

# THE UCLA LAW COVID BEHIND BARS DATA PROJECT: Doing Social Justice Work from Inside a Law School

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## Table of Contents

I.	THE UCLA LAW COVID BEHIND BARS DATA PROJECT: A BRIEF HISTORY .....	216
II.	WHY A LAW SCHOOL? .....	229
III.	TRACKING A PANDEMIC BEHIND BARS: WHAT WE GOT RIGHT AND LESSONS LEARNED .....	234
IV.	THE GRADUAL FADING OF COVID PRISON DATA AND THE PIVOT TO ALL-CAUSE MORTALITY .....	241
	APPENDIX .....	248

In January 2020, reports of a new, potentially lethal virus began emerging from Wuhan, China.<sup>2</sup> By March of that year, a global pandemic had commenced, and millions of people in the United States and around the world became overnight experts in the pathways of COVID transmission. Soon, every facet of American society was struggling to adjust

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2. See Sui-Lee Wee & Vivian Wang, *China Grapples With Mystery Pneumonia-Like Illness*, N.Y. TIMES (Jan. 6, 2020), <https://www.nytimes.com/2020/01/06/world/asia/china-SARS-pneumonialike.html?searchResultPosition=1> [<https://perma.cc/7RJU-RL54>].

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to the new reality, with those living in long-term congregate settings—prisons and jails chief among them—understood to be at greatest risk of COVID infection and death.

Responding to this outsized danger, legal advocates for the incarcerated immediately began drafting letters and motions to officials and courts demanding action on behalf of their clients. Meanwhile, also understanding the heightened risk prisoners<sup>3</sup> faced, countless journalists around the country turned to investigating the situation in carceral facilities. In their quest for information, reporters started calling the prison lawyers, who were already overloaded trying to respond to the demands of the moment.

Out of this high-pressure situation, the UCLA Law COVID Behind Bars Data Project (“the Data Project”/“the Project”) was born. The effort began as a two-tab, crowd-sourced spreadsheet allowing advocates for the incarcerated nationwide to share their work and save others the trouble of reinventing the wheel.<sup>4</sup> Almost overnight, that spreadsheet became the go-to national clearinghouse for all available data on COVID in detention. And things only escalated from there. By mid-2020, the United States Centers for Disease Control (CDC) was populating its prison COVID tracker with the national facility-level data the Project collected each day. The Project was also collecting, cleaning, analyzing, and making publicly available the COVID data out of U.S. Immigration and Customs Enforcement (ICE) detention centers,<sup>5</sup> among several other data points.<sup>6</sup> In July 2020, in concert with partners at the Johns

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3. In this Essay, I will at times refer to people incarcerated in prisons, jails, and detention centers as “prisoners,” a term that squarely acknowledges the “extraordinary and dehumanizing exercise of state power known as imprisonment,” Justin Driver & Emma Kaufman, *The Incoherence of Prison Law*, 135 HARV. L. REV. 515, 525 (2021), and foregrounds the experience of being held against one’s will with no power to shape one’s own conditions of life. See also Paul Wright, *Language Matters: Why We Use the Words We Do*, PRISON LEGAL NEWS (Nov. 1, 2021), <https://www.prisonlegalnews.org/news/2021/nov/1/language-matters-why-we-use-words-we-do> (“[When people are incarcerated, they] are forced into cages at gunpoint and kept there upon pain of death should they try to leave. What are they if not prisoners? They did not somehow magically appear there, and they stay there based on violence and fear of violence.”).
  4. Although the spreadsheet was conceived as a crowd-sourced effort, it did not take long before the risks of that format outweighed the benefits. As early as April 8, 2020, we began to discuss restricting editing privileges to members of our team, and by April 17, the spreadsheet had been locked. E-mail from Hunter Nagai, UCLAW ‘23, to Sharon Dolovich, Professor of L., UCLA Sch. of L. (Apr. 8, 2020, 13:00 PST) (on file with author); E-mail from Hunter Nagai, UCLAW ‘23, to Sharon Dolovich, Professor of L., UCLA Sch. of L. (Apr. 16, 2020, 11:55 PST) (on file with author).
  5. As with our COVID prison and jail data more broadly, our collection of COVID data from ICE detention began manually. Eventually, we built scrapers and collected the data from ICE just as we did with the data from the 50 state Departments of Corrections (DOCs), the Federal Bureau of Prisons, the D.C. Department of Corrections, and several large jail systems. For more on this data collection process, see *infra* Part I.
  6. See *infra* Part I.

Hopkins Bloomberg School of Public Health, we published what became the definitive findings of disproportionately high COVID infection and death rates for people in American prisons.<sup>7</sup> By March 2021, the Data Project team had grown to more than 150 people, including 8 full-time staff, 2 part-time staff, 11 volunteer team leads, 20 students working with the project for credit, and over 100 active part-time volunteers. By September 2021, our work had been cited in more than 200 media stories, along with countless petitions for release, sentencing memoranda, preliminary injunctions, and expert reports. We had published multiple op-eds,<sup>8</sup> our data had framed joint testimony to the Senate Judiciary Committee investigating the Federal Bureau of Prisons' (BOP) mishandled COVID response,<sup>9</sup> and our data visualizations had been seen by nearly 50,000 Twitter users. In sum, over the first 18 months of the pandemic, we grew from a two-tab Google Sheet to an effective and respected national authority on the impact of COVID in American carceral facilities.<sup>10</sup> Our immediate mission was simple: to support the efforts of advocates, journalists, activists, and others to compel policymakers and the American public to recognize and respond to the outsized danger COVID posed to the roughly 2 million people then locked inside prisons, jails, and detention centers.<sup>11</sup>

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7. See Brendan Saloner, et al., *COVID-19 Cases and Deaths in Federal and State Prisons and Jails*, JAMA NETWORK (July 8, 2020), <https://jamanetwork.com/journals/jama/fullarticle/2768249> [<https://perma.cc/GC99-WG6J>] [hereinafter *COVID-19 Cases and Deaths*]; see also Julie Ward et al., *COVID-19 Cases Among Employees of U.S. Federal and State Prisons*, 60 AMERICAN J. OF PREVENTIVE MED. 840 (2021), [https://www.ajpmonline.org/article/S0749-3797\(21\)00118-5/fulltext](https://www.ajpmonline.org/article/S0749-3797(21)00118-5/fulltext) [<https://perma.cc/5H2X-LYLH>]; see also Neal Marquez et al., *COVID-19 Incidence and Mortality in Federal and State Prisons*, JAMA NETWORK (Oct. 6, 2021), <https://jamanetwork.com/journals/jama/fullarticle/2784944> [<https://perma.cc/VV66-WFKX>] [hereinafter *COVID-19 Incidence and Mortality*]; see also *infra* note 67.
  8. The large number of op-eds produced by the Project and published nationally in 2021–22 was a tribute to the hard work and talent of Research and Policy Fellow Amanda Klonsky, who spearheaded our work on this front.
  9. See Joshua Manson, *Data Project Submits Joint Testimony to Congress on the Bureau of Prisons' Mismanagement of the Pandemic in Federal Prisons*, UCLA LAW COVID BEHIND BARS DATA PROJECT (April 15, 2021), <https://uclacovidbehindbars.org/blog/bop-testimony> [<https://perma.cc/465H-XTC4>].
  10. In doing this work, we benefited greatly from ongoing conversations with the other organizations who were also tracking, analyzing, and disseminating a range of data concerning the impact of COVID on those incarcerated in American prisons, jails, and detention centers during the pandemic. These valued partners included the Marshall Project, <https://www.themarshallproject.org/2020/05/01/a-state-by-state-look-at-coronavirus-in-prisons> [<https://perma.cc/8PLW-6R86>]; the COVID Prison Project, <https://covidprisonproject.com> [<https://perma.cc/B46N-GYSX>]; the Prison Policy Initiative, <https://www.prisonpolicy.org/virus/index.html> [<https://perma.cc/Z9J7-DRRA>]; and the Vera Institute, <https://www.vera.org/spotlights/covid-19> [<https://perma.cc/9NVC-JLTS>].
  11. For more on the Project's mission, see *infra* Part III.

This Essay tells the story of how a law professor, a clinical teaching fellow, and a large group of students, researchers, and volunteers created a social justice organization driven by legal scholarship, data, and crisis. Law schools do not tend to prioritize cutting-edge engagement with current events, but the pandemic was a catalyst. It pushed our team to leverage our knowledge of the carceral state to respond to an emergent humanitarian crisis. We already knew a lot about American prisons; our collective knowledge was key to our ability to identify and collect new data, to work with (or around) familiar institutions, and to advance the interests of incarcerated people—most especially by doing all we could to support the push for decarceration as the single most effective COVID response.<sup>12</sup> For me personally, this effort was the practical manifestation of my own scholarly focus during the two decades preceding the pandemic. Over my career, much of my work has addressed one basic question: given the fundamental moral commitments of a liberal democratic society, what does the state owe the people we incarcerate? There is a straight line between that theoretical inquiry, born of the ecumenical, interdisciplinary character of American legal scholarship,<sup>13</sup> and the emergence of a data-driven, public health-focused effort to compel all branches of government to confront and mitigate the COVID crisis in detention.

The Data Project experience, conveyed here in narrative form, offers several generalizable lessons about institution building in the public interest and the unique value of doing such work in the law school environment. It also offers an object lesson in efficiency and resource management. For those of us in the thick of the enterprise, there was barely time to think. Every day brought a new round of missives from journalists, lawyers, activists, academics, governmental actors, and people with loved ones inside, each seeking or offering help of all kinds. Just maintaining our core repository of facility-level COVID data—scraping, cleaning, analyzing, posting—took an enormous amount of time and energy. In addition, we were constantly filing public records requests, crafting blog posts, posting our key findings on social media,<sup>14</sup> writing reports and articles for peer-review publications, launching new initiatives, and working with numerous partners to try to reduce the COVID risk to those in custody. Apart from our eight full-time paid staff,

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12. See NAT'L ACADS. OF SCIS., ENG'G, & MED., *DECARCERATING CORRECTIONS FACILITIES DURING COVID-19: ADVANCING HEALTH EQUITY, AND SAFETY* (Emily A. Wang, Bruce Western, Emily P. Backes, & Julie Schuck eds., 2020). I served as a member of the National Academies panel that produced this report.

