them. While it contains much that is on target about the importance of fathers, it is virtually mute on the very much fastened importance of marriage. In addition to simply talking more about healthy, violence-free, and low-conflict marriages, it's also important to support programs whose aim is to encourage more of them. I say this while fully acknowledging what I just said skeptically about "programs" in the recommendation right above. I applaud President Bush's "Healthy Marriage Initiative," which the administration calls a "centerpiece" of welfare-reform reauthorization bills currently before Congress.⁸⁵ I also applaud the path-breaking research and practice of Prof. William J. Doherty of the University of Minnesota: The Minnesota Family Formation Project, a five-year, state and federally funded initiative that works with unmarried new parents "who want to form stable families in which to raise their child."⁸⁶ True, I don't think any of these ventures could ever succeed more than marginally insofar as the problems and doubts undermining marriage run too culturally deep. But that's not to say marginal improvements wouldn't be welcome.

(vii) Recognize that if real progress is to be made in reducing crime and reviving marriage, religious faith and energy will be the most likely reason.

I trust virtually everyone reading this paper would agree, strongly, that it's a very good thing when people outside of prisons befriend and help those inside of prisons. But if I had to guess (I don't have data on this), driving disproportionately large numbers of such Samaritans is sense of ministry, a calling of faith. I think, for example, of former Gov. Al Quie's ceaseless devotion in working with inmates. A couple of years ago, the correctional facility in Lino Lakes dedicated a wing — a *prison* wing — to Quie, an honor I trust not too many upstanding American politicians have ever received. It houses a voluntary (I repeat, voluntary) rehabilitation program called InnerChange Freedom Initiative, a project of Prison Fellowship in collaboration with the Minnesota Department of Corrections. And in the same way I assume that large numbers of prison volunteers are religiously spurred, I take it for granted that once a sufficient number of inmates have graduated from the program, and enough years have passed for a statistically valid evaluation to be conducted, it will show that recidivism rates for alumni are measurably lower than the norm.

Of marriage specifically, the University of Minnesota's Bill Doherty correctly writes that "churches in low-income communities, especially black communities, have to get on board with a cultural message about the importance of getting and staying married if [people] are going to have children." He says such movement is, in fact, under way, as he sees it in the Family Formation Project cited above.

Marriage is so diminished in many parts of the United States that crime is but an additional nail. Yet if marriage is to revive in the very communities that need it most, crime will indeed — somehow — need to recede. Yet again, other than a spiritual revival of the most introspective and animating kind, I just don't see it happening. I don't see it happening unless and until people collectively grab their heads and say, "My God, we can't keep doing this any longer. We can't keep committing suicide."

For people who are uncomfortable with this kind of religiously flavored talk, they can conceive what needs to be done as a "social" movement, akin to those that have succeeded over the last half-century on behalf of civil rights, women's rights, the environment, and the stigmatization of smoking.

2. Final Word

To be happily married is more than a personal blessing. And marriage itself, even though it's the most intimate human relationship, is as much a public as private institution. More explicitly, society has a large stake in marriage, as without a critical mass of healthy marriages, it's hard to imagine how any American community can assure the well-being of its children. The same holds for the very much related capacity of any community to keep its streets reasonably safe and free of crime. But the Catch-22 spotlighted in this paper is precisely the fact that as long as criminal behavior remains unacceptably high, marriage in those communities will remain regrettably and destructively rare. To repeat, this is not to say that crime is the only reason for the decline of marriage, particularly in inner-city and other distressed neighborhoods. Far from it. But crime is a critical, albeit poorly acknowledged, cause of that decline.

