

Ben Eikey:

Hello and welcome to Oversight Matters, a podcast on legislative oversight. My name is Ben Eikey and I am your host. Thank you for joining me, as I share conversations on legislative investigations, the people involved and Levin Center happenings. Oversight Matters is brought to you by the Levin Center for Oversight and Democracy at Wayne State Law School in Detroit.

On this episode of Oversight Matters, I am interviewing Professor Keesha Middlemass from Howard University. Join us for a conversation on corrections research and how findings can inspire legislative inquiry into the criminal justice system in states across the country.

Professor Middlemass, thank you so much for joining me today.

Keesha Middlemass:

Thank you so much for the invitation. It's great to be with you.

Ben Eikey:

Thank you. Before I go into the questions, could you just share a little bit about your background? Just give listeners a little more context.

Keesha Middlemass:

Sure. I am currently, as you mentioned, on faculty at Howard University, but I'm also a fellow at Brookings Institution, a leading policy organization in the United States. My PhD is from the University of Georgia in public policy in American politics. I have worked on Capitol Hill, I have been a fellow at the Vera Institute. I've got a lot of applied political experience, but I've also done a lot of work in the community with men and women that have been convicted of a felony conviction and served time and are reentering. I've spent time in New Jersey, San Antonio, but also in DC talking to people, finding about their lived experiences and thinking about ways of how those lived experiences can speak to forming and creating more humane public policies.

Ben Eikey:

Wonderful. Thank you so much, Professor Middlemass, for joining me today. I know our listeners are excited to have a chance to hear about your expertise further as well. Could you start by walking the listeners through your research in corrections and oversight and introducing your book, *Convicted and Condemned*?

Keesha Middlemass:

Yes, of course. *Convicted and Condemned, the Politics and Policies of Prisoner Reentry*, came out in 2017 and despite now being six years old, the findings continued to just be replicated. My work was focused on interviewing people primarily in Newark, New Jersey, and finding about their experiences before they served time in prison, after they served time in prison, and how they were reconstructing their lives upon reentry. A lot of the focus was on employment, housing, and education, because those are the three policy areas that really matter.

After someone has served time, they need a place to stay, they need a job to pay rent for that place to stay. Nowadays, they need an education, even if it is just their high school diploma or equivalent of a GED or an associate's degree. That finding out how they're navigating life in these three areas really allowed me to focus on the micro level or the individual level to connect it to the communities with

which they were reentering and living and navigating a whole bunch of policies post-prison, and then linking public policies to see how those policies actually impacted them. They didn't know about the policies, but what I did is took their experiences and then said, "Oh wait, housing policy does this and this and this. Why?"

Ben Eikey:

I like that you brought up the why. I'm thinking a lot about that housing, employment and education, those three. If I'm listening and I'm in a state legislature, that's a really good start of some sort of an oversight plan. If you're interested in reentry and just thinking through what to prioritize with, what appears to this really big and multi layered issue, thinking about housing and then trying to pivot that into a question. How does somebody obtain housing when they leave prison? Or employment? Are there employers that tend to prioritize hiring people with records? Education. How do people get access to be able to gain some sort of a background in skills trades to leverage into employment? All those different types of questions could develop into legislative inquiries, and just find out what things are today, what's performing well, what can be improved, all those sorts of steps.

Keesha Middlemass:

Totally agree. I would just like to interject is the policies, the federal policies, and then the state policies oftentimes conflict. This oversight should just be focusing on what do federal policies mandate, what are state policies doing, and are we causing more harm, I.E. creating homelessness, or are we helping people not be homeless?

Ben Eikey:

Could you tell me more about where things do conflict? You brought up housing. Is there potentially an example where there's differences looking at federal versus state and that's creating gaps?

Keesha Middlemass:

Yes. Most people know about three strikes, you're out, and housing policy related to drugs and drug convictions. Housing policy at the federal level is very specific for accessing Section Eight in terms of who is eligible for Section Eight. But housing policies are implemented at the local level. This is where there's some flexibility, but oftentimes it's only a felony conviction that is used to deny everybody public housing, versus using the actual federal laws that have very distinct enumerated lists of who is restricted.

Interestingly enough, the federal law has a time limit that someone from their conviction, I believe it's five or seven years, I forgot exactly which one, but let's say it's seven years. Seven years from time of conviction, someone is not allowed public housing, or Section Eight vouchers, but after that point in time, after they've served their time, they're out, they are back in the community, that time limit should be lifted, but it's not. People are denied because this whole idea of the rhetoric, the political rhetoric of three strikes, you're out, you got a felony conviction, you never get public housing. That's what's implemented, when reality, the policies, is actually tailored to allowing people to eventually get housing.

Ben Eikey:

That sounds like a great topic to be looked at state by state, community by community and just linking through, are we consistent, all the way down the different levels of government and do we have these barriers in place for people that are trying to get help and access?

