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## Prisoner Reentry and the Uniform Collateral Consequences of Conviction Act

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In July of 2009, the National Conference of Commissioners on Uniform State Laws (NCCUSL) approved for the first time model legislation—the Uniform Collateral Consequences of Conviction Act—designed to facilitate offender reentry throughout the United States. A revised Act was approved in July 2010 and published on January 6, 2011. Model or uniform legislation such as this does not carry the force of law; the NCCUSL is an advisory organization only. Nevertheless, uniform acts approved by the NCCUSL have been, and continue to be, tremendously important in shaping the development of law across the country. The newly approved Uniform Collateral Consequences Act is currently under consideration in Nevada, West Virginia, and Wisconsin—it has important implications for Alaska law as well.

### Background

The NCCUSL was established in 1892 as a confederation of state representatives for the purpose of improving state law and promoting uniformity of legislation in areas of national importance. It is an outgrowth of an 1889 resolution by the American Bar Association recommending that the states appoint commissioners to meet with other state representatives on the development of uniform state laws. By 1912 each state was sending commissioners to an annual meeting. (John McLaugherty, “The Uniform Law Process: Lessons for a New Millennium,” 27 *Oklahoma City University Law Review* 535 (2002)). One hundred years

later, the Conference has promulgated to the states more than 250 uniform acts. Among the better known are the Uniform Commercial Code, the Uniform Probate Code, and the Uniform Partnership Act, each of which has been adopted, with some revisions, in Alaska.

Conference commissioners must be lawyers, and members of at least one state bar. The states differ in their methods of appointing commissioners, although most provide for appointment by the governor. As a group, the commissioners include not only practicing lawyers, but law professors, judges, legislators, and legislative staff. Over the decades, the Conference has comprised some of the most highly respected members of the legal community, including among its ranks such luminaries as former President Woodrow Wilson, former Chief Justice William Rehnquist, former Justices Brandeis and Rutledge, and law professors John Wigmore, Samuel Williston, Roscoe Pound, and George Bogart. Alaska currently has a Conference delegation of seven, among them Chief Justice of the Alaska Supreme Court Walter Carpentier.

### Overview of the Collateral Consequences Problem and the Proposed Act

The impetus for the Conference’s work on the Uniform Collateral Consequences Act is detailed in an issues memorandum presented to the drafting committee in July of 2005. It notes:

Both the criminal justice system and society as a whole are faced with managing the growing proportion of the free population that has been convicted of a state or federal felony offense. In a trend showing little sign of abating, the U.S. prison population has increased dramatically since the early 1970s.... In 2003, the Department of Justice estimated that if the 2001 imprisonment rate remained un-

changed, 6.6% of Americans born in 2001 would serve prison time during their lives—this may be an underestimate given that the incarceration rate has increased every year since 2001....

In addition to those serving or who have served prison time, an even larger proportion of the population has been convicted of a criminal offense without going to prison.

Over 4 million adults were on probation on December 31, 2003, almost twice as many as the combined number on parole, in jail or in prison.

The growth of the convicted population means that there are literally millions of people being released from incarceration, probation and parole supervision every year. Of course, they must successfully reenter society or be at risk for recidivism. Although no one supports “coddling criminals,” society has a strong interest in preventing recidivism. An individual who could have successfully reentered society but for avoidable cause reoffends generates the financial and human costs of the new crime, expenditure of law enforcement, judicial and corrections resources, and the loss of the productive work that the offender could have contributed to the economy. (Preliminary Report Collateral Sanctions and Disqualifications Act, (2005).)

The report goes on to state that as the importance of facilitating reentry has increased, a number of legislative developments have conversely made successful reintegration more difficult than ever before.

For many years, a person convicted of, say, a drug felony, lost his right to vote for a period of time or for life, could not possess a firearm, and was

*Please see Prisoner reentry, page 8*

### HIGHLIGHTS INSIDE THIS ISSUE

- An examination of gang data from the Fairbanks Gang Assessment (page 2).
- A look at gang units in large local law enforcement agencies (page 7).

# Gangs: National Data and the Fairbanks Gang Assessment

*Khristy Parker and Shea Daniels*

## Scope of the National Gang Problem

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) reports that youth gangs have increased in number, scope, and level of violence over the past 25 years. Following a marked decline in numbers from the mid-1990s to the early 2000s, a steady resurgence of gang problems has occurred in recent years. According to the 2008 National Youth Gang Survey (NYGS), there were more than 27,000 youth gangs in the U.S. in that year, an increase of 28 percent since 2002, and about 775,000 gang members. The annual NYGS was initiated in 1996 and is conducted by the National Gang Center. The survey measures the presence, characteristics, and behaviors of local gangs in jurisdictions throughout the United States. (Legal definitions of gangs and gang crime vary among jurisdictions at state and federal levels—see “Legal Definitions of *Gang* and *Gang Crime*.”)

The largest increases in gangs and gang members from 2007 to 2008, as shown by NYGS data, occurred in cities with populations of more than 250,000, and these cities continue to be the locus of gang activity in the U.S. However, in smaller population

areas (under 250,000) during this same timeframe, youth-serving and law enforcement agencies reported decreases in gangs and gang members. These figures appear to reflect a difference in trends in gang problems in less populated areas.

According to the FBI, gangs account for as much as 80 percent of all crimes in the U.S. In 1992, the FBI announced the Safe Streets Violent Crime Initiative, under which field offices established task forces to focus on gang violence and violent crime. The Violent Gang Safe Streets Task Force developed from the Safe Streets Violent Crime Initiative and involves federal, state, and local law enforcement agencies. As of January 2011, there are 168 Safe Streets Task Forces operating in 54 field offices, including Alaska’s only Safe Streets Task Force in Anchorage. Over 650 law enforcement agencies and 2,500 law enforcement personnel are part of this national effort. The Safe Streets Task Forces reported 40,840 arrests and 16,666 convictions from 2001 to 2008. The ability of law enforcement agencies at all levels to share information about gangs and gang trends has been enhanced by the development in 2005 of the National Gang Intelligence Center (NGIC). This was further augmented by the merger in 2009 of

the National Youth Gang Center with the National Gang Center. The National Gang Center website now maintains data and resources about all gangs in the U.S.

