THE PREVALENCE OF ADVERSE CHILDHOOD EXPERIENCES (ACES) AND THE NEED FOR EFFECTIVE REENTRY PROGRAMMING CALLS FOR THE IMPLEMENTATION OF AN ACES APPROACH TO ADULT OFFENDER REENTRY EFFORTS

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I. INTRODUCTION

As an undergraduate student interning in a mental health and addiction services unit within an all-male correctional facility, I expected to learn about effective programming and how addiction plays a role in crime and the so-called criminal lifestyle. Instead, what struck me was the level of mental, physical, and emotional trauma that is so pervasive throughout the collective experiences of offenders warehoused in our nation's correctional facilities. The common mantra was: "By twenty-five, you're either in prison or dead." This was no coincidence, but a direct result of the widely dysfunctional environments many offenders grow up in, with their circumstances perpetuated by systemic social harms and deprivations rooted in poverty. The vast majority of these persons are exposed to violence, drugs, neglect, abuse, hunger, and/or lack of parental guidance during their youth, and often those around them are involved in the criminal justice system as well. Lack of role models and support are the norm; instead of functional and healthy childhoods, far too many kids are introduced to gangs, organized crime, drugs, and drug trafficking organizations at young and impressionable ages, long before they can comprehend the long-term consequences. As teenagers, these kids inevitably look for ways to survive. Because they are all but fending for themselves due to single-parent households, lack of parental income, multiple siblings, and dysfunctional home-lives, surviving often translates to living outside the law.

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The majority of offenders will, at some point, reach the end of their sentence and be released. Our legal system expects these people who are incarcerated, who never had the opportunity to develop the skills necessary to function as productive members of society, to come out of prison as new men and women. The assumption is that somehow, after being locked in with hundreds, if not thousands, of other persons with the same broken pasts, these individuals will suddenly flourish. Logically, this is incomprehensible, and our recidivism statistics suggest the same: offenders often come out of prison no better prepared to navigate daily life than they were upon entering. Our system is simply not working, and society is bearing the burden of the humanitarian and economic consequences.[1] This country desperately needs a system to both recognize this widespread trauma and reintegrate prisoners back into society successfully.[2]

This Comment will demonstrate how most adults who interact with the criminal justice system are simply the children impacted by adverse childhood experiences (ACEs) that have grown up; therefore, more attention must be paid to both researching ACEs with adult offenders and using that data to best treat adults who are incarcerated and who are leaving periods of incarceration. Section I.A through I.C of this Comment examine recidivism and ACEs, laying the groundwork for a later analysis of ACEs' relevance to adult offenders and reentry services. Part II describes the general demographics of offenders in the United States, the economic impact of mass incarceration, and the current state of recidivism and reentry services in this country. Part III makes the case, relying upon the explosion of ACEs data over the last twenty years, that ACEs substantially impact individual development well into adulthood, and describes how current policymakers already incorporate consideration of ACEs into their policy initiatives. Part IV lays out the underappreciated connection between ACEs and the requirements of successful reentry by addressing the use of ACEs data with juvenile offenders and the contrasting lack of data about ACEs and adult offender populations. This Part shows that while understudied, ACEs are just as prevalent among adult offenders, and though our juvenile justice system has begun to incorporate thinking about ACEs, the same has not happened with respect to adults, especially beyond sentencing. Finally, Part V explains how understanding ACEs in adult offenders can provide for a more efficient, humane, and functional

[1] *See infra* Section II.A.2.

[2] *Designing a Prisoner Reentry System Hardwired to Manage Disputes*, 123 HARV. L. REV. 1339 (2010).

reentry system. It explores legislation that should be passed to achieve these goals and what questions remain to be considered.

A. *Assessing the Harm of Recidivism*

The vast majority of people who are incarcerated do not receive life sentences, and when their sentence is up, they return to the communities they came from—often back "to the same problems that led them to commit crime in the first place."[3] Prison, without proper rehabilitation, exacerbates this problem, causing even more harm to a community in the long run.

In 2005, the 401,288 people released from state prison experienced nearly two million arrests over the following nine years—an average of five arrests per released prisoner.[4] From 2005 to 2014, 83 percent of nearly 70,000 state prisoners across thirty states, including New Jersey, were rearrested at least once during the nine years following their original release.[5] Nearly 44 percent of released offenders were arrested during the first year after release, and almost half of the offenders who did not get arrested within three years of release were arrested during years four through nine.[6] Recidivism is crippling to our justice system, and reducing it is intertwined with combatting mass incarceration.

B. *Adverse Childhood Experiences (ACEs)*

Adverse childhood experiences, or ACEs, are potentially traumatic events that occur during childhood, from zero to seventeen years of age.[7] Common examples of ACEs include experiencing or witnessing violence, neglect, or abuse, or growing up in unstable homes due to parental separation, incarcerated household or family member(s), or individuals afflicted with substance misuse and/or mental health problems.[8] ACEs and associated conditions, such as living in under-resourced or racially segregated neighborhoods, frequently moving, and experiencing food insecurity, can cause toxic stress (extended or prolonged stress).[9] Toxic stress from ACEs can change brain

[3] *Id.*

[4] MARIEL ALPER ET AL., BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, 2018 UPDATE ON PRISONER RECIDIVISM: A 9-YEAR FOLLOW-UP PERIOD (2005-2014), at 1 (2018), https://www.bjs.gov/content/pub/pdf/18upr9yfup0514.pdf.

[5] *Id.*

[6] *Id.*

[7] *Preventing Adverse Childhood Experiences*, CTRS. FOR DISEASE CONTROL & PREVENTION (Apr. 6, 2021), https://www.cdc.gov/violenceprevention/aces/fastfact.html.

[8] *Id.*

[9] *Id.*

development and affect children's attention spans, decision-making, learning, and responses to stress.[10] Children growing up with toxic stress can have difficulty forming healthy and stable relationships and may struggle with work, finances, and depression throughout their lives.[11]

C. *The Relevance of ACEs to Reentry and Adult Offenders*

Although researchers have extensively studied ACEs' impact on juveniles and their role in juvenile justice interactions, the same research does not exist with respect to adult offenders. Thus, there lacks an extensive body of evidence from which we can understand how ACEs impact people's interactions with the criminal justice system in adulthood. Studies show, however, that juveniles with higher rates of ACEs are at a higher risk of continuing to offend into adulthood.[12] Additionally, this Comment shows that the existing data indicates that repeat adult offenders have experienced a higher number of ACEs than normal adults. While more research is needed, reentry systems should utilize the existing information about ACEs to dictate which offenders are most in need of access to reentry services and to determine what services can best suit each offender's needs, thus creating the most effective path to successful reentry.

II. THE CURRENT STATE AND INADEQUACIES OF ADULT OFFENDER REENTRY PROGRAMMING

Mass incarceration, recidivism, and reentry services are all intertwined. All three need to be better understood before ACEs and their relation to our criminal justice system can be analyzed. This section will expose the staggering numbers of mass incarceration, the tremendous recidivism rates that accompany it, and the current disposition of federal and state reentry services. It will also explain modern efforts to improve reentry services, laying the groundwork to later show both that reentry systems need improvement and that understanding ACEs data can help do so.

A. *Corrections in the United States*

This section will explore the humanitarian and financial crisis that mass incarceration presents in the United States. It will explain how part of this problem is due to devastating patterns of recidivism and

[10] *Id.*

[11] *Id.*

[12] *See infra* Section IV.A.1.

how both incarceration and recidivism rates disproportionately effect minorities.

1. The Demographics of General Offenders

Mass incarceration and the enormity of the U.S. prison populations cannot be understated. Of the 10.74 million people behind bars globally,[13] over 2.1 million are imprisoned in the United States.[14] This means the U.S. houses over 20 percent of the world's prisoners despite making up only 4.2 percent of the world's population.[15]

The structural racism that exists across every phase of the criminal justice system[16] is reflected in the U.S. Bureau of Justice Statistics' most recent report, which indicated serious racial disparities in incarceration rates amongst U.S. prisoners in 2018.[17] It reported that the vast majority of those behind bars were male, and the rate of incarcerated Black males was 5.8 times higher than incarcerated white males.[18] Furthermore, eighteen to nineteen-year-old Black males were nearly thirteen times more likely to be imprisoned than white males of the same age—the highest racial disparity of any age group—and eighteen to nineteen-year-old Hispanic males were over three times more likely than white males of the same age to be imprisoned.[19]

Black persons make up 13.4 percent of the American population,[20] yet of the 401,288 individuals released from state correctional facilities in 2005, 39.7 percent were white and 40.1 percent were black—almost identical figures.[21] Additionally, a smaller percentage of white offenders than Black or Hispanic offenders recidivated during the first year after release: only 40 percent of white offenders were rearrested, compared

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13 ROY WALMSLEY, INST. FOR CRIM. POL'Y RSCH., WORLD PRISON POPULATION LIST (12th ed. 2018), https://www.prisonstudies.org/sites/default/files/resources/downloads/wppl_12.pdf.

14 *Id.*

15 *U.S. and World Population Clock*, U.S. CENSUS BUREAU, https://www.census.gov/popclock/ (Oct. 20, 2021, 1:50 PM).

16 *See* Shasta N. Inman, *Racial Disparities in Criminal Justice*, AM. BAR ASS'N, https://www.americanbar.org/groups/young_lawyers/publications/after-the-bar/public-service/racial-disparities-criminal-justice-how-lawyers-can-help/ (last visited Oct. 20, 2021, 1:57 PM).

17 E. ANN CARSON, BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, PRISONERS IN 2018 (2020) [hereinafter PRISONERS IN 2018], https://www.bjs.gov/content/pub/pdf/p18.pdf.

18 *Id.*

19 *Id.*

20 *Quickfacts*, U.S. Census Bureau, https://www.census.gov/quickfacts/fact/table/US/PST045219.

