

# ACJS *today*

## Academy of Criminal Justice Sciences Newsletter



### From The Editor's Desk

Hello ACJS membership!!! I am excited and honored to be the new editor of *ACJS today*. For my editorship, I will maintain the tradition that is *ACJS today* while adding my own twist, incorporating new elements. As editor of *ACJS today* I have three main goals:

- 1: To highlight the accomplishments of the ACJS membership.
- 2: To promote the ACJS regional organizations (NEACJS, SCJA, MCJA, SWACJ, WACJ) by providing information on the organizations' annual conferences, awards, and events.
- 3: To increase diversity of the content published in *ACJS today*.

I look forward to working with all of you over the next 3 years.

- Sam



Samantha M. Gavin, Ph.D., is an Assistant Professor at St. Bonaventure University. Currently, she is the Secretary/Treasurer of ACJS Teaching, Learning, and Scholarship section, and co-chair of the ASC Division of Feminist Criminology. She has previously served as President of NEACJS. Sam's research interests focus on the topics of domestic violence, rape, and sexual assault.

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# Need an External Review? How ACJS Can Help and Provide Recognition for Your Academic Program

By Christine Tartaro, Ph.D. & Jay Albanese, Ph.D.



There are few certainties in life, such as death and taxes. For academics, we can add another one: **program review**. Every 5 to 10 years someone in your program, likely the chair, will be informed that the program must undergo external review, as required by the state or regional accrediting body.

There are typically three steps to this process. First, the program must write a comprehensive self-study on trends and current status of program mission, program history, faculty, students, outcomes, and support. Second, the university brings in external reviewers expected to take an objective look at the program; interview students, faculty, and administrators; and write up an assessment with recommendations. Third, the university administration and program discuss the findings and make a plan of action for the next several years. So, the typical review of your program starts internally and ends there.

Program review is an important opportunity to get an expert in the field to weigh in on the positives of your program and communicate to the administration what is needed for it to thrive and survive. The unfortunate truth is that administrators are often more likely to listen to outside voices than they are to their own faculty. Once a qualified outsider verifies what the faculty have been saying about the program for years, there is a better chance that the university will be responsive and maybe even provide some resources. Both authors of this paper have been involved in external reviews, in our own programs undergoing self-study and as external reviewers, so we understand how to get the most out of this experience.

ACJS is the only academic body that has written **Quality Standards** for academic programs in criminology and criminal justice. The standards were adopted by ACJS membership, and they have been updated multiple times by the Academic Review Committee (ARC) to keep up with the modernization of college education. The purpose of the standards is to distinguish programs that are delivering a very good collective educational experience in an increasingly competitive academic marketplace.

ACJS can help with your program review in two ways. The most important contribution is that a successful external review by ACJS reviewers results in an **ACJS Endorsement** of your academic program. This endorsement seal (pictured here) allows you to turn an internal review process into an external way to market your academic program as an excellent one among your peer institutions. This is accomplished by ACJS recognizing programs that meet most of the ACJS Quality Standards. ACJS provides special recognition to AA/AS, BA/BS and MA/MS programs that undergo program review using the Quality Standards with at least one ACJS certified reviewer and meet at least 85% of the standards (including mandatory standard C.4).

Second, ACJS provides training to senior criminal

justice faculty to serve as certified program reviewers and maintains an updated list of these individuals on the website. ACJS has trained reviewers from all regions who have review experience to match your institution's needs.

First, it's cost-effective. An ACJS review doesn't cost anything beyond what your program would ordinarily pay for an external review. Your university negotiates the external reviewer fee with the individual ACJS reviewers, just as administrations do with all their program reviews. Second, the ACJS Standards are comprehensive and include all the

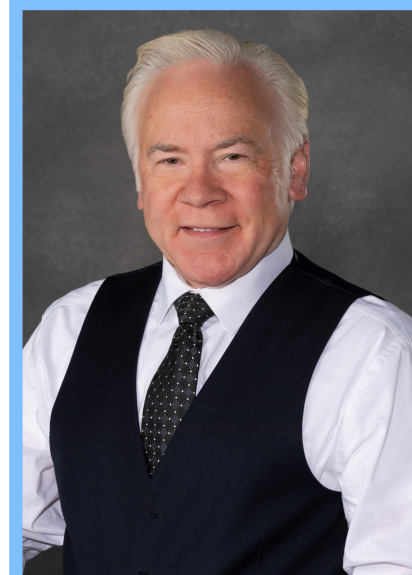
components typically found in college and university self-study templates. Most administrators do not object to programs using the disciplinary standard for their reviews, as is done for many other academic departments.

Programs that successfully undergo review by ACJS certified reviewers will be recognized as an **ACJS endorsed program**. ACJS endorsed programs are listed on the ACJS website as endorsed, and they can market themselves both on their websites and promotional materials as such for the next 7 years. Please feel free to **contact us** with any questions about this process. See also the ACJS website at <https://www.acjs.org/page/ProgramReview>



**Christine Tartaro**, Professor of Criminal Justice at Stockton University, is an expert in corrections, suicide in correctional facilities, jail design, reentry, correctional treatment of individuals with mental illness, and criminal justice education. Tartaro served as an independent expert witness in multiple cases where suicide and self-harm in custody occurred. Prior to joining Stockton University, she worked at the New Jersey Department of Corrections, where she evaluated the state residential community release program. She has served as a research consultant to state and local correctional departments and private treatment agencies.

She has been published in several journals, including *The Prison Journal*, the *Corrections: Policy, Practice, and Research*, and *The Journal of Criminal Justice Education*. Tartaro received her Ph.D. and M.A. in Criminal Justice from Rutgers University and her B.A. in History from The College of New Jersey.



**Jay S. Albanese** is a professor and criminologist in the Wilder School of Government and Public Affairs at Virginia Commonwealth University. He received a Ph.D. from the School of Criminal Justice at Rutgers University. Dr. Albanese served as Chief of the International Center at the National Institute of Justice, the research arm of the U.S. Department of Justice. He has served as a consultant to the United Nations Office on Drugs and Crime and is a past president and fellow of the Academy of Criminal Justice Sciences. He is an author and editor of 22 books on the issues of organized crime, corruption, ethics, transnational crime, and criminal justice. Dr. Albanese is a recipient of the Distinguished Teaching Award from Virginia Commonwealth University, the Freda Adler Distinguished Scholar Award from the American Society of Criminology Division of International Criminology, and the Outstanding Faculty Award, Virginia's highest honor for a faculty member at public or private colleges and universities. Jay Albanese is also a principal in the NGO Criminologist Without Borders.



# CALL FOR PRESENTATIONS!

**ACJS** 62<sup>nd</sup> ANNUAL MEETING

MARCH 11-15, 2025 ■ DENVER, COLORADO

***The Future of Criminal Justice & Criminology:  
The Case for Inclusion, Interaction, and Internationalization***

Join over 1,500 industry and academic professionals for an experience unlike any other! Full of relevant, timely, and thought-provoking educational sessions, this meeting provides attendees the opportunity to learn, grow, and network.



You now can download the 2025 Call for Presentations. This document provides details on the various Annual Meeting topic areas, types of submission formats, and deadline information.

Anyone interested in presenting is encouraged to submit an abstract by the deadline:

Preferred: September 30, Final: October 14

To learn more, visit: [www.acjs.org/page/2025CallforPresentations](http://www.acjs.org/page/2025CallforPresentations)



**WE LOOK FORWARD TO SEEING YOU MARCH 2025!**



## Stephanie S. Covington's

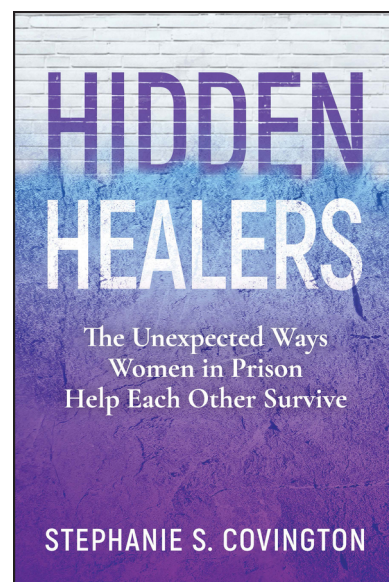
### *Hidden Healers: The Unexpected Ways Women in Prison Help Each Other Survive*

Wiley & Sons

ISBN: 978-1-394-25440-8

*Review by Merry Morash, Ph.D.  
Michigan State University*

This book takes the reader from the first moments that women in the United States discover they will be held in jails; to the experience of jail, transfer to prison, what can be decades-long incarceration in prison; to leaving prison and struggling to manage on the outside or, for some women, dying in prison. As the title indicates, across this progression, the reader sees how women help each other in practical ways, for example by sharing commissary items, schooling each other in how to survive in carceral settings, and by providing emotional support when they grieve losses of people inside and outside of prison. Besides revealing women's reality of being locked up, the book highlights other important themes. It provides detailed descriptions of damaging policies and practices perpetrated by jails and prison that dehumanize and traumatize incarcerated women. It documents Dr. Covington's successful life-long efforts to develop and deliver programming and, in some cases, change carceral systems to improve women's lives. It also documents how leadership and line staff in jails and prisons, community leaders, and advocates on the outside have made improvement through respectful and thoughtful interactions with incarcerated women, programs tailored to meet the needs incarcerated women identify, and changes in policies that cause trauma and have no empirical evidence of any helpful or desired effects. The book repeatedly



highlights how race, ethnic, class, and LGBTQ+ statuses put women at high risk for traumas that lead to addiction and illegal behavior and limit their chances to avoid incarceration. These multiple themes show incarcerated women at their best, the system at its worst, and a hopeful road map and examples for feasible change. In the end, the book leaves one deeply concerned about incarcerated women, but with some hope for change and specific examples of successful change.