## Gang Activity in Alaska

The Fairbanks Gang Assessment, completed in 2010, is the first structured study of gang activity in Alaska. This study was conducted by the UAA Justice Center and the Fairbanks Juvenile Probation office of the Alaska Division of Juvenile Justice (DJJ). The assessment examined the level of gang activity in the Fairbanks North Star Borough (pop. 96,920) for the Gang Reduction and Intervention Network (GRAIN). (See Table 1.) GRAIN is a consortium of 20 local and state stakeholders, including AHFC Public Housing, Alaska State Troopers, Boys & Girls Club of Fairbanks, City of Fairbanks Mayor’s Office, Department of Corrections—Adult Probation & Parole, Department of Labor, Division of Behavioral Health, Division of Juvenile Justice—Juvenile Probation, Eielson Air Force Base, Fairbanks District Attorney’s Office, Fairbanks Native Association, Fairbanks North Star Borough Mayor’s Office, Fairbanks North Star Borough School District, Fairbanks Police

## Legal Definitions of *Gang* and *Gang Crime*

Legal definitions of *gang* and *gang crime* vary among federal and state jurisdictions. The National Gang Research Center website notes that researchers generally agree on the following criteria for designating a group as a gang: “The group has three or more members, generally aged 12-24; members share an identity, typically linked to a name, or often other symbols; members view themselves as a gang, and they are recognized by others as a gang; the group has some permanence and a degree of organization; and the group is involved in an elevated level of criminal activity.” (<http://www.nationalgangcenter.gov/About/FAQ#q1>)

### Gang

**Federal** law defines a *gang* as “an ongoing group, club, organization, or association of five or more persons: (A) that has as one of its primary purposes the commission of one or more of the criminal offenses described in subsection (c); (B) the members of which engage, or have engaged within the past five years, in a continuing series of offenses described in subsection (c); and (C) the activities of which affect interstate or foreign commerce.” 18 USC § 521(a).

Thirty-nine states (including Alaska) and Washington, D.C., have legislation that defines *gang*. **Alaska** defines a *criminal street gang* as a “group of three or more persons who have in com-

mon a name or identifying sign, symbol, tattoo or other physical marking, style of dress, or use of hand signs; and who, individually, jointly, or in combination, have committed or attempted to commit, within the preceding three years, for the benefit of, at the direction of, or in association with the group, two or more offenses under any of, or any combination of, the following: AS 11.41 (Offenses against a person); AS 11.46 (Offenses against property); or a felony offense.” Alaska § 11.81.900.

### Gang crime

Current federal law describes the term *gang crime* as “a federal felony involving a controlled substance for which the maximum penalty is not less than five years” or “a federal felony crime of violence that has an element the use or attempted use of physical force against the person of another” or “a conspiracy to commit “a federal felony involving a controlled substance (as defined in Section 102 of the Controlled Substances Act (21 USC § 802)) for which the maximum penalty is not less than five years”, or “a federal felony crime of violence that has as an element the use or attempted use of physical force against the person of another”; or “a conspiracy to commit an offense described in paragraph (1) or (2).” 18 USC § 521(c).

Twenty-two states have legislation that defines *gang crime/activity*.

**Table 1. General Descriptive Data for Fairbanks North Star Borough, Alaska, and U.S., 2008**

	Fairbanks North Star Borough	Alaska	U.S.
<b>Total population</b>	96,920	681,235	301,237,703
<b>Gender</b>			
Male	53.0 %	52.1 %	49.3 %
Female	47.0	47.9	50.7
<b>Race</b>			
Caucasian/white	77.2 %	68.6 %	74.3 %
Alaska Native/Native American	7.3	13.4	0.8
African American/black	3.7	3.3	12.3
Asian	2.7	4.5	4.4
Other	9.1	10.2	8.2
<b>Hispanic origin*</b>			
Hispanic	4.4 %	5.8 %	15.1 %
Non-Hispanic	95.6	94.2	84.9
<b>Age</b>			
Under 10 years	15.2 %	14.5 %	13.5 %
10–14 years	7.9	7.2	6.8
15–19 years	7.9	8.2	7.2
20–24 years	10.2	8.1	6.9
25–34 years	16.9	14.0	13.3
35–64 years	36.3	41.1	39.7
Over 64 years	5.6	6.9	12.6
<b>Household income</b>			
Median household income	\$67,665	\$77,020	\$52,175
Average household income	\$79,569	\$91,641	\$71,128
<b>% single-parent households</b>	15.1 %	17.1 %	17.1 %

\* Persons of Hispanic origin may be of any race.

Source of data: U.S. Census Bureau, 2006–2008 American Community Survey

**Table 2. Known Gang Members in Fairbanks North Star Borough: Demographic Characteristics**

	N	%
<b>Gender</b>		
Male	189	95.9 %
Female	8	4.1
<b>Total</b>	<b>197</b>	
<b>Race/ethnicity</b>		
Caucasian/White	40	20.4 %
Alaska Native/American Indian	15	7.7
Hispanic/Latino	9	4.6
African American/Black	109	55.6
Asian	2	1.0
Other	21	10.7
<b>Total</b>	<b>196</b>	
<b>Age</b>		
Less than 10 years	0	0.0 %
10–14 years	2	1.0
15–17 years	57	29.7
18–21 years	87	45.3
22–24 years	17	8.9
Over 24 years	29	15.1
<b>Total</b>	<b>192</b>	

Note: Some data was not available in police reports.

Source of data: GRAIN Police Incident Report Data (2010)

Department, Ft. Wainwright Directorate of Emergency Services, Lily of the Valley Church of God in Christ, NAACP—Fairbanks Chapter, Office of Children’s Services, Ringstad Park Weed & Seed, and Tanana Chiefs Conference. The Fairbanks Gang Assessment followed the protocol outlined by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) Comprehensive Gang Model. Specifically, the assessment included a review of community demographic information, law enforcement incident reports, student and school survey data, information from gang member interviews, and community resident perceptions survey data.

**Gang member interviews** were conducted by a juvenile probation officer with 20 male individuals who had self-identified as being involved with a gang. The majority of these individuals were institutionalized or incarcerated at the time of the interview, and all were aware that the interviewer was a juvenile probation officer. **Community resident perceptions data**

model. Community residents were selected through a random sample of 500 addresses in Fairbanks, North Pole, Ft. Wainwright, and Eielson Air Force Base. The sample resulted in 103 resident responses, a response rate of 21 percent. Given the low response rate, the findings presented cannot be generalized to the entire Fairbanks North Star Borough (FNSB), and may not be comparable to national studies. **Youth-serving and law enforcement agencies** in the Fairbanks North Star Borough were identified by GRAIN. A point-of-contact at these agencies was sent an e-mail invitation to participate in an online survey about gangs in their community. Contacts were asked to recruit other participants by forwarding the invitation to other staff in their agency. A total of 249 youth-serving and law enforcement agency staff members completed the survey.

This article examines gang member demographics, gang membership motivation, problems caused by gangs, and possible solutions to gang problems in the com-

munity. We will be looking at comparisons from three data sets collected during the assessment process: gang member interviews, community resident perceptions, and youth-serving and law enforcement agencies’ perceptions, as well as looking at selected national gang data and trends.

**Reports of Gang Activity**

The Fairbanks Gang Assessment found that from January 2007 through June 2009, 154 law enforcement reports from eight agencies included gang-related incidents. From these 154 reports, information was collected on a total of 219 suspects. Gang affiliation was unknown for five (2%) of the suspects. Out of the remaining 214 suspects, 200 (93%) were known gang members and 14 (7%) were not (but had committed an offense with a known gang member). Known gang members may be duplicated in these data (i.e., gang members may be included more than once if they committed multiple offenses).