Keesha Middlemass:

Yes, wholeheartedly, yes.

Ben Eikey:

Now I am sure from all the interviews you did with your book, there was probably some conversations about things like that. I have no doubt there's plenty. I thought it was interesting how you used mixed methods, like archival research and interviews to support your research. Could you tell me more about this approach and why you chose it? Have there been certain results from this approach that surprised you?

Keesha Middlemass:

Yeah. Great set of questions because everything now, or everything seems to be within public policies, is having evidence. What's the evidence-based results? What does the evidence, what does the data tell us? Part of my work on *Convicted and Condemned*, but my work on food insecurity, my work now at Brookings Institution, is that I wanted to layer the data on so you're not just using one source of data, but I did surveys. That's the quantitative piece, the large N. Then I did archival research to find out, what is the history of public policy? It's not just reading the journals or reading legislation, but also reading what was the point in time? What was going on in history?

The interviews to connect, even though I wasn't asking participants about the history or a particular policy language, I was asking them about their experiences. Bringing all this together is to really tell a story about finding answers to the questions of why is the policy this way, but also then what is the impact? Using statistical methods, but also then qualitative data, you can, or at least I find, that I could use these methods to tell a story, but base that story in data. It wasn't anecdotal data. It wasn't about trying to fit a square into a circle. It was literally, why do people fail at reentry? Well, I know the policies say this. Oh, guess what? This is what people are telling me. This now, look at this connection, versus just get a job is oftentimes what participants would be told. I'd be like, "Yeah, that's not going to work."

Ben Eikey:

Exactly. I think that complete picture type of approach is fascinating. Also, because this is such a research heavy question, I also want to just say thank you for your service on the state oversight academies advisory board for academics. We have this robust group of different professors and researchers from all across the country that help to equip the Levin Center and our state oversight academy work. We kind of have information and input from professors doing research on oversight on great issues like this that we're looking at with corrections and reentry all across the country. It's a really essential piece of the work we're doing, so thank you for that.

Keesha Middlemass:

You're welcome. Thank you for doing the work. That really matters.

Ben Eikey:

Could you summarize any research into prisoner visitation and the effects the practice has on prisoner reentry?

Keesha Middlemass:

Yes. Part of my research, but also thinking about reentry, is that studies have shown approximately 33, 35 to 40% of individuals succeed, which means that 67% approximately are failing at reentry. You start looking about what are people needing when they reenter, what makes successful reentry? And then it's find out what makes individuals fail at reentry.

The success started with the family support on the outside, but also then the family support while someone is incarcerated. It's not just writing letters, it's not just paying for phone calls on the outside, but it's visiting. Time after time, after time, participants demonstrated if they had a loved one that's normally a family member, so a mother. A very specific family member. They didn't talk a lot about dads coming to visit them, but dad would help them when they actually exited prison. But moms, wives, girlfriends and daughters were the primary family members that would be helping incarcerated men and women.

When my participants would talk about visits, it started to, in my head, thinking about, well, visits should be encouraged by everybody because we know family connection to family helps those that reenter. Visits are part of that connection. But when people talked about, when participants talked about these visits, it literally became a conversation about space and the rules of visits, and more about what they could not do.

And then talking to family members, family members would tell me how hard it was to visit. The literature tells me why visits are so hard. The location of where someone is incarcerated to where their loved one lives. Michigan, where's Detroit? Are they incarcerated upstate? In Illinois, if they're from Chicago, but they're incarcerated downstate. You pick a state and the prisons tend not to be close to where people live. Now loved ones have to take time off work. They have to have the money, they got to have a reliable car. They got to oftentimes stay in a hotel the night before because prison visits may start from eight to noon, but you got to be there an hour and a half early, stand in line, go through security. You have to be there early because once the room is full, the correctional officers can be like, "Yeah, no one else today."

You start thinking about the process of the family member, and then the process of the loved one started getting me to think about what is going on in these spaces. There are multiple issues that I can talk about with spaces, but the institutional rules, the security, visitors are strip searched, including minor children. Prisoners are striped searched before and after visits, which is part of security. Correctional officers control over spaces. There's the furniture. It tends to be secured to the floor. Some visitation rooms, literally rooms, don't have vending machines, but you cannot bring in food and water. You start thinking about this space. I just wish someone would bring in psychologists and architects to think about, how could we make this space a little bit more friendly?

Ben Eikey:

Speaking of friendly, do you know if there's been research or any sort of conversations in the criminal justice reform community looking at this visitation environment inside of a prison? Things like you just mentioned, like color of the walls on the room, or is there furniture, or... I'm just thinking through. We have in Hollywood or different types of movies where it shows visitation. Is it still the glass wall and the phone call in the phone booth? I don't know. What do we see today?