21 ALPER ET AL., *supra* note 4.

to 47 percent of Hispanic and 46 percent of Black offenders.[22] During the nine-year follow-up period, 87 percent of Black offenders were rearrested, while rearrest rates were only 81 percent for white and Hispanic offenders.[23] Overall, this data reveals that persons identifying as Black and Hispanic are both incarcerated at an extremely disproportionate rate and are also more likely to recidivate than their white counterparts, again reflecting the "criminal justice system's pervasive problem with racism."[24]

2. The Recidivism Problem in the United States

While the overall number of persons behind bars is slowly decreasing,[25] our recidivism statistics paint an ugly picture. Over 10,000 offenders are released from America's state and federal prisons every week; more than 650,000 offenders are released from prison every year, and approximately two-thirds will likely be rearrested within three years of release.[26]

In 2018, more than 1 percent of adult males living in the United States were behind bars for a sentence of at least one year of incarceration.[27] Of the state prisoners released in 2005 across thirty states, 83 percent were arrested at least once during the nine years following their release; 44 percent were arrested at least once during their first year after release, 34 percent were arrested during their third year after release, and 24 percent were arrested during their ninth year after release. [28] Of the 44 percent of released offenders arrested during their first year after release, only 11 percent had no additional arrests during the nine-year period.[29] In five states, more than half of those admitted to state correctional facilities were for simply violating conditions of their post-custody supervision.[30]

Additionally, the inconsistency of imprisonment rates across states indicates how uneven efforts to reduce the numbers of persons behind bars has been. Louisiana, with the highest imprisonment rate across all fifty states, had 695 per 100,000 state residents behind bars; Oklahoma had 693 per 100,000; Mississippi had 626 per 100,000; Arkansas had

22 *Id.*

23 *Id.*

24 Inman*, supra* note 16.

25 *See generally* PRISONERS IN 2018, *supra* note 17.

26 U.S. DEP'T OF JUSTICE, PRISONERS AND PRISONER RE-ENTRY, https://www.justice.gov/archive/fbci/progmenu_reentry.html.

27 PRISONERS IN 2018, *supra* note 17, at 10.

28 ALPER ET AL., *supra* note 4, at 1.

29 *Id.* at 19.

30 PRISONERS IN 2018, *supra* note 17, at 13.

589 per 100,000; and Arizona had 559 per 100,000.[31] In all of these states, as well as Texas, more than 1 percent of all male residents were behind bars.[32] On the opposite end of the spectrum, Minnesota, Maine, Massachusetts, Rhode Island, and Vermont each had fewer than 200 sentenced incarcerated persons per 100,000 residents.[33]

3. The Economic Impact of Mass Incarceration and Recidivism

The most recent national data shows that the United States spends nearly $81 billion every year on corrections.[34] For comparison, spending on corrections has increased at triple the rate of spending on public education over the last thirty years.[35] This is not just a federal problem, as states house the vast majority of this country's prisoners in their state facilities. For example, in Illinois, in 2016, the average cost associated with one recidivism event was $151,662.[36] Roughly 50 percent of this was borne by victims, through costs such as "lost property, medical bills, wage loss, and [their] pain and suffering," and nearly $51,000 came straight from taxpayers.[37] Given current recidivism trends, over the next five years recidivism will cost Illinois over $13 billion.[38] The 2015 report of the Illinois Sentencing Policy Advisory Council found that even a 5 percent reduction in recidivism would mean 2,972 fewer convictions and a total of $451 million in costs avoided.[39]

In New Jersey (NJ), a significantly smaller state with the capacity to house approximately 20,000 prisoners,[40] the 2014 corrections budget was $1.07 billion.[41] Of the nearly 11,000 prisoners released from NJ correctional facilities in 2011, by 2014, "52.7 percent were rearrested,

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31 *Id.* at 11.

32 *Id*.

33 *Id.*

34 Criminal Justice System: Corrections, *Criminal Justice Fact Sheet,* NCAAP, https://naacp.org/resources/criminal-justice-fact-sheet.

35 *Id.*

36 ILL. SENT'G POL'Y ADVISORY COUNCIL, ILLINOIS RESULTS FIRST: THE HIGH COST OF RECIDIVISM 1, 3 (2018), https://spac.icjia-api.cloud/uploads/Illinois_Result_First-The_High_Cost_of_Recidivism_2018-20191106T18123262.pdf.

37 *Id.* at 2–5.

38 *Id*. at 1.

39 *Id.* at 7.

40 N.J. DEP'T OF THE TREASURY, OFF. OF MGMT. & BUDGET, THE GOVERNOR'S FY 2016 DETAILED BUDGET: DEPARTMENT AND BRANCH RECOMMENDATIONS, D-70 (2015), https://www.nj.gov/treasury/omb/publications/16budget/pdf/FY16BudgetBook.pdf.

41 N.J. DEP'T OF THE TREASURY, PUBLIC SAFETY AND CRIMINAL JUSTICE, B-42 (2014), https://www.nj.gov/treasury/omb/publications/13approp/pdf/26.pdf.

39.8 percent were reconvicted, and 31.3 percent were reincarcerated."[42] As "[e]ach inmate costs the Department of Corrections $54,865 a year . . . by 2014 the 31.3 percent of reincarcerated individuals released in 2011 were costing [the NJ Department of Corrections] nearly $200 million per year."[43] Per the NJ Reentry Corporation, former-New Jersey's Governor Jim McGreevy's reentry organization, if these individuals had been provided proper reentry services and, therefore, successfully reintegrated back into society, "most would not have been back in the system at all and would be productive taxpayers, rather than a drain on the public."[44]

The failures of our current reentry system are apparent. The economic consequences of these inadequacies are simply too great of a burden for states, the federal government, and the public to continue to bear. This is especially true for Black and Hispanic persons and communities who are disproportionately impacted by this cycle of incarceration, release, and recidivism.

B. *The Current State of Reentry Services: Failing to Adequately Break the Cycle of Recidivism*

This section will explain how, while systematic denials of resources are also rooted in issues of race and poverty, reentry services, or a lack thereof, play an important role in why recidivism is such a significant issue. As the same people are repeatedly exiting and re-entering the criminal justice system, reducing recidivism rates plays a huge role in the fight against mass incarceration. Effective reentry processes go hand-in-hand with successful reintegration to society and, therefore, with reducing recidivism.

1. The Origins and Funding of Federal and State Reentry Services

Federally, reentry services are provided primarily through funding derived from, and in accordance with rules provided for by, legislation passed to combat recidivism such as the Second Chance Act of 2007[45] and the First Step Act of 2018.[46] Each state, however, creates their own reentry processes for state prisoners, meaning they must pass their own legislation, or reentry efforts get left to local and community

[42] N.J. REENTRY CORP., IMPROVING UPON CORRECTIONS IN NEW JERSEY TO REDUCE RECIDIVISM AND PROMOTE A SUCCESSFUL REINTEGRATION 3 (2017), https://www.njreentry.org/application/files/4915/4344/4576/NJRC_CORRECTIONS_REPORT_2017.pdf.

[43] *Id.*

[44] *Id.*

[45] Pub. L. No. 110-199, 122 Stat. 657 (2008).

[46] Pub. L. No. 115-391, 132 Stat. 5194 (2018).

organizations. For example, Governor Phil Murphy of New Jersey recently passed three pieces of legislation to aid reentry processes, including rescinding certain juvenile delinquency fines, allowing discretion for post-incarceration supervision due to COVID-19, and assisting released offenders with obtaining reentry benefits.[47]

Some states create reentry services directly through state agencies. For example, a Michigan Department of Corrections reentry program allows men twelve to twenty-four months from release to apply for essential skills training necessary for careers in the information technology field.[48] Similarly, the Massachusetts Division of Youth Services, a state agency, collaborates with state education agencies "to support incarcerated youth by designing, implementing, and managing comprehensive pre- and post-release workforce development and educational services."[49]

Private reentry services that originate outside of state legislatures have similar goals. In Massachusetts, one nonprofit organization focuses on social and economic success for young adults with serious criminal or gang involvement by providing intensive programming.[50] Programming options include paid employment, mentoring focused on establishing sustainable relationships, and workshops on a variety of topics—from career exploration to personal development to civic engagement in the community.[51] Strictly local reentry efforts also offer important services. For example, Old Pueblo Community Services (OPCS)[52] offer reentry and housing services for people who are incarcerated in the Arizona Department of Corrections with a moderate to high risk of recidivism who need housing and have substance use addictions. OPCS's program "pairs participants with mentors who help connect them to services, including OPCS-operated sober housing, affordable housing, substance addiction counseling, and veterans' services."[53]

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47 *Governor Murphy Signs Legislation to Further Reform New Jersey's Criminal Justice System*, STATE OF N.J. (July 1, 2020), https://nj.gov/governor/news/news/562020/approved/20200701e.shtml.

48 THE COUNCIL OF STATE GOV'TS, REENTRY MATTERS: STRATEGIES AND SUCCESSES OF SECOND CHANCE ACT GRANTEES 1, 3 (2018) [hereinafter REENTRY MATTERS: STRATEGIES AND SUCCESSES OF SECOND CHANCE ACT GRANTEES], https://csgjusticecenter.org/wp-content/uploads/2020/02/Reentry-Matters-2018.pdf.

49 *Id.* at 4.

50 *Id.*

51 *Id.*

52 *Id.* at 6.

53 *Id.* (OPCS partners "with Veterans' Affairs, Medicaid, local hospitals, and the Pima County health department, which further help in delivering support to this population").