Nothing here, needless to say, should be interpreted as suggesting that every adult should be married. Beyond noting that choosing to marry or not is a *private* decision, some number of men (as well as some number of women), are just not very good candidates for matrimony, as Edin and Kefalas make clear. Neither should it be assumed that finding a spouse is as easy and automatic as I may have inadvertently implied. Slews of Internet and other dating services notwithstanding, calls to 1-800-WED-FAST are unlikely to be answered in ways desired. Likewise, no misconstrued romantic claims are made about what it takes for healthy marriages to survive, especially under the kinds of pressures in which many low-income and minority men and women live daily. Under the best of circumstances, good and lasting marriages take work — and probably luck, too. Nevertheless, [Daniel Patrick Moynihan's](#) famous 1965 warning about the dangers of raising children outside of marriage has been reconfirmed in each of our nation's succeeding forty years. Recall his insight and prescience:

From the wild Irish slums of the nineteenth century Eastern seaboard to the riot-torn suburbs of Los Angeles, there is one unmistakable lesson in American history; a community that allows a large number of men to grow up in broken families, dominated by women, never acquiring any stable relationship to male authority, never acquiring any set of rational expectations about the future — that community asks for and gets chaos. Crime, violence, unrest, disorder — most

particularly the furious, unrestrained lashing out at the whole social structure — that is not only to be expected; it is very near to inevitable. And it is richly deserved.⁸⁷

The more I've thought about these linked issues, for decades now, the more I've grasped how miles beyond sad they are, starting with millions of young American men, disproportionately of color, whose lives are crippled barely after they've begun. What a calamity for themselves, their families, and our country.

¹ My great thanks to the men and women who helped with this paper at various stages. Given the sensitivity of its subject, let it be especially known that not all of them necessarily agree with everything I say and argue. More precisely, demurrals are likely to be had. The list of reviewers and others includes Duane Coleman, Nina Coleman, Gary Cunningham, Bryan Dowd, Maggie Gallagher, Barbara Johnson, Robert M. A. Johnson, Tom Johnson, David Lebedoff, Diane McGowan, Robert Osburn, Devah Pager, Greg Pulles, Al Quie, Steve Rothschild, Stacey Rude, and Jon Stuart.

² Devah Pager, "The Mark of a Criminal Record," *American Journal of Sociology*, Vol. 108, Number 5 (March 2003), p. 937.

³ Hennepin County (MN) Office of Planning & Development, "Crossroads: Choosing a New Direction: Final Report," African American Men Project, January 2002, p. 9. The comparison to South Africa is from Gary Cunningham, "A Visible Future: The African American Men Project and the Restoration of Community," in *Black Fathers: An Invisible Presence in America*, Michael Connor and Joseph White, eds. (Mahwan, NJ: Lawrence Erlbaum, 2005, forthcoming). I originally questioned this number, having a very hard time believing that 44 percent of young African American men in Hennepin County (which is not far from one out of two) were arrested in 1999 or in any other year. But an official who helped develop the number for "Crossroads" responded to my doubts by writing that she, too, had been incredulous when she and her colleagues first ran the numbers. But, she reported, they re-calculated the data several times, coming up with essentially the same finding each time. More specifically, they first collected data on all people arrested in the county in 1999. They then filtered the list so that each person showed up only one time, and then filtered the list again by age, race, and sex. After which, they filtered by the address of each person arrested. That provided researchers with a file of discrete African American men between the ages 18 and 30 with an address in the county. They then compared that file to the total number of African American men in the county in the same age range, as identified in the 2000 Census. That comparison showed that 44 percent of young black men in Hennepin County had indeed been arrested in 1999.

⁴ Bruce Western and Sara McLanahan, "Fathers Behind Bars: The Impact of Incarceration on Family Formation," Working Paper 00-08, Center for Research on Child Wellbeing," Princeton University, June 2000.

⁵ Rose M. Brewer, "Family Complexities: African American Men and Black Family Structure," in the "Research Compendium" of *Crossroads: Choosing a New Direction*, p. 195.

⁶ For an up-to-date review of data on out-of-wedlock births, divorce, and similar categories, see: "The State of Our Unions 2005: The Social Health of Marriage in America," The National Marriage Project, Rutgers University, July 2005. The National Marriage Project is co-directed by sociologist David Popenoe and historian Barbara Dafoe Whitehead, two of the wisest scholars in the field.

⁷ For just two examples, see Mitchell B. Pearlstein, "From Moynihan to 'My Goodness,'" Center of the American Experiment, August 1995; and a special issue of *American Experiment Quarterly*, "Marriage and Children: A Symposium on Making Marriage More Child Centered," guest edited by the aforementioned Drs. Whitehead and Popenoe, Summer 2001.