13. See *infra* Part II.

14. Our main social media outlets were Twitter (@uclaprisondata) and Instagram (@uclaprisondata). The look of our data visualizations and other social media output was crafted by our web designer hyperobjekt, in conjunction with Liz DeWolf, our Senior Project Manager. Together, Liz and Josh Manson, our Communications Manager, took the lead on designing the posts, with staff from all corners of the Project contributing content.

everyone on the team—from the Director (me) and the Deputy Director (Aaron Littman) to the team leads and countless other volunteers—was doing this work as a sideline to other full-time pursuits, whether work or school. Although we were by no means on the pandemic’s front lines, we were nonetheless stretched to the limit.

Despite the constant pressure, and despite being fully remote, our team collectively produced an enormous amount of data, research, and analysis, all directed to conveying in real time the scale of the crisis of COVID in custody. In a quest to make our findings as accessible as possible to a broad range of end users, we posted virtually all our output on our website<sup>15</sup> or on GitHub.<sup>16</sup> In addition, by the end of 2023, every aspect of our work—from the core quantitative data collection to our many publications to the output of the several initiatives undertaken during the almost three years we focused on COVID—will be fully and permanently accessible on our project’s Dataverse and also in the ICPSR database.<sup>17</sup> Those interested in all we learned tracking the pandemic behind bars will thus have many ways to access our work.<sup>18</sup> The story offered here concerns not so much the substance of that work or our data findings and analysis,<sup>19</sup> but rather the basic and somewhat more practical question of how a team based in a law school during a pandemic-induced lockdown managed to accomplish all we did in such a short time in a policy realm not known for transparency.

Part I of this Essay tells the origin story of the UCLA Law COVID Behind Bars Data Project. Part II addresses the question of how an effort like this, focused on data and policy, could have arisen in a law school, and what our experience reveals about the role the legal academy and legal scholarship can play in the movement for social justice and policy change. Part III highlights some of the organizational factors that enabled us to do what we did despite significant time and resource constraints. The focus here is on the process of institution-building and lessons learned. Finally, Part IV briefly describes the denouement of our

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15. See *UCLA LAW COVID BEHIND BARS DATA PROJECT*, <https://uclacovidbehindbars.org> [<https://perma.cc/4CNG-3FEP>] (last visited Apr. 25, 2023).
  16. GitHub is a platform for hosting open-source code and data. See *UCLA law covid19behindbars/data*, GITHUB, <https://github.com/uclalawcovid19behindbars/data> [<https://perma.cc/RK26-4HYT>] (last visited Apr. 25, 2023).
  17. See INTER-UNIV. CONSORTIUM FOR POL. & SOC. RSCH., <https://www.icpsr.umich.edu/web/pages> [<https://perma.cc/RH5F-PU5U>] (last visited Apr. 25, 2023).
  18. Our output features a mix of quantitative and qualitative data. It should be of interest to anyone seeking to understand the effects of COVID on the nation’s incarcerated population and on their families and communities. For more on this aspect of the Project’s mission, see *infra* Part III.
  19. For substantive analysis of what our data showed about COVID behind bars over the first months of the pandemic, see Sharon Dolovich, *Mass Incarceration, Meet COVID-19*, U. CHI. L. REV. ONLINE \*4 (Nov. 16, 2020), <https://ssrn.com/abstract=3766415> [<https://perma.cc/YF3J-3ADP>] [hereinafter *Mass Incarceration*].

COVID data collection efforts and our decision to pivot to our current focus on national, all-cause carceral mortality.

## I. The UCLA Law COVID Behind Bars Data Project: A Brief History

From the moment the world learned of the novel coronavirus, it was obvious to anyone paying attention that prisoners faced an outsized risk of COVID infection and death.<sup>20</sup> Almost overnight, “social distancing” entered the collective vocabulary, and public health officials in the United States and worldwide were urging people to avoid coming within 6 feet of people not in their own households. But prisons are crowded places, where people live in close proximity to one another and social distancing is impossible.<sup>21</sup> The poor ventilation found in many carceral institutions meant that incarcerated people were constantly breathing recycled air.<sup>22</sup> And while Americans in general were cautioned to avoid gathering indoors and exhorted to get outside, people in custody were being locked down in their cells and dorms and refused access to the yards.

This new reality dawned quickly. In response, advocates mobilized. Much of the effort in the first weeks was directed at putting pressure on decision-makers of various kinds—sheriffs, judges, district attorneys, prison officials, etc.—to reduce the COVID risk, whether by reducing the population density of the facilities within their sphere of authority<sup>23</sup> or by taking other steps in mitigation.<sup>24</sup> To speak authoritatively about the urgent need for action, lawyers for the incarcerated were being forced in real time to figure out what was then known about this new lethal virus in order to convey the grave risk it posed to the people they represented.

These efforts were facilitated by a simple yet surprisingly effective channel of communication that has long linked the national prisoners’

20. Long before COVID, it was well understood that incarceration constitutes a significant risk factor for exposure to communicable diseases. See, e.g., Paul L. Simpson et al., *Prison Cell Spatial Density and Infectious and Communicable Diseases: A Systematic Review*, *BMJ OPEN* (2019).

21. See *Mass Incarceration*, *supra* note 19, at \*8-\*11 (explaining the many reasons why people in custody faced a disproportionate risk of COVID infection and death); see also Saloner et al., *COVID-19 Cases and Deaths*, *supra* note 7 (reporting that, over the first 4 months of the pandemic, people in federal and state prisons were 5.5 times more likely to be infected and 3 times more likely to die from COVID than those in American society more generally).

22. Early on, there were also concerns about incarcerated people in crowded housing units being forced to share showers, toilets, and sinks, which at the time were believed to be prime vectors for COVID transmission. See *Mass Incarceration*, *supra* note 19, at \*8-\*9.

23. See Sharon Dolovich, *Every Public Official with the Power to Decarcerate Must Exercise That Power Now*, *THE APPEAL* (Apr. 10, 2020), <https://theappeal.org/every-public-official-with-the-power-to-decarcerate-must-exercise-that-power-now> [<https://perma.cc/T9J3-957G>].

24. For discussion of some of the steps state officials took to this end early in the pandemic, see *Mass Incarceration*, *supra* note 19, at \*11-\*18.

rights bar: a listserv, started in the early days of email communication and open to any legal advocates working on behalf of the incarcerated. The list is always active, but in March 2020, it positively exploded as people hastened to strategize the best ways to help their clients. From the start of the pandemic, it served as a virtual hub for information about what was happening in prisons and jails nationwide. Although mostly for lawyers, the listserv also includes a few academics. As one such academic, I was able to watch the drama unfold moment by moment.

Among the first steps corrections officials took to try to keep the virus from taking hold inside was to cancel visits into their facilities. The move seemed epidemiologically appropriate given what we already knew about COVID transmission. But it was also sure to cause a lot of pain and suffering to people in custody, for whom visits from loved ones are a lifeline. As reports of visit cancellations flooded into the listserv from across the country, I felt the need to keep track. On March 13, I asked my research assistant at the time, Keegan Hawkins, if he could create a table noting which states had canceled visits, whether the new policy also applied to attorney visits, and the date of the cancellation.<sup>25</sup> Keegan agreed and made a spreadsheet.

Although we did not realize it then, this step set the stage for all that was to follow. The very next day, March 14, an email came into the listserv from Corene Kendrick, then a staff attorney at the Prison Law Office. Corene was responding to an email sent to the list earlier that day from Sarah Grady, then a civil rights attorney at Loevy & Loevy, asking whether anyone on the list had thus far “seen any jails and prisons taking steps to decarcerate in light of the COVID crisis.”<sup>26</sup> Corene answered Sarah’s question, describing several formal requests advocates had been making to that end and attaching PDFs of the relevant documents. Then, in closing, Corene made a suggestion in the form of a question, asking if there was “any chance anybody (perhaps some of our law professor comrades) could set up a web-based clearinghouse that tracks all of these requests?”<sup>27</sup> Reading this, it occurred to me that the spreadsheet Keegan had just created might be repurposed to the end Corene had in mind—allowing advocates to post their various demand letters, court filings and other public-facing documents seeking a decarceral response. Corene liked the idea of a crowd-sourced database, so Keegan added a tab labeled “Population Reduction Requests” and I shared the link with the list.<sup>28</sup>

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25. E-mail from Sharon Dolovich, Professor of L., UCLA Sch. of L., to Keegan Hawkins, UCLAW ’21 (Mar. 13, 2020, 10:34 PST) (on file with author).

26. E-mail from Sarah Grady, C.R. Att’y, Loevy & Loevy, to Prisoners’ Rights Listserv (Mar. 14, 2020, 14:26 PST) (on file with author).

27. E-mail from Corene Kendrick, Staff Att’y, Prison L. Off., to Prisoners’ Rights Listserv (Mar. 14, 2020, 18:16 PST) (on file with author).

28. We also tweeted the link via the UCLA Prison Law and Policy Program Twitter account. UCLA Prison Law (@uclaprisonlaw), TWITTER (Mar. 21, 2020 8:58 PM), <https://twitter.com/uclaprisonlaw/status/1241575032439984129> [https://perma.