Although the book explicitly states that it is not an "academic" piece, it is based on multiple sources of information that support the validity of its content. Foremost, Dr. Covington draws on years of experience working inside prisons and jails in a variety of U.S. correctional institutions and institutions in several other countries over several decades. She describes in detail her early-career visit as a "guest" incarcerated woman that solidified her dedication to developing and delivering programming and changing policy for women in prison. Dr. Covington also conducted interviews with individuals who have worked as peer leaders in sessions she designed to promote women's and men's recovery from trauma, and she drew on the work of several researchers who have studied women in prison and who she knows well. Her close connection to these individual, ranging from

incarcerated women to their keepers to colleagues who study women in prisons, enabled her to build a credible picture of what goes on in jails and prisons and what needs to change. Finally, the book links the picture of incarcerated women and of the jails and prisons where they live to statistical documentation and research evidence.

The book is divided into four parts. The first part, *Entering the System*, begins by recreating the stark and uncertain reality that women face in transit from jail to prison. Typical practices include the use of multiple shackles and rides in uncomfortable, crowded vehicles. This introduction also contains Dr. Covington's introduction of herself and the extensive professional experience that informed conclusions about the system and the women confined in it. The remainder of *Entering the System* presents upsetting realities and debunks common stereotypes about women in prison and what it is like to be in prison. For example, it contrasts the common belief that women in prison are motivated by sexual jealousy and act against each other with violence with observations of women comforting and advocating for each other. The book documents the high level of use of plea bargains and how they disadvantage women who try to make impossible decisions, like whether to plea even when they are not guilty or risk a sentence that could take them away from their children for decades. In a final example of challenges to stereotypes, the book criticizes simplistic thinking that programming focused on cooking and sewing is somehow gender-responsive – a belief that leadership and staff in some carceral institutions continue to hold.

Part Two: *Living Inside* opens with the questions, "How would I do living here? How would I fare as a long-term prisoner?" This section, which constitutes nearly half of the text, presents vivid descriptions of the physical environment and culture of jails and prisons. Topics include confined women's, previously confined women's, academic colleagues', and Dr.

Covington's perception of environment and culture as manifested in visitation experiences, patterns of sexual harassment and assault perpetrated by staff, the use of traumatizing restrictive housing, and programming. We see how women struggle with low-quality food, separation from children, grief and loss when loved ones outside and women inside die, and physical and mental illness. This section also provides numerous examples of how incarcerated women help each other and some examples of how staff and policies – often outside of the United States – effectively prepare women to leave prison or manage and recover while they are there. As a poignant reminder of the seriousness of women's incarceration, a two-page insert presents a list of women who did not survive incarceration but who died in prison, and it notes their circumstances. A key takeaway from this chapter is that environment and culture can be changed to avoid traumatizing women, but physical changes alone can be undermined by damaging culture.

Part Three: *The Journey Home* continues to illustrate how incarcerated women help each other and how prison systems do not always, but can, promote success after incarceration. For instance, women coach each other to go up for parole. Women who leave prison and jail may face arcane practices, such as being released just after midnight so the institution can claim extra money to cover a day's worth of food, and they may find little or no supportive services. This section of the book provides a necessary ending to incarcerated women's experiences, but given the book's focus on incarceration, it is understandably not expansive coverage.

The final section of the book, *What We Can Do*, is a call to action that could be implemented by different types of readers of this book. It grapples with the question, "Why start with women?" and it suggests

practical actions ranging from further learning about incarcerated women to making donations to advocacy groups and organizations. Sections on further material to read, audio visual resources, and supportive organizations enable the reader to take these actions. For classrooms and book groups, there are discussion questions.

Multiple audiences will find this book useful. For college and university students at all levels and the general public, it sheds light on often invisible traumatic experiences, characteristics, and emotions of incarcerated women and their lives in jails and prisons. For policy makers and practitioners, the book provides rare insight into what actually happens to incarcerated women. For all readers, the book can motivate action to make change by taking a small step or by implementing an ambitious vision for change.



**Merry Morash** is a professor at the School of Criminal Justice at Michigan State University. With funding from the National Science Foundation, she recently completed a 6-year interdisciplinary mixed-methods study of the effects of probation and parole services on women. The study integrated theories of communication and psychology with criminal justice theories of effective supervision and reentry from prison. In the second phase, it examined women's identity change in relation to recidivism and other life outcomes. She is currently a research partner with the Detroit Rescue Mission Ministries' re-entry program for women

and men leaving prison and planning on residing in Detroit. More broadly, Dr. Morash's research focuses on gender, crime, and justice. She has published books and articles on women and girls in the juvenile justice system, on the experiences of battered women who have immigrated to the United States, and on women who work as police. She has also done extensive research on juvenile delinquency and the juvenile justice system. She also has collaborated with Sociologist Dr. Soma Chaudhuri in a study of the effect of economic and social change oriented NGO's in India on wife abuse. Her articles appear in journals that include *Justice Quarterly*, *Criminal Justice and Behavior*, *Feminist Criminology*, and *Journal of Research in Crime and Delinquency*. She is author of the books, *Gender, Crime and Justice* (Sage) and *Women on Probation and Parole: A Feminist Critique of Community Programs and Services* (Northeastern U. Press). She is co-editor (with Chesney-Lind) of *Feminist Theories of Crime*, a volume in Ashgate's Library of Essays in Theoretical Criminology.

In addition to funding from the National Science Foundation, Dr. Morash's research has been funded by the National Institute of Justice, the American Sociological Association/Bureau of Justice Statistics, the Michigan Department of Corrections, the Michigan State Police, and the Michigan State University Foundation. In 2007, Dr. Morash received the Distinguished Scholar Award from the Division on Women and Crime, American Society of Criminology. In 2008, she was named a Fellow by the American Society of Criminology. Most recently she was named an Outstanding Mentor by the Academy of Criminal Justice Sciences; this award recognized her extensive work with graduate students, including her acting as chair of over 20 completed dissertations. She also received the mentorship award from the American Society of Criminology. In 2018, Dr. Morash received the Lifelong Achievement Award from the Division on People of Color and Crime; that award recognized her scholarship and her mentorship. Her graduate students have received dissertation fellowships from the National Science Foundation, the National Institute of Justice, and the Ford Foundation.



## Hate Crime and Violent Extremism: New Perspectives for Advancing Theory, Methods, and Policy

### Description of the Special Issue:

Although rates of violent crime have decreased in recent years, hate crime and violent extremism have increased over the last decade. These increases are set against a backdrop of increased attention—from the media, policymakers, and academics—to hate crimes as a social problem in need of specific and focused consideration. Yet, critical gaps remain in our understanding of the underlying causes, the consequences for victims and communities, and the effectiveness of prevention and intervention strategies. As the discourse in this area continues to grow, it is critical that emerging policy and practice is supported by strong, theoretically grounded, evidence-based research on the subject. The purpose of this special issue is to advance our understanding of hate crime and violent extremism through the publication of original research that highlights innovative theoretical and policy-focused insights on hate crimes, bias-motivated intergroup conflict, and violent extremism.

A variety of article types will be considered for publication, including manuscripts that seek to (a) test new theories of perpetration or victimization; (b) advance existing methodology and measurement strategies for studying hate crime and violent extremism; (c) understand the scope of consequences for victims of these forms of violence, including theoretical elaboration on the mechanisms behind these expanded consequences; (d) expand knowledge around victim help-seeking strategies and potential avenues for increasing reporting; and (e) employ rigorous evaluations of prevention and intervention programs, including non-carceral options. Though a variety of article types will be considered, manuscripts submitted for publication should (1) be clearly focused on hate crime and/or violent extremism and (2) make a significant contribution to the field.

**Deadline:** Full manuscript submissions due through the *Justice Quarterly* submission system by September 30, 2024. The special issue will be published in June, 2025.

**Format:** Articles should follow the standard JQ [format](#) and be submitted through the online system. Cover letters should be addressed to the Special Issue Editors and should clearly indicate that the submission is for consideration in the Special Issue.

Special Issue Editors: Ráchael A. Powers ([ra.powers@uc.edu](mailto:ra.powers@uc.edu)) and Brendan Lantz ([blantz@fsu.edu](mailto:blantz@fsu.edu))





# The Policing of Closed Communities: Questioning Knowledge, Understanding, and Training

By *Andy Bain, Ph.D. & Kristin Park, Ph.D.*

## Introduction

Policing local communities has faced many challenges throughout the 200 years of “modern service.” Yet the core principles of Sir Robert Peel and the Metropolitan Police Act (1829) have remained a cornerstone of all that each agency/department seeks to accomplish. And although each of these (Peelian) principles addresses the relationship with the public, perhaps one stands out beyond all others in the context of this discussion, stating that “the police are the public and the public are the police” (College of Policing, 2014, p. 5). Just what does this mean today, two centuries after the principles of policing were originally stated and given changes in social, cultural, and ideological belief? In addressing this, we were also mindful of the fact that not every community is the same, so there are very different and challenging situations to overcome in supporting communities who live separate, if not (fully) isolated lifestyles, set apart from the rest of society.