⁸ This argument has been made by many. Perhaps its best explication is by Charles Murray in *Losing Ground: American Social Policy 1950-1980* (New York: Basic Books, 1984).

⁹ This argument is best associated with sociologist William Julius Wilson, especially in his book *The Truly Disadvantaged: The Inner City, the Underclass, and Public Policy* (Chicago: University of Chicago Press, 1987).

¹⁰ David T. Ellwood and Christopher Jencks, “The Spread of Single-Parent Families in the United States Since 1960.” John F. Kennedy School of Government, Harvard University, February 1, 2004.

¹¹ Kathryn Edin and Maria Kefalas, *Promises I Can Keep: Why Poor Women Put Motherhood Before Marriage* (Berkeley: University of California Press, 2005)

¹² *Ibid.*, p. 81.

¹³ *Ibid.*, p. 2

¹⁴ *Ibid.*

¹⁵ Western and McLanahan, p. 5.

¹⁶ Conrad Defiebre, “A Look at Kids with Imprisoned Parents,” (Minneapolis) *Star Tribune*, August 18, 2005.

¹⁷ W. Bradford Wilcox, William Doherty, Norval Glenn, Linda Waite, *et al.*, *Why Marriage Matters, Second Edition: Twenty-Six Conclusions from the Social Sciences*, Institute for American Values, 2005, p. 5.

¹⁸ James Q. Wilson, *The Marriage Problem: How Our Culture Has Weakened Families* (New York: HarperCollins, 2002), pp. 126-27.

¹⁹ Charles Bruner, “NorthPoint’s Role: Building Human & Social Capital in the Near North Neighborhood,” NorthPoint Health & Wellness Center, Minneapolis, March 20 and 31, 2004, p. 162. Bruner uses 2000 Census data.

²⁰ Linda J. Waite and Maggie Gallagher, *The Case for Marriage: Why Married People Are Happier, Healthier, and Better Off Financially* (New York: Doubleday, 2000). Readers may also want to see the complementary and aforementioned *Why Marriage Matters, Second Edition: Twenty-Six Conclusions from the Social Sciences*. Also, *The Consequences of Marriage for African Americans: A Comprehensive Literature Review*, by Lorraine Blackman, Obie Clayton, Norval Glenn, Linda Malone-Colon, and Alex Roberts, Institute for American Values, 2005. For a recently released and brilliant qualitative and quantitative analysis of the many prices often paid by children when their parents divorce, see Elizabeth Marquardt, *Between Two Worlds: The Inner Lives of Children of Divorce* (New York: Crown, 2005).

²¹ *Ibid.*, pp. 157-58.

²² *Ibid.*, pp. 152;155

²³ *Ibid.*, p. 53.

²⁴ *Ibid.*, p. 55.

²⁵ George A. Akerlof, “Men Without Children,” *The Economic Journal* 108 (1998): 287-309.

²⁶ Waite and Gallagher, p. 134.

²⁷ *Ibid.*, p. 135.

²⁸ *Ibid.*, p. 159.

²⁹ *Ibid.*, p. 129.

³⁰ “The State of Our Unions 2005,” p. 24.

³¹ *Ibid.*, p. 27.

³² Sharon Jayson, *USA Today*, November 1, 2005.

³³ Robert M. A. Johnson, “Message from the President: Collateral Consequences,” National District Attorneys Association, June 2001.

³⁴ ABA Standards for Criminal Justice: Third Edition. “Collateral Sanctions and Discretionary Disqualifications of Convicted Persons,” Commentary completed June 2004.

³⁵ Margaret Colgate Love, “Starting with a Clean Slate: In Praise of a Forgotten Section of the Model Penal Code,” *Fordham Urban Law Journal*, Vol. 30, July 2003, p. 2.

³⁶ Omar A. Syed, January 25, 2001.