After that, everything seemed to happen at once. People on the listserv started posting their work product and sharing the link. Activists, grassroots organizations, public defenders, and others began adding their own documents. Litigators around the country, who had been drafting petitions to courts on behalf of incarcerated clients, also started posting and sharing the link. As the spreadsheet made the rounds, people from across the country began noticing gaps in the types of data it contained. Things were moving quickly and there were already many other data points that would likely be helpful to all those constituencies—not just lawyers and activists but also reporters, policymakers, academics, and those with loved ones inside—who were trying to figure out what was happening with COVID in custody. I began to receive emails from people I did not know, containing suggestions for additions and offers of help. For example, in answer to calls from legal advocates and grassroots activists (many of whose written demands were already posted on the Population Reduction Requests tab on our Google Sheet), public officials around the country—including prosecutors, sheriffs and police chiefs, trial court judges, and state Supreme Courts—had begun taking steps to decarcerate in a bid to reduce the population density in their facilities.<sup>29</sup> Noting this development, Maddy DeLone, longtime director of the National Innocence Project, emailed to ask if we would like someone to track these releases. I put her in touch with Keegan and together they created a new Jails and Prisons Releases tab, complete with coding categories. Maddy set to work assembling a team of volunteers, which began populating the new tab with all the applicable reports, press releases, and news stories they could find. Around the same time, Yasmine Tager, a juvenile justice lawyer with Berkeley Law School's East Bay Community Law Center, also reached out, in her case with an offer to begin tracking the effects of COVID in juvenile detention. She and Keegan designed a youth facilities tab, and Yasmine and the team of volunteers she mustered also got to work.<sup>30</sup>

In those early weeks, much of the pressure on corrections officials to mitigate the COVID risk was coming from local activists and from family and friends of incarcerated individuals, who were refusing to remain silent about the grave threat facing their loved ones inside. Jordan Palmer, then UCLA Law's Jane Kahn Prison Law Fellow, recognized the remarkable work being done around the country by grassroots organizers and others engaged in ad hoc acts of protest and resistance. She

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cc/MNG8-BDVX].

29. See *Mass Incarceration*, *supra* note 19, at \*15-\*18.

30. For each tab we added to the original Google Sheet, we crafted the coding categories with an eye to likely end-users. The expectation was that different categories of data would be useful to different constituencies, and we tried to make each category of data we were collecting as accessible and user-friendly as possible. This approach reflected the Project mission to support all efforts being taken to address the crisis of COVID behind bars, from whatever quarter.

worked with Keegan to create two additional tabs: Grassroots and other Organizing Efforts.<sup>31</sup> and Fundraisers and Mutual Aid.<sup>32</sup>

As all of this was taking place, something was happening on the corrections side that was close to revolutionary for an institutional context long defined by a rigid culture of secrecy<sup>33</sup>: Departments of Corrections (DOCs) nationwide began putting up dashboards on their websites reporting a range of COVID metrics for both residents and staff, including tests administered, infections, and deaths.<sup>34</sup> The first of these DOC dashboards came online in mid-March 2020, in the days just after the launch of our spreadsheet. If we were to be a one-stop shop for all data on COVID in custody, this was information we needed to capture. In keeping with the pace at which things were moving, I barely had a moment to give the matter some thought before I received an email from one of my former students, Grace DiLaura. Grace had seen a post on the UCLA Law website about what we were doing and reached out to see if I needed any help. I responded that I did indeed need help and asked if she could figure out a way to get the data from the DOC COVID dashboards onto our spreadsheet. Grace was game and worked with Keegan to get yet another tab up and running—COVID-19 Prison and Jail Cases and Deaths. At the time, I had no idea what I was asking of Grace, and she (thankfully) had no idea what she was signing up for. Starting on March 26, 2020,<sup>35</sup> Grace began manually transferring from these dashboards to our spreadsheet all the COVID data then being posted by fifty state DOCs, the BOP, and several large jail systems.<sup>36</sup>

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31. I am especially proud of this database, the only one of its kind that emerged during the pandemic.

32. This latter tab emerged after Jordan began tracking protests and noticed that several campaigns had begun to solicit donations to help incarcerated people protect themselves during COVID. She figured that if people were visiting our spreadsheet, they must care about the health and safety of people in custody and so might be inclined to contribute.

33. See generally Sharon Dolovich, *The Failed Regulation and Oversight of American Prisons*, 5 ANN. REV. CRIMINOLOGY 153 (2022) [hereinafter *The Failed Regulation*]; *Mass Incarceration*, supra note 19; see also Andrea C. Armstrong, *Access Denied: Public Records and Incarcerated People*, 19 U. ST. THOMAS L.J. 220 (2023).

34. In this respect, corrections agencies joined many other public institutions nationwide, which also began posting dashboards with data concerning the impact of COVID in their spheres of authority. For discussion of this phenomenon, see Damir Ivanković, et al., *Features Constituting Actionable COVID-19 Dashboards: Descriptive Assessment and Expert Appraisal of 158 Public Web-Based COVID-19 Dashboards*, 23 J. MED. INTERNET RSCH. 2 (2021).

35. DOC COVID data first appeared in our dataset on March 26, 2020.

36. Readers with data science backgrounds will wonder why we didn't just build scrapers, which would have allowed us to achieve the same result with much less effort. The short answer is that, at the time, I had zero data science knowledge and had never even heard of web scraping. Eventually, we hired data scientists and built and ran scrapers to do this work. But ironically, my early ignorance on this score turned out to be one of the secrets of our success: as other savvy players were taking the time to build their scrapers, we were already collecting

This process proved exceedingly challenging and time-consuming. Fortunately, just as Grace was realizing that the job was too much for one person alone, I received an email from Kalind Parish, who was then on leave from a political science PhD program at the University of Pennsylvania. Kalind was interested in the intersection between incarceration and health. He had heard of our work from Judith Resnik of Yale Law School and reached out to see if we needed any volunteers. Almost immediately, Kalind joined forces with Grace. The pair devised a system for sharing the work of transferring the data from the DOC dashboards, dividing the states in a way that balanced those DOCs whose data was especially challenging to access. Every day, Grace did one set and Kalind did the other, and the next day they swapped. They continued this time-consuming and tedious process seven days a week for almost three months, until we hired data scientists and built our first web scrapers, finally allowing us to automate our data extraction and bring our data-gathering process into the twenty-first century.

During the first weeks of the pandemic, prisoners' advocates flooded the courts, both federal and state, with petitions seeking releases and other forms of COVID mitigation. Initially, we began posting these filings on our "Population Reduction Requests" tab. But this tab quickly became a grab bag of many different kinds of documents. In a quest to streamline and make the contents of the spreadsheet more accessible, we broke out two more tabs. First, we established a tab called "Population Reduction Responses." Unfortunately, this tab also rapidly became diversified, making it less useful than we had hoped.<sup>37</sup> We also created a separate court filings tab, to which we added all the judicial opinions we could find bearing on COVID behind bars. This move proved more successful. The judicial decisions would soon start pouring in, and we now had a place for them to live. Rebecca Fordon, then a reference librarian at UCLA Law School's Hugh and Hazel Darling Law Library, stepped up to manage the tab and wound up serving as the lead of our court filings team until mid-2022 when we finally closed the dataset.<sup>38</sup>

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and disseminating facility level COVID data, which meant that people looking for quantitative indicators of the impact of COVID in custody were already coming to us. We therefore became the go-to site while others were still getting up and running.

37. We eventually abandoned both Population Reduction Requests and Population Reduction Responses. The contents of these tabs were among the datasets we came to refer to as orphans and which we published collectively in July 2022. See Sharon Dolovich, *Notes on Incomplete Datasets from the Project's Early Days*, UCLA LAW COVID BEHIND BARS DATA PROJECT (Aug. 4, 2022), <https://uclacovidbehindbars.org/blog/notes-on-incomplete-datasets-from-the-project's-early-days>.
38. Shortly after we broke out the Court Filings tab, we were approached by a team of lawyers from Columbia Law School, the Bronx Defenders and Zeal.us, who invited us to join forces with them to create a litigation hub for prisoners' advocates containing as many cases bearing on COVID in custody as could be coded and posted. Rebecca Fordon became our point person on this effort and

By mid-April of 2020, just a few weeks after we began, the spreadsheet had grown, as had the whole enterprise. Maddy DeLone was running our releases team. Yasmine Tager was managing the data on youth facilities. Rebecca Fordon was handling court filings. Jordan Palmer had built a team of volunteers who were busy monitoring Twitter and Facebook in order to populate our “Grassroots and Other Organizing” tab and our fundraisers and mutual aid tracker. Meanwhile, Grace and Kalind had become our inaugural data team. In addition to effectuating the daily transfer of facility-level data to our COVID-19 Prisons and Jails Cases and Deaths tab, Grace and Kalind were fielding daily inquiries from journalists and others who had accessed our spreadsheet and had questions about the data. Still, a month into the work, one important gap had not yet been filled: the COVID data for ICE facilities. As a practical matter, immigration detention centers look, feel, and function pretty much like prisons and jails. They are crowded, highly regulated, and those held inside have no control over their surroundings or movement. Recognizing this gap in our data, I made a point of mentioning our need for volunteers to take on the immigration detention piece of our COVID data collection efforts anytime I spoke publicly about our work. Fortunately, two extremely motivated individuals answered my call: Theresa Cheng, a JD-MD who was then an ER resident, and Joanne Choi, then a student at Columbia Law School. I put the pair in touch, and they began their work, strategizing how best to use the platform to track the impact of COVID in ICE detention. Together they built our largest and most ambitious volunteer-led team.<sup>39</sup> Using co-team leads worked so well that it became a model we would replicate many times during the ensuing two years.