In reality, reentry efforts happen at both the state and local level, through government, private, and nonprofit organizations, and often with some amount of collaboration. Lack of uniformity across states means that the federal government's role often turns to supporting what works: over the last decade, states and organizations have received funding "to translate reentry philosophy into practice through the landmark Second Chance Act."[54] Since its passage ten years ago, the Second Chance Act has provided more than 900 grants for adult and youth reentry programs, as well as supported "systemwide improvement to help jurisdictions better address the needs of people who are incarcerated."[55] While the federal government must continue to fund effective programming, continued and increased efforts from all levels of government are necessary for any reentry system to be truly successful.

Reentry services do not just include programming and employment; for example, finding secure, stable housing is also a critical part of reentry, yet nationally, there are more than one thousand laws and regulations that negatively affect or restrict housing access for individuals with criminal records.[56] While the federal government can regulate these restrictions for federally-funded housing opportunities, each state legislates its own rules and regulations as to who can be restricted from public housing. This web of legal restrictions also exists for other reentry barriers, such as access to custodial rights, education, healthcare, and other critical reentry services. The legal and administrative barriers to any one of these areas can be crippling to someone exiting a period of incarceration. Thus, removing obstacles in these spaces is an important part of creating an effective reentry system.

2. The National Status of Reentry: Rehabilitation on the Backburner

Rehabilitating incarcerated people has supposedly been an objective of imprisonment since the founding of the U.S. criminal justice system: for the majority of the last century, "the primary purpose of prison was to treat and rehabilitate inmates."[57] Previously, the penal system's goal of rehabilitation was implemented mostly during incarceration, with treatment methods fluctuating in relation to various

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[54] REENTRY MATTERS: STRATEGIES AND SUCCESSES OF SECOND CHANCE ACT GRANTEES, *supra* note 48, at 1.

[55] *Id.*

[56] *Id.* at 5.

[57] *Designing a Prisoner Reentry System Hardwired to Manage Disputes*, *supra* note 2, at 1339 (citing David E. Johnson, *Justice for All: Analyzing* Blakely *Retroactivity and Ensuring Just Sentences in Pre-*Blakely *Convictions*, 66 OHIO ST. L.J. 875, 880 (2005)).

trends, and prisoners getting released on parole only if they were deemed sufficiently rehabilitated.[58] This model disappeared in the later 1900s, during the infamous war on crime, when punitive and retributive objectives replaced goals of rehabilitation.[59]

In theory, there are four accepted purposes of punishment motivating the U.S. criminal justice system: retribution, deterrence, incapacitation, and rehabilitation.[60] While philosophers like Jeremy Bentham emphasize incapacitation and deterrence as ways to prevent crime,[61] the majority of legal entities, including the U.S. Supreme Court, state courts, state legislatures, philosophers, and legal scholars have acknowledged that since the 1970s, retributivism has emerged as the dominant theory of criminal punishment.[62] Retributivism supposedly justifies punishment "not on any actual good consequences that might be attained, but solely because the punished deserve it."[63] Under a retributionist theory, an offense comes with a certain degree of desert and punishment.[64] If this is true, then once an offender has successfully completed his or her period of incarceration, they have hypothetically paid the price that society has commanded they pay for their actions and should be free to go on with their lives. If they are unable to fully reintegrate back into society, however, then this theory is flawed, as it would mean that retribution continues beyond the length of time our penal system has determined is the correct amount of punishment for their crime. For this reason, our justice system must effectuate a smooth and effective transition from periods of incarceration to societal reentry.

The notion of continuing government involvement with offenders after release really began when the federal court system instituted supervised release: a mandatory period of post-release observation with court-imposed conditions.[65] These conditions could range from general rules, like refraining from use of illegal substances and avoiding further legal trouble, to situation-specific obligations, such as residing

[58] *Id.* at 1343.

[59] *See id*.

[60] Guyora Binder & Ben Notterman, *Penal Incapacitation: A Situationist Critique*, 54 AM. CRIM. L. REV. 1, 2 (2017).

[61] *Id.* at 5.

[62] Russell L. Christopher, *Deterring Retributivism: The Injustice of Just Punishment*, 96 NW. U.L. REV. 843, 845–47 (2002); *see also* Binder & Notterman*, supra* note 60, at 19.

[63] Christopher, *supra* note 62, at 847–48.

[64] *Id.* at 848.

[65] *See Designing a Prisoner Reentry System Hardwired to Manage Disputes*, *supra* note 2, at 1349 (citing Laura Knollenberg & Valerie A. Martin, *Community Reentry Following Prison: A Process Evaluation of the Accelerated Community Entry Program,* FED. PROBATION, Sept. 2008, at 54, 54–55.

in a halfway house.[66] If the offender is able to complete the period of supervised release without violation of their imposed conditions, only then are they truly freed from their sentence.[67] Supervised release began as a method of getting people out of prison, but in the early 2000s, it evolved into an "outcome-driven agency where resources and energies are focused around achieving targeted goals of protection and recidivism reduction," marking a substantial shift to "focusing on reducing recidivism, even after the supervision period ends."[68] In 2018, 72 percent of all individuals released from U.S. prisons were released to some form of post-custody supervision, and the majority of releasees were "unconditional," in that they did not involve a parole board or discretionary procedure.[69] With today's recidivism rates as high as they are, however, the forms of post-custody supervision currently being utilized are not doing enough to help people who were incarcerated reintegrate back into society.

3. Modern Approaches to Reentry

As incarceration rates have skyrocketed, the United States has increasingly committed to reducing recidivism over the last twenty years. The Second Chance Act of 2007 first expressed a public commitment to "break[ing] the cycle of recidivism" by facilitating the reintegration of offenders into the community and providing necessary evidence-based services, such as "substance abuse treatment, alternatives to incarceration, and comprehensive reentry services."[70]

One model that has caught on in the federal system is the reentry court model. Reentry courts provide released prisoners with the "skills and support necessary to reintegrate into the community and overcome the obstacles that have led them to commit crime in the past."[71] While the styles of reentry courts vary, they tend to share six common characteristics: "(1) assessment and planning; (2) active oversight; (3) management of support services; (4) accountability to community; (5) graduated and parsimonious sanctions; and (6) rewards for success."[72]

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66 *Id.*; *see* 18 U.S.C. § 3583.

67 *See Designing a Prisoner Reentry System Hardwired to Manage Disputes*, *supra* note 2, at 1349–50.

68 *Id.* at 1350 (citing Melissa Alexander & Scott VanBenschoten, *The Evolution of Supervision in the Federal Probation System*, FED. PROBATION, Sept. 2008, at 15–16).

69 PRISONERS IN 2018, *supra* note 17, at 15.

70 Second Chance Act of 2007, Pub. L. No. 110-199, 122 Stat. 657, § 3(a) (2008).

71 *Designing a Prisoner Reentry System Hardwired to Manage Disputes*, *supra* note 2, at 1339.

72 Claire McCaskill, *Next Steps in Breaking the Cycle of Reoffending: A Call for Reentry Courts*, 20 FED. SENT'G REP. 308, 309 (2008).

Each offender has a personal action plan they must follow that involves a variety of players, including probation officers, judges, public defenders, and prosecutors, with whom the releasee interacts with regularly.[73] In theory, collaboration of multiple players with those exiting the justice system provides combined resources for services and support, and frequent interaction with the court allows for quick intervention if a releasee slips up.[74] Additionally, this model provides the system more flexibility to adapt programs to individual needs than do courts and probation officers in traditional supervised release.[75]

The reentry court model has caught on in federal systems, backed by federal legislation like the Second Chance Act of 2007[76] and the First Step Act of 2018.[77] Reentry courts, however, are incredibly resource intensive.[78] In 2018, nearly 1.5 million persons were in U.S prisons, excluding jails; less than 200,000 of these individuals were in the federal prison system, while nearly 1.3 million, or 88 percent, were incarcerated in state prisons across the fifty states.[79] As the number of individuals incarcerated in state facilities substantially outweighs those incarcerated in federal facilities, the federal reentry court model is likely not scalable at the state court level due to the extreme costs. This means the vast majority of reentry efforts fall on states to regulate and budget for their own processes, and states must utilize more cost-efficient options.

The federal government has realized this, and acted upon its commitment to reduce recidivism by providing resources to effective state reentry programs: in 2018, the U.S. House of Representatives approved a $29 billion spending bill for U.S. Department of Justice (DOJ) grants to fund programs proven to reduce recidivism at state and local levels.[80] The bill provides funding for a variety of recidivism-reducing initiatives, including the Justice Reinvestment Initiative (JRI) and the Mentally Ill Offender Treatment and Crime Reduction Act (MIOTRCA).[81]

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[73] *Designing a Prisoner Reentry System Hardwired to Manage Disputes*, *supra* note 2, at 1351.

[74] *Id.* at 1352–53.

[75] *Id.*

[76] *See* Second Chance Act of 2007, Pub. L. No. 110-199, 122 Stat. 657 (2008).

[77] *See* First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194 (2018).

[78] *See* Timothy D. DeGiusti, *Reentry Courts: Are They Worth the Cost?*, 102 JUDICATURE 31 (2018).

[79] PRISONERS IN 2018, *supra* note 17, at 4.

[80] CSG Justice Center Staff, *U.S. House of Representatives Approves FY18 Funding Levels for Criminal Justice Programs*, COUNCIL OF STATE GOV'TS (Mar. 18, 2018), https://csgjusticecenter.org/2018/03/28/u-s-house-of-representatives-approves-fy18-funding-levels-for-criminal-justice-programs/.