We have chosen to examine this area for several reasons. First, the researchers come from a region that has a large Amish population, a community that has chosen to live as a somewhat closed community, maintaining a distant relationship from the dominant culture. Second, one member of the team has been active in policing research for many years, particularly policing in local communities, and the other comes with expert knowledge of Amish history, culture, and lifestyle. Further to this, we were mindful of the fact that Finch (2007, p. 2) has argued that “Without an understanding of the Amish culture, officers cannot and will not effectively service their

Amish community.” This is of tremendous importance, given that more recently Donnermeyer (2024a, p. 23) also stated that little peer-reviewed, academic study has been conducted to examine the Amish experiences with crime. We are excited to add to the existent state of knowledge and understanding, and we hope that this short discussion will help stimulate future research.

## Police Training and the Community

Examinations of training and policing standards are ever present. For instance, Basham (2014) considered the role of the police instructor in training, while Wolfe et al. (2022) investigated the organization and types of training undertaken. Both are extremely important discussions to be had, but what is mostly missing from much of the literature is an examination of the varying communities new officers will encounter. This was noted by Wexler (2022), finding that most academies he had visited still followed the paramilitary style of training, concentrating on firearms, when he felt that it may have been more productive and successful (in terms of policing local communities) to have an increase in communication, observation, and de-escalation training. This argument was similarly made by Bain (2016), examining the role of education in modern policing. Both sources would seem to go some way to addressing the concerns of Finch (2007) of having officers who are ready to deal with increasingly diverse and demanding communities.

Our diversity as a nation cannot be ignored, and the fact that this permeates each community should be at the fore of both recruitment and training. Indeed, it

seems logical to conclude that how we understand the communities will influence the services we provide, and it will ultimately impact how they relate to, perceive, and support any form of social service (including policing). This is true of any group or social organization, but in this instance, rural communities such as the Amish provide an incredibly interesting example.

## Amish Communities and Culture

For instance, we should be mindful of the fact that, as Donnermeyer (2024b, p. 1) reminds us, “Seventeen percent of the United States population today lives in rural places.” This is about 56 million people, a figure 44% greater than the entire population of Canada (our closest neighbor). Of the 17% stated by Donnermeyer, 367,295 are Amish (approximately 0.66% of the population). There are Amish settlements in 32 states, and Ohio (with 81,730, approximately 0.7%), Pennsylvania (a relatively similar size of 86,965, or 0.67%), and Indiana (accounting for 62,800, approximately 0.92%), are generally regarded to have the largest concentrations of Amish communities (World Population Review, 2024).

However, even in terms of rural populations, the Amish are a somewhat unique cultural group, and although numerous groups have chosen to live somewhat isolated from the wider society, the Amish have done so for hundreds of years. This social divide came about with the reformation of the church in the early 16th century and the belief that Protestantism had not divorced itself sufficiently from the practices of the Catholic faith. Thus, the Anabaptist church was born and separated from other Protestant groups. The separation also led to periods of intense persecution (as noted by Donnermeyer, 2024b), which may—in part—have provided the motivation to separate from the rest of society. In no small part interpretation of the Bible may have provided the catalyst for change that was

to come about some 150 years later, and the split that resulted in the Amish faith we are familiar with today.

Aside from recognizing the Amish for their plain clothes, the horse and buggy, and the superior mastery of many traditional trades, generally, little time is spent getting to know or understand Amish way of life, culture, religion, and organization. In fact, it may be possible to say that even the size of the Amish population (as stated earlier), its growth, and retention of community numbers are less well-known than may be stated for other cultures, faiths, and ethnic groups. This lack of understanding presents numerous challenges to social agencies. For instance, in their discussion of health care provision for the Amish, Weyer et al. (2003, p. 139) point out that to provide appropriate care and support, practitioners must recognize the “important cultural values that have survived for more than three hundred years.” We would argue that the same level of knowledge and understanding must exist for all professionals (including law enforcement) engaged with these communities.

Further to this, Donnermeyer (2024a, p. 23) notes the common misconception that because the Amish live in “close-knit communities, only rarely do they experience crime.” This is simply not the case. Indeed, Byers (2008) notes that the Amish are victims of crime—like everyone else—and numerous examples exist of property, personal, and hate crimes perpetrated against individuals and the community. For instance, Byers (2008), Byers and Crider (2002), and Donnermeyer (2024a) have made note of theft, clapping, and barn burnings, as well as tragic events such as the death of baby Adeline Schwartz in Indiana (1979); the school shooting at the West Nickel Mines, Pennsylvania (2006); and the murder of Rebekah Byler and her unborn baby, in February 2024.

However, it is also important to add that individuals



from within the Amish community have committed offenses; examples can be drawn from drunken behavior; to the use of illicit substances by youth during Rumspringa; to the more extreme, violent, dangerous offenses that have come to light, such as the attacks perpetrated by Bishop Samuel Mullet and his followers against other Amish congregation members who did not agree with, or stood in opposition to, Mullet and his teaching. These attacks included forcibly restraining individuals, cutting the hair of women, and shearing the beards of the men. The attacks were incredibly shocking to the community and the initial trial centered on whether these were, in fact, hate crimes, due to the very personal and symbolic nature of the crimes, which very clearly focused on things that identified the individual as a member of the Amish community. Upon appeal, the hate crime element was overturned, but whether considered a hate crime or not, the actions taken by Samuel Mullet and members of the Bergholz community were criminal. They were dangerous, violent, and (perhaps worse still) they inflicted fear on the local Amish community at large (Moore, 2015).

Hate crimes are nothing new and have been codified since the Civil Rights Act (1968). But when dealing with closed communities such as the Amish, there remain greater challenges for investigators, prosecutors, social services, and victim and witness services. However, perhaps what is most perplexing, for investigators and prosecutors alike, is the reluctance of the victims (and their families) to prosecute, seeking leniency whenever possible in the belief that only God has the right to punish (Donnermeyer, 2024b; Byers & Crider, 2002). A great example of this can be found in the West Nickel Mines shooting when the victims' families made donations to help the family of the shooter (Byers, 2008). Similarly, Donnermeyer (2024a, p. 25) notes the "impassioned pleas for leniency" by the victim's family in the baby Schwartz case. These acts of forgiveness and support for the offenders may be

unheard of in other cultural settings. Yet, the reluctance to seek harsh punishment, and a general position of tolerance and forgiveness, stands as a testimony to the strength of faith and conviction found within the community, rather than weakness.

Perhaps, then, it is more crucial to understand the beliefs, traditions, and heritage of the community rather than the position of victim and offender. In fact, it is an argument previously made by Carwana (2023), discussing the need for greater religious awareness in Canadian communities. Carwana has noted that in working with increasingly diverse communities, officers need further and better training, to open doors. We would add that it is imperative in order to build stronger community relationships.

Yet even this argument is nothing new. Instead, the argument could be made that it is something we understand, but also something that we fail to act upon. Key throughout this short article is the continued belief in the need for a greater concentration upon community awareness and community engagement in training at the academy, but more importantly, in the field. This is not to suggest that officers do not do an outstanding job, but rather they perform the role with limited guidance, knowledge, and understanding. This makes the job arduous. It becomes taxing, draining, and frustrating, and the community may see community justice services as interfering with, intolerant of, and unsupportive of their beliefs. This disconnect, a misunderstanding, can drive a deeper wedge between the two communities and lead to greater future challenges.

Indeed, this again is not an unknown argument, and evidence can be drawn from any number of sources regarding policing and communication, or

the importance of confidence in policing as a key indicator in police-public relationships, or the role of community engagement projects to support good positive associations (for an examination of the literature, see Bolger et al., 2021). Yet, the 2022 PERF report also highlights the deficiencies in training, which can only signal a need for change, a need for greater exposure and engagement. We would support this but add the need for continuing education to enhance the relationships being built and the service provided.

## Conclusion

What we have come to understand is that through no fault of their own, the training and education for law enforcement officers has been woefully lacking. There is a gulf of inexperience, misunderstanding, and (perhaps worse) misrepresentation of these communities. Indeed, in the opening statement to the report *Transforming Police Recruit Training: 40 Guiding Principles* (2022, pp. 2–3), the executive director of PERF (Mr. Chuck Wexler), notes, “While policing has changed dramatically in the last few decades, the way in which police recruits are trained has not fundamentally changed,” and he continues, “training as a whole has not kept pace with the dynamic changes taking place in policing.” We would add that recruit training has not kept pace with the dynamic changes in society as a whole. Thus, in much the same way as Donnermeyer (2024a), we contend that what is needed is greater cultural experience, training, and education, to foster better community cooperation with law enforcement agencies. This, we believe, will enable officers and agencies to achieve those (originally) stated principles, offering a community service endowed with public support, approval, and respect, which may one day provide for an absence of crime and disorder.

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**Dr. Andy Bain** is an Assistant Professor of Criminal Justice Studies, joining Westminster College in 2023.