As the Project grew, I was often asked what had originally made me decide to launch the enterprise. What I am trying to convey here is that, at least in one sense, there *was* no initial idea: I did not consciously decide to start a multi-million-dollar data project, which instead seemed to grow rapidly and organically of its own accord. Yet the Project was also a natural outgrowth of the work I had been doing for two decades. I have

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helped this consortium of partners to bring the Litigation Hub into being. She was assisted on our end by Dylan Lee, UCLAW '22, who supervised the coding on a part-time basis for the entire life of that initiative. The court filings database now lives on our website. See *Litigation Database*, UCLA LAW COVID BEHIND BARS DATA PROJECT, <https://litigation.uclacovidbehindbars.org> [<https://perma.cc/28L2-TMYD>] (last visited Apr. 25, 2023).

39. Among other things, under the leadership of Theresa Cheng and Joanne Choi, and later of Theresa, Ishan Nagpal and Ben Woolley, the immigration team tracked the COVID data inside ICE detention, tracked releases from ICE facilities, collected court filings related to ICE detention and COVID, followed and analyzed the impact of *Fraihat* before the Ninth Circuit reversed the decision in *Fraihat v. U.S. Immigr. & Customs Enf't*, 16 F.4th 613 (9th Cir. 2021), filed many FOIA requests, tracked the effect of the Omicron variant on immigrant detainees in ICE facilities, and collaborated with multiple grassroots organizations around initiatives concerning COVID in immigration detention.

written extensively about the dehumanization that occurs in American prisons, especially when it comes to the health and well-being of people who live behind bars.<sup>40</sup> I have studied the opacity and intransigence of our carceral institutions and the failures of regulation that shape the reality on the ground.<sup>41</sup> I know how unresponsive all branches of American government can be when confronted with the gross abuse and neglect of people in custody.<sup>42</sup> In other words, when the pandemic hit, I had already been thinking for years about the legal, political, and humanitarian failures of the American carceral state and the basic failures of decency that define daily life inside. I launched what became the UCLA Law COVID Behind Bars Data Project because, in that historical moment, I felt compelled to do so and could not have imagined doing anything else.

This normative background still leaves open the question of how, as a practical matter, the Data Project came together as an effective, functioning organization. Later, when the emergency abated somewhat and there was time to reflect, I came to recognize several factors that made possible the emergence and ultimate shape of the Project, factors I explore later in this Essay.<sup>43</sup> But at the time, at least in terms of the actual day-to-day, it felt as if one minute I was sharing a spreadsheet link with the prisoners' rights listserv, and the next minute I was collaborating with an enormous team of people in a shared mission to gather as much data as possible about COVID behind bars and make it available to whoever wanted to access it.<sup>44</sup>

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40. See, e.g., Sharon Dolovich, *Prison Conditions*, in 4 REFORMING CRIMINAL JUSTICE: PUNISHMENT, INCARCERATION, AND RELEASE 261 (Erik Luna ed., 2017) [hereinafter *Prison Conditions*]; Sharon Dolovich, *Two Models of the Prison: Accidental Humanity and Hypermasculinity in the L.A. County Jail*, 102 J. CRIM. L. & CRIMINOLOGY 965 (2012) [hereinafter *Two Models*]; Sharon Dolovich, *Strategic Segregation in the Modern Prison*, 48 AM. CRIM. L. REV. 1 (2011) [hereinafter *Strategic Segregation*]; Sharon Dolovich, *Creating the Permanent Prisoner*, in LIFE WITHOUT PAROLE: AMERICA'S NEW DEATH PENALTY? (Charles Ogletree & Austin Sarat eds., 2012); Sharon Dolovich, *Foreword: Incarceration American-Style*, 3 HARV. L. & POL'Y REV. 237 (2009) [hereinafter *Incarceration American-Style*].

41. See, e.g., Dolovich, *The Failed Regulation*, *supra* note 33.

42. See, e.g., *id.*; Sharon Dolovich, *The Coherence of Prison Law*, 135 HARV. L. REV. F. 302 (2022) [hereinafter *Coherence of Prison Law*]; Sharon Dolovich, *Forms of Deference in Prison Law*, 24 FED. SENT'G REP. 245 (2012); Sharon Dolovich, *Canons of Evasion in Criminal Constitutional Law*, in THE NEW CRIMINAL JUSTICE THINKING 111 (Sharon Dolovich & Alexandra Natapoff eds., 2017) [hereinafter *Canons of Evasion*].

43. See *infra* Part III.

44. These initial efforts benefited hugely from the help and support of many staff members at the UCLA School of Law. Ben Nyblade, then the director of our Empirical Research Group, made himself available as an informal advisor from the start. UCLA IT staff and website managers stepped in to help us manage the spreadsheet and get our growing number of volunteer team leads into the system. Here is just one example of the considerable contribution members of the UCLAW staff made to our efforts during the initial days of the project: On March 29, 2020, Judith Resnik reached out. She had been hearing from federal

It did not take long before we saw the need for someone with data science expertise on the team. As was emblematic of that time, this idea had barely formed when I received an email, dated March 25, forwarded to me by my UCLA colleague Dave Marcus. Dave had a college friend named David Menschel who now runs the Vital Projects Fund (VPF), a foundation supporting criminal justice reform efforts across the United States. David had seen our work and wanted to know if we needed any financial help.<sup>45</sup> The generous initial support we received from David and VPF ultimately made it possible for us to grow into what we eventually became.<sup>46</sup> Why had the email come to Dave Marcus and not to me? When we initially created the link and I shared it with the listserv, I had thought of it solely as a tool to help the advocacy community. Although subsequent events made clear that we were reaching a much broader constituency, I was too busy managing the effort while continuing my day job of full-time law teaching to give much thought to what we were building. As a result, it had never occurred to me to put either my name or the name of UCLA School of Law on the spreadsheet itself. Because Keegan—a UCLA law student—had created the Google Sheet, his email was attached to it, and VPF used that clue to track us down.

Around this time, I had begun talking about our growing data-collection efforts with my colleague Aaron Littman. In the fall of 2019, after several years litigating prison conditions in Georgia and Alabama with the Southern Center for Human Rights, Aaron had arrived at UCLA as a Binder Clinical Teaching Fellow and launched our first in-house prisoners' rights clinic.<sup>47</sup> Aaron has a deep well of subject-matter expertise

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judges who were feeling at sea and uncertain of how to approach the many petitions they were receiving from incarcerated claimants asking for relief of all kinds in light of COVID. We had our case filings tab by then, but some judges were finding it challenging to navigate. Could we set up a quick link for judges, which would allow them easy access to the cases they sought? We immediately mobilized, bringing together Ben Nyblade, Rebecca Fordon from the law library, Dave Cappoli, who runs the law school's website, and Scott MacKnight, who heads up UCLA's IT department. In less than a week, we had a shortcut on our UCLA Law webpage that took judges to a page that allowed them to access cases organized by state/federal, individual claims/class actions, petitions for release, and petitions for mitigation. The speed with which this link was created reflected the degree to which people at the law school, recognizing the urgency of the moment, were prepared to step up and help make things happen.

45. E-mail from Marlena Williams, Outreach Dir., Vital Projects Fund, to David Marcus, Professor of L., UCLA Sch. of L. (Mar. 25, 2020, 21:37 PST) (on file with author).
46. David Menschel is deeply committed to transforming the American criminal legal system and achieving true criminal justice. He has supported innumerable efforts to effect change in this space, and it is no exaggeration to say that, had it not been for him and the Vital Projects Fund, we would never have lasted so long or grown into what we eventually became.
47. Aaron is now Assistant Professor of Law at UCLA. In the very first weeks of the pandemic, while I was launching what became the Data Project, Aaron had undertaken his own data mobilization efforts. Recognizing the urgent need for decarceration in the face of the pandemic, he compiled a 50-state survey of all

and also some knowledge of data science, which I lacked. He also, as it happened, knew David Menschel and so joined our initial conversations about funding. We asked David for the money to hire two full-time data scientists for an initial period of six months each. By the time we had posted for these positions and were receiving what became a deluge of applications (these were the early days of the COVID lockdown and many people with data science skills appeared to be seeking meaningful work), Aaron had become my partner in the project. Before long, we had christened him Deputy Director and our growing effort had a name that, thanks to my lack of marketing experience, was far too long and unwieldy: the UCLA Law COVID-19 Behind Bars Data Project.<sup>48</sup>

With the seed funding provided by VPF, we hired Michael Everett and Chase Hommeyer as our inaugural data science fellows. We had intended to put the pair immediately to work building web scrapers to free up Grace and Kalind, who were continuing to share the daily task of transferring the COVID data from DOC websites to our facility-level data page. This effort was delayed by a proposal that we merge our data collection efforts with those of a team in Philadelphia, which had built its own scrapers for this purpose. By the time the negotiations around this merger fell apart, it was June 2020, and Grace and Kalind were completely tapped out.

So we mobilized. We put together an ad hoc web-scraper boot camp team comprised of Chase, Kalind, Michael, and Aaron along with two other talented coders who were serendipitously available to assist us in this mission. The first was Cooper Mayne, a rising UCLA 2L, whom we had hired as a summer research assistant to begin analyzing the abundance of case law decided in the first months of the pandemic. When we learned that, before he came to law school, Cooper had worked as a professional web scraper, we temporarily reassigned him to join the boot camp web-scraping team. Cooper proved to be our ringer, developing at least 15 of the most challenging scrapers. Rounding out the group was Isaac Dienstag, a talented high school senior with coding expertise who had volunteered with us since the early days of the project. After a week of intense work, we had our scrapers, and Kalind and Grace were released almost completely<sup>49</sup> from manual data transfer purgatory.<sup>50</sup>

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existing statutory release powers enjoyed by various state actors with control over decisions to incarcerate. This database also circulated widely in the first weeks of the pandemic and became the first external resource we listed on the Additional Resources tab in our initial spreadsheet. See *Resources, UCLA Law Spreadsheet of Statutory Release Powers in the Fifty States*, UCLA LAW COVID BEHIND BARS DATA PROJECT, <https://uclacovidbehindbars.org/resources> [<https://perma.cc/5LA4-AA26>].