Law enforcement data show that there are at least 12 active gangs in the Fairbanks North Star Borough. The most common gangs found in our data—Crips (58% of law enforcement contacts), Bloods (21% of law enforcement contacts), and Gangster

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**Gangs**

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Disciples (15% of law enforcement contacts)—accounted for 94 percent of law enforcement contacts with gang members.

The percentage of crime reported to law enforcement in the FNSB that was attributable to gangs varied from a low of 4.3 percent in 2007 to a high of 7.2 percent in 2008. In 2008, 40 percent of weapons offenses, 10 percent of drug offenses, 5 percent of murders and attempted murders, 5 percent of robberies, 5 percent of sexual assaults, and 4 percent of assaults were attributable to gangs. While from 2007 to 2008 the total number of incidents reported to law enforcement increased by 26 percent, the number of gang-related incidents increased by 113 percent.

**Gang Demographics**

The 1997 National Longitudinal Survey of Youth (NLSY97) contains data from a representative sample of about 9,000 youths who were 12 to 16 years old on December 31, 1996. (The NLSY97 is an on-going long-term cohort study.) The NLSY97 reported that 8 percent of respondents indicated belonging to a gang by the age of 17. Of the number who joined gangs, about 12 percent of Hispanic and African-American youth, respectively, reported having joined a gang by age 17, compared to 7 percent of White youth. In comparison, race and ethnicity of gang members from

**Table 3. Top Three Causes for Gang Problems in Fairbanks North Star Borough**

Top three causes according to interview and survey participants who believed gangs were a problem in the community.

Reason	Gang member interviews		Community resident survey		Youth-serving & law enforcement agency survey	
	N = 17		N = 82		N = 249	
	N	% answering "yes"	N	% answering "yes"	N	% answering "yes"
Gang members moving from other places	12	70.6 %	50	61.0 %	141	56.6 %
Power	10	58.8	4	4.9	82	32.9
Family problems	5	29.4	19	23.2	64	25.7
Family/friends in gangs	5	29.4	29	35.4	133	53.4
Poverty	4	23.5	26	31.7	49	19.7
Boredom	4	23.5	18	22.0	60	24.1
Lack of activities	4	23.5	18	22.0	71	28.5
Protection	3	17.6	22	26.8	19	7.6
Police labeling	2	11.8	1	1.2	6	2.4
School problems	0	0.0	15	18.3	12	4.8
Prejudice*	0	0.0	—	—	—	—
To feel loved/sense of belonging	0	0.0	23	28.0	91	36.5

\* Only gang members were asked if "prejudice" was a cause of gang problems.

Source of data: GRAIN Gang Member Interviews (2010); GRAIN Community Resident Survey (2010); GRAIN Youth-Serving & Law Enforcement Agency Survey (2010)

the 2007 NYGS, show that nearly half of all documented gang members were Hispanic/Latino, 35 percent were African-American/Black, and 9 percent were Caucasian/White. However, racial compositions of gangs varied considerably by locality. For example, rates of White gang membership were lowest in larger cities (8%), but significantly higher in other area types, including rural counties (17%).

It is important to note that the race of gang members identified through the GRAIN assessment varies greatly from the national averages presented above. Of the 200 known gang members in Fairbanks, information on race and ethnicity was available for 196. These data are shown in Table 2. Over half (56%) of the known gang members were African American or Black, while 20 percent were Caucasian/White. Eight percent of known gang members self-

identified as Alaska Native or American Indian, 5 percent identified themselves as Hispanic or Latino, and 1 percent identified themselves as Asian.

The 2008 NYGS showed that nationwide almost 90 percent of gang members were male, a trend that appears consistent over past survey years. The NYGS also notes that other studies point to an increase in female gang membership, but that law enforcement agency reports have documented few female gang members. Of the 200 known gang members in Fairbanks, most (96%) were male.

NYGS data reflect that nationally about one-third of gang members are under 18. In Fairbanks, most gang members (75%) were 15 to 21 years old. An important finding is that only 31 percent of gang members were under the age of 18—indicating that most gang members would not be referred to the Division of Juvenile Justice. The age of known gang members is shown in Table 2 (age information was available for 192 gang members). Few members (only two, or 1%) were less than 15 years of age, but 24 percent were 22 years old or older. Overall, one percent of active gang members were 10 to 14 years old, 30 percent were 15 to 17 years old, 45 percent were 18 to 21 years old, 9 percent were 22 to 24 years old, and 15 percent were over 24 of age.

**Reasons for Gang Membership**

The National Gang Center reports that

**Table 4. Top Three Problems in Community Presented by Gangs**

Top three causes according to interview and survey participants who believed gangs were a problem in the community.

Problems	Community resident survey		Youth-serving & law enforcement agency survey	
	N = 79		N = 249	
	N	% answering "yes"	N	% answering "yes"
Increase in drug crimes	55	69.6 %	152	61.0 %
Increase in violent crimes	43	54.4	142	57.0
Increase in weapon crimes	43	54.4	139	55.8
Increased fear for safety	30	38.0	102	41.0
Public nuisance	23	29.1	55	22.1
School disruption	20	25.3	72	28.9
Fighting	10	12.7	74	29.7
Family disruption	8	10.1	37	14.9

Source of data: GRAIN Community Resident Survey (2010); GRAIN Youth-Serving & Law Enforcement Agency Survey (2010)

the two major reasons for youth joining a gang are (1) social—the desire to be with friends/family who are gang members, and (2) protection—the perceived need for safety a gang provides.

During interviews, Fairbanks gang members were asked about gangs, their impact on the community, and why individuals join gangs. If a gang member indicated he believed that gangs were a problem in the community, he was then asked about the top three reasons for these gang problems and for joining gangs. The top three responses included gang members moving into the community from other places (71%), power (59%), and having family problems (29%) and family or friends in a gang (29%). (See Table 3.) Other common reasons for gang problems included poverty, boredom, and lack of activities (24% each). Having difficulties in school, prejudice, and needing to feel loved or a sense of belonging were not identified by gang members as one of the top three reasons for gang problems in the community. Almost all (95%) gang members indicated having friends in gangs and 70 percent reported having family members in gangs (results not shown). These data may have important implications for gang prevention and intervention.

Community residents were also asked to identify the top three reasons, if any, that they believed gang activity existed in their community. (See Table 3.) Community residents who believed that gangs were a problem in their community reported a variety of reasons for the gang problem. Over half of the respondents (61%) identified gang members moving in from other areas as one of the top three reasons for gang activity. Other common reasons identified as being among the top three included having family or friends in gangs (35%), poverty (32%), seeking love and a sense of belonging (28%), needing protection (27%), family problems (23%), a lack of activities for youth (22%), boredom (22%), and school problems (18%). Few respondents believed that power or police labeling were among the top three reasons for gang activity.

Youth-serving and law enforcement agency staff members were also asked about the top three reasons for gang activity in their community. Over half of the respondents identified gangs moving in from other areas (57%) and having family and friends in gangs (53%) among the top three reasons for gang activity. Other common reasons listed among the top three included to feel love and a sense of belonging (37% of respondents), power (33%), lack of activities (29%), family problems (26%), boredom (24%), and poverty (20%). Less common

**Table 5. Strategies to Address Gang Problems Identified by Gang Members**

Strategies identified by gang respondents who believed gangs present a problem in the community.