Before you answer that, I think that this is also a really good moment to highlight that if you're a legislator and you're listening to this and you're thinking through different oversight priorities going into between now and the end of the year, prisoner visitation could be a really interesting topic. It could be a really interesting approach just thinking through what does visitation look like in my state? What is the environment like? What type of security is in place? Is it more common in places when we're getting

closer to higher population areas of the state versus other places? What does that all look like? It could be a good inquiry.

Keesha Middlemass:

Yes, and also how visits impact the individual, but also how they actually can encourage good behavior inside prison, because prisoners don't want their family visits to be canceled based on getting a writeup. But to your original part of that question is yes. There are scholars that look at prison architecture. Thinking about how do we create architecture in a prison that is less harsh? Think about sitting on a steel stool versus sitting on a couch.

We also know about, from the psychology literature, about colors having an effect. Hospitals are painted certain colors. Just legislators, can of paint or two, change out the furniture and see what happens. You don't have to do every visiting room, but think about, could there be a way to eliminate the loud noises in these? Usually the rooms in visiting spaces and prisons are cement, so they're noisy and loud because the echoing off the bars, off the security areas.

But think about, can we just paint them a cheerful color? Is there a way to create furniture? I know that correctional officers will be like, "Oh, there's no touch contact. What are we doing here?" Covid taught us that a lot of the drugs and paraphernalia and the bad parts that get inside prison are coming in from staff. You're already doing strip searches. Allowing people personal touch is really important for the prisoner because the rules of prison is they're not supposed to touch each other. I know it's violated all the time, but just giving a hug to their mother, their sister, their wife, their loved one, would be huge in normalizing what life will be like on the outside.

Ben Eikey:

Exactly. Changing gears slightly. I read quite a bit of Professor Middlemass book, and there was a little excerpt here that really stuck out to me. It's on page 16. "The significance of race cannot be ignored because it connects the past with the present and authenticates the project of a felony as an investment in contemporary practices that cannot be separated from historical race relations. Race matters. There are more black people tangled in the tentacles of the criminal justice system than were enslaved at the beginning of the American Civil War. The linking of blackness to criminality and its connection to punishment means that race is directly tied to the politics and policies of prisoner reentry." With that expert in mind, how can researchers and policymakers be conscious of the racialization of crime when examining corrections reentry issues?

Keesha Middlemass:

Yeah. Before your audience members call in and say my numbers are wrong, just let's start with the facts as we know them. Historians approximate that 4 million people were enslaved at the beginning of this American Civil War. Give or take. No one was doing a census. These are all just approximations, but pretty close to about 4 million people enslaved in the United States. To date, approximately 7.8 million people, black people, men and women, these are adults that have been entangled and convicted in the criminal justice system. Some of them are still incarcerated, some of them now are living outside of prison, maybe on parole, maybe have been fully reentered, but we're talking about more people now in the criminal justice system. Why race matters as it is connected to the criminal justice system is thinking about criminal legal terms.

Enslavement was a life sentence, but there's so many moments in history where race is connected to laws. The war on drugs is just one example of the differentiation between crack cocaine and powder

cocaine and how they were policed. Those laws are now embedded in a whole bunch of different policy areas.

Ben Eikey:

Thank you. If we're going to talk about criminal justice reform, if we're going to talk about reentry, and if we're going to be serious about just examining where we are today, if you're conducting oversight, oversight requires you to look at really difficult, sometimes hard to talk about conversations, and thinking through where we've been let down by either leadership, by government, by different things that just simply have not fulfilled their promise or need to be reformed to try to get closer to just making things better in a society as a whole. The only way you do that is by finding ways to be able to navigate difficult conversations.

Keesha Middlemass:

Yes. Navigating just the history of race in this country, there are inflection points, there's points in time where there's the political rhetoric and it's targeting a particular population. Now, politicians aren't as obvious about race. "Oh, we're just going to incarcerate black men." They don't say that anymore. They used to, but they don't say that out loud anymore, but policies are passed that target a particular population. We could talk about all policies. Tax policies target wealthy people. Let's give wealthy people a break. That is a target population. Policies also then target particular crimes, or particular groups of people, or particular communities. They're enforced and not enforced.

Ben Eikey:

Which is a really good segment into the next question. According to research, how does public policy influence men and women convicted of felonies as they attempt to reenter society? Could you give us some examples of unintended consequences?

Keesha Middlemass:

Yeah. This is the hard part about reentry, is a lot of reentry laws, they're not in criminal justice laws. They're not in the penal code, they're not in criminal type policies. They're in social policies. They're in family law.