³⁷ Legal Action Center, “After Prison: Roadblocks to Reentry,” New York City and Washington, DC, 2004. One of the points made in the report is that the “Higher Education Act of 1998 makes students convicted of drug-related offenses ineligible for any grant, loan or work assistance.” It is not hard to argue against the law, since a drug crime may be the only type that forecloses the possibility of a federal grant or loan automatically. But what is generally downplayed by opponents of this law — which is under review in Washington — is that its prohibitions generally only apply for a year or two if the student observes the

law and stays straight. Does the law disrupt lives? Of course. Does it have the power to dismantle them? Not nearly as much as critics tend to imply.

³⁸ These data are drawn from Mr. Giuliani's official biography distributed by the Washington Speakers Bureau in Alexandria, Virginia.

³⁹ Glenn Martin, "It's Not Just 'Those People': One-Third of U.S. Adult Populations Has a Criminal Record," *National H-I-R-E-Network News*, May 2004.

⁴⁰ Pager, p. 938; 949.

⁴¹ "The Report Re-Entry Policy Council," no date. The Re-Entry Policy Council was established in 2001 by the Council of State Governments to "assist state government officials grappling with the increasing number of people leaving prisons and jails to return to the communities they left behind. www.reentrypolicy.org/about/index.php.

⁴² John Immerwahr and Jean Johnson, "The Revolving Door: Exploring Public Attitudes Toward Prisoner Reentry," The Urban Institute, March 20-21, 2002.

⁴³ Re-Entry Policy Council Report.

⁴⁴ Harry J. Holzer, Steven Raphael, and Michael A. Stoll, "Employment Barriers Facing Ex-Offenders," The Urban Institute, May 19-20, 2003, p. 5.

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*

⁴⁷ Re-Entry Policy Council Report.

⁴⁸ *Ibid.*

⁴⁹ Peter Bell and Mitchell B. Pearlstein, "Racism Merely One Factor in Urban Problems," (Minneapolis) *Star Tribune*, July 3, 1994. Also see, Mitchell B. Pearlstein, "Discussion on Race," *Twin Cities Business Monthly*, June 1996.

⁵⁰ Pager, pp. 957-58.

⁵¹ *Ibid.*, p. 959.

⁵² Mike Meyers, "No Bars, But Still a Prison: Fear of Lawsuits and Greater Scrutiny Among Employers Make It Harder than Ever for Convicted Felons to Find Jobs," (Minneapolis) *Star Tribune*, June 6, 2005.

⁵³ Ann Zimmerman and Kortney Stringer, "As Background Checks Proliferate, Ex-Cons Face Jobs Lock," *The Wall Street Journal*, August 26, 2004.

⁵⁴ Tom Johnson, African American Men in the Criminal Justice System," in the "Research Compendium" of *Crossroads: Choosing a New Direction*, p. 221.

⁵⁵ *Crossroads: Choosing a New Direction*, p. 19.

⁵⁶ Peter J. Nelson and Jena S. Morris, "A Minnesota Index of Leading Cultural Indicators: 1999," *American Experiment Quarterly*, Spring 1999, p. 55.

⁵⁷ Cunningham. Mr. Cunningham was the staff leader of Hennepin County's African American Men Project. His sources for this statistic include what was then called the Minnesota Department of Children, Families and Learning. It's now, once again, more mundanely known as the Minnesota Department of Education.

⁵⁸ Paul E. Peterson, "Failing High Schools," Hoover Institution, as cited in *The Weekly Standard*, October 10, 2005, p. 13.

⁵⁹ All data were pulled on August 18, 2005, from the website of the Minnesota Department of Corrections. Cunningham.

⁶¹ Email correspondence with Sheldon Swaney, principal planning analyst, assessment team, Hennepin County Human Services & Public Health Department, October 24, 2005. The out-of-wedlock birth rate for "foreign born/black/African American/not Hispanic" in 2003 was 35.0 percent.

⁶² Thomas L Johnson, email correspondence, August 19, 2005.

⁶³ *Minnesota Supreme Court Task Force on Racial Bias in the Judicial System: Final Report*, The Hon. Rosalie E. Wahl, chair, May 1993.

⁶⁴ John H. Hinderaker and Scott W. Johnson, "Is Minnesota's Judicial System Really Guilty of Racism?," *American Experiment Quarterly*, Fall 2001, pp. 26-39.