48. Eventually, we dropped the “-19” and became the UCLA Law COVID Behind Bars Data Project.

49. Some state DOCs posted their data in forms other than a scrapeable dashboard. For these states, manual data transfer persisted.

50. At this point, Kalind joined Chase and Michael on our new data team, which focused on running the scrapers, cleaning and posting the data, and fielding

The Vital Projects Fund continued to support our work, and we received considerable in-kind support from the UCLA School of Law, which, among other things, made it possible for us to onboard and administer so many new staff members so quickly. We also obtained funding from Arnold Ventures which, along with facilitating new hires, allowed us to begin constructing what became our interactive website.<sup>51</sup> In addition, in September 2020, we finalized a contract with the CDC, which had been relying on our data to populate its COVID prison tracker. We had met with the CDC COVID corrections response team multiple times in the late spring and summer of 2020. When their team realized the limited nature of our resources, they began the internal CDC process of seeking financial support for us. With this funding in place, we were able to bring on more full-time staff and our capacity grew, as did our output. By the end of 2020, in addition to our core COVID data-gathering work, we had, among other initiatives, launched our website,<sup>52</sup> started our blog,<sup>53</sup> begun work on our data transparency scorecard,<sup>54</sup> developed our own in-house public records practice,<sup>55</sup> and crafted a social media strategy.<sup>56</sup> With our growing team of data scientists—which by the end of 2020 had grown to 4 full-time staff<sup>57</sup>—we found we had the bandwidth to provide data science support to our five volunteer-led teams (releases, youth facilities,

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the daily questions we were receiving from journalists and others. Grace meanwhile turned to leading the team of volunteers coding the thousands of COVID policies issued by corrections agencies since the start of the pandemic, the capturing and saving of which Grace had presciently organized using a small army of volunteers. That effort became our Prison Policy Index. See Grace DiLaura et al., *COVID Prison Policy Index: Version 1.0* [dataset]. Los Angeles, CA, CPPI, 2022. <https://doi.org/10.25346/S6/B5GOLX>.

51. This initiative was spearheaded by Liz DeWolf. We had initially hired Liz as our Stakeholder Relations Manager, but she quickly became our de facto Senior Project Manager. Working with hyperobjekt, our web designer, to create our own interactive website was just one of multiple complex projects Liz undertook on behalf of the Project during her time with us.
52. See UCLA LAW COVID BEHIND BARS DATA PROJECT, <https://uclacovidbehindbars.org/> [<https://perma.cc/ZG7F-U3U4>].
53. See UCLA LAW COVID BEHIND BARS DATA PROJECT: BLOG, <https://uclacovidbehindbars.org/blog>.
54. For more on this initiative, see *infra* Part IV.
55. This effort was initiated and led by one of our first Data Science Fellows, Michael Everett, early in his time with the Data Project. Over the years, it became central to our work. Part of this effort was directed towards compiling as much data as possible on all deaths in custody, whether from COVID or other causes. As I explain in Part IV, this piece of the remarkable data repository Michael has built through his dedicated public records work has come to assume national importance. It also constitutes the foundation of our current focus on all-cause carceral mortality.
56. See *supra* note 12.
57. By the end of 2020, the members of our data team were Michael Everett, Hope Johnson, Neal Marquez, and Erika Tyagi. They were a truly remarkable group, and it is hard to overstate the collective contribution they made to the success of the Project.

immigration detention, court orders, and grassroots organizing). Each “sub-team” (as we sometimes called them) was assigned a member of the data team, who helped them effectively capture, manage, analyze, and present their data. All these sub-teams also had as many part-time volunteers as they could manage. Without volunteers, we could have not come close to doing all we did. With everything happening so fast, we did not start keeping track of how many people were volunteering their time on the Project until September 2020. At that time, in addition to our 11 team leads,<sup>58</sup> there were 65 active volunteers working with us. By March 2021, that number had grown to exceed 100.<sup>59</sup> Although the precise number of volunteers remained a moving target, our best guess is that, over the life of the Project, the total was close to 325.<sup>60</sup>

As the pandemic evolved, so did our work. By early 2021, along with the rest of the world, we expanded our focus to include the vaccine roll-out.<sup>61</sup> Among other things, we contributed to the vaccine education effort directed at people in custody<sup>62</sup> and collected signatories for a let-

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58. The leads of our sub-teams began as volunteers. Starting in the summer of 2020, we were able to provide each person in this position a monthly stipend as recognition of their substantial contributions to the Project.

59. See Appendix (Project Org Chart, March 9, 2021).

60. Most of these volunteers were law students or undergraduates at UCLA. Our volunteer corps also included people from all over the country—many undergraduates and law students at other schools, along with, among others, graduate students in data science and other STEM subjects, practicing lawyers, high schoolers, and retirees. This number does not include the students at Columbia Law School, who worked as volunteers coding the COVID cases for the Health Is Justice Litigation Hub, on which we partnered with Columbia Law School, Bronx Defenders, and Zealo.us. See *supra* note 38. I say more about our system for efficiently onboarding and deploying volunteers in Part III.

61. See, e.g., Joshua Manson, *Who’s Getting the Vaccine Behind Bars?*, UCLA LAW COVID BEHIND BARS DATA PROJECT: BLOG (Feb. 18, 2021), <https://uclacovidbehindbars.org/blog/vaccine-rollout> [<https://perma.cc/3YQV-W4ZY>]; Joshua Manson, *Data Project Adds Vaccine Counts to Data Dashboard*, UCLA LAW COVID BEHIND BARS DATA PROJECT: BLOG (Mar. 9, 2021), <https://uclacovidbehindbars.org/blog/vaccine-dashboard-data> [<https://perma.cc/A246-HTPJ>]; Erika Tyagi & Liz DeWolf, *The Challenges of Interpreting Vaccination Data Reported by Carceral Agencies*, UCLA LAW COVID BEHIND BARS DATA PROJECT: BLOG (June 23, 2021), <https://uclacovidbehindbars.org/blog/vaccinedata> [<https://perma.cc/FBR3-7E27>].

62. See Maya Chaudhuri, Sharon Dolovich & Aaron Littman, *Urgent Need for Vaccine Administration in Prisons, Jails, and Detention Centers*, PRISON LEGAL NEWS (Feb. 1, 2021), <https://www.prisonlegalnews.org/news/2021/feb/1/urgent-need-vaccine-administration-prisons-jails-and-detention-centers> [<https://perma.cc/7VAK-Y4AL>]; Maya Chaudhuri, *Vaccine Guide in Prison Legal News*, UCLA LAW COVID BEHIND BARS DATA PROJECT: BLOG (Feb. 16, 2021), <https://uclacovidbehindbars.org/blog/pln-vaccine> [<https://perma.cc/DE7G-Q242>]; Marc F. Stern et al., *Willingness to Receive a COVID-19 Vaccination Among Incarcerated or Detained Persons in Correctional and Detention Facilities—Four States, September–December 2020*, 70 MORBIDITY & MORTALITY WKLY. REP. 473, 473–77 (Apr. 2, 2021), <https://pubmed.ncbi.nlm.nih.gov/33793457> [<https://perma.cc/8SFK-GNJH>].

ter, ultimately signed by more than 480 experts in medicine and public health, advocating vaccine priority for the incarcerated.<sup>63</sup> We also tracked the emergence of new variants,<sup>64</sup> and when Delta and Omicron exploded onto the scene, we put all our efforts into crafting a response.<sup>65</sup> And as the quality of the data reported by corrections agencies—never high to begin with<sup>66</sup>—began to deteriorate, we did all we could to call attention to that decline<sup>67</sup> while pressing for improved data transparency across prisons, jails, and detention centers.<sup>68</sup>