[81] *See id.*

The JRI helps "state and local governments conduct comprehensive, data-driven analyses of their criminal justice systems and adopt evidence-based policies designed to reduce corrections spending and increase public safety."[82] Since this federal investment, "30 states have pursued justice reinvestment-related policies, which have slowed overall prison growth and reduced the total prison population in some states."[83] This has reportedly saved over "$1.1 billion in averted prisoner operati[on] and construction costs," and helped provide "effective supervision and treatment programs."[84] In addition, the MIOTRCA has helped state and local governments improve responses to individuals with mental illnesses in the criminal justice system.[85]

As the individualized federal reentry court model is resource intensive,[86] states must instead turn to existing research to best understand how and when incarcerated persons need services to mitigate risk of reoffending. Each offender presents a unique set of needs based on who they are and what they have experienced. Understanding which persons need services and what services can most effectively treat them is the first step, and screening for ACEs is an easy and efficient way to do this. While there has been a movement to study ACEs in juvenile offenders, the same research must occur with adult offenders to both understand the population better and to ensure that the best and most efficient treatment methods can be developed.

III. EXPLORING THE ACES FRAMEWORK

Over the last three decades, ACEs research has grown exponentially, implicating many different fields of study. This section will explore the origins of the ACEs study and what the research has shown in terms of the long-term effect of ACEs on individual development. It will describe what we know today about ACEs and their effect on adults, and how states have begun incorporating this information into policy initiatives.

82 *Id.*
83 *Id.*
84 *Id.*
85 *Id.*
86 DeGiusti, *supra* note 78.

A. *Adverse Child Experiences (ACEs)*

1. The History of the ACE Framework: A Public Health Crisis

While adverse childhood experiences exist amongst people from all populations, they are more common for those raised in certain social and economic conditions, and they have a direct correlation to adverse outcomes later in life.[87]

The first report on ACEs was a 1998 study conducted of Californians insured by Kaiser Permanente from 1995 to 1997, in which over 9,500 (70.5 percent) adults who had completed a standardized medical evaluation at this large HMO responded to a questionnaire about ACEs.[88] Today, the "CDC-Kaiser Permanente Adverse Childhood Experiences (ACE) Study is one of the largest investigations of childhood abuse and neglect and household challenges and later-life health and well-being."[89] The study categorized ACEs into three groups: abuse, neglect, and household challenges.[90] Each category was then further divided into seven total categories: emotional, physical, and sexual abuse; emotional and physical neglect; mother treated violently; substance abuse in the household; mental illness in the household; parental separation or divorce; and incarcerated household member.[91] The number of ACEs per individual was "then compared to measures of adult risk behavior, health status, and disease."[92]

A major finding was that ACEs are common across all populations: "[a]lmost two-thirds of participants reported at least one ACE, and more than one in five reported three or more ACEs."[93] Significantly, it found that certain populations are "more vulnerable to experiencing ACEs because of the social and economic conditions in which they live, learn, work and play."[94] The study also found that as the number of ACEs increased, so did a person's risk for negative outcomes.[95] Persons with four or more categories of ACEs, compared to those who had experienced none, had a "4- to 12-fold increase in health risks for

87 *About the CDC-Kaiser ACE Study*, CTRS. FOR DISEASE CONTROL & PREVENTION (Sept. 19, 2020), https://www.cdc.gov/violenceprevention/aces/about.html.

88 *See* Vincent J Felitti et al., *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults*, 14 AM. J. PREVENTIVE MED. 245, 245–47 (1998).

89 *About the CDC-Kaiser ACE Study*, *supra* note 87.

90 *Id.*

91 *Id.*

92 Felitti et al., *supra* note 88, at 245.

93 *About the CDC-Kaiser ACE Study*, *supra* note 87.

94 *Id.*

95 *Id.* (This can be described as a "graded dose-response relationship between ACEs and negative health and well-being outcomes.").

alcoholism, drug abuse, depression, and suicide attempt; a 2- to 4-fold increase in smoking, poor self-rated health, [greater than or equal to] 50 sexual intercourse partners, and sexually transmitted disease; and a 1.4- to 1.6-fold increase in physical inactivity and severe obesity."[96] Similarly, as the number of categories of ACEs increased, so did the presence of adult diseases, including "ischemic heart disease, cancer, chronic lung disease, skeletal fractures, and liver disease."[97] In sum, the study found that the seven categories of ACEs were strongly interrelated and that persons with multiple ACEs were "likely to have multiple health risk factors later in life."[98] Overall, it presented the idea that a person may quite literally be a product of the environment they were raised in, the concept of which can have far-reaching implications.

2. The ACE Method in a Modern Context

Today, there are more than 500 articles discussing the ACEs research and its contributions to the studies of "epidemiology, neurobiology, and biomedical and epigenetic consequences of toxic stress."[99] Recent research has emphasized the direct link between increased exposure and risk factors, meaning that as a person's ACE score increases, their risk of social and health problems also increases. These issues include alcohol and drug abuse, depressive disorders, suicide, PTSD, memory disturbances, traumatic brain injuries, early sexual activity, sexually transmitted diseases, obesity, and chronic health conditions.[100]

The seminal 1998 study has been replicated numerous times over the last two decades, in various settings and amongst varying populations. A 2017 study used a larger, more diverse, and representative sample of 248,934 noninstitutionalized adults across twenty-three states.[101] The ACE module consisted of eight categories: physical abuse, emotional abuse, sexual abuse, household mental illness, household substance use, household domestic violence, incarcerated household member, and parental separation or divorce.[102] Of over 200,000 respondents, 61.55 percent had at least one, and 24.64

96 Felitti et al., *supra* note 88, at 245.

97 *Id.*

98 *Id.*

99 Jan Jeske & Mary Louise Klas, *Adverse Childhood Experiences: Implications for Family Law Practice and the Family Court System*, 50 FAM. L.Q. 123, 126 (2016).

100 *About the CDC-Kaiser ACE Study*, *supra* note 87.

101 Melissa T. Merrick et al., *Prevalence of Adverse Childhood Experiences from the 2011-2014 Behavioral Risk Factor Surveillance System in 23 States*, 172 JAMA PEDIATRICS 1038 (2018).

102 *Id.*

percent reported three or more ACEs.[103] Significantly higher ACE exposures were reported by participants who identified as Black, Hispanic, or multiracial; those with less than a high school education; those with an income of less than $15,000 per year; those who were unemployed or unable to work; and those identifying as LGBTQIA+.[104] Essentially, while ACEs are common amongst people from all walks of life, they are most common in people from vulnerable, specifically minority, underprivileged, and unemployed populations.

3. The Effects of ACEs on Individual Growth and Development

People "do not outgrow the impact of ACEs."[105] Instead, "the ACE study demonstrates that adults who survive early lifetime brutality remain yoked to their formative experiences."[106] Common effects of childhood adversity that persist through an individual's lifetime include negatively impacted relationships, physical health, emotional expression and responses, behavioral reactions, thinking, learning, and self-worth.[107] Additionally, "[c]omplexly traumatized children are more likely to engage in high-risk behaviors, such as self-harm, unsafe sexual practices, and excessive risk-taking such as operating a vehicle at high speeds."[108] "They may also engage in illegal activities, such as alcohol and substance use, assaulting others, stealing, running away, and/or prostitution, thereby making it more likely that they will enter the juvenile justice system."[109]

Without proper resources and support, these issues can cause a variety of serious problems well into adulthood. For example, "[c]hildren who do not have healthy attachments have been shown to be more vulnerable to stress. They have trouble controlling and expressing emotions, and may react violently or inappropriately to situations."[110] Exposure to constant or extreme stress can impair brain and nervous system development and can cause irregular development of the body's stress response system, leading to automatic responses to stressors that

103 *Id.*

104 *Id.*

105 Mitzi Baker, *Undoing the Harm of Childhood Trauma and Adversity*, UNIV. CAL. S.F. (Oct. 5, 2016), https://www.ucsf.edu/news/2016/10/404446/undoing-harm-childhood-trauma-and-adversity.

106 Miriam S. Gohara, *In Defense of the Injured: How Trauma-Informed Criminal Defense Can Reform Sentencing*, 45 AM. J. CRIM. L. 1, 15 (2018).

107 *Effects*, THE NAT'L CHILD TRAUMATIC STRESS NETWORK, https://www.nctsn.org/what-is-child-trauma/trauma-types/complex-trauma/effects (last visited Oct. 21, 2021).

108 *Id.*

109 *Id.*

110 *Id.*

appear disproportional, perceived as overreacting, unresponsive, or detached.[111] Children who have experienced complex trauma may have pervasive difficulty identifying, expressing, and managing emotions; can often internalize and/or externalize stress reactions; and may experience significant depression, anxiety, or anger.[112] They may be easily triggered, are likely to react intensely, can have difficulty calming down, and may see reminders of traumatic events everywhere.[113] They might also lack impulse control and "behave in ways that appear unpredictable, oppositional, volatile, and extreme."[114]

The increased likelihood for high-risk behaviors and illegal activities means that persons with a high number of ACEs are more likely to be involved with the criminal justice system and therefore face periods of incarceration.[115] It is also possible that these lifelong dispositional issues could make it difficult for someone with a high number of ACEs to function in a corrections setting, where they have little control over their environment and may experience extreme stress.