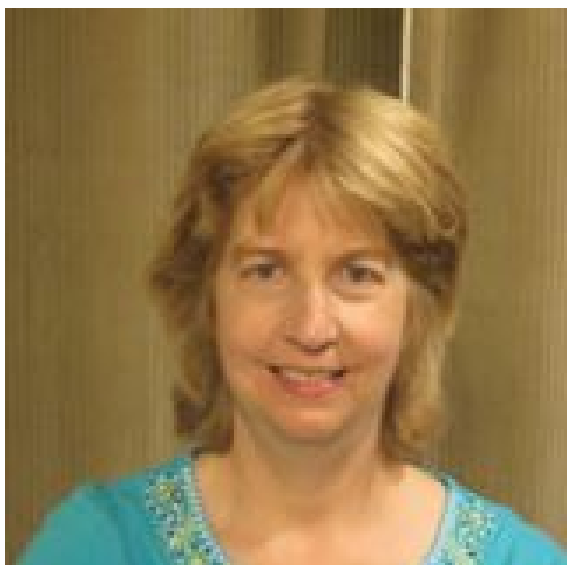
His academic qualifications include a BSc. Sociology & Psychology (Joint Hons); PGDip Psychology; MSc. Criminal Justice; and a Ph.D. in Criminal Justice (examining offender behavior). His professional background includes almost four years with the National Probation Service (England & Wales) and eight years running a successful Criminal Justice Consultancy group. During this time, he has provided guidance and advice to law enforcement agencies, correctional bodies, and most recently the United States Navy. Dr. Bain spent almost two decades teaching in Higher Education, which has included more than 9 years teaching at the University of Portsmouth, in the UK, before moving to the United States in 2013.

Through his work he has authored numerous reports for local and national policing and corrections agencies. He has written, edited, and contributed more than 20 publications concerning Law Enforcement; Gangs and Gang Membership; and Risk and Risk Management. In addition, Dr. Bain has achieved an Expert status in Gangs and Transnational Organized Crime – from the National Gang Crime Research Center and was awarded the Fredric Milton Thrasher Award for his research in 2016. Dr. Bain has presented on his research at numerous leading international conferences in the United States, Australia, Canada, and the UK. He is a member of the American Society of Criminology, the American Psychology Association, the American Criminal Justice Sciences and has been a member of the National Gang Crime Research Center, Conference Organizing Committee, since 2019.

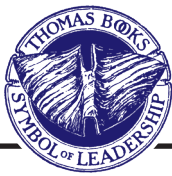
Dr. Bain is actively engaged in research concerning offenders and their behavior; gangs and gang membership; policing and the public; social psychology of offending and risk-taking behavior.



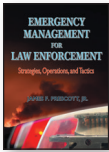
**Kristin Park** is a Professor of Sociology at Westminster College, having taught at Westminster since 1993. She has a B.A. degree in Sociology and Anthropology from Colgate University, Cum Laude, with Honors in Sociology. Dr. Park also has M.A. and Ph.D. degrees in Sociology from the University of North Carolina at Chapel Hill. In addition, she earned a Master's Certificate in Latin American Studies from UNC. Her research focuses on the Amish community, including modern societal perceptions of such community.





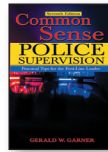


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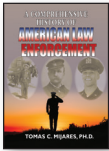
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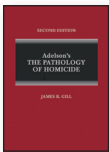
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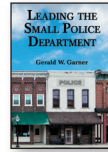
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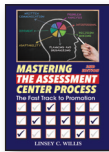
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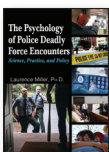
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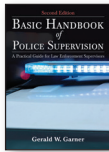
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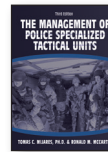
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# Lock Him Up? Criminologists and Legal Scholars Offer Their Insights

By Brian Forst, Ph.D. & James P. Lynch, Ph.D.

There's an old quip, attributed to George Bernard Shaw: "If all the economists were laid end to end, they'd never reach a conclusion." It turns out that the same might be said of criminologists and legal scholars, at least on the question of how Donald Trump should be sentenced after a felony conviction. Mr. Trump has been convicted of 34 felony charges in the case of *The People of the State of New York v. Donald J. Trump*, and he stands to be convicted of potentially more serious charges in three other cases, two federal and one in the state of Georgia.

We came to this conclusion of disagreement among scholars after asking some of the world's leading authorities on sentencing for their wisdom on the subject. Criminologists and legal scholars, after all, should know a thing or two about sentencing. We thought that their informed insights would be of general interest to scholars and practitioners alike and might be of special interest to those charged with deciding how best to sentence Donald Trump following conviction of one or more felony crimes. While this exercise did not yield a single prescriptive sentence, it did lay bare the process by which informed decision makers could arrive at different sentences.

Before the case of *The People of the State of New York v. Donald J. Trump* went to trial, we asked them specifically,

*Do you think Donald Trump should be incarcerated if convicted of serious felonies? On the one hand, no one is above the law, and justice demands that former presidents should be treated just like everyone else. If we are truly a nation of laws, he should be*

*incarcerated if convicted. On the other hand, this is no ordinary case, and the interests of public safety and preventing martyrdom may outweigh those of equal justice for all—a term of probation with escalating sanctions for further incitements of violence could be safer. Could any penal institution ensure his safety in prison? If not, what sort of house arrest provisions or other intermediate sanctions might be in order?*

We asked them to justify their responses in terms of the purposes of sentencing they thought were most and least applicable here and whether Mr. Trump should be incarcerated if convicted of certain crimes but not others.

The importance of the problem and its relevance to criminology and criminal justice cannot be overstated. The several cases against Donald Trump present strong tensions between deeply-rooted legal principles, such as rule of law and equality under the law, and more practical considerations of public safety.

## Who Contributed Essays?

In early 2023, we reached out to a purposive sample of 62 scholars of criminal law and criminology—38 legal scholars and 24 criminologists—some through referral from others previously canvassed ("snowball" sampling). Fewer than half of those canvassed responded, most of those saying they were not available to write essays. Some responded with a few brief sentences on the questions asked, too inconsequential to include in the collection. Two said

they viewed the questions as presumptuous, not worth asking before a conviction occurs. We ended up with eight scholars who gave essays of substance, a small but extraordinary group with unusually stellar credentials—more akin to a focus group than a conventional survey.

Although the responses might well reflect diversity in the views of criminologists and legal scholars generally, we recommend against drawing such an inference from the results reported below. The sample is much too small and nonrandom to permit such a conclusion. We are led to expect large diversity among other criminologists and legal scholars on the questions addressed, but not the precise extent and nature of the diversity we found. We requested that contributors restrict their essays to 500 words but relaxed that constraint in several cases where further shortening would have diminished the arguments presented. Each essayist received at least one set of comments that they responded to. It must be noted that their positions may have changed as new facts emerged in the cases against Trump, including the conviction in New York and the fact that he is now the official Republican candidate for president. But the fundamental questions are as pertinent today as they were in 2023, and we have no reason to expect that the results would be different for this sample, if asked today.

The contributors were the following:

- 1: Anthony G. Amsterdam, university professor emeritus at the New York University School of Law. He taught at Stanford Law School from 1969 to 1981.
- 2: Alfred Blumstein, the J. Erik Jonsson University Professor of Urban Systems at the Heinz School, Carnegie Mellon University, where he served as dean from 1986 to 1993.
- 3: Francis T. Cullen, distinguished research professor

professor emeritus and senior research associate in the School of Criminal Justice at the University of Cincinnati.

4: Jeffrey Fagan, the Isidor and Seville Sulzbacher Professor of Law at the Columbia University School of Law, since 2001.

5: Michael Gottfredson, Chancellor’s Professor Emeritus of Criminology, Law & Society at the University of California, Irvine.

6: Candace McCoy, professor of criminal justice at the City University of New York’s Graduate Center who also teaches in the doctoral program in criminal justice of John Jay College.

7: William M. Rhodes, research director of the United States Sentencing Commission from 1985 to 1987.

8: Sally S. Simpson, distinguished university professor of criminology and criminal justice and director of the Center for the Study of Business Ethics, Regulation, and Crime at the University of Maryland, College Park.

### Overview of the Findings: Which Goals of Sentencing Are Most Applicable?

We asked the contributors to specify which of the purposes of criminal sanctions they thought were most applicable to the charges against Trump. Their responses covered more than the usual array of goals of sentencing: deterrence, incapacitation, retribution, and rehabilitation. Contributors added fairness (Anthony Amsterdam – the title of his essay: Trying to Play Fair with A President Who Didn’t) and a utilitarian variation on the Hippocratic do-no-harm principle: minimize violence and related social harms (William Rhodes: Do the Least Harm).

Incapacitation and just deserts were the goals most

often cited as appropriate for the ex-president. Incapacitation—either at home or in prison—was cited as necessary to keep him from committing further crimes, and especially to prevent further incitements of violence. Simpson makes the point simply: “It is clear from Trump’s history that he is incorrigible and an active and knowledgeable participant in the illegal acts.” Gottfredson argues, similarly, that an incapacitative sentence is needed to “impose considerable barriers to opportunities to continue to offend.”

The case for just deserts was made most compellingly by Fagan and McCoy. They regarded his abuse of presidential authority as a factor that argued for retribution: He knew better, and he should be held to account for his gross abuses of the powers of the presidency. McCoy argued that Trump’s extensive history of narcissism rendered retribution the only viable sentencing alternative; he is incorrigible, unrehabilitatable, and undeterrable. Fagan expressed the view, along a similar line, that if Trump continues to show no genuine remorse, denial of liberty is needed, if only on retributive grounds: “An ankle bracelet simply won’t do.” Gottfredson added that imprisonment is called for simply because of the severity of his crimes and the need to preserve the integrity of the principle that no one, not even a former president, is above the law.