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63. See Letter from UCLA Law COVID Behind Bars Data Project, to CDC's Advisory Committee on Immunization Practices, State Governors, and State and Local COVID-19 Vaccination Program Planning and Coordination Committees, COVID-19 Vaccination Recommendation (Dec. 17, 2020) (<https://docs.google.com/document/d/1RlZ5lCDHLCJ4Pnhl0mdNI3VeRSuBu8QWbIRtjXu6zN0/edit>) [<https://perma.cc/4VJ5-ZGKA>].
64. See, e.g., Sharon Dolovich & Poornima Rajeshwar, *SARS-COV-2 Variants Go to Prison: What Now?*, UCLA LAW COVID BEHIND BARS DATA PROJECT: BLOG (Apr. 7, 2021), <https://uclacovidbehindbars.org/blog/covid-variants-in-prison> [<https://perma.cc/83SF-GTW6>].
65. See, e.g., Hope Johnson et al., *As the Delta Variant Causes New Outbreaks in Prisons, Now Is the Time for More Transparency, Not Less*, UCLA LAW COVID BEHIND BARS DATA PROJECT: BLOG (Jul. 30, 2021), <https://uclacovidbehindbars.org/delta-data-transparency> [<https://perma.cc/MB75-4WZ8>]; Amanda Klonsky, Hope Johnson & Lauren Woyczynski, *Failure to Decarcerate Jails Has Led to Unnecessary Deaths and Widespread Infection During Omicron Surge*, UCLA LAW COVID BEHIND BARS DATA PROJECT: BLOG (Mar. 18, 2022), <https://uclacovidbehindbars.org/jails-omicron> [<https://perma.cc/D32K-L5UU>]; Amanda Klonsky & Hope Johnson, *As Omicron Surges in State and Federal Prisons, Incarcerated People Remain Vulnerable*, UCLA LAW COVID BEHIND BARS DATA PROJECT: BLOG (Feb. 3, 2022), <https://uclacovidbehindbars.org/omicron-surge> [<https://perma.cc/QHJ7-BR34>].
66. See Liz DeWolf, Poornima Rajeshwar & Erika Tyagi, *Missing the Mark: Data Reporting & Quality Scorecard*, UCLA LAW COVID BEHIND BARS DATA PROJECT: BLOG (Mar. 17, 2021), <https://uclacovidbehindbars.org/blog/scorecard> [<https://perma.cc/8EWP-XBXG>] [hereinafter *Missing the Mark*].
67. See Sharon Dolovich, Erika Tyagi & Neal Marquez, *The States That Lead the Nation in COVID Cases Are Hiding Their Prison Data*, UCLA LAW COVID BEHIND BARS DATA PROJECT (Aug. 20, 2021), <https://uclacovidbehindbars.org/delta-surges-hiding-data> [<https://perma.cc/46XH-ND6K>] [hereinafter *The States That Lead the Nation*]; Baji Tumendemberel & Bennett Stein, *21 States and D.C. Have Stopped Reporting Active COVID Cases in Prisons, Despite Active Community Outbreaks*, UCLA LAW COVID BEHIND BARS DATA PROJECT (Oct. 18, 2022), <https://uclacovidbehindbars.org/lacovidbehindbars.org/oct22scorecard> [<https://perma.cc/38V3-QECB>]; Lauren Woyczynski & Joshua Manson, *What We Won't Know When the Next Surge Arrives*, UCLA LAW COVID BEHIND BARS DATA PROJECT (May 9, 2022), <https://uclacovidbehindbars.org/what-we-wont-know> [<https://perma.cc/964P-XMAX>].
68. See Amanda Klonsky, Neal Marquez & Lauren Woyczynski, *Jails Should Be Prioritized for Surveillance of New COVID Variants*, UCLA LAW COVID BEHIND BARS DATA PROJECT (Nov. 4, 2022), <https://uclacovidbehindbars.org/jails-surveillance-covid> [<https://perma.cc/F4JZ-7RUD>]; UCLA Law COVID Behind Bars Data Project Team, *The Federal Government Doesn't Know How Many People Died in Prison Since the Pandemic Began*, UCLA LAW COVID BEHIND BARS DATA PROJECT (Oct. 31, 2022), <https://uclacovidbehindbars.org/>

Over the life of the Project, the data we collected helped to frame the national conversation on COVID in custody. By the end of 2022, it had been cited in more than 300 media stories and reports and was receiving up to 5000 unique views per day on the CDC COVID data tracker. As already noted, our data visualizations were seen by nearly 50,000 Twitter users. Public defenders relied on our data in countless court filings. Activists used it as the foundation for legislative testimony and open letters to governors. Academics, in collaboration with members of our team, used it to produce landmark research unmistakably demonstrating the scale of the COVID crisis in American prisons.<sup>69</sup> In addition to this public facing output, many other facets of our work took place behind the scenes: countless meetings with government agencies, policymakers, and other nonprofits; collaborations with grassroots organizations; investigations into hidden COVID deaths in custody<sup>70</sup>; advocacy around improved carceral data transparency; and our oral history project, which created an archive of interviews with prison litigators about their experience representing incarcerated people during the pandemic.<sup>71</sup>

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PSI-committee-hearing [<https://perma.cc/PGH3-LJUY>]; Elif Yücel, *Tracking the Transparency of COVID Data in Juvenile Justice Facilities*, UCLA LAW COVID BEHIND BARS DATA PROJECT (Oct. 3, 2022), <https://uclacovidbehindbars.org/youth-facility-transparency> [<https://perma.cc/38VJ-RSH8>].

69. See, e.g., *COVID-19 Cases and Deaths*, *supra* note 7; *COVID-19 Incidence and Mortality*, *supra* note 7; Ward et al., *supra* note 7. This research was produced in partnership with Brendan Saloner and Julie Ward of the Johns Hopkins Bloomberg School of Public Health. This fruitful collaboration began in the earliest days of the pandemic, when Brendan, having seen our spreadsheet, reached out to ask about using our data in his own research. His overture and subsequent work as the lead author of our first published study made it possible for us to quantify the reality of COVID's impact on the incarcerated, which in turn helped give the issue considerable national traction.
70. This work was commenced in the first year of the Project by Victoria Rossi, our investigator. See, e.g., Victoria Rossi, *Prisons Mistreat Loved Ones' Belongings After Their Deaths, Some Families Say*, UCLA LAW COVID BEHIND BARS DATA PROJECT (Mar. 3, 2021), <https://uclacovidbehindbars.org/blog/prisons-mistreat-loved-ones-belongings-after-death> [<https://perma.cc/NPL5-V3W8>]. It was pursued over the life of the Project by Data Science Fellow Michael Everett, as described in Part IV below.
71. See Eireann O'Grady, *Capturing a Piece of History: Stories from Advocates Who Lawyered on Behalf of Incarcerated Individuals During the COVID Pandemic*, UCLA LAW COVID BEHIND BARS DATA PROJECT (Jan. 26, 2023), <https://uclacovidbehindbars.org/oral-history-blog> [<https://perma.cc/3H9G-5C59>]. Other organizations—including [prisonpandemic.org](https://prisonpandemic.org), spearheaded by Keramet Reiter and her team at UCI, and *Mourning our Losses*, an all-volunteer organization dedicated to memorializing everyone living or working in carceral facilities who lost their lives to COVID—were doing the vital work of capturing and recording the experience of people incarcerated during the pandemic. PRISON PANDEMIC, <https://prisonpandemic.uci.edu> [<https://perma.cc/5TZQ-A3GF>]; MOURNING OUR LOSSES, <https://www.mourningourlosses.org> [<https://perma.cc/QH3G-UZUU>]. Given our limited resources and our location in a law school, we decided to focus on the lawyers, which would create a record of interest to those who practice and study public interest law.

The speed with which the Data Project exploded into being and the relentlessness of the work made it impossible in the moment to reflect too deeply on our organizational design, management, or strategy. But as the crisis has ebbed, there has been time to consider how we were able to do all we did in such a short time and with such limited resources. Much of my motivation in writing this Essay is to share what I regard as the factors that made our work possible, in the hope that others inclined to launch social justice organizations, both inside and outside the academy, might find useful lessons from our experience.

## II. Why a Law School?

I begin with our location. Some observers of our work might wonder: What was an initiative reliant on data science and dedicated to gathering and analyzing data on prisons, jails and detention centers doing in a law school? Why did this enterprise not emerge from a criminology department or a policy school, perhaps in conjunction with colleagues in STEM?<sup>72</sup>

In fact, the Data Project arose and flourished, not despite its home in the legal academy, but because of it. At every level, our undertaking was infused with the insights a legal education provides. By studying legal cases, law students develop a deep and organic understanding of where power resides in the American legal and political system—knowledge essential to meaningful change. Lawyers understand political institutions: how they operate, how they fit together, where the authority comes from and how it gets exercised. Data science offers a set of skills that may be mobilized in the service of understanding social and political phenomena. First, however, it is necessary to know the questions to ask and where to look for answers. Over the life of the Project, the lawyer's inherent grasp of the operation and arrangements of state power formed the foundation for all our decisions: what steps we ought to take, what inputs we required and where to find them, to whom we should reach out, and how to best help those who reached out to us. Those who contacted us for help included lawyers bringing all manner of claims, journalists trying to convey what was happening in real time, and actors from every level of government. Every single day, in all our work, we drew on the deep institutional understanding a legal education brings.

Lawyers, moreover, care about facts. We instinctively seek not just a vague, general sense of what is going on, but the specific, concrete details. Given this ingrained instinct, it is no accident that it was lawyers who saw the value of tracking multiple data metrics bearing on COVID in custody. Lawyers are also trained to think laterally, to analyze with rigor and precision and to recognize quickly which dynamics matter and

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72. *Supra* discussion in Part I. As Part I explained, one part of our work was focused on coding the judicial opinions bearing on COVID in custody. But that undertaking was an artifact of the Project's location in a law school, not the driving reason for it.

which players outside the law are necessary partners in any enterprise. We regularly deployed these skills day to day and in shaping the Project as it grew. And we not infrequently had cause to be grateful for the legal training of so many of our volunteer corps, on whom we grew increasingly dependent for the success of many of our initiatives. Our law student volunteers brought to the table more than a knowledge of the law; we also relied on their analytical rigor, their attention to detail, and their ingrained understanding of state institutions and how they work.

And there is yet another aspect of the legal academy that, although seemingly arcane, played a significant role in the emergence, orientation, and success of our efforts: the ecumenical character of legal scholarship. Law schools are famously dichotomous. They are professional schools, training the next generation of legal practitioners. They are also academic institutions, in which law professors produce abstract and theoretical work with no necessary direct relevance to legal practice. Today, many American law professors have PhDs in the humanities and social sciences, and interdisciplinary scholarship bearing on legal themes is not only tolerated but affirmatively welcomed. My own writing is emblematic. Although I am licensed to practice law in two states, I have never represented a client or tried a case. My graduate training is in political theory, and a good part of my work is highly theoretical and overtly normative, focused on the fundamental question of what the state owes the people we incarcerate. I have approached this inquiry from various angles,<sup>73</sup> and in each instance, I have been less interested in what courts or legislators might realistically be convinced or expected to do<sup>74</sup> and more concerned with what the state officials who function within the various branches of government *ought* to do—an exceedingly impractical question.<sup>75</sup> Yet my scholarly work positioned me perfectly to lead the Data Project—a very practical, entirely policy-oriented effort.