Strategies	Juvenile N = 11	Adult N = 6	Total N = 17
Creating more opportunities for youth	27.3 %	50.0 %	35.3 %
Incarceration or legal sanctions for gang members	45.5	0.0	29.4
Education about gangs	18.2	33.3	23.5
Separating gang members from their gang	9.1	16.7	11.8

**Source of data:** GRAIN Gang Member Interviews (2010)

reasons included protection (8%), school problems (5%), and labeling by police (2%). (See Table 3.)

### Problems Caused by Gangs

Data from the 2008 NYGS show that about 32 percent of the 3,300 jurisdictions surveyed experienced problems with gang-related crimes, a significant increase from the low of about 24 percent reported in 2001. According to the 2009 National Gang Threat Assessment (NGTA), the movement of gang members from urban areas to suburban and rural areas (gang migration) is contributing to an increase in gang activity. The most common reasons for gang migration according to the National Gang Center include “family relocation to improve the quality of life or to be near relatives and friends.” The NGTA notes that gang members have been found on domestic and international U.S. military installations, and military transfers may result in gangs becoming established in new communities. Alaska’s recent increase in gang problems may be related, in part, to the large military population in the state.

Six gang-related crimes are tracked by the National Youth Gang Survey: aggravated assault, burglary/breaking and entering, drug sales, larceny/theft, motor vehicle theft, and robbery. Fairbanks Gang Assessment responses from residents and youth-serving and law enforcement agencies reflected concern about some of these types of crimes.

Fairbanks residents were asked to identify the top three gang-related problems, if any, in their community. Twenty respondents (20%) indicated that gangs were not a problem in their community. The remainder (80%) identified a variety of problems. An increase in drug crimes was one of the top three problems (70%), as well as more violent crimes and weapon crimes (54% each), increased fear (38%), and a greater number of public nuisances (29%). Twenty-five percent identified an increase in school

disruption, 13 percent noted more fighting, and 10 percent reported increased family disruption. (See Table 4.)

Youth-serving and law enforcement agency staff members in Fairbanks were also asked about the top three problems caused by gangs in the community. Over half of the respondents identified increases in drug crimes (61%), violent crimes (57%), and weapon crimes (56%) among the top three gang problems. Slightly less than half (41%) reported increased fear for safety as one of the top three gang problems. Other problems that were less frequently identified as one of the top three included fighting (30%), school disruption (29%), public nuisance (22%), and family disruption (15%). Seventy five percent of agency staff indicated increases in drug, violence, and weapon crimes were among the top three problems caused by gangs in the community (result not shown).

### Responses to Gang Activity

The OJJDP 2010 report, “Gang Prevention: An Overview of Research and Programs,” outlines the need for a variety of response strategies to effectively deal with gang activity. The report describes the traditional mix of programs aimed at youth ages 3 to 18, programs that provide a prevention focus on at risk youth and an intervention focus on younger youth already involved in gangs. Suppression tactics by law enforcement that concentrate on violent, older gang members are also part of this traditional model. However, the findings emphasize the importance of a more comprehensive multi-pronged approach to gang prevention, one that can be adapted to a given community, and includes “addressing the needs of individual youth and making changes in the families, organizations, and communities around them.”

Gang members in Fairbanks were asked to identify what should be done to address

## Gangs

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the gang problem in their community. Results from this open-ended question are shown in Table 5. Over a third (35%) of gang members believed that additional opportunities for youth would be a solution to gang problems in their community. Thirty percent said that incarceration or legal sanctions for gang members would help, while 24 percent thought that education about gangs would alleviate gang problems, and 12 percent responded that separating gang members from their gang would be a solution. Only one respondent believed that nothing could be done about gang problems in the community (result not shown). Adult gang members were more likely than juvenile gang members to indicate that additional opportunities for youth, education about gangs, and separating gang members from their gang would be a solution to gang problems. Conversely, juvenile gang members were more likely than adult gang members to indicate that incarceration or legal sanctions would lessen gang problems. (See Table 5.)

Community perceptions of prevention and intervention are shown in Table 6. Community residents were asked to select the three most promising strategies to address local gang problems. Of the residents who believed that gangs presented a problem, 69 percent indicated that mentoring was one of the top three most promising strategies to address local gang problems. Other common strategies identified as being among the top three included job provision and job training (63% of respondents), programs and recreational activities for youth (55%), and additional police protection (49%). Fewer respondents (25%) selected tutoring as one of the top three ways to address gang activity.

When asked about methods to combat gang activity in Fairbanks, youth serving and law enforcement agency staff responded that the most important responses to gang activity were increasing legal sanctions and/or toughening gang crime laws (21%), providing education and awareness about gangs to youth (17%), and increased policing (17%). (See Table 6.) Other suggestions included providing more activities for youth (13%), increasing community involvement in monitoring and reporting gang activity (12%), making more support available to families to increase involvement (4%), and youth mentoring (3%). Some respondents (3%) indicated that there is a need for a coordinated response to gang problems in Fairbanks, specifically between military and civilian police forces.

It is important to note the variance in perspective held by various gang members, the community, and the youth-serving and law enforcement agencies regarding effective ways to combat gang activity.

As a result of this study, GRAIN has received technical assistance from the National Gang Center and has been meeting to create objectives and goals for the community. The Fairbanks community gang

**Table 6. Strategies to Address Gang Problems Identified by Community Residents and by Youth-Serving and Law Enforcement Agencies**

Strategies identified by respondents who believed gangs present a problem in the community.

Respondents could identify more than one strategy.

Strategies identified by:	Respondents	
	N	%
<b>Community residents (75 respondents)</b>		
Mentoring	52	69.3 %
Job provision and job training	47	62.7
Programs and recreation	41	54.7
More police protection	37	49.3
Tutoring	19	25.3
<b>Youth-serving and law enforcement agencies (178 respondents)</b>		
Legal sanctions	51	28.7 %
Education and awareness	42	23.6
Increased policing	40	22.5
Recreation/activities for kids	31	17.4
Community involvement	29	16.3
Family support and involvement	10	5.6
Mentoring	8	4.5
Coordinated response	6	3.4
Job opportunities	4	2.2
Other	23	12.9
Don't know	7	3.9

**Source of data:** GRAIN Community Resident Survey (2010); GRAIN Youth-Serving & Law Enforcement Agency Survey (2010)

task force recently met for the first time and will soon be pursuing their action plan. As more Alaska communities conduct gang assessment studies, a fuller picture of gang activity in the state can be developed. More data will be available for residents, parents, policy makers, youth-serving agencies, law enforcement, and the courts to help youth avoid being drawn into gang activity.