The inclusion of fairness and minimization of harm to traditional goals of sentencing is noteworthy. These additional goals were justified by two extraordinary and related aspects of this case: its spectacularity and the risk of violence the cases present. How could a felony case against a former president not be spectacular? The existence of several such cases against him makes them, collectively, even more so. Our solicitation had asked the contributors whether the interests of public safety and preventing martyrdom might outweigh those of equal justice for all.

Some responded yes, others no. On contributor (Rhodes) regarded the minimization of harm as the overarching concern.

**Exhibit 1. Sentencing Goals for Sample of Legal Scholars**

Scholar	Goals					
	Retri- bution	Deter- rence	Incap- acit'n	Rehabil- itation	Harm Reduction	Fair- ness
Amsterdam	X		X			X
Blumstein			X		X	X
Cullen				X		
Fagan	X					
Gottfredson	X	X	X			
McCoy	X		X			
Rhodes					X	
Simpson	X	X	X			

A summary of the essayists’ choices of relevant goals in Trump’s cases is shown in Exhibit 1. Several of the contributors recognized that externalities, such as the social context of Trump’s criminal cases and the prospect of political violence following a sentence perceived by many as too severe, call for a consideration beyond the usual focus on the offenses and the offender. Others expressed the view that no one is above the law, not even a former president; to allow leniency in these cases would feed the beast, akin to rewarding hostage takers. We should be able to support the goal of equal justice for all and defend against political violence, too.

There was also some support for the idea that a regime of escalating sanctions is in order in the event of conviction. This view was expressed both by the sole contributor arguing for a rehabilitative and restorative sentence (Cullen) and by those arguing for house arrest as an appropriate initial sentence, to avoid the unprecedented difficulties of ensuring Mr. Trump’s safety in prison, to treat his status as former president as a mitigating factor, and to reduce the immediate prospect of political violence (Blumstein and Rhodes).

It is noteworthy that Cullen held that rehabilitation should be tried even with full knowledge of his



extensive history of incorrigibility and tendency to double down after any attempt to hold him accountable. This was in order, he argued, both to give Trump a genuine opportunity to reform himself and begin serving the public by exhibiting conventional norms of decency and to disabuse Trump's supporters of the idea that he was being treated unfairly.

If Trump agreed to restorative justice, it would be a historic lesson to the nation that the most powerful person in the U.S., if convicted of felonies, can be humbled and receive redemption ... [T]he genius in offering him a Restorative Justice option is that it would give him the choice not to be incarcerated.

Aggravating and mitigating factors warrant further comment. The externality of political violence was viewed as an aggravating factor by the retributivists and a mitigating factor by the proponents of harm reduction, as noted above. Trump's age was not regarded as a mitigating factor because of the recency and persistence of his criminal behavior. As Gottfredson puts it, "the recency and frequency of offenses combine to create the danger of continued serious offenses and justify an incapacitative sentence." Most of the contributors argued for imprisonment. For them, the gravity of his offenses and his extensive history of incorrigibility and lack of remorse more than offset any case for sentencing mitigation.

Blumstein argued that an important mitigating factor would be Mr. Trump's behavior in court. He elaborates, "If he accepts conviction and withdraws from further political activism in his typically hostile style, then I would be comfortable for him to be sentenced to probation, where the probation authorities can take him 'off the street' if he works at mobilizing his supporters, especially those who express their support through violence."

This whole matter could conceivably be resolved if

Trump were willing to agree to trade future political aspirations for a plea and freedom to carry on peacefully, or perhaps an arrangement whereby prosecutors drop at least some charges in exchange for an ironclad agreement not ever to run for public office again. Blumstein stated, "I believe that the most important outcome from the trial is a prohibition against his running for federal office, and the 14th Amendment could take care of that upon conviction."

Another valid practical concern is that no penal institution could totally ensure his safety in prison, as alluded to earlier. Some of the respondents argued for house arrest as a reasonable alternative in this case—making his home a prison—to protect society from his long and sustained history of compulsion to attract attention and stoke further violence. The challenge is to balance justice and public safety; to hold him accountable for crimes for which he is convicted, as the retributivists want, without provoking his supporters; and to minimize the opportunities for him to further incite violence in both the short and long term, as the harm reductionists want.

### **Overview of the Findings: What Type and Term of Sanction Is Called For?**

How do these views of sentencing principles translate into recommended types and terms of sentence for Donald Trump if he is convicted on serious felony charges?

The means that contributors chose to achieve the ends of sentencing were varied and complex. Half of them proposed sentences that included incarceration and, if house arrest is included as a form of a custodial sentence, then six of the eight contributors proposed custody as part of the sentence. The term in custody was typically short, with Amsterdam proposing two years and Gottfredson prescribing one year per conviction

charge, which could add up to a much longer sentence depending upon the number of charges. McCoy proposed life, in house arrest. Two recommended a term consistent with the federal guidelines, and three did not offer a term.

Supervision was part of the sentencing package for half of the contributors—typically, supervision followed a period of confinement. Amsterdam and Gottfredson proposed supervision following a period of imprisonment, while Blumstein would have supervision follow time in house arrest. Only Rhodes advocated a period of supervision with the custodial sentence suspended.

Explicit references to disenfranchisement as part of the sentence were made by four contributors. McCoy, Blumstein, Rhodes and Gottfredson proposed that Trump be prohibited from participating in politics. Space constraints limited their ability to explain extensively what specific activities were included in the prohibition and how long the prohibition would last. It must be noted that the prospect of calling for Trump’s disenfranchisement from public office if convicted may have been overtaken by events, especially the success of his lawyers in delaying the cases and the Supreme Court ruling in the Colorado case of Trump v. Anderson.

Fines or restitution were prescribed by only two of the contributors. Amsterdam advocated for both fines and restitution, largely for some of the financial crimes that the former president is accused of in New York state. Gottfredson also called for the maximum fine allowable under the federal guidelines.

Only Cullen called for a restorative justice process as a desirable sentence. Typically, restorative justice calls for the offender and the victims to meet and agree upon a punishment that would make the victim and the community whole. The admission of guilt, apologies, and contrition are important parts of this process. In contrast to those who argued that a custodial sentence

was preferred because the defendant would not admit guilt or express regret, Cullen argued that the threat of a custodial sentence is a strong motivator, especially for the white-collar criminal. If the offender rejects the restorative process, then he has chosen incarceration.

All of the contributors who supported a custodial sentence did so to achieve the goal of retribution. The seriousness of the crimes demanded incarceration. Many referred to the federal sentencing guidelines as a means of establishing proportionality, saying that the crimes that Trump is likely to be convicted of would receive a custodial sentence under the guidelines. Incapacitation was also used quite frequently as justification by those who advocated for a custodial sentence. This is especially the case for those who prescribed house arrest rather than a prison sentence.

The goal of harm reduction does not seem related to a specific sentencing option, but rather to a general softening of the sentence across a number of options. Blumstein chooses house arrest over incarceration so as not to fan the flames of discord among Republicans and Democrats. Rhodes advocates a suspended sentence with supervision for the same reason. To him, an effective sentence is one that will help us get past this dangerous and unfortunate period in our history with the least disruption. While Amsterdam firmly rejects the consideration of social disorder in the sentencing process, he does propose a contingency in the sentencing process that takes account of Trump’s mental state and the likelihood that imprisonment would impose undue harm on him. He argues for psychological testing that would indicate whether he has a condition that would be unduly aggravated by the rigors of imprisonment. If that is the case, then prison sentence should not be imposed. These results are summarized in Exhibit 2.

**Exhibit 2. Sentencing Terms Recommended by Sample of Legal Scholars**

Scholar	Sentence							
	Prison	Term	House Arrest	Super-vision	Disenfran-chisement	Fine	Restor've Justice	Resti-tution
Amsterdam	X	2 yrs		X		X		X
Blumstein			X	X	X			
Cullen							X	
Fagan	X	Guideline						
Gottfredson	X	1yr per ch	X	X	X	X		
McCoy		Life	X		X			
Rhodes				X	X			
Simpson	X	Guideline						

based sanction requires that the severity of the punishment be commensurate with the gravity of the crime and equitably applied in order to shore up respect for the law. Deviations from this process could have an opposite effect. The harm reduction approach assumes that showing deference to the former president and reducing the severity of

## Conclusion

We found a near consensus on the need for restraint to limit Trump’s capacity to commit further crimes if convicted of a serious felony, but little agreement on how, for how long, and which overarching purpose of sentencing is most applicable: incapacitation, deterrence, fairness, retribution, rehabilitation, or minimization of harm.

Incapacitation and retribution were the two goals of sentencing most frequently cited by the contributors in addressing hypothetical convictions against Trump. That said, the essayists also made compelling arguments for other goals of sentencing: fairness, harm minimization, deterrence, and even rehabilitation for a defendant who has revealed little propensity for repentance and behavior modification.

As for Trump’s safety, a matter raised by four of the contributors, we think it would be essential for the Secret Service and prison officials to work out a set of provisions that would ensure his safety if incarcerated.