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73. Methodologically, my approach has ranged from policy assessment to doctrinal analysis to qualitative empirical research to what might be thought of as pure political theory. See Sharon Dolovich, *State Punishment & Private Prisons*, 55 DUKE L.J. 437 (2005) [hereinafter *Private Prisons*] (policy assessment); *Prison Conditions*, *supra* note 40 (policy assessment); Sharon Dolovich, *Evading the Eighth Amendment: Prison Conditions and the Courts*, in THE EIGHTH AMENDMENT & ITS FUTURE IN A NEW AGE OF PUNISHMENT 133 (William Berry & Meghan Ryan eds., 2020) (doctrinal analysis); Sharon Dolovich, *Cruelty, Prison Conditions, and the Eighth Amendment*, 84 N.Y.U. L. REV. 881 (2009) [hereinafter *Cruelty*] (doctrinal analysis); *Strategic Segregation*, *supra* note 40 (qualitative empirical research); *Two Models*, *supra* note 40 (qualitative empirical research); Sharon Dolovich, *Legitimate Punishment in Liberal Democracy*, 7 BUFF. CRIM. L. REV. 307, 314 (2004) [hereinafter *Legitimate Punishment*] (political theory).

74. Unless it is to critique current practice. See, e.g., *The Coherence of Prison Law*, *supra* note 42.

75. See *Legitimate Punishment*, *supra* note 71, at 314 (defining as liberal democracies those polities claiming a commitment to the “baseline liberal democratic values,” including “individual liberty, dignity and bodily integrity, limited government, and the primacy and sovereignty of the individual” and arguing that “on this definition, the United States, the political life of which is routinely punctuated

There are two features of my academic writing that explain this seeming paradox, both of which bear on the value of legal scholarship and how it can enhance the potential of law schools and legal academics to play a leading role in the push for social and political change. The first is grounded in the lawyer's commitment to facts. However abstract or theoretical my work, the touchstone of all I have written has been the concrete reality of life as experienced by the people we lock away. This foundation in the actual is by design. As I see it, we cannot grasp the implications of our current regulatory structure or imagine alternative approaches unless we understand the ways incarceration dehumanizes, degrades, and brutalizes the fellow human beings who live it every day. The Data Project's mission of gathering as much information as possible regarding the on-the-ground impact of COVID on those held in carceral facilities naturally emerged from my longstanding commitment to understanding and acknowledging the suffering of people inside and to wrestling with how best to alleviate that suffering.

The second way my scholarly writing drove the Data Project stems directly from its manifestly normative character. For me, the universal recognition of shared humanity is the defining moral imperative of collective life. Its application to the prison context seems both straightforward and incontestable: the people we lock behind bars are fellow human beings and fellow citizens who by virtue of this status alone must be treated as within society's moral circle. This commitment guides everything I write. For more than two decades, I have mapped the way a failure of such moral recognition is baked into the laws, policies, and politics regulating the American carceral state.<sup>76</sup> As a direct result of this work, when the pandemic hit, I was already acutely aware of the many ways callous indifference to prisoners' humanity has long shaped the regulation and oversight of American prisons and jails. I was consequently positioned to immediately understand the web of institutional and legal forces sure to array themselves against any efforts to shield people inside from the disproportionate risk of COVID infection and death they were sure to face. This understanding, coupled with my long-standing commitment to the equal moral worth of all people, motivated every step I took from the moment I first shared that two-tab spreadsheet and throughout the life of the Data Project.

As I have explained, I was not guiding this effort alone. My partner in leading the Project, Aaron Littman, came to UCLA as an experienced prison litigator with a practical skillset I lacked. Aaron's deep practical/institutional knowledge, wholly informed by the same moral

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with the rhetorical invocation of these very values, qualifies as an aspiring liberal democracy”).

76. See, e.g., Sharon Dolovich, *Exclusion and Control in the Carceral State*, 16 BERKELEY J. CRIM. L. 259 (2011); *Cruelty*, *supra* note 71; *Failed Regulation*, *supra* note 33; Dolovich, *The Coherence of Prison Law*, *supra* note 42; *Incarceration American-Style*, *supra* note 40.

commitments that ground my own work, proved vital to our success at every level. Our complementary understandings and shared knowledge base embody the combined strengths of the American law school more generally and positioned us as effective co-stewards of the Data Project as it grew.

In those early pandemic days, we were hardly the only ones who mobilized. To the contrary, we joined a broad network of actors and organizers—some ad hoc like us, others more long-standing—who collectively recognized a humanitarian crisis in the making and felt an urgent need to respond. This was an all-hands-on-deck moment. Our embeddedness in this network and the unique role we were able to play in this massive shared effort helped to demonstrate what scholars of law and social movements have long been arguing: law and lawyers can have the greatest impact on the push for social justice if we understand and recognize ourselves as partners in a broader community of actors, working in concert with—and guided by the priorities and experiences of—the people most directly impacted by the social and political forces we aim to shift.<sup>77</sup> Our experience also makes a strong case that the law school approach of combining the theoretical/normative with the practical/hands-on can offer tremendous payoff in the service of social justice.

In the push for decarceration and other policy responses to the crisis of COVID in custody, the Project did not play the part of a traditional lawyer. We were not in court litigating on behalf of incarcerated clients; indeed, we had no clients. Instead, our role may best be understood as a species of what Scott Cummings, in his rich analysis of movement lawyering, has called “integrated advocacy.”<sup>78</sup> Through this approach, lawyers pursue all available strategies “to maximize political pressure and transform public opinion.”<sup>79</sup> As part of a national effort, our strategy of choice was not litigation, but compiling as much data as possible to support the litigators and others seeking to publicize the crisis and keep prisoners safe.

But even here, our experience sits somewhat outside the model. The fight to protect the incarcerated from COVID infection and death was not the sort of strategically coordinated campaign, led by what Cummings calls “mobilized clients,” that typically comes to mind in discussions of movement lawyers.<sup>80</sup> Unlike, say, the push for marriage equality (per-

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77. See, e.g., Gerald P. López, *Shaping Community Problem Solving Around Community Knowledge*, 79 N.Y.U. L. Rev. 59, 60 (2004) (describing “the importance of community knowledge to effective community problem solving of all sorts, seen from diverse perspectives—nonlegal, legal, and both.”).

78. Scott Cummings, *Movement Lawyering*, 2017 U. ILL. L. REV. 1645, 1695–96 (2017).

79. *Id.* at 1696.

80. *Id.* at 1660 (“By aligning with mobilized clients, movement lawyering embraces a strong version of lawyer accountability to democratically led collectives that themselves claim to stand in for broader constituency interests.”); *id.* at 1691 (explaining that movement lawyering “depends on lawyer accountability to

haps the archetypal instance of such coordinated efforts),<sup>81</sup> the response to COVID in custody was far more hastily constructed, with nodes of advocacy independently bursting forth around the country. The immediate goal of all this activity was plain: to minimize as much as possible the harmful impact of COVID on incarcerated people. Any coordination among disparate efforts occurred only once people had begun pursuing their chosen strategy and somehow found the bandwidth to look around and begin building connections with others rowing in the same direction. And even then, it was less about coalition building among the many players—advocates, activists, journalists, family members, grass roots organizers, and others—who had independently carved out a role in the fight, and more about supporting each other as best we could while trying to keep our heads above water. In this collective effort, the Data Project played a dual role. We were one advocacy shop among many. And we were also enablers of the whole emergent network, as the urgent need for data defined virtually every strategy pursued on behalf of the incarcerated during the pandemic.

The experience of the Data Project highlights the possibility of a more expansive role for lawyers and law schools in responding to urgent crises of social justice. But more than this, it reveals the potential for crisis mobilization that can emerge from an institutional confluence of legal training, resources (both financial and human), and subject-matter expertise. Today's law schools are frequently sites of such potential, often crystalized in programs, projects, or centers. Enterprises of this sort have proliferated in American law schools in recent years, as academics with expertise in real world issues have oriented their efforts towards knowledge dissemination and specialized training for students in the service of policy change.

Just such an initiative lies at the root of the UCLA Law COVID Behind Bars Data Project. Over the past decade, the UCLA School of Law has become nationally recognized for our rich programming and deep curricular offerings bearing on the law, policy, and operation of the American carceral state. The UCLA Prison Law and Policy Program, a hub for multiple initiatives at the law school bearing on these issues, has made us a destination for JD, LLM, and MLS candidates who care about the treatment of people caught up in the criminal legal system, both while they are in custody and once they are released. As a result, as I had hoped when I first launched the Program, a commitment to issues of carceral law and policy has become encoded in the DNA of UCLA Law, with the effect that all members of the community—students, faculty, and

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mobilized clients that play a leadership role in social change campaigns”).

81. See, e.g., Scott L. Cummings & Douglas NeJaime, *Lawyering for Marriage Equality*, 57 UCLA L. Rev. 1235 (2010); Nan D. Hunter, *Varieties of Constitutional Experience: Democracy and the Marriage Equality Campaign*, 64 UCLA L. Rev. 1662 (2017); Tom Watts, *From Windsor to Obergefell: The Struggle for Marriage Equality Continued*, 9 HARV. L. & POL'Y REV. ONLINE 552 (2015).

staff—recognize this set of concerns as integral to the life and mission of the school. Having laid this programmatic groundwork, we were able to mobilize quickly and efficiently when COVID hit, confident we had the institutional and cultural support required to make the gambit a success. Other law schools will have different signature issues that could drive similar efforts in other contexts. But if any law school was likely to become a site for an energized collective response to the specific aspect of COVID on which we focused, it was UCLA.<sup>82</sup>

### III. Tracking a Pandemic Behind Bars: What We Got Right and Lessons Learned

The clichéd descriptions of pandemic response—drinking from a fire hose, building the plane while flying it—very much applied to the Data Project. There was much we did that was less than ideal, not least having no dedicated executive director, which forced our full-time staff to wait until Aaron or I could carve out time from our other institutional responsibilities to provide needed supervision and guidance. This problem often slowed us down, causing the members of our staff unnecessary frustration and almost certainly costing us in terms of opportunities lost, initiatives stalled, and timeliness of responses compromised.