*Khristy Parker is a co-author of the Fairbanks Gang Assessment and a research professional at the Justice Center. Shea Daniels is a co-author of the Fairbanks Gang Assessment and a Juvenile Probation Officer with the Alaska Division of Juvenile Justice in Fairbanks; she will present findings from the study at the June 2011 National Gang Symposium in Orlando.*

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## Gang Units in Local Law Enforcement Agencies

The Bureau of Justice Statistics (BJS) October 2010 report, "Gang Units in Large Local Law Enforcement Agencies, 2007," NCJ 230071, looked at 365 of the nation's large (100 or more sworn officers) police departments and sheriffs' offices which had a unit focusing on gang crime. Of 1,084 local police departments and sheriffs' offices law enforcement agencies surveyed in 2007, 365

(34%) reported at least one officer whose sole responsibility was handling gang issues. This BJS special report noted the continuing nation-wide problem of gangs and their impact on the crime level in communities.

Highlights from the report include:

- Over a third of gang units surveyed were established during 2004-2007. (See Figure 1).

- About 15 percent of local law enforcement gang units regularly dealt with organized crime families and terrorist organizations.

- The majority of gang units routinely dealt with street gangs, tagger groups, and motorcycle gangs.

- About two in three gang units spent the greatest percentage of time on either intelligence gathering (33%) or investigative functions (32%).

- About 9 in 10 gang units monitored gang graffiti (94%), tracked individual gang members (93%), monitored Internet sites for communication among gang members (93%), engaged in directed patrols (91%), and performed undercover surveillance operations (87%).

- Over 90% of gang units dealt with gangs that were financed through street-level drug sales.

- Nearly half of gang units took part in prevention programs with youth gang members.

- About 6 in 10 gang units participated in a local or regional gang task force in 2007.

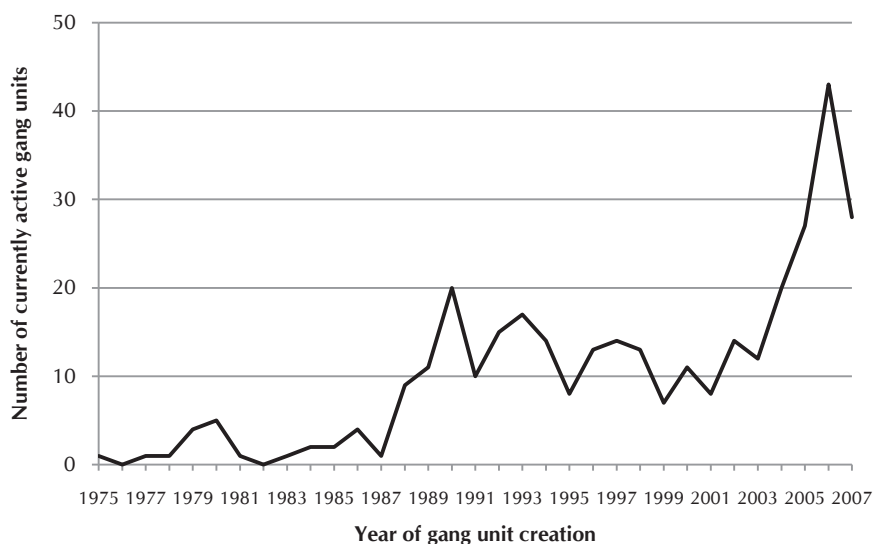
- Nearly all (98%) of specialized gang units shared criminal intelligence information with neighboring law enforcement agencies.

- About 30 percent of specialized gang units examined a prospective officer's financial and credit history before assigning the officer to work in the unit.

**Note:** Alaska law enforcement agencies do not currently have any dedicated gang units.

**Figure 1. Specialized Gang Units Established per Year in Large Law Enforcement Agencies, 1975–2007**

Number of units established in law enforcement agencies with 100 or more sworn officers.



Note: Data on the year of gang unit creation available for 92.3% of gang units.

Source of data: Bureau of Justice Statistics

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## Prisoner reentry (continued from page 1)

barred from service in the military and on juries, state and federal, civil and criminal. If a non-citizen, the convicted person could be deported....

In recent years, [these collateral consequences] have been increasing. [For example], 1987 legislation made drug offenders ineligible for certain federal health care benefits; a 1991 law required states to revoke some drug offender's driver's licenses or lose federal funding.... In 1998, persons convicted of drug crimes were made ineligible for federal educational aid and for residence in public housing....

Like Congress, state legislatures have also been attracted to limiting the opportunities of convicted persons....

These laws limit the ability of convicted persons to work in particular fields, to obtain state licenses or permits, to obtain public benefits such as housing or educational aid, or to participate in civic life.

A second major development is the availability to all arms of government and the general public, via the Internet, of aggregations of public record information, including criminal convictions, about all Americans. Twenty years ago, an applicant might not have been asked for her criminal record when renting an apartment or applying for a job, and it would have been difficult for even an enterprising administrator to find, say, a 15 year old, out-of-state, marijuana offense. Now, gathering this kind of information is cheap, easy and common.

These legal disabilities, and the con-

comitant stigma of a criminal conviction, are termed *collateral consequences* because they are largely independent of an offender's sentence by the judicial system. The fact that they are collateral does not make them unimportant. In fact, as the 2005 issues memorandum notes, in many instances these collateral disabilities are the most significant consequence of a criminal offense. "In state courts in 2002, 59% of those convicted of felonies were not sentenced to prison; 31% received probation and 28% jail terms." Thus, in "*a high percentage of cases, the real work of the legal system is done not by fine or imprisonment, but by changing the legal status of convicted persons*" (emphasis added).

Despite the critical role that these collateral disabilities play in determining the future of those convicted of criminal offenses, few (if any) offenders fully understand the extent to which this web of state and federal legislation will affect their lives

**Table 1. Operative Provisions of the 2010 Uniform Act**

This table presents an abbreviated description of the operative provisions of the 2010 Uniform Act. Readers should refer to the pdf version of the Act at the University of Pennsylvania Law School's web site for the complete text and accompanying commentary to the revised Act. [http://www.law.upenn.edu/bll/archives/ulc/ucsada/2010final\\_amends.pdf](http://www.law.upenn.edu/bll/archives/ulc/ucsada/2010final_amends.pdf).

Omitted sections relate to matters associated with statutory interpretation.

### Section 4. Identification, Collection, and Publication of Laws Regarding Collateral Consequences.

Requires state to identify all state laws, whether constitutional, statutory, or regulatory, that impose a collateral sanction on criminal offenders (and any provisions that may afford relief from such a consequence) and compile a list of citations to these provisions together with the provisions' text or a summary. This list and summary must be published on the Internet and available to the public. Its purpose is to assist judges, prosecutors, defense lawyers, probation and parole officers, legislators, and offenders. Collecting these laws in one place and describing them "in simple, plain language, would make the formal written law knowable" to offenders and assist them in understanding the consequences of a plea. (Drafting Committee Comment, Section 4.)