We found a clear division among these scholars, with those embracing just deserts and incapacitation advocating various forms of custody sentences and disenfranchisement, and those advocating a reduction of social harms approach calling for less severe sentences like supervision and restorative justice. Both groups seek the same end - to reduce violence and restore respect for the rule of law - but the processes by which they get there are very different. A desert-

his sentence will prevent his followers from feeling that Trump was treated unfairly by the legal system. This would build support for the rule of law, if only in the short term.

These disparate sentencing strategies appeal to different audiences; they cannot be pursued simultaneously. The judge will have to choose. A retributive strategy requires a custodial sentence. The contributors embracing retribution suggested that leniency toward Trump would do little to appease his followers, who are persuaded that any punishment is too much for an innocent man. The retributivists may also believe that a far larger group would be offended if Trump were treated more leniently than any other citizen in similar circumstances.

We see no sweet spot between these two opposing positions. The closest to finding a balance over the long haul may be in following the federal sentencing guidelines and following legislated statutes at the state level. This strikes us as the best way to achieve the most effective and just sanctions for any and all convictions in the cases against Donald Trump, and to do the least social harm over the long term. Two of the contributors recommended following the guidelines, and a third recommended doing so as a fallback in the event that Mr. Trump were to resist the terms of a more lenient sentence. We think this strategy likely would also be perceived as fair and legitimate by a wider swath of the American public than any other.

So, how useful is it to learn that even a collection of authorities on sentencing can be all over the map on the selection of sentencing goals and terms in real cases, given the same prompts? This finding may be unique to the defendant and extraordinary nature of the offenses associated with this study. But unique or not, it suggests to us that the goal of equal justice under the law can be elusive, but is nonetheless worth aiming to achieve. If sentencing guidelines are to be the default option, we should aim to ensure that they were developed coherently to strike a balance between terms that are either harsh or lenient under conflicting but sound sentencing goals. Also, the prospect of multiple convictions in the four courts suggests the need for coordination among the sentencing judges.

The sentence or sentences that Donald Trump receives if convicted are important for the perception of justice for him and more broadly for criminal justice legitimacy, too. They will not solve the problem of political polarization, end the erosion of social cohesion, or cure the ills that gave rise to Mr. Trump's ability to come to power in the first place. But a punishment that is widely perceived as just and effective in dealing with him could be a step forward in restoring those norms as well.

## Appendix: The Essays

### Trying to Play Fair with a President Who Didn't *Anthony G. Amsterdam*

Although Trump could be convicted of several state and federal crimes, I'll assume for present purposes that he is convicted of inciting insurrection under 18 USC §2383, criminal tax fraud in the first degree under NY Tax Law § 1806, and various other less serious offenses; that the sentences for all offenses other than the federal insurrection charge and the New York tax fraud charge are suspended; and the

question is what sentence he should receive for the convictions on those two charges.

The insurrection conviction is the most important of the lot because it carries an unequivocal, unqualified, conspicuous disqualification from future federal office, and symbolically, it expresses Trump's single most egregious criminal behavior. The New York tax fraud conviction is also important because fraud is Trump's most characteristic, enduring, repeated form of criminal behavior; symbolically, it labels him for what he is.

The insurrection conviction is also the most appropriate one for making the principal sentencing judgment that is the subject of this inquiry because the maximum—10 years imprisonment—provides more than sufficient leeway for any realistic sentence of incarceration—if incarceration is appropriate at all—that does not have the undesirable appearance of a political vendetta or risk making Mr. Trump a martyr.

Which brings us to the rubber issue: What sentence do I think Trump should get for inciting insurrection? Without doubt, a sentence that includes incarceration. The gravity of his criminal conduct—the insurrection-incitement offense itself plus his other offenses—is too great to permit a nonincarcerative disposition without trivializing his misdeeds and sending the message that occupants of high office are above the law. Given Trump's capacity for denial, he would likely not take very seriously any punishment that did not include the physical shock of incarceration.

The term of incarceration should be followed by a period of supervised release for the entire remainder of the 10-year maximum sentence. Trump is a congenital recidivist; he needs to be watched—quite literally—for at least that decade. The conditions of supervised release would be the standard roster for federal releases, plus the requirement of wearing a



GPS monitor.

I would also include in the sentence the maximum possible fine, which is \$250,000. (See 18 USC §3571.) Trump cares obsessively about money and would find a quarter-million-dollar fine galling even though he can well afford to pay it.

The real issue for me is how long the period of incarceration should be. Although Trump is not above the law, he is also not below it. My own sense of what must be considered in imposing any sentence for any crime on any person includes a weighing of mitigating circumstances against aggravating circumstances. I see only one mitigator in Trump's case, but it is not insignificant. He suffers at the very least from narcissistic personality disorder and may, at times, lapse into psychosis. I would want a thorough psychiatric, psychological, and neurological examination to precede the final sentencing decision.

Until the results of that examination are known, it's impossible for me to come up with an exact figure for the term of incarceration I would think appropriate. All I can say is this: If the examination turned up nothing more or less than the manifest narcissistic personality disorder, I would vote for incarceration for about 2 years. I assume that this would be in a facility in which relatively comfortable single-celling and exercise opportunities without exposure to mainline or other potentially dangerous inmates are available, so anything much less than 2 years would be the proverbial slap on the wrist. Balancing aggravating against mitigating factors in the absence of psychosis or significant neurological problems, 2 years strikes me as just and fair.

For the New York tax fraud conviction, some combination of a fine and restitution would be appropriate. As I've said above, money means a great deal to Trump, and the New York case is where he can be hit the hardest in the pocketbook. Even Trump cannot plausibly spin the exaction of heavy monetary

penalties from a billionaire as martyrdom. I believe that restitution in excess of \$15,000 under New York law is limited to the return of the victim's property, including money, or the equivalent value thereof (see NY Penal Law § 60.27(b)), so the amount ordered would depend on how much tax loss the prosecution's evidence shows. As for the fine, I would want to know Trump's current net worth as the starting point for calculating an amount that would punish him severely but not impoverish him, and more about New York law relating to fines than I now know. According to news reports, the \$1.6 million fine imposed on the two Trump companies convicted of 17 counts of tax fraud and falsifying business records was the maximum allowed by law.

Some factors should not be taken into account in the sentence. One is the danger of violent reaction by pro-Trump hoodlums. Some of his violence-prone supporters will probably riot or broadcast incendiary devices if Trump is convicted—or even if he is criminally prosecuted; the sentence will, I think, make little difference. In any event, the possibility of criminal violence should not, in my judgment, make a reasonably strong and stable government abstain from otherwise warranted sentencing. Another improper consideration is sending a message to Trump's Republican cronies, sycophants, and supporters. These people are best ignored for all purposes except voting them out of office and replying to their inanities in the realm of public discourse.

I would never want to be a sentencing judge or even simulate the role of a sentencing judge in any context other than the one presented in your initial inquiry—a setting in which you are essentially polling a substantial number of criminal-law professionals in order to develop some collective norms regarding both the considerations in play and the end result when it comes to dealing with former President Trump's crimes.

## Long-Term, Flexible Probation Should Serve to Prevent Provoking Further Violence

*Alfred Blumstein*

The sentence for Mr. Trump will depend on the charges of conviction, but much should also depend on his behavior in the weeks leading up to the trial, during the trial, and during probation—particularly acts that incite further insurrection. If convicted of insurrection, I presume that the sentence called for by statute would be at least a decade.

I believe that the most important outcome from the trial is a prohibition against his running for federal office, and the 14th Amendment should take care of this if conviction occurs and he accepts it and withdraws from further political activism and hostility, then I would be comfortable for him to be sentenced to a lifelong period of probation, where a judge, or probation authorities supported by close court oversight, would have considerable flexibility in how to monitor and respond to his behavior on release.

My concern here is that the more punitive the sentence, the more it could serve to mobilize his supporters. On the other hand, the more aggressive he becomes in opposing such a sentence, the more important it becomes to take him “off the street” and find a mode of incarceration—starting with house arrest and escalating to jail or prison if necessary—that restrains his dangerous activism as well as that of his supporters, without being seen as insulting a president and thereby mobilizing his supporters. The mode of his restraint must include monitoring and restriction of communication with supporters, whether by telephone, digitally, or otherwise.

One problem this introduces is the disparity in the punitiveness between Trump and his colleagues, including Giuliani, for example, and others who were central in the conspiracy, who would properly receive serious incarceration sentences. The explanation for the differences could be based on concern for the

Office of the President, as reflected in the decision by then-VP Ford to pardon Nixon. Pardon is obviously inappropriate for Trump, but the special concern for preserving the Office through the flexible use of a probation sentence could certainly seem warranted.

## What To Do with Trump? The Appeal of Restorative Justice

*Francis T. Cullen*

Every person should be treated equally before the law. This principle governs why Donald Trump should be prosecuted for all legal violations. As an advocate for the rehabilitative ideal and progressive corrections, however, I favor the use of discretion in determining what sentence should follow a criminal conviction

The seriousness of the crime matters, but so too do the circumstances surrounding the conviction offense. Trump’s status as a past president does matter. It should not spare him prosecution, but it should be factored into what we wish a sentence to accomplish. We should be aware that a harsh sentence—involving incarceration—would be emotionally pleasing to those on the left but would likely be seen as unfair by those on the right. A collateral consequence could be to delegitimize the justice system for those with faith in Trump and increase political polarization. Violent protest, especially if encouraged either implicitly or explicitly by Trump, is possible.