Still, there were many things we got right, which allowed us to grow rapidly yet efficiently and to accomplish all we did in such a short time. In this Part, in no particular order, I identify some aspects of our approach that enabled us to succeed in those components of our work that met or exceeded our expectations. Some of this success was no doubt a function of the pandemic itself—had there not been a society-wide lockdown, it is unlikely we could have recruited the army of part-time volunteers that wound up providing crucial support. But on reflection, it is possible to identify several features of our organizational approach that were not pandemic-dependent and which may have traction more generally for other efforts not undertaken during a global viral emergency.

1. *A Clear Mission:* As Part I indicated, it was not obvious in the earliest days of the pandemic what shape the Project would eventually take. Even so, from the moment the spreadsheet expanded, I found myself with a clear twofold mission. The first aim was to gather in one place as much data as possible concerning the impact of COVID behind bars for the use of any party wanting to help protect—ideally through decarceration—the people then locked inside. The second purpose was more long-term. It was clear from the start that COVID was a world-historic event on the order of the world wars of the twentieth century. And as with those other global crises, people would be studying and analyzing every aspect of the

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82. I thank Scott Cummings for helping me recognize the way the UCLA Prison Law and Policy Program and its long-standing role in the law school ecosystem seeded the ground for the Data Project, making it possible for us to mobilize quickly and effectively from the very start of COVID.

pandemic for decades to come. Our repository, I felt, should be a locus for future research, a rich source of as much real-time data as possible for those researchers and journalists who, once the pandemic was over, would be looking to make sense of what happened in carceral facilities during COVID.<sup>83</sup> Keeping this two-track mission top of mind was a source of great clarity as the Project grew and changed. It allowed us to readily see which opportunities and proposals of the many that emerged were ones we should pursue and which we should leave for others.

2. *A Guiding Ethos:* As has already been noted, from its inception, the Data Project was grounded in fundamental normative commitments regarding the shared humanity of people in custody and society's consequent obligation to protect the incarcerated from unnecessary harm. These moral commitments constituted our North Star, shaping our work at all levels, including our insistence on enhanced data quality and transparency and our commitment to decarceration as the most appropriate way to reduce the COVID risk inside.<sup>84</sup> But there were other, more practical guiding principles that emerged from the work and helped us make decisions on the fly, trusting that we were getting things right. One central example concerned the data itself. It is standard practice for university research labs to treat their data as proprietary, so that those who collect or compile it will have exclusive access to the analysis and publication of any findings. But we were not in this work for scholarly credit. What mattered was that the data be shared and analyzed, and its implications widely understood as quickly as possible. From the start, we had a mantra: the data wants to be free. Anyone who reached out to ask if they might use any of our posted data in their own research got an immediate answer in the affirmative. And once our web scrapers were up and running, we made it our practice to clean and post all our quantitative data in CSV files on GitHub,<sup>85</sup> accessible to anyone wanting to study it. Our data mantra, born of our mission, was wonderfully clarifying during a period offering so little time for reflection.

3. *Horizontal Structure:* As Part I explained, our organization was built on the fly. There was so much to do, and it was all coming at us so quickly, that we could only function if the work was broken into chunks and parceled out to people who would take the lead on each front. As

83. It is for this reason that we have taken steps to ensure that every piece of output we produced over the life of our COVID work will be fully and permanently accessible on our project's Dataverse and also in the ICPSR database. UCLA COVID BEHIND BARS, <https://dataverse.ucla.edu/dataverse/covidbehindbars> [<https://perma.cc/C4SH-Q3ZT>]; INTER-UNIV. CONSORTIUM FOR POL. & SOC. RSCH., <https://www.icpsr.umich.edu/web/pages> [<https://perma.cc/S5UU-6J3Z>].

84. Many on the team, myself included, were already committed to the goal of radical decarceration—i.e., the drastic reduction in the size and scope of the American incarcerated population. This goal dovetailed with our judgment as to the most effective means of protecting people in custody from the disproportionate risk they faced from COVID.

85. See *UCLALawcovid19behindbars/data*, GITHUB, <https://github.com/uclalawcovid19behindbars/data> [<https://perma.cc/5CG9-8UK4>].

the Project coalesced, our organizational structure remained largely horizontal, with each sub-team running its own operations and supervising its own volunteers.<sup>86</sup> There was a downside to this approach, especially for the team leads, who in many cases were also working or in school full-time and so were not always able to effectively leverage their volunteers and complete their projects. What's more, Aaron and I often had only a skeletal sense of what was going on, and perhaps it might have been better if we had been more plugged in.

But this structure had a strong upside. Each team lead and each staff member enjoyed a high degree of autonomy and consequently a sense of ownership over their piece of the work. This situation seemed to promote a tremendous amount of creativity in the crafting of projects and strategies to further the broader mission. I came to enjoy watching team members build out their own corners of the Project in exciting and meaningful ways precisely cohering with our goals. This was the case with Michael Everett, one of our first Data Science Fellows. Noticing the shortcomings of the data being posted on agency dashboards, Michael launched an in-house public records practice to try to fill the gaps. Begun as a collaboration with our investigator Victoria Rossi, this effort eventually grew under Michael's supervision to comprise a central piece of our work. It allowed us not only to enhance our data but also to build out a host of independent datasets<sup>87</sup> that—unaccountably—had never before been compiled.<sup>88</sup> Among other contributions, Michael's remarkable leadership and tenacity in this space has enabled our more recent focus on all-cause carceral mortality, on which more below.<sup>89</sup>

Then there was the demanding work of building and running our scrapers. By the fall of 2020, this job primarily fell to our Data Team, then comprised of, along with Michael, data scientists Hope Johnson, Neal Marquez, and Erika Tyagi. Together, day in and day out, the Data Team

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86. See Appendix (Project Org Chart, March 9, 2021).

87. These datasets include: a comprehensive list of every facility in our COVID data, crosswalked to the most recent BJS census data and HIFLD prison boundaries data; nationwide agency and facility-level population data; PREA facility and physical plant data, also containing the most recent PREA audit report for each facility for which we collect COVID and all-cause mortality data; and our prison all-cause mortality database. We are also in the process of building out a comprehensive dataset containing agency and facility-level demographic data. None of this dataset construction would have been possible without Michael's ingenuity, exceptional data management skills, and remarkable facility with the public records process.

88. The Bureau of Justice Statistics (BJS) and the Department of Homeland Security (DHS) have produced some datasets in this space. However, several of the datasets we have created did not exist previously, and those that existed in some form are in our versions more comprehensive than any of the BJS and DHS datasets. Our data also allows for facility-level analyses that were not previously possible.

89. See *infra* Part IV.

handled the scraper challenge with remarkable efficiency and ingenuity. Although our summer 2020 web scraper boot camp had launched our data scraping effort, the agencies were forever altering the presentation of the data on their dashboards, not to mention degrading the quality of the data they were posting. As a result, Erika, Hope, Michael, and Neal were constantly forced to come up on the fly with creative new ways to rebuild broken scrapers and to capture and clean the data itself. In keeping with our horizontal structure, this was their bailiwick. We left them to it, and they outdid themselves.

Here is another example of the way good things happened when everyone ran their own initiatives: at one point, I vaguely knew that our immigration team was speaking to a *New York Times* video journalist for a report on COVID in immigration detention. When the documentary came out,<sup>90</sup> I watched with delight as data team member Neal Marquez spoke on camera at considerable length, talking reporters through the COVID data for ICE facilities displayed on our website. Our immigration team leads at the time, Theresa Cheng and Ishan Nagpal, had been working assiduously with a large team of volunteers to excavate the realities of COVID in ICE detention and to digest their findings for public consumption. Through a collaboration with Neal, their designated data scientist, the immigration team had been able to create the visualizations that made their findings instantly accessible.<sup>91</sup> This work formed the foundation of the *Times* video report and accompanying news story.<sup>92</sup> Our horizontal organizational structure—born not of long reflection but of necessity—gave them, and all our team leads, the license and autonomy that enabled many successes of this sort.

4. *Bi-Weekly All-Team Meetings*: Partly because of our horizontal structure, and partly because of the pace at which things moved, the Project suffered from the start from a chronic insufficiency of communication among team members. Put simply, people always felt like they had no idea what was going on outside their corner of the work. I even felt that way. Better communication was plainly needed. Among other things, it would ensure that Aaron and I knew what steps people were considering so that we could weigh in, discuss potential issues, and redirect efforts where necessary. In an effort to improve things, in early May 2020, we

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90. See Isabelle Niu, Emily Rhyne & Aaron Byrd, *How ICE's Mishandling of COVID-19 Fueled Outbreaks Across the Country*, N.Y. TIMES (Apr. 25, 2021), <https://www.nytimes.com/video/us/100000007707896/immigration-detention-covid.html> [<https://perma.cc/ZP49-PNAA>]; Maura Turcotte, *Virus Cases Are Surging at Crowded Immigration Detention Center in U.S.*, N.Y. TIMES (Sept. 6, 2021), <https://www.nytimes.com/2021/07/06/us/covid-immigration-detention.html> [<https://perma.cc/72SK-UFTS>].

91. Also with Neal's help, the immigration detention team was able to build and run the scraper that extracted the COVID data for ICE detention from the DHS website.

92. See Niu, Rhyne & Byrd, *supra* note 87; Turcotte, *supra* note 87.

instituted bi-weekly all-team Zoom meetings.<sup>93</sup> Although the structure of these meetings varied over the life of the Project, the core agenda was the same: each team lead reported on what they were doing, and together we explored in detail any issues, prospects, or concerns raised by their undertakings before moving on to the next team.<sup>94</sup>

These meetings served many ends. They helped me and Aaron stay up to date on what was going on. They allowed all parts of the team to learn what others were doing. They also enabled collaboration and learning across teams. People who were contemplating some strategic initiative might discover that other teams had already tried the same thing