### Section 5. Notice of Collateral Consequences in Pretrial Proceeding and at Guilty Plea.

Mandates that individuals charged with an offense receive explicit notice about collateral consequences in a form substantially similar to the following: "If you plead guilty or are convicted of an offense you may suffer additional legal consequences beyond [criminal penalties]. These consequences may include: being unable to get or keep some license, permits, or jobs...." The notice must include a warning that non-citizens may be deported or denied citizenship. (Note that Alaska already requires this notice to non-citizens. See Alaska R. Crim. P. 11(c)(3)(C).) The warning must also direct offenders to the web site where all of the collateral consequences are listed. Judges must confirm that offenders received and understood this warning before accepting a plea.

### Section 6. Notice of Collateral Consequences at Sentencing and Upon Release.

Ensures that at sentencing and upon release offenders receive notice of possible collateral consequences, the Internet address where collateral consequences are listed, and that there may be ways to obtain relief from these consequences. They must also be given contact information for any agencies that assist individuals in obtaining such relief. In addition, the notice must include information on when an individual convicted of an offense may vote under state law.

### Section 7. Authorization Required for Collateral Sanction; Ambiguity.

Limits imposition of blanket collateral sanctions to those specifically created by statute or ordinance, or through formal regulatory rulemaking. Any sanction that is ambiguous in whether it is mandatory or discretionary shall be construed to be discretionary only. (Drafting Committee Comment, Section 7.)

### Section 8. Decision to Disqualify.

Addresses discretionary disqualification of offenders from state benefits or opportunities. It requires that those entrusted with deciding whether to impose a disqualification make an individualized assessment of whether a particular offender should be denied the benefit or opportunity at issue. Among the factors the decision-maker must consider are the particular facts of the offense and their relation to the benefit or opportunity at issue, the effect the decision might have on third parties, and whether the offender has been granted some type of relief from collateral consequences. This section would not "change existing law to the extent that it allows rejection of an applicant based on lack of qualification or misconduct unrelated to a criminal conviction," nor would it authorize or require "preferences for applicants who have criminal convictions." (Drafting Committee Comment, Section 8.)



after they have completed their sentence. This is because these barriers are dispersed throughout a complex maze of state and federal statutes and administrative regulations in areas as diverse as professional licensing, fish and game control, and foster parenting qualifications. (See “The Hidden Impact of a Criminal Conviction: A Brief Overview of Collateral Consequences in Alaska” in the Fall 2007 issue of the *Alaska Justice Forum*.) Identifying the full array of disabilities a particular conviction might trigger would be daunting for legal professionals; for lay offenders and the general public the task would be nearly impossible. In a criminal justice system like ours, where plea bargains are the norm and due process hinges on defendants’ understanding the nature of their plea, this scattered multitude of collateral disabilities is deeply troubling.

The Uniform Collateral Consequences Act is intended to assist states in ameliorating the due process issues associated with

such “hidden” collateral consequences, and reduce recidivism by limiting barriers to safe housing, education, and productive employment. As originally approved in July of 2009, the Act included multiple operative sections addressing issues ranging from “Identification, Collection, and Publication of Laws Regarding Collateral Consequences” (Section 4) to “Certificate of Restoration of Rights” (Section 10) to “Victim’s Rights” (Section 14). Revisions to the Act, approved in July 2010 and published on January 6, 2011, added a section related to imposition of discretionary disqualifications by decision-makers such as licensing boards and addressed issues related to the April 2010 opinion of the United States Supreme Court in *Padilla v. Kentucky*, 130 S. Ct. 1473. (The Court in *Padilla* held (7-2) that the Sixth Amendment right to advice of counsel includes for non-citizens the right to be informed whether a plea agreement carries with it the collateral risk that the of-

fender may be deported.)

Table 1 presents an abbreviated description of the operative provisions of the 2010 Uniform Act.

### Implications for Alaska

Rehabilitation and reintegration of the convicted have been components of public policy in Alaska since statehood; the principle of reformation is one of the five considerations on which our Constitution requires that administration of the criminal justice system be based. (The others are public safety, community condemnation of the offender, rights of victims, and restitution from the offender. See Alaska Constitution art. I, § 12.) In recent years this policy has become a priority for many, and efforts to reduce the impact of collateral consequences and facilitate offender reentry within the

*Please see Prisoner reentry, page 10*

**Table 1. Operative Provisions of the 2010 Uniform Act (continued)**

#### **Section 9. Effect of Conviction by Another State or the United States; Relieved or Pardoned Conviction.**

Treats a conviction under federal law or in another state like a conviction in Alaska for purposes of imposing a collateral consequence under Alaska law. A conviction that has been vacated, reversed, or overturned on grounds other than rehabilitation or good behavior may not serve as a basis for imposition of collateral consequences. A pardon issued by another state or the federal government would have the same effect as a pardon issued in Alaska. This section also provides several alternative provisions states might consider in addressing the effect of out of jurisdiction restoration of rights and related issues. This section does not address the effect of judgments of tribal courts; the significant disparity among states in how tribal court judgments are treated was deemed to preclude a uniform model. (Drafting Committee Comment, Section 9.)

#### **Section 10. Order of Limited Relief.**

Provides a mechanism pursuant to which offenders may petition a court or a designated board or agency for “an order of limited relief from one or more collateral sanctions related to employment, education, housing, public benefits, or occupational licensing.” This would lift the automatic bar of a collateral sanction, but allow agencies to decide on an individualized basis whether a benefit or opportunity should be denied to a former offender.

#### **Section 11. Certificate of Restoration of Rights.**

Would establish a designated board or agency authorized to issue a certificate of restoration of rights to those convicted of a criminal offense. Such a certificate would relieve the holder of all collateral sanctions other than those specifically excluded in the certificate, and those designated by statute as not subject to an order of limited relief or restoration of rights. (See following section.) Restoration of rights would be available only where an individual’s petition establishes that a statutorily specified time period has elapsed since the individual’s most recent conviction and release from confinement, and that the individual is engaged in lawful, productive activity and does not pose an unreasonable public risk.

#### **Section 12. Collateral Sanctions not Subject to Order of Limited Relief or Certificate of Restoration of Rights.**

Lists those collateral sanctions that cannot be avoided under an order of limited relief or certificate of restoration of rights. Examples listed include sex offender registration requirements and motor vehicle license actions resulting from driving under the influence convictions. If the state constitution imposes collateral consequences (such as the restrictions on felon voting under the Alaska Constitution) relief under this Act would not remove them. (Drafting Committee Comments, Section 12.)

#### **Section 13. Issuance, Modification, and Revocation of Order of Limited Relief and Certificate of Restoration of Rights.**

Sets out process for granting, modifying, or revoking relief from collateral consequences and identifies standards for restriction or revocation of an order of relief. Such orders could not be granted without notice to the prosecuting agency. Once granted, an order may be restricted or revoked where the issuing board or agency finds “just cause by a preponderance of the evidence.” “Just cause includes subsequent conviction of a felony....” Offenders would be entitled to notice of a pending action to restrict or revoke, and a hearing.

#### **Section 14. Reliance on Order or Certificate as Evidence of Due Care.**

Provides that in a negligence lawsuit an order of limited relief or certificate of restoration of rights may be introduced as evidence of due care in hiring, licensing, or admitting to a school or program a former offender.