In this context, I favor the use of “restorative justice” (RJ) at the sentencing phase (if not before). The purpose of RJ is to reduce harm for all involved. The key to RJ in this instance is that Trump would have to admit his guilt, express genuine remorse, and take steps to repair the harm he has caused. In exchange, he would be spared imprisonment and be “reintegrated” gradually into the community.

## An Ankle Bracelet Won't Do

*Jeffrey Fagan*

It's speculative to discuss a proportionate and deserving sentence without knowing the crimes of which the former president might be convicted. The possible charges are quite serious and could result in heavy punishment tariffs, including those related to the Presidential Records Act (44 U.S.C. §§ 2201) and the Espionage Act for removal of classified documents to Mar-a-Lago, allegations of election interference and conspiracy to appoint alternate state electors, and his actions in the runup to the January 6, 2021 insurrection. These allegations are serious felonies with the potential for substantial prison sentences.

In deciding punishment, a guiding question is the public good of adding one more body to the state's prison rolls, whether that is just punishment, and whether there are alternatives to express the social opprobrium for these acts. We must also consider the purposes of punishment. The former president is unlikely to be deterred from further criminal acts against the state, given his age and his enduring belief in the legality and necessity of any of these acts. Nor would there be a general deterrent effect given the unique circumstances of these crimes and the zealotry of his followers. We might say the same about incapacitation, given his networks of willing collaborators to act as his surrogates in crime. His belief in the righteousness of any of these acts suggests that there is no prospect for his rehabilitation and a reckoning with his moral calculus. He thinks he was right, acting within the law, and perhaps above the law as a former president, and that the law itself is sufficiently elastic if not illegitimate, creating his moral and legal space to justify his behaviors.

This leaves us with retribution as the

RJ mandates holding a restorative justice "conference" or "circle." This circle would involve Trump, people harmed by his actions (e.g., injured capitol police and family members), supportive people (e.g., Ivanka, Jared), and a facilitator. Everyone would get to speak and share their concerns. The group would then decide what options would be possible for Trump to repair the harm in exchange for his acceptance by the group.

All this might sound naïve, but at age 76 and potentially facing years behind bars, Trump might well see RJ as his best, if not only, option. And if Trump agreed to restorative justice, it would be a historic lesson to the nation that the most powerful person in the U.S., if convicted of felonies, can be humbled and receive redemption.

Given Trump's narcissism, it is unlikely that he would agree to participate in restorative justice. But he would then be responsible for rejecting the mercy that had been offered. The fault of his incarceration could not be attributed to a politicized, adversarial, and corrupt system.

Indeed, the genius in offering him an RJ option is that it would give him the choice not to be incarcerated. If Trump chose to reject any admission of guilt, expression of remorse, and restitution to victims, then he would merit, even in the eyes of his followers, whatever punishment the legal system would hand out—presumably guided by federal sentencing guidelines and the principle of just deserts.

Finally, if Trump accepted and benefitted from restorative justice, it might serve as a lesson on how to pursue more broadly positive outcomes that improve rather than damage the lives of justice-involved individuals.

justifying principle of punishment for the former president. He has committed reckless crimes that endanger both individuals and the nation, and that flout the law. He has shown absolutely no remorse. That combination of mens rea—his understanding of his acts and criminal intent—and his defiant claims of justification if not the illegitimacy of the law as it pertains to him, justifies substantial punishment. Coupled with his strained relationship with truth and facts suggests that retribution is the only justification for an expression of the hurt to the polity and to its institutions.

What punishment, then? Where there is discretion, judges often cite the absence or presence of remorse in rendering punishment. The externalities of punishment also bear on the legitimacy of punishment matter as well: Should we be timid or even mildly concerned about a potential backlash among the former president's supporters or those who have doubts about the applicability of the criminal law to former presidents? After all, when has a former president been convicted and punished? Could an imperative for retribution be satisfied should the former president plead guilty and agree to forgo future federal office as part of a plea agreement that would suspend harsher incarcerative punishment? Is there room in a plea agreement to further punish the former president in the event that he violates terms stipulated in the deferred sentence, and will those conditions satisfy the demand for punishment?

Would a strong declaration of the harm the president caused, and his admission to that harm, satisfy the demand for harsh punishment that some of us would require? Even those who oppose harsh punishment for the former president do not excuse his acts; they rationalize his crimes as oversights, or as the prerogatives of the office. It's hard to see that apology doing the work necessary to undo the harm, and satisfying the

expressive component of punishment

But this parsing is theoretical: if there is no remorse, as seems to be the case, there is no rationale to avoid substantive punishment that goes beyond the denial of liberty to cause some pain. An ankle bracelet simply won't do. There is no room here for either mitigation nor mercy. A sentence in line with the severity of the crime and our assessment of the moral character of the defendant is necessary to repair the tear in the social fabric of the rule of law. We must trust that the parameters of sentencing reflect our collective sense of just and proportionate punishment and its underlying moral components, and we must reinforce the legitimacy of the law. As in the case of any other person convicted of such severe offenses, we must turn to the federal sentencing guidelines and our collective belief that they can satisfy the demand for just punishment of the former president.

## **Reasons for Punishing Crimes of a Former President** *Michael Gottfredson*

If convicted, Trump's sentence should follow the principles of choosing the least restrictive alternative (given the high financial costs and demonstrated collateral costs of incarceration) satisfying the requirements of just desert, informed by justified expectations for general deterrence and incapacitation. Questions include whether the conviction offense(s) deserve a harsh sanction like imprisonment, followed by whether noncustodial punishments impede legitimate incapacitative or deterrent purposes.

Desert demands commensurability (between the harmfulness of acts and gravity of punishments) and equity (similarly situated offenses must be treated similarly). Stature, wealth, or threats of reactions from others are not considered. The hierarchy of



sanctions given in statute provide a guide to the level of public condemnation (deserved punishment) for each offense. For these offenses, public condemnation is quite high as harm to the public is judged to be substantial. Absent significant mitigating factors, a period of incarceration is seen to be deserved. For obstruction and conspiracy offenses, sentences given to others regularly include incarceration and large fines. For less common acts of illegally (and, hence, willfully) possessing classified materials and obstruction, sanctions for others commonly include incarceration. Incitement charges have fewer comparable cases, but statutory penalties include imprisonment and, notably—to serve the goal of incapacitation—mandatory prohibitions against holding public office.

For most offenses, general deterrence is little affected by increasing the severity of criminal punishments (above that achieved by the conviction itself). This is so because most offenders do not attend much to the longer-term costs of their impulsive behaviors. But certainty of punishment does provide deterrence—even a brief period of incarceration signals the strong public condemnation useful in lowering the probability of similar crimes.

Many sanctions can provide some incapacitation, including curfews, home confinement, prohibition of certain associations, travel restrictions, easier searches, and incarceration. In this case, prohibition from holding public office would be incapacitative because Trump would lack access to additional classified or other government documents, and some of the conspiracy activities presume the influence of high public office.

For these offenses, incarceration by prison may not be much greater punishment, and conceivably more dangerous to public safety, than could be achieved by methods of incapacitation in the community - notably house detention, restrictions on association

and travel, and other standard conditions of parole. Incapacitation depends on accurately predicting engagement in dangerous behavior, and such predictions are known to have high false positive error rates, generally. However, denial of culpability, lack of remorse, continued denial of the great harms caused by the offenses, and the recency and frequency of offenses, combine to create the danger of continued serious offenses and justify an incapacitative sentence. The sentence should take this risk into account by imposing considerable barriers to opportunities to continue to offend.

Together, these principles indicate that, given a lack of prior convictions (as opposed to many instances of harmful behavior demonstrating lack of self-control), for each new conviction related to obstruction and conspiracy, the minimum sentence should include the maximum allowable fine, imprisonment for a period of up to 1 year, followed by 3 years of parole, with added conditions of home confinement.

## What Does Donald Trump Deserve?

*Candace McCoy*

Donald Trump set out to subvert democracy and consolidate all the power of the federal government in himself. The diagnostic manual of the American Psychological Association lists indicators of narcissism: exaggerated self-importance, need for excessive attention, sense of entitlement, lack of empathy, selfish willingness to exploit others, arrogance, etc. Trump displays most of these. This has important implications for sentencing, which I address below.

Trump faces trials in three different jurisdictions, as do his co-conspirators. Assuming conviction on any of the four charges recommended by the House

Select Committee to Investigate the January 6 Attack, he faces life imprisonment. Under United States Sentencing Guideline 5G1.3, a court could consider the “relevant conduct” proven beyond a reasonable doubt in any of the four crimes, whether conviction ensued in all or not. All it takes is for one charge to stick. Furthermore, if multiple people are convicted of conspiracy, the acts of one are attributed to all. The result will hit the top of the federal sentencing guidelines chart, where the prescribed sentence is life imprisonment.

But should Trump go to prison? Or should he experience its equivalent: lifetime house arrest? Consider the classic principles of criminal punishment: deterrence, incapacitation, rehabilitation, and retribution, as they apply to an offender with narcissistic personality disorder. Such people cannot be deterred from committing future crimes, nor rehabilitated, because they cannot imagine that their actions are ever wrong. If convicted of a grave felony like conspiracy to defraud the U.S. of its valid election, Trump should be imprisoned for life to incapacitate him from continuing to agitate for the overthrow of American democracy. Would it be sufficient punishment to incapacitate him in a federal prison with other felons and a prison routine of three meals a day and lots of time watching Fox News in the common room? No. Retributive principles must prevail here; he deserves a sentence tailored to the roots of his crime.