4. Understanding ACEs and Adulthood

Childhood trauma expert Felitti's 1998 study began the research of ACEs, but utilizing ACEs research to treat adults has just started to gain speed. Today, University of California at San Francisco (UCSF) is "at the forefront of innovating ways to address trauma as the primary underlying factor in the illness of [] adult patients."[116] While "[y]ears of research have shown that trauma and adverse events in childhood can put a person at an elevated risk for a wide range of physical and mental health problems across their life span," "the scope and significance of that impact—and how to reverse it—is just beginning to come into focus."[117] A UCSF study revealed that ACEs "have a strong association with mental health outcomes in a group of 350 homeless adults over the age of 50" and indicated that "early life challenges have a persistent ripple effect, even in an already challenged population."[118] Compared to respondents with no ACEs, "those who

111 *Id.*

112 *Id.*

113 THE NAT'L CHILD TRAUMATIC STRESS NETWORK, *supra* note 107.

114 *Id.*

115 *Id.*

116 Baker, *supra* note 105.

117 *Id.*

118 Liz Droge-Young, *Childhood Adversity Looms Large for Older Homeless Adults*, UNIV. OF CALIFORNIA SAN FRANCISCO (Aug. 17, 2016), https://www.ucsf.edu/news/2016/08/403926/childhood-adversity-looms-large-older-homeless-adults (citing

experienced one to four or more [ACEs] had two to six times greater odds of having present-day moderate to severe depressive symptoms . . . [and] those with four or more adversities had seven times higher odds of having been hospitalized in the past for psychiatric care."[119] Additionally, "those with four or more adversities had [forty-five] times the odds of an attempted suicide at some point in their lives."[120]

States have begun to recognize the importance of studying ACEs and the profound impact ACEs have on both children and adults. In response to ACEs studies, in 2011, the Washington state legislature addressed the cyclical relationship between ACEs, health problems, and criminal involvement.[121] "Potential savings and improvement in productivity led Washington state legislators to pass an ACE reduction law," characterized as an "innovative . . . bold and dramatic shift in thinking for legislators and policymakers."[122] Washington was the first state to officially recognize ACEs as a "powerful common determinant of a child's ability to be successful at school and, as an adult, to be successful at work, to avoid behavioral and chronic physical health conditions, and to build healthy relationships."[123]

Washington is not the only state to recognize and use ACEs in state initiatives. A Minnesota state-wide ACEs screening for residents and across public schools showed frequent occurrence of ACEs across their population.[124] Soon after, "[t]he Minnesota [Department of Human Services] and other state agencies and community organizations [began] providing training for members of the general public on ACEs, trauma, and [their] effects on brain development."[125] These trainings utilized ACE-based, trauma-informed services and were targeted to help certain groups, like pregnant mothers, children's welfare service providers, and juvenile victims of sexual exploitation.[126]

States should continue screening their citizens for ACEs and utilize these findings to improve their public health initiatives. As the next

Chuan Mei Lei et al., *Childhood Adversities Associated With Poor Adult Mental Health Outcomes in Older Homeless Adults: Results From the HOPE HOME Study*, 25 AM. J. GERIATRIC PSYCHIATRY 107 (2017)).

119 *Id.*

120 *Id.*

121 Michael T. Baglivio et al., *The Prevalence of Adverse Childhood Experiences (ACE) in the Lives of Juvenile Offenders*, 3 J. JUV. JUST. 1, 12 (2014).

122 *Id.*

123 *Id.*

124 Jeske & Klas, *supra* note 99, at 131.

125 *Id.* at 132.

126 *Id.*

section will explore, research and implementation of ACEs-informed services should also be employed with incarcerated adults.

IV. AN ARGUMENT FOR ACE-INFORMED ADULT OFFENDER REENTRY PROGRAMMING

Each offender's ACEs should be screened to help us better understand who exactly is going through the criminal justice and corrections systems. In her concurrence in *California v. Brown*, addressing the sentencing of Albert Brown during his capital murder trial, Justice Sandra Day O'Connor famously recognized that: "[E]vidence about the defendant's background and character is relevant because of the belief, long held by this society, that defendants who commit criminal acts that are attributable to a disadvantaged background, or to emotional and mental problems, may be less culpable than defendants who have no such excuse."[127] Albert argued that his mental health conditions should mitigate his legal guilt.[128] While Justice O'Connor was referencing the culpability aspect of sentencing, the same logic applies for using an ACE framework with adult offender reentry services: ACEs data shows us that offenders are victims of the environments they were raised in, and that the circumstances they come from will continue to be significant to who they are until they receive necessary rehabilitation. Each defendant's background and character is relevant to why they are standing before the court, why they spent time in prison, and why they may fail at reintegrating back into society without proper care. It is too costly and inhumane to proceed with a system where a "defendant's exposure to trauma remains legally irrelevant."[129]

A. *How The ACEs Framework Has Been Studied and Utilized With Juvenile Offenders*

1. There are "Disturbingly High Rates" of ACEs Among Juvenile Offenders

ACEs increase the risk of both involvement in the juvenile justice system and re-offense.[130] The DOJ published, in their Journal of Juvenile Justice, a study that examined the prevalence of ACEs in a population of 64,329 Florida juvenile offenders. It found "disturbingly high rates of ACEs" in juvenile offenders and that juvenile offenders have higher ACE

127 479 U.S. 538, 545 (1987) (O'Connor, J., concurring).
128 *Id.* at 539.
129 Gohara, *supra* note 106, at 2.
130 Baglivio et al., *supra* note 121, at 10.

scores than other examined populations, underscoring "the need to screen for and address ACEs as early as possible to prevent reoffending."[131] Of the 62,536 youth who reported one or more ACEs, 90 percent reported at least two, 73 percent reported at least three, 52 percent reported at least four, and 32 percent reported five or more. Of ten possible ACEs, the average composite ACE score for females was 4.29 and the average for males was 3.48.[132]

The juvenile offender population in this DOJ study differed markedly from the adult sample in Felitti's original ACE study and from nearly all of ACE studies following it. The juveniles were "thirteen times less likely to report zero ACES (2.8% compared to 36%) and four times more likely to report four or more ACEs (50% compared to 13%)" than Felitti's "insured population of mostly college-educated adults."[133] The juvenile offenders were significantly more likely to both have ACE exposure and multiple ACEs exposures than those in Felitti and Anda's adult population.[134] Based on the adverse health outcomes correlated with ACE exposure, "these results have important implications for the preventive health care of justice-involved youth: that is, preventive care could reduce their future need for mental health treatment; addictions treatment; and treatment for chronic lung, liver, heart, and kidney disease, as well as diabetes."[135]

In addition to showing that juvenile offenders have particularly high rates of ACEs, the study demonstrated that an increased ACE score correlates with an increased risk of reoffending. This suggests that it is critically important to "screen for and address ACEs as early as possible to prevent reoffending . . . ."[136] The study also indicated that "youth at low risk to reoffend had the lowest prevalence of ACEs and those at high risk had the highest prevalence of ACEs," especially physical neglect, family violence, household substance abuse, and household member incarceration.[137] Youth with the highest risk of reoffending "had significantly higher prevalence rates than all other groups on all ACE indicators and the ACE composite score."[138]

These results have been successfully replicated. The Tacoma Urban Network and Pierce County Juvenile Court used data from a risk assessment instrument to measure the prevalence of ACEs among

131 *Id.* at 1.
132 *Id.* at 9.
133 *Id*. at 10.
134 *Id*.
135 *Id.*
136 Baglivio et al., *supra* note 121, at 3.
137 *Id.* at 11.
138 *Id.*

juvenile offenders and examine the effectiveness of interventions with high-scoring youth. They found that the juveniles had roughly three times more ACEs than Felitti's general adult population and that "those with higher ACE scores had more substance abuse, self-harm behaviors, and school-related problems such as disruptive behaviors, substandard performance, and truancy."[139] Similarly, in 2018, the Massachusetts juvenile courts collected ACE data on children referred to the juvenile justice system.[140] Of the ten ACEs categories, only 16.6 percent of the juveniles had zero or one ACE, while 61.4 percent had experienced ACEs from four or more categories.[141] The median number of ACEs was five, with an average score of 4.5.[142]

Moreover, racial disparities in ACEs reflect the racial disparities in our justice system. African American youth are nearly five times more likely, and Latinx and American Indian youth are two to three times more likely, to be held in juvenile detention centers than their white counterparts.[143] African American youth are also twice as likely to be raised in communities below the poverty line, increasing their exposure to crime, community violence, stress, and trauma.[144]

Essentially, a large body of literature has revealed that ACEs place youth at greater risk for entering the juvenile justice system. Each adverse experience negatively impacts a young person's health, behavior, and/or psychological development.[145] Studies have shown an exponentially more harmful effect for youth exposed to multiple ACEs, especially those who have experienced at least four categories of ACEs: their odds of "long-term negative [physical or mental] health outcomes can be up to twelve times greater than youth who have not had the same exposure."[146] These impacts, in turn, are correlated with increased risk of interactions with the criminal justice system. Indeed, research has well-documented the link between delinquency and prior abuse, with a "significant degree of correlation in the overwhelming majority of

139 *Id.* at 3.

140 Mass. All. of Juv. Ct. Clinics, Adverse Childhood Experiences (ACE) (2019), https://majcc.files.wordpress.com/2019/01/2-new-aces-left-side-2019.pdf.

141 *Id.*

142 *Id.*

143 Shantel D. Crosby, *Trauma-Informed Approach to Juvenile Justice: A Critical Race Perspective*, 67 JUV. & FAM. CT. J. 5, 6 (2016).

144 *Id.* While incredibly necessary, the discussion of racial disparities in ACEs—and the systemic barriers that exist for communities of color which in turn create environments that perpetuate ACEs—is outside of the scope of this Comment, but warrants future additional discussion.

145 *See supra* Section III.A.3.