#### **Section 15. Victim’s Rights.**

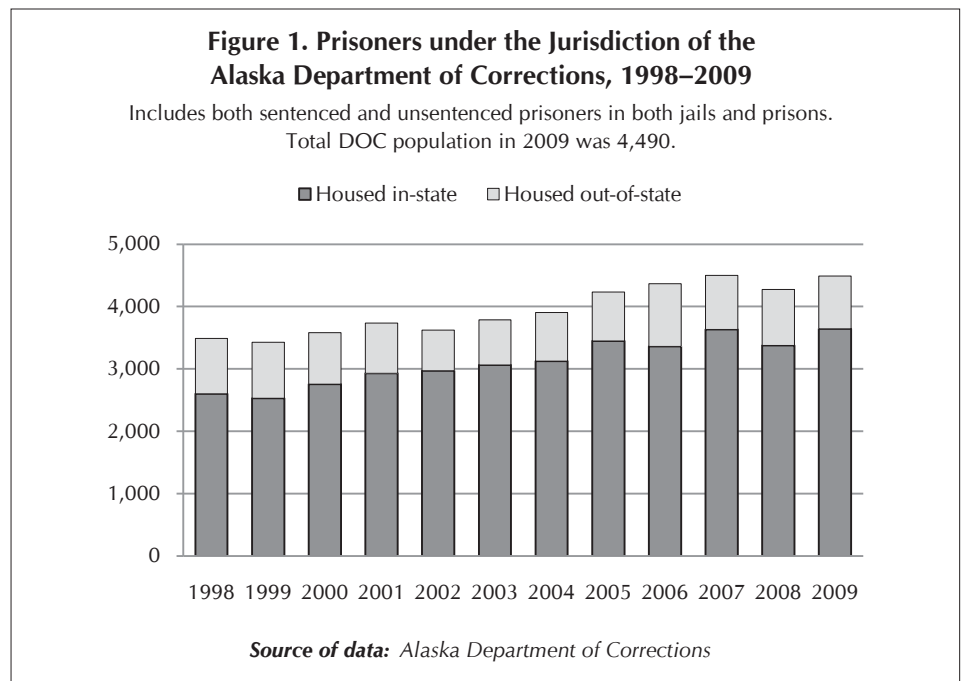
Allows victim to participate in proceedings for issuance, modification, or revocation of order of limited relief or certificate of restoration of rights.

**Prisoner reentry**  
(continued from page 9)

state are increasingly visible.

In 2007, then-Chief Justice Fabe of the Alaska Supreme Court established the Criminal Justice Working Group, an organization comprising representatives from justice agencies across the state. One of the group's key areas of focus is reducing recidivism. To further this end, the Working Group established a subcommittee, the Alaska Prisoner Reentry Task Force. Its goal is simple, to see that "individuals who are incarcerated do not return to custody."

The task force met in April 2010, and set up a number of working groups, many of which are addressing the difficulties posed in Alaska by state legislative barriers to re-entry. The subcommittee on employment restrictions, for example, is working to "identify laws that are barriers to housing, employment, and other needs of persons with felony convictions," and to "consider what changes might be possible, in the context of public safety, and rehabilitation of the offender." (see "Alaska Prisoner Re-entry Task Force" in the Spring 2010 issue of the *Alaska Justice Forum*). In Alaska, these barrier laws number in the hundreds. (See the UAA Justice Center Working Paper "The Hidden Impact of Criminal Convictions," 2007.) The Task Force has recently completed "Alaska's 5-Year Prisoner Reentry Strategic Plan, 2011–2016," which was released in late February 2011. The document includes a lengthy chapter on collateral consequences



and recommendations to address this issue. Alaska Supreme Court Justice Walter Carpeneti highlighted the importance of this work in his 2010 State of the Judiciary Address:

Probably no problem is of greater concern to us at this time than the alarmingly high rates of recidivism in our state. Fully 66% of offenders—two-thirds of those incarcerated—will reoffend and return to jail at some point in their lives. This is an astounding number, and one that must motivate all of us to examine what causes so many Alaskans to spend their lives cycling in and out of the criminal justice system.

He specifically noted that those offenders without resources for things like housing and employment may fall "quickly into the criminal behaviors that caused them to be jailed in the first place." (See Figure 1.)

The Uniform Collateral Consequences of Conviction Act directly addresses these concerns and provides a balanced approach to facilitating successful reintegration of those with criminal convictions, while retaining due regard for victims' rights and the state's legitimate interest in punishment and expression of community condemnation. If adopted substantially as drafted in the Uniform Act,

the various sections would mitigate some of most pressing problems associated with barrier statutes and regulations in Alaska.

For example, adoption of sections four through six would help ensure that judges, prosecutors, defense counsel, and those charged with a criminal offense may readily see the full array of collateral consequences a conviction or plea might carry. It would also ensure that offenders have the opportunity to consider these consequences before entering a plea. Finally, these sections would allow lawmakers and regulators considering adoption of new or expanded barriers to evaluate the effect of the proposed measures in the context of the broad range of existing impediments to reintegration.

Where state law establishes a potential barrier to employment or some other activity based on a criminal conviction, and there is ambiguity whether the barrier is automatic or whether state officials may exercise discretion in imposing it, sections seven and eight would create a presumption against automatic imposition of the barrier.

Together, sections 10 through 13 would establish for the first time in Alaska an administrative means by which those convicted of criminal offenses might obtain relief from some of the collateral consequences of their conviction. The availability of such relief would hinge on a period of good behavior, and would not prevent a third-party from considering the facts of the offender's misconduct in making any decision concerning the offender.

Finally, section 14 is directed toward the business community; it is intended to encourage employers to hire offenders by reducing the legal risks associated with neg-

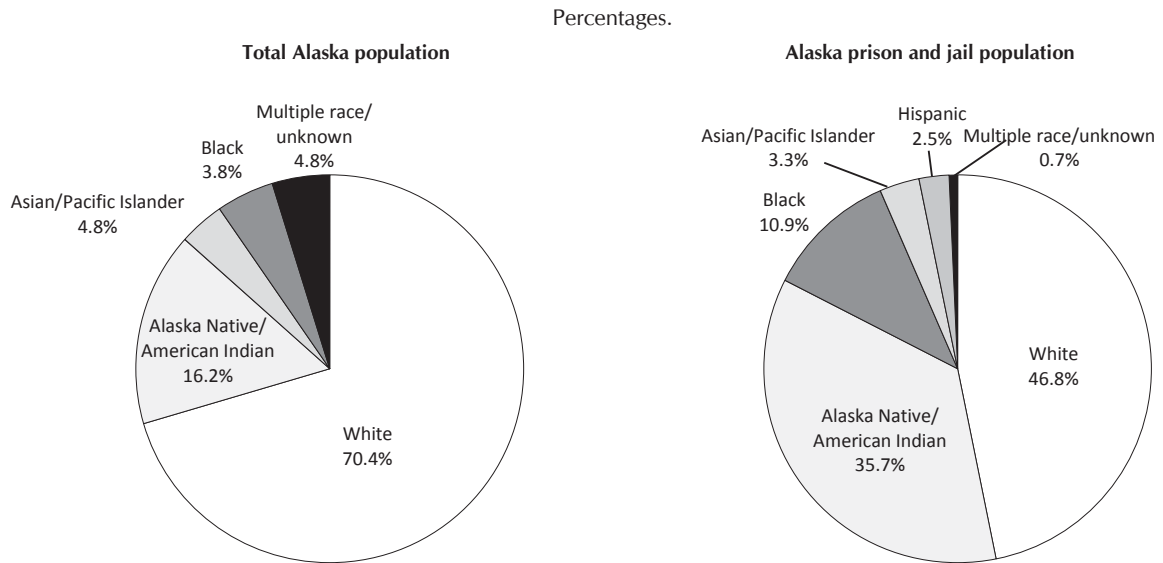
**Table 2. Estimated Number of Adults under Correctional Supervision in Alaska and the U.S., by Correctional Status, 2009**