Think about child support payments. A person, generally men, who have a standing child support payment that is legally enforceable on the books prior to incarceration, they are still responsible for paying that child support. It just adds up while they're incarcerated. The individual, while they're incarcerated, again, if it's a man with a standing child support payment, he must then go to family court to ask a family court judge, not the criminal court where he was convicted, but the family court judge to stop or reduce his payment. State court's, time and time and time again, saying incarceration is insufficient to stop child support payments. What happens? They add up. There's late penalties, there's interest, there's fees, there's all these things. Mostly men are now reentering sometimes with tens of thousand dollars of debt because of child support. Okay, yes, child support is important, but when you're getting paid 26 cents an hour, that money is not going to pay rent.

Ben Eikey:

No, that's not going to cover you.

Keesha Middlemass:

Right. It's not going to put shoes on a child. That is one unintended consequence. But then the next consequence, again, if you have a standing child support and you're in now child support debt and you get a legal job with a felony conviction, that's if you get a legal job with a felony conviction, the state can garnish your pay for child support payments. That money does not go to your child, it does not go to the mother of the child, it goes to the state to reimburse the administrative costs to collect the money. It's crazy. I'm sorry to call out New Jersey, but that's where I did most of my research. Twice a year, they have a policy that they go and arrest people who have outstanding child support payments and are not paying on them, which last time I checked, being incarcerated for debt actually is against Constitution Bearden, 1988, 1982 Criminal United States Supreme Court case.

My research demonstrated that men were rational actors. They had been like, "Okay, I've got this outstanding child support debt. If I get a legal job, the state is now going to garnish my pay, so I'm going to be taking home \$1.75 every two weeks." They could do the math. People that are criminals and get convicted, maybe they're bad at being criminals and don't get away with it. They're charged, but it doesn't mean they're stupid. They're rational actors. They know how to do math. They can figure things out. Instead of having their payment garnished, they just stay in the black market. They get cash jobs. They don't get legal jobs

Ben Eikey:

Under the table sort of things.

Keesha Middlemass:

Under the table sort. Yes, because of the child support payments that are not automatically stopped upon incarceration.

Ben Eikey:

Well, that sounds like an unintended consequence, so thank you for sharing that.

The next question I have for you is the audience for Oversight Matters includes state legislators and their staff from across the country. As we near the end of our time together, what else would you like to share with them on current corrections research? What else might they consider as an oversight topic to pursue in their own state?

Keesha Middlemass:

I would love for legislators to think about the appropriations. If you are spending, if your state is spending a billion, billion and a half, \$2 billion on policing the Department of Corrections, Parole and Probation, study the programs that are actually in the community and seeing if you can figure out how to appropriate 10% of that billion dollars to community organizations that are actually helping families, individuals reenter society, because again, 95 to 98% of the people are coming home. They're coming home. Approximately nationwide is 12,500 people are exiting prison every week.

Ben Eikey:

These sort of service centers, these were the places where you were doing research and having your interviews for convicted and condemned in New Jersey? Yeah.

Keesha Middlemass:

Because I'm based in DC. I'm more familiar with the DC programs, but DC Reentry Action Network, there is an organization that focuses just on women reentering called The Wire. There's Free Minds Book Club in DC, which is communicating with those that write and want responses while they're incarcerated. The Safer Foundation in Chicago is doing fabulous work. The National Incarceration Association, it's based in Atlanta, is doing fabulous work with families. The challenge is they are competing for really small grants. Yes, they could be funded by government, but there are tens of thousands of dollars. They're not sustainable. They're competing. All these reentry organizations are competing for the same amount of grants or volunteers, donations. I would just would love for legislators to think about literally looking at the budget and appropriations. These reentry organizations that are actually successful are competing for pennies, while the state legislators allocating billions of dollars to policing and prisons. If we could just take off a little bit from the billion to help individuals and families and support the programs that are actually helping individuals reenter, that would be where I would want them to spend all their time.

Ben Eikey:

It sounds like it's being fact driven. Just being able to look at these different types of programs and thinking through in one's own state. Again, if you're reflecting on this issue and you're anywhere, you're in Oregon, you're in Nebraska, South Dakota, wherever, and you're thinking, what's in my state? Take a look. Use that power of your legislative office to find out, see if you have organizations like this and see how they're doing.

Keesha Middlemass:

Yes, because these organizations are small, so they don't have those large N. Again, evidence matters. But if they can demonstrate even a 20% reduction in reentry failure, which means a 20% increase in reentry success, that is an individual, that is their family, that is their community, that is one more person that is working, paying their taxes. I like to think about this ideas that we are preventing. Reentry success means we're preventing new victims. If you don't commit more new crimes, there's no new victims. That's a win-win in terms of society, family, communities, and individuals.

Ben Eikey:

Thanks again, Professor Middlemass. Again, my name is Ben Eikey. Oversight Matters is brought to you by the Levin Center for Oversight and Democracy at Wayne State University Law School in Detroit. Thanks for listening.