146 Thalia González, *Youth Incarceration, Health, and Length of Stay*, 45 FORDHAM URB. L.J. 45, 56 (2017) (citing Felitti et al., *supra* note 88, at 245).

studies that examine the issue."[147] Additionally, being incarcerated is itself profoundly traumatic and can qualify as an ACE, compounding the effects of the adverse experiences young people in detention facilities often have already experienced.[148]

2. Treating Juveniles by Targeting the Link Between ACEs and Juvenile Recidivism

To effectively target and treat those exposed to ACEs at a young age, "[e]arly, preventive measures are critical to altering the trajectory of trauma, mental health challenges and related risk-taking behaviors, and resulting delinquency and criminal justice system involvement."[149] There have also been efforts to integrate legal services in healthcare settings to help "disrupt the path of patients from ACEs to juvenile delinquency . . . through the deployment of legal services with a preventive approach."[150] ACEs not only correlate to the chance of a juvenile being involved with the criminal justice system but also play a role in the fact that approximately 45 percent of juveniles released from detention centers recidivate, committing subsequent offenses after their initial adjudication.[151]

For example, a 2015 study assessed the extent to which a juveniles' ACE score related to recidivism and found that juveniles who reported a greater number of ACEs were significantly more likely to be rearrested sooner after release.[152] A higher ACE score shortened the amount of time it took to recidivate for all genders and races.[153] The authors noted that there is a need for further research about ACEs and recidivism, stating that although many ACE studies "point to a link between traumatic childhood events and antisocial behavior, much less research has examined those exposures as a predictor of time to rearrest within a recidivism framework."[154] They also noted the need to explore policies for universal ACEs screenings and to study the "effectiveness of

147 *Id.* at 58.

148 *Id.* at 64.

149 Yael Cannon & Andrew Hsi, *Disrupting the Path from Childhood Trauma to Juvenile Justice: An Upstream Health and Justice Approach*, 43 FORDHAM URB. L. J. 425, 459 (2016).

150 *Id.* at 483.

151 *See* Kevin T. Wolff, Michael T. Baglivio & Alex R. Piquero, *The Relationship Between Adverse Childhood Experiences and Recidivism in a Sample of Juvenile Offenders in Community-Based Treatment*, 6 INT'L J. OFFENDER THERAPY & COMP. CRIMINOLOGY 1210, 1211–12 (2017).

152 *Id.* at 1225.

153 *Id.* at 1231.

154 *Id*. at 1214.

various treatment models and interventions at attenuating the impact of ACEs."[155]

There has also been a movement towards the implementation of ACE-based practices with juvenile offenders. In addition to using ACE-informed treatments in healthcare and social services settings, "[p]rofessionals, organizations, agencies and communities" have begun implementing ACEs-based practices in "family law, education, juvenile justice, [and] criminal justice . . . in municipalities and states."[156] Compelling arguments have been made to utilize the ACEs research in family law practices, so that practitioners can best serve their clients.[157] This movement is based on the notion that ACEs research helps implement the best trauma-informed practices,[158] meaning that people receive the best treatment when their personal experiences are what shapes their treatment.

B. *Adult Offenders Have Experienced the Same High Rates of ACEs as Juvenile Offenders*

A close look at ACEs data show us what a lot of research suggests: higher rates of ACEs are related to the impact of structural racism in every aspect of the criminal justice process, which includes over-policing before first contact, through pleas, conviction, incarceration experiences, release, and beyond.[159] Because of this, people identifying as Black and Hispanic are more likely to be incarcerated[160] and are more likely to recidivate.[161] They are also more likely to have experienced a higher number of ACEs.[162] Additionally, those with a higher number of ACEs are more likely to engage in high-risk behaviors and illegal activities and are therefore more likely to face periods of incarceration.[163] Putting all of this data together, there can be no question that ACEs are extremely prevalent amongst adult offenders. Given the robust evidence about ACEs' impact upon individuals well into adulthood, insufficient attention has been paid to ACEs in the context of adult criminal justice interactions. Why this discrepancy exists is unclear and should be the subject of further research, but those hypotheses are beyond the scope of this Comment. This section instead

155 *Id.* at 1233.
156 Jeske & Klas, *supra* note 99, at 126–27.
157 *See generally id.*
158 *Id.* at 127.
159 Inman, *supra* note 16.
160 *See supra* Section II.A.1.
161 *See supra* Section II.A.1.
162 *See supra* Section III.A.2.
163 *See supra* Section III.A.2.

summarizes the evidence that confirms what may seem obvious: most adults who interact with the criminal justice system have significant exposure to ACEs.

1. The Concerning Lack of Research About ACEs and Adult Offenders

There is little research about ACEs and adult offenders. What we do know is that childhood trauma is common amongst adult criminal offenders: in a 1999 study of U.S. inmates and probationers, "12% of males and 25% of females reported child physical abuse, while 5% of males and 26% of females reported sexual molestation."[164] Additionally, prisoners frequently report having witnessed violence in their families, experiencing the death of a family member, parental separation, abandonment, foster care placement, or parental substance abuse.[165] These adverse experiences are associated with "delinquency and criminality, and greater exposure to adverse events significantly increases the likelihood of mental health problems and serious involvement with drugs and crime."[166]

A 2013 study of four "offender groups in California found that the population of formerly incarcerated individuals reported four times as many ACEs as the male adult normative sample."[167] Additionally, a 2016 panel by the National Reentry Resource Center noted that sexual offenders have more than three times as many ACEs as the average person.[168] Moreover, extensive research has established that ACEs are associated with a range of negative life consequences, including a higher risk of involvement in crime.[169] Unfortunately, research with ACEs and adult offenders essentially ends here. While much can be extrapolated by the work with ACEs and juvenile offenders and the frequency with which juvenile offenders reoffend into adulthood, there is no question that more research is needed.

Despite the research gap, there is reason to believe adult offenders have the same rates of ACEs as juvenile offenders. Those "who begin

164 Jill Levenson, *Adverse Childhood Experiences and Subsequent Substance Abuse in a Sample of Sexual Offenders: Implications for Treatment and Prevention*, 11 VICTIMS & OFFENDERS 199, 202 (2015).

165 *Id.*

166 *Id.*

167 NJ FUNDERS ACES COLLABORATIVE, ADVERSE CHILDHOOD EXPERIENCES: OPPORTUNITIES TO PREVENT, PROTECT AGAINST, AND HEAL FROM THE EFFECTS OF ACES IN NEW JERSEY 12 (2019).

168 Robin J. Wilson, *Circles of Support and Accountability: An Innovative Approach to the Management of Sex Offenders*, THE NAT'L REENTRY RSCH. CTR. 9 (Nov. 10, 2016), https://nationalreentryresourcecenter.org/sites/default/files/wp/CoSA_WebinarNov2016.pdf.

169 Wolff et al., *supra* note 152, at 1210.

their delinquent careers in childhood, rather than later in adolescence, become the most consistent and chronic offenders."[170] Considerable research "has revealed higher prevalence rates of adversity and trauma" for offending juveniles "compared to youths in the general population," which indicates that experiencing risk factors at home or in school during childhood is associated with more chronic delinquency.[171]

2. The Need for More Research and Awareness of ACEs with Adult Offenders

ACEs in adult offenders are vastly understudied compared to juveniles, even though adults who interact with the criminal justice system are essentially children who were impacted by ACEs that have grown up. In a line of Eighth Amendment decisions, including *Roper v. Simmons*[172] and *Graham v. Florida*,[173] the Supreme Court held that it was unconstitutional to sentence juveniles to capital punishment[174] and life-without-parole sentences for non-homicide crimes.[175] In both of these cases, the Court essentially held that the unique vulnerability of youth meant that those under the age of eighteen are shielded from harsher sentences intended for adults.[176] The Court, however, has never grappled with the fact that in many instances it is willing to afford these same harsh sentences to adults who are these same vulnerable adolescents that have grown up. These are the same teenagers, afflicted with the same ACEs, just now aged past the line of eighteen—past the line our justice system has arbitrarily drawn between partially and fully culpable. The obvious counterargument is that those over the age of eighteen should know better, and therefore the arguments for diminished culpability of youth no longer exist. This assumes every adult is equally capable of recognizing and understanding the consequences of their behavior, yet research shows the negative effects that high rates of ACEs have on a person's growth and development—from increased vulnerability to stress, to difficulty controlling emotions, lack of impulse control, automatic responses to stressors, and increased rates of high-risk and unsafe behaviors.[177]

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170 Carly B. Dierkhising et al., *Trauma Histories Among Justice-Involved Youth: Findings from the National Child Traumatic Stress Network*, 4 EUR. J. PSYCHOTRAUMATOLOGY, July 2013, at 2.

171 Baglivio, s*upra* note 122, at 2 (citing Dierkhising et al., *supra* note 170, at 1–6).

172 543 U.S. 551 (2005).

173 560 U.S. 48 (2010).

174 *Roper*, 543 U.S. at 568.

175 *Graham*, 560 U.S. at 79.

176 *Id.* at 67–75.

177 *See supra* Section III.A.3.

These teenagers, however, hit eighteen years old and suddenly go from deserving that their trauma be recognized, to being an adult, fully responsible for their actions, with their past trauma legally irrelevant.

There are hundreds of articles advocating for a variety of uses of ACEs with juvenile offenders, yet any legal discussions of ACEs—and their relevance to adult offenders—are few and far between. One recent approach, and one of the only published suggestions for using an ACE framework with adult offenders, proposed considering ACEs during sentencing.[178] It advocated that each offender's ACEs should be factored into their sentence to help achieve a sentence that is "sufficient, but not greater than necessary."[179] This was based on the notion that understanding ACEs research will "enable a defense attorney to show the ACEs influence upon the offense conduct and relevance to treatment. It will bolster the arguments that (1) it is unlikely the client will recidivate when any number of evidence-based interventions . . . are provided, and (2) a disparity in the sentence is warranted."[180]

While deserving of far more of a conversation than this Comment is able to afford, the discourse addressed to the use of ACEs in sentencing should also have profound implications for the death penalty. A widely publicized example of this is the recent, tragic case of Lisa Montgomery, who was sentenced to death and executed in early 2021 for murdering a pregnant woman, cutting out the fetus, and abducting the child in 2004.[181] What the criminal justice system chose to ignore, however, was that Montgomery herself had endured repeated physical and sexual abuse as a child, and as a result of this trauma, she was mentally ill and neurologically impaired when the government chose to end her life.[182] The tragic abuse she suffered forever changed who she was and the course of her existence. While a defendant's background can already be used as mitigating evidence in the determination of whether the death penalty or a lesser sentence should be awarded,[183] analyzing an offender's ACEs can improve this mitigation analysis. Using and understanding the ACEs methodology emphasizes how much a person's upbringing affects their development and

178 David Savitz, *A Handful of ACEs: Another Approach Under §3553(a)*, 43 CHAMPION 34 (2018).

179 *Id.*

180 *Id.*

181 Hailey Fuchs, *U.S. Executes Lisa Montgomery for 2004 Murder*, N.Y. TIMES (Jan. 13, 2021), https://www.nytimes.com/2021/01/13/us/politics/lisa-montgomery-execution.html.