	United States	Alaska
<b>Incarcerated</b>	<b>2,284,900</b> <sup>a, b</sup>	<b>5,285</b>
Jail	760,400 <sup>c</sup>	— <sup>e</sup>
Prison	1,524,513 <sup>d</sup>	— <sup>e</sup>
<b>Community supervision</b>	<b>5,018,900</b> <sup>a</sup>	<b>5,848</b>
Probation	4,203,967	— <sup>e</sup>
Parole	819,308	— <sup>e</sup>
<b>Total</b>	<b>7,225,800</b>	<b>11,133</b>

- a. Estimates were rounded to the nearest 100 and include some offenders with multiple correctional statuses. For these reasons, details do not sum to totals.
- b. Includes jail inmates and prisoners held in private facilities.
- c. Total represents adults held in local jails.
- d. Includes prisoners held in the custody of state or federal prisons and may include juveniles held in adult facilities in the 6 states with combined jail-prison systems.
- e. Breakdowns not available.

**Source of data:** "Correctional Populations in the United States, 2009," Bureau of Justice Statistics; *2009 Offender Profile*, Alaska Department of Corrections

**Figure 2. Total Alaska Population and Alaska Prison/Jail Population by Race and Ethnicity\*, 2009**



\* The two data sources differ in their treatment of Hispanic ethnicity. The Alaska Department of Corrections categorizes race and ethnicity together under the term "ethnicity." The Alaska Department of Labor categorizes Hispanic as a separate ethnic group, and not as a racial group. The estimated Hispanic population in Alaska in July 2009 was 34,400 (or 4.9% of the total Alaska population).

Source of data: Alaska Department of Labor and Workforce Development; 2009 Offender Profile, Alaska Department of Corrections

ligent hire or negligent supervision lawsuits. Under section 14, an employer who hired a former offender holding an order of relief or certificate of restoration of rights could introduce the order or certificate as evidence of due care in a lawsuit based on the malfeasance of the offender. While none of these sections standing alone will eliminate the problems associated with state barrier laws, together this panoply of initiatives can reduce the extent to which such laws impede

offenders' efforts to build productive lives post-conviction or incarceration.

Individuals released from incarceration return to communities throughout Alaska; thus we all have an interest in promoting the success of every former offender (Table 2). Palliative measures such as those just discussed are particularly critical, however, for addressing one of the most troubling aspects of criminal justice in Alaska—that is the disproportionate number of Alaska

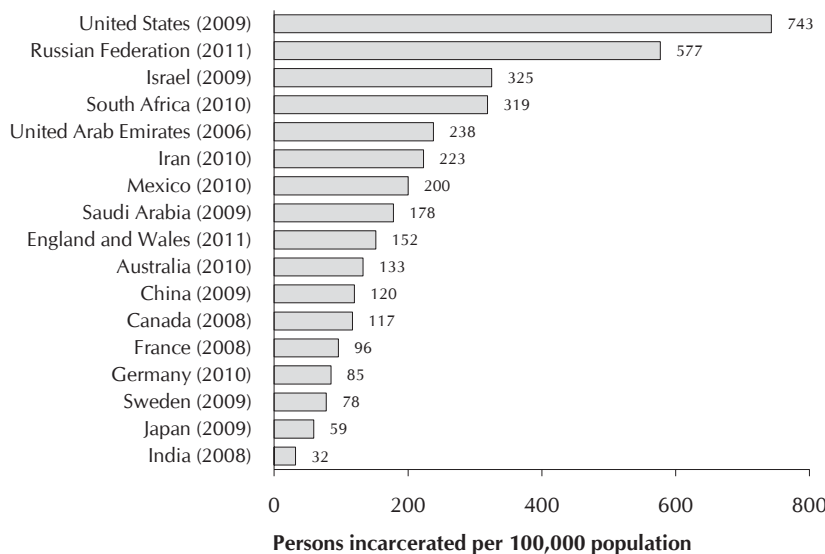
Natives incarcerated. The Alaska Department of Corrections 2009 Offender Profile identified Alaska Natives as accounting for close to 36 percent of the overall offender population, though they comprise just 16 percent of the state's general population. (See "Alaska Offender Profile 2009" in the Winter 2010 issue of the *Alaska Justice Forum*.) (African-Americans are also incarcerated at a disproportionate rate.) Although the causes of this disparity are open to question, there is no doubt that the Alaska Native community (like other minority groups throughout the country) disproportionately suffers the cumulative effect of the hundreds of state and federal laws that limit former offenders' access to many types of employment and educational and other government benefits. The effects of the associated poverty and social stigma can reverberate through several generations. (See Figure 2.)

**Summary**

Rates of incarceration in the United States have reached unprecedented levels; at the same time, the proliferation of municipal, state, and federal barrier laws has dramatically increased the challenges faced by individuals as they complete their sentences, move back into the community, and seek housing and employment. (See Figure 3.) Those who have been incarcerated, and those who depend upon them for support, face enduring financial, social, and psychological repercussions stemming

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**Figure 3. Rate of Incarceration in Selected Nations**



Incarceration data were collected on the varying dates listed and are the most current data available as of February 2011.

Source of data: *World Prison Brief*, International Centre for Prison Studies, King's College of London, <http://www.kcl.ac.uk/depsta/law/research/icps/worldbrief>



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from the fact of conviction. But it is not only offenders and their families who suffer the effect of these collateral consequences. Lack of meaningful employment is one of the strongest predictors of recidivism. Thus, communities have a strong public safety, if

not humanitarian, interest in facilitating the successful reintegration of these individuals. Offenders who find stable employment to support themselves and their families contribute to the state's economic infrastructure, reduce social welfare costs, are able to pay restitution to victims, and pose a reduced threat to others. Given this, policymakers should consider measures to alleviate un-

necessary barriers to the employment and reintegration of those transitioning from incarceration back into Alaska's communities—evaluation of the proposals in the Uniform Collateral Consequences Act would be a first step.

*Deb Periman, J.D., is a member of the Justice Center faculty.*

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