The basic premise of retributive punishment is that the sentence is what the criminal deserves. (Indeed, its shorthand is “just deserts.”) The seriousness of the punishment fits the seriousness of the crime; the criminal must experience the punishment at this calibrated level of severity. Retributive principles call for Trump to experience the most severe punishment a judge can devise for a narcissist, which is not necessarily prison.

Accordingly, Trump should serve his life sentence alone in house arrest, guarded by federal Bureau of Prisons staff and eating prison food he will be required to pay for. He might turn to social media to rant about the unfairness of it all, but his computer will not be connected to the internet except when he is permitted to Zoom with members of Congress’s committee that investigated the January 6 insurrection. For this, his microphone will be set to mute. Permanently.

### **Do the Least Harm**

*William M. Rhodes*

Pity the District Court judge who draws this case. Whatever sentence the judge imposes, Trump’s opponents will ridicule the term as too lenient; Trump’s supporters will condemn it as too harsh and conviction itself as altogether unwarranted. The beleaguered judge might turn to the sentencing guidelines and adopt the guideline recommendation as the default. But the guidelines are unhelpful in this case. Justice Breyer once characterized them as pertaining to the “heartland” of crimes, and Donald Trump’s offenses ill fit into the heartland narrative. If justice must be “seen to be done,” not even Solomon could carry the burden in our polarized country.

Harm minimization might be the operative standard of justice in this case. Harm reduction does not supersede the rule of law. Rather, it is an adjunct principle, well established especially for minor crimes. And it seeps into contemporary correctional reform. Because punishment affects both the perpetrator and the community, punishment is structured to do the least harm.

But presuming conviction, the magnitude of Donald Trump’s crimes is incommensurate with the low-level offenses thought worthy of diversion. Should we contemplate harm reduction for his crimes?

Recall, Richard Nixon's crimes were beyond doubt. From a deserts perspective, a harsh sentence was warranted. Yet Gerald Ford pardoned Nixon "in the best interests of the country." Many of us condemned Ford. But history appears to have proved Ford correct. Might a negotiated, conditional pardon for the 45th president be in the country's best interest?

We know the adage: No one, not even the president, is above the law. But this ex-president, who still wields a weapon of mass destruction in the form of political capital, has leverage. I am content with a settlement that defuses Mr. Trump even if he never sees the inside of a prison.

Defuses? I am an economist, not a lawyer, so my fashioning a practical ameliorative is an act of imagination, if not pure hope. Incarcerating him creates a martyr. I do not want that. A suspended sentence of incarceration, imposing strict limits on his influencing political discourse, seems preferable. In my imagination, this negotiated settlement would be enforced by the threat of serious sanctions including incarceration for noncompliance.

And what if he violates terms of punishment? In my ideal world, Trump would acknowledge guilt (a *nolo contendere* plea, perhaps) in exchange for a settlement where a prison sentence would be suspended pending acceptable behavior. Would he keep his promise? He has not been trustworthy in the past, but that has advantaged him. A threat of incarceration could be a strong motivator. If he nevertheless reneges, the country would be no worse off than had he gone straight to prison.

Let him stand among our notorious ex-presidents. Build him a statue (James Buchanan and Andrew Johnson, incredibly, both have memorials) somewhere on the southwest border. Perhaps Mexico will pay for it? Contenders can alternatively deface and restore it; they can tear it down, build it back, and tear it down again until everybody forgets and

stops caring. Let the rest of us move on from a dreadful span of American history.

## Sanctioning the Incurable: Trump and White-Collar Crime

*Sally S. Simpson*

When asked to consider whether former President Trump should be incarcerated if he is found guilty of one or more felony crimes, as a white-collar crime scholar I was drawn to the thought exercise. What factors should be considered here? What would be the rationale for a carceral sentence that could not or should not be achieved through other means? Which goals of punishment would be relevant here—retribution, incapacitation, deterrence, rehabilitation, and/or restitution? And, we would need to take case characteristics into consideration, such as charge seriousness, Trump's level of culpability, quality of evidence, criminal record, and defendant cooperation. All these factors should inform criminal sentencing. The typical offense committed by white-collar offenders (embezzlement, frauds like tax or mail fraud) is far different from the criminal charges Donald Trump potentially is facing. He is definitely an outlier. And yet, changes in statutes, USSC recommendations, and punishments for white-collar crime over the past 25 years have shown a general tendency toward greater punitiveness.

The January 6th committee recommended Trump be criminally charged for (1) obstruction of an official proceeding; (2) conspiracy to defraud the United States; (3) conspiracy to make a false statement; and (4) insurrection. Other federal charges (most likely, obstruction) could come in the Mar-a-Lago documents case. These charges and sentencing would occur in a federal court. There also are state-level investigations in Georgia that could add to felony charges, including (1) first-degree criminal solicitation to commit election fraud; (2) soliciting tampering with legitimate electors; (3) soliciting

counterfeiting of the state's elector ballot; and (4) interfering with primaries and elections.

But Trump's legal woes do not end there. The New York Attorney General has filed a civil fraud lawsuit against the Trump organization and its executive officers, which include Trump and his children. Although incarceration is not a viable option for civil cases, given how difficult it is to bring criminal charges in white-collar crime cases, successful litigation against defendants (especially if successful and in multiple cases) could signify a pattern of illegal conduct.

There are many reasons to favor imprisonment. It is clear from Trump's history that he is incorrigible and an active and knowledgeable participant in the illegal acts. Focusing on the federal charges (because federal courts take national interest into consideration), I draw my recommendations from the USSC sentencing guideline for organizations. Although not charged as an organization, he engaged in these acts as the leader of our country. Nearly all of Trump's activities point to a set of aggravating circumstances that would justify an upward departure from guidelines sentencing recommendations. He failed to accept responsibility for his actions; was involved in decisions and tolerant of the criminal behavior of others working on his behalf; he obstructed the investigations; and he entangled multiple members of congress, his personal lawyers, and political advisors in his schemes. If we broaden criminal history to include successful civil cases, Trump's pattern of illegal conduct would support an upward departure. Moreover, he did not self-report, cooperate with authorities, or accept personal responsibility for his conduct, thus gaining no points for downward departures. These facts also would render him ineligible for nonprosecution or deferred prosecution agreements.

The sum of these characteristics point to Trump's

blameworthiness, his lack of salvageability, and need to protect the community (our country) from his callous disregard for the law and demonstrated acts of violence by his supporters. A prison sentence will incapacitate him in a way that no other sanction can. It will deter others who have similar insurrectionist and obstructionist ideas. And, it will signal retribution for the January 6 victims. It condemns dangerous disregard of the rule of law. Rehabilitation for this offender is unlikely outside of prison (or even inside), although restitution could be achieved without incarceration. On balance, for Trump, incarceration meets the goals of punishment more so than any other sanction.

## Contributors

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**Sentencing: The Search for Reform (1983).**

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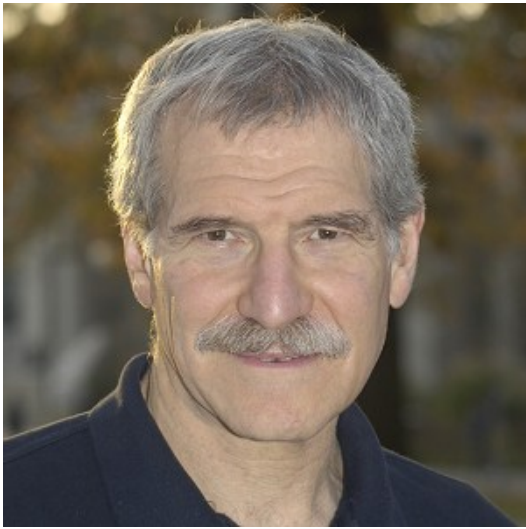
**Jeffrey Fagan** is the Isidor and Seville Sulzbacher Professor of Law at the Columbia University School of Law, since 2001. He also holds the position of professor of epidemiology at the Mailman School of Public Health and has been a visiting professor at Yale Law School. He has received awards and fellowships from the Russell Sage Foundation, the Robert Wood Johnson Foundation, and the Open Society Institute's Soros Justice Fellowship. He serves on the editorial boards of several journals on criminology and law and is a past editor of the *Journal of Research in Crime and Delinquency*. He is a fellow of the American Society of Criminology and served on its executive board for three years.

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## ACJS Member Accomplishments

**Dr. Aimée "May" Delaney**, Worcester State University, was promoted to the position of Professor.

**John C. Navarro, Ph.D.** earned tenure going in fall 2024 from Sam Houston State University.

**Grace Telesco, Ph.D.**, Associate Professor of Criminal Justice, was promoted to Director of the School of Criminal Justice at Nova Southeastern University.

**Michael D. Denhof, Ph.D.**, and colleagues published in *Criminology, Criminal Justice, Law & Society*.

Wiese, J., Denhof, M., & Crawley, R. D. (2024). The Prison Fellowship® Good Citizen Model™: A new framework for corrections. *CCJLS*, 25(2), 41-62. <https://doi.org/10.54555/CCJLS.10853.122097>



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- January
- March
- May
- September
- November

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- February 15th
- April 15th
- August 15th
- October 15th

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