182 *Id.*

183 Andrus v. Texas, 140 S. Ct. 1875, 1883, 1885–86 (2020).

decision-making, and therefore can help dictate to what degree their sentence should be lessened based on the ACEs they have experienced.

Additionally, the United States would not be the first country to recognize the role that ACEs play in the criminal justice system. Other countries have begun to acknowledge that childhood adversity is relevant to the treatment of those involved in the criminal justice system. For example, a recent Australian publication "recognized that legal proceedings might involve people coping with a range of adversities, including some extremes such as adverse childhood experiences and intergenerational trauma," while making a case for trauma-informed lawyers.[184] It discussed how, "[a]s a powerful institution in society, law regularly encounters and deals with people, both as victims and offenders, whose lives have been shaped and harmed by traumatic events."[185] Additionally, a 2017 article in the International Journal of Evidence and Proof found that while a "fully trauma driven response" may not be realistic, "greater acknowledgement of the pervasiveness of trauma, the challenges it presents and the ways in which participation in the criminal justice process can come at the cost of individual therapeutic recovery, provides a mandate for further reform."[186] As these observations extrapolate to penal systems across many countries, the U.S. criminal justice system should be paying attention.

As referenced above, evidence-based interventions are necessary to combat recidivism. Knowledge of each offender's ACEs would only enhance the ability to introduce appropriate and necessary treatment for each offender. To do this, the lack of research about the prevalence of ACEs in adult offenders needs to be remedied, and ACEs need to be better studied in adult offenders. Screening each offender for their ACEs can best inform which offenders need services and what services are necessary to provide a more effective reentry process.

C. *ACEs Methodology Can be Utilized with Adult Reentry Through Screening for and Treatment Based on ACE Scores*

By generally understanding the ACEs in incarcerated populations and specifically the ACEs of each person exiting periods of incarceration, we can better recognize what kinds of rehabilitation need to be available, which offenders are most in need of treatment, and what treatment is best for each person. Over seventy years ago, Justice Hugo

184 Felicity Gerry, *Trauma-Informed Courts*, 171 NEW L. J. 16 (2021).

185 *Id.*

186 *Id.* (citing Louise Ellison & Vanessa Monroe, *Taking Trauma Seriously: Critical Reflections on the Criminal Justice Process*, 21 INT'L J. EVIDENCE & PROOF 183 (2017)).

Black said that the "prevalent modern philosophy of penology [is] that the punishment should fit the offender and not merely the crime."[187] These words ring truer today than ever before, and should be the resounding approach behind treatment with an ACEs reentry model—resources and rehabilitation should fit the needs of each offender, regardless of their crime.

Drawing upon the ACEs approach used in primary care settings, multiple steps are necessary to implement an ACEs framework with adults who are incarcerated. First, a state should develop a standardized ACEs-based measurement tool for all offenders. Based off of their individualized score, each individual would then be connected to a personalized combination of multidisciplinary resources, such as: (1) treatment professionals, such as physicians, counselors, and educators; (2) those to help foster supportive, trusting relationships with family and friends; (3) supportive treatments, such as support groups, Narcotics Anonymous and/or Alcoholics Anonymous; and (4) skills-based groups to improve day-to-day functioning, awareness, mindfulness, self-talk, and self-care.[188]

1. Step 1: Determine Which Adult Offenders are Most in Need of Reentry Services

Individuals in U.S. prisons and jails are "three to five times more likely to experience serious psychological distress than the total adult general population."[189] A 2009 study found that "more than half of the people in state prisons and two-thirds of people in jail met the criteria for 'drug dependence or abuse.'"[190] Additionally, "these populations often overlap: up to 11 percent of the prison population have co-occurring mental illnesses and substance addictions."[191] Furthermore, those "who have mental illnesses are almost twice as likely to be reincarcerated for parole violations within one year of release than those who do not have a mental illness."[192] These individuals need

187 Williams v. New York, 337 U.S. 241, 247 (1949) (citing People v. Johnson, 169 N.E. 619, 621 (N.Y. 1930)).

188 Dennis Pusch, et al., 19th Annual Conference Session B1 Report, Collaborative Family Healthcare Ass'n, A Novel Treatment for Adults Who Were Traumatized as Children: New Frontiers in Primary Care (Oct. 19-21, 2017), https://cdn.ymaws.com/www.cfha.net/resource/resmgr/2017/Conference/Resources/B1_Pusch_PPT.pdf.

189 REENTRY MATTERS: STRATEGIES AND SUCCESSES OF SECOND CHANCE ACT GRANTEES, *supra* note 48, at 7 (citing JENNIFER BRONSON ET AL., BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, DRUG USE, DEPENDENCE, AND ABUSE AMONG STATE PRISONERS AND JAIL INMATES, 2007-2009, (2017), bjs.gov/content/pub/pdf/dudaspji0709.pdf).

190 *Id.*

191 *Id.*

192 *Id.*

services, but with the massive number of offenders going through the criminal justice system every day, week, month and year, it is easy to overlook offenders who do not present as severely in need of treatment. Because higher ACE scores correlate to higher rates of substance abuse and mental health issues,[193] paying attention to each offender's ACE score would make it easier to determine who is likely to be in need of treatment.

Treatment, however, needs to go beyond just access to mental health and addiction services. For example, in 2013, the Franklin County Sheriff's Office in Greenfield, Massachusetts, a Second Chance Act Reentry Program grantee, took reentry services a step further and utilized ACEs to evaluate and treat offenders.[194] They implemented a trauma-informed substance use and mental illness treatment program for 120 incarcerated men, many with a "high- to very high-criminogenic risk," and the ACE scale was used along with clinical diagnostic tools to evaluate each offender.[195] "Depending upon participants' level of risk and need," their individual service plan included "various levels of intervention, such as evidence-based treatments, vocational [and] educational programs, comprehensive reentry services, and post-release reentry supports."[196] This shows that something as simple as pre-release screenings of each offender for their personal ACE score can help inform which offenders are more in need of services, which are most likely to reoffend, and which services each person requires to be successful.

2. Step 2: Determine What Services Will Most Benefit Each Offender

As offenders with higher ACE scores are more likely to recidivate, comprehensive rehabilitation efforts should be focused on these individuals. To treat the effects of ACEs, an important part of rehabilitation needs to center around trauma-informed care, which "is grounded in a thorough understanding of the effects of trauma and violence on health and well-being and the prevalence of these effects."[197] The Collaborative Family Healthcare Association recognized that the basic treatment for adults who have experienced ACEs is a combination of support groups as well as mental illness and substance abuse

193 *See supra* Section III.A.3.

194 *Lead Case Planner: Correctional Agency*, JUSTICE CTR., COUNCIL OF STATE GOV'TS, https://csgjusticecenter.org/publications/collaborative-comprehensive-case-plans/lead-case-planner-correctional-agency/ (last visited Sept. 21, 2021).

195 *Id.*

196 *Id.*

197 Jeske & Klas, *supra* note 99, at 131.

treatment.[198] The National Center for Trauma-Informed Care advised that systems looking to implement trauma-informed approaches must: "1) realize the prevalence and impact of psychological trauma; 2) recognize the trauma-related symptoms of individuals (both service consumers and providers) involved in the system; 3) respond using trauma-sensitive methods and knowledge at all levels of the system; and 4) aim to actively avoid re-traumatization or sanctuary trauma."[199]

Because they are exiting periods of incarceration, offenders with ACEs present unique needs beyond those with ACEs in the general population. In addition to trauma informed care, reentry processes also need to provide things like sober transitional housing, job training, employment opportunities, Medicaid registration, healthcare access, Motor Vehicle Commission identification, and legal services.[200] An ACEs-reentry approach should never neglect these important resources, but should add the critical element of trauma-informed counseling, tailored to each offender's ACEs, in addition to these already existing and important services.

D. *The Benefits of Utilizing an ACE Framework for a More Effective Reentry System*

1. The National Benefits of Embracing an ACEs Approach

Societies that fail to address ACEs early on face substantial financial costs later. Specifically, "the downstream costs of inaction include increased childhood and adult healthcare costs, decreased worker productivity, and increased public expenditures on child welfare, criminal justice, and education due to higher rates of grade retention, special education, and dropout."[201] Using recent data and updated methodologies, a 2018 analysis examined the economic burden of child maltreatment, a subset of ACEs that includes physical, sexual, and emotional abuse and neglect. Based on substantiated cases alone, the estimated U.S. economic burden was found to be somewhere between $428 billion and $2 trillion (2015 U.S. dollars) for lifetime costs incurred annually.[202] Direct costs can include the immediate needs of maltreated children, such as hospitalization, mental health care, child welfare

198 19th Annual Conference Session B1 Report, *supra* note 188.

199 Crosby, *supra* note 143, at 7.

200 N.J. REENTRY CORP., *supra* note 42, at 5.

201 NJ FUNDERS ACES COLLABORATIVE, *supra* note 167, at 13 (citing Cora Peterson, Curtis Florance & Joanne Klevens, *The Economic Burden of Child Maltreatment in the United States, 2015*, 86 CHILD ABUSE & NEGLECT 178 (2018)).