⁶⁵ Heather Mac Donald, "Reporting While Wrong," *National Review*, September 26, 2005, pp. 43-44.

⁶⁶ For a superb and concise discussion of this, including a review of the other factors that must be taken into account in understanding traffic stops, see Katherine A. Kersten, "Are Minneapolis Cops Really Guilty of Racial Profiling?," *American Experiment Quarterly*, Fall 2001, pp. 40-44.

⁶⁷ Heather Mac Donald. The study was prepared by the Department of Justice's Bureau of Justice Statistics. While Mac Donald reports that equal proportions of white, black, and Hispanic drivers were *stopped*, she acknowledges that higher proportions of blacks and Hispanics were arrested and/or had their cars searched. These higher rates, she plausibly argues, are the result, not of prejudicial treatment, but rather of higher crime rates by blacks and Hispanics. For example, when "police run a computer search on black and Hispanic drivers following a stop, they are far more likely to turn up outstanding arrest warrants than for white drivers."

⁶⁸ Western and McLanahan, p. 6.

⁶⁹ *Star Tribune: Newspaper of the Twin Cities*. The first three are from August 17, 2005. The fourth is from August 27, 2005.

⁷⁰ Western and McLanahan, p. 5. Included in this original quote are parenthetical citations for reinforcing studies.

⁷¹ *Ibid.*, pp. 5-6. Western and McLanahan, in fact, cite a previous article by Edin.

⁷² Liz McClung, spokeswoman, Minnesota Department of Corrections, telephone conversation, October 19, 2005.

⁷³ Western and McLanahan, p. 4.

⁷⁴ Joseph M. Bessette, "The Injustice Department," *The Weekly Standard*, October 17, 2005, p. 31.

⁷⁵ In critiquing an earlier draft of this paper, Steve Rothschild wrote insightfully: "Your point about African American men requiring more work skills is correct. However, what they mostly need is to change from their life-long philosophy of survival to one that focuses on the future and prosperity. Without a fundamental change in how they act in the world, all the education and technical skills will prove to be insufficient. This is the focal point of our empowerment curriculum: To shed the victim and blaming perspective and to embrace personal responsibility for one's actions because it is in their best interests."

⁷⁶ Council on Crime and Justice (Minneapolis), "Low Level Offenses in Minneapolis: An Analysis of Arrests and Their Outcomes: Final Report," November 2004, p. 36.

⁷⁷ Love, p. 8.

⁷⁸ *Ibid.*, p. 1.

⁷⁹ *Ibid.*, p. 2.

⁸⁰ *Ibid.*, p. 10.

⁸¹ *Ibid.*, p. 11.

⁸² Erica Maas, "A Fiscal Analysis of Proposed Education Access Grants in Minneapolis," Milton & Rose D. Friedman Foundation, and the Hubert H. Humphrey Institute of Public Affairs, University of Minnesota, July 2005, p. 12.

⁸³ For just two examples, see Jay P. Greene, "The Surprising Consensus on School Choice," *The Public Interest*, Summer 2001; and Joseph P. Viteritti, *Choosing Equality: School Choice, the Constitution, and Civil Society* (Washington, DC: Brookings Institution, 1999).

⁸⁴ Cunningham.

⁸⁵ Wade F. Horn, "Wedded to Marriage: Invest Now or Pay Later," *National Review*, August 9, 2005. As described in an excellent summary by Ron Haskins, Sara McLanahan, and Elisabeth Donahue, the Bush administration's proposal would create two new marriage programs. "The first is a grant program that would provide states \$100 million a year for five years in funds that would have to be matched dollar-for-dollar to promote 'family formation and health marriage' If the states matched the entire \$100 million every year, the nation would spend \$1 billion on these programs over five years." The second initiative is for \$100 million a year for a research, demonstration, and technical assistance program.

⁸⁶ William J. Doherty, personal correspondence, October 2005. "A unique feature of the project is that it begins by involving 'expert' couples from urban communities who started out as unmarried new parents and went on to marry well and form successful families for themselves and their children."

⁸⁷ Daniel P. Moynihan, "A Family Policy for the Nation," *America*, September 18, 1965.