202 Cora Peterson, Curtis Florance & Joanne Klevens, *The Economic Burden of Child Maltreatment in the United States, 2015*, 86 CHILD ABUSE & NEGLECT 178, 181 (2018).

systems, and law enforcement; indirect costs are the secondary or long-term effects of child abuse and neglect, including special education, juvenile delinquency, mental and physical health care, the criminal justice system, and lost productivity to society.[203] These enormous costs seem evidence enough to focus on an approach that can effectively target both ACEs and recidivism.

Federal courts, as previously noted, have already moved towards the reentry court model.[204] As there are significantly fewer federal inmates than state inmates, and the reentry court model is already established, adding in pre-release ACEs screenings and using ACEs to inform treatment would not be a significant disruption from the current way reentry courts function. As it could greatly inform which offenders are most in need of services and how best to treat those individuals, the process can only stand to benefit.

2. State Benefits of Employing an ACEs Approach: A Case Study of ACEs and New Jersey

The efforts to understand ACEs in New Jersey have just begun. In 2018, the New Jersey Funders ACEs Collaborative initiated a project to better understand the impact of ACEs in the state through research, studies of responses in other states, and interviews with community leaders.[205] They discovered that, "[i]n New Jersey, over 40% of children—more than 782,000—are estimated to have experienced at least one ACE, and 18% are estimated to have experienced multiple ACEs."[206] Additionally, rates of ACE-exposures in New Jersey are higher for children and families of color and for children living in poverty than they are for their "non-Hispanic white and more financially secure counterparts."[207] Specifically, "[m]ore than 27% of African-American children and 22% of Hispanic children in New Jersey are estimated to have experienced multiple ACEs, compared to 16% of their non-Hispanic white peers."[208] This is reflective of "the structural barriers experienced by families who have been historically disenfranchised," as families who lack "access to quality housing or fac[e] other barriers to economic success also have increased vulnerability to ACEs."[209] While

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203 THE NAT'L CHILD TRAUMATIC STRESS NETWORK, *supra* note 107.

204 *See supra* Section II.B.3.

205 NJ FUNDERS ACES COLLABORATIVE, *supra* note 167, at 5.

206 *Id.* at 13 (citing *Mobilizing for New Jersey's Children and Families: Preventing, Protecting, and Healing from Adverse Childhood Experiences*, CTR. FOR HEALTH CARE STRATEGIES (May 2019)).

207 NJ FUNDERS ACES COLLABORATIVE, *supra* note 167, at 13.

208 *Id.*

209 *Id.*

there is no specific data on ACEs and New Jersey's juvenile offenders, research shows that juvenile offenders are four times more likely to have experienced four or more ACEs than the adults from the original ACE study cohort.[210]

One of the goals of the New Jersey Funders ACE Collaborative is to "advocate for specific ACEs-focused policies in early childhood care and education centers, the child welfare and juvenile justice systems, violence prevention programs, and healthcare settings."[211] But why only the juvenile justice system? Data shows that nearly half of juvenile offenders recidivate,[212] and the prevalence of ACEs in adult offenders is high. Yet, a persistent gap remains in efforts to use our vast knowledge of ACEs with adults who are incarcerated.

Currently, the majority of reentry services in states such as New Jersey stem from nonprofit organizations.[213] Those utilizing reentry services provided by reentry organizations like the Reentry Corporation have significantly lower rates of recidivism.[214] While these programs have proven to be largely successful, it is impossible for non-state organizations to reach all released offenders on their own. State justice systems need to create a centralized process, as "[r]eentry services will be more effective and far-reaching only when provided in connection with the corrections system."[215] Plus, the state is best able to screen for ACEs while offenders are still incarcerated and then integrate treatment as part of a comprehensive, state-created reentry plan.

The costs of recidivism do not need repeating,[216] and still states suffer financially beyond just the inherent costs associated with the justice system: "Because of the influence of the harsh environment on incarcerated individuals, prison culture spreads back into the community after their release, and a failure to find legitimate housing and employment results in an increase in gangs and violence in the communities most affected by mass incarceration."[217] For example, due to a lack of medical resources for low-income individuals, released prisoners often over-utilize emergency departments and emergency

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210 *See supra* Section IV.A.1.

211 NJ FUNDERS ACES COLLABORATIVE, *supra* note 167, at 6.

212 Crosby, *supra* note 143, at 6.

213 *See* N.J. REENTRY CORP., *supra* note 42, at 13; *Our Approach*, REENTRY COALITION of NEW JERSEY, https://reentrycoalitionofnj.org (last visited Oct. 30, 2020); *Get Help: New Jersey Social Services: Ex-Offenders*, N.J. STATE LIBRARY, https://libguides.njstatelib.org/get_help/ex_offenders (last visited Oct. 30, 2020).

214 N.J. REENTRY CORP., *supra* note 42, at 13–19.

215 *Id.* at 24.

216 *See supra* Section II.A.3.

217 *See* N.J. REENTRY CORP., *supra* note 42, at 3.

health care services, instead of primary care—making up for only 5 percent of the population, yet roughly 50 percent of medical expenditures.[218] Plus, recently released individuals often lack financial resources or steady income, yet are released to the burden of many fines and expenses.[219]

Additionally, those leaving correctional facilities are severely undereducated, in need of physical and psychosocial health care, and addicted to illicit substances, yet are being released with little to no guidance or supervision from the state.[220] This means that "[f]aith-based organizations, family members, and other informal systems often scramble to fill gaps in fundamental needs for those reentering communities saturated by justice system involvement . . . ."[221] State-implemented comprehensive reentry programs are not only cost-effective but have seen outstanding results in improving public safety and reducing recidivism.[222] Many of these programs are already similar to the ACE model, focusing on substance abuse, employment, healthcare, and housing.[223] Adding a personalized evaluation of ACEs can improve this treatment landscape.

V. CONCLUSION: WHAT COMES NEXT?

Putting all of the data together, the picture comes into focus. Significantly higher rates of ACEs are associated with offenders who recidivate,[224] as well as with individuals identifying as Black, Hispanic, or multiracial.[225] Rates of incarceration and reoffending are similarly disproportionate for these minority populations.[226] ACEs are significantly more prevalent in juvenile offender populations than they are in normative youth populations, and even being incarcerated can itself be an ACE.[227] Nearly half of all juvenile offenders continue to offend into adulthood, meaning these same juveniles will one day be adult offenders.[228] Furthermore, exposure to ACEs increases the likelihood of justice system involvement, as well as a lack of developed

218 *Id.*
219 *Id.*
220 *See id.* at 3–8.
221 *Id.* at 4.
222 *Id.* at 9.
223 N.J. REENTRY CORP., *supra* note 42, at 11.
224 Wolff et al., *supra* note 152, at 1225.
225 Merrick et al., *supra* note 101, at 1038.
226 *See supra* Section II.A.1.
227 *See supra* Section IV.A.1.
228 *See supra* Section IV.A.1.

behavioral and cognitive skills.[229] There can be no question, then, that adult offenders have similarly high rates of exposure to ACEs.

In addition to the demographic and juvenile ACEs data, one study found that, consistent with juvenile offenders, formerly incarcerated adults reported four times as many ACEs as the male adult normative sample.[230] Another study found that sexual offenders have experienced, on average, three times as many ACEs as non-offenders.[231] While there needs to be more research done and more data compiled on ACEs and adult offenders, even with the information we have, it is clear that ACEs are pervasive among adult offender populations.

By acknowledging and treating the unique adverse experiences of each offender, correct and effective services can be provided to ensure the most efficient and successful reentry process, thereby reducing recidivism. Legislation, however, needs to be passed in order to step towards this goal as a reality, and there is still substantial research that needs to occur to make sure these changes happen in the most efficient and cost-effective way.

A. *Legislation That Must be Passed to Better Understand and Utilize ACEs Research*

Legislation must be passed to create state systems in which each offender is screened for his or her ACE score and then provided an appropriate treatment plan. Similar to federal reentry courts, each person who is incarcerated should then have access to services that reflect his or her personal needs based on his or her ACE score. Legislation should create an ACEs screening mechanism, structure a workable system, and provide the resources to allow more, and different, personnel working within the reentry system. In addition to the judges, probation officers, and personnel involved in court-imposed post-release conditions, there needs to be case workers, social workers, physicians, educators and counselors using a trauma-based approach. Direction and financial resources are needed from each state legislature to create a cohesive procedure.

B. *The Remaining Obstacles and Questions to Consider*

Putting aside the morality component of rehabilitation, more specifically the humanity of the individuals in state custody whom we know often come from traumatized backgrounds, the expense involved with hiring the personnel necessary to treat ACEs presents a potential

229 *See supra* Section III.A.3.

230 Baglivio et al., *supra* note 122, at 21.

231 Wilson, *supra* note 168.

barrier. The cost of continuing the current pattern of recidivism is, however, just as expensive, if not substantially more so. Eliminating the costs of recidivism means eradicating the need to re-investigate, process, prosecute, adjudicate and imprison 83 percent of all released offenders,[232] as well as the costs of the respective crimes of each reoffender. It seems reasonable to provide resources with such a large payoff, especially when comprehensive reentry services have shown to be cost-effective in the long run.[233] The financial investment is worth it if it means redeeming our fractured reentry system.

Researchers must continue to study the prevalence of ACEs in adult offender and reoffender populations, as well as how best to treat individuals based on their ACE score. The questions remaining are first, exactly what costs and re-organization are necessary to effectuate this transition, and second, how and where else our extensive knowledge on ACEs, including their high rates among adults who interact with the criminal justice system and their long-term impact on each individual, can be implemented to further improve and humanize our justice system overall.

232 ALPER ET AL., *supra* note 4.

233 *See* N.J. REENTRY CORP., *supra* note 42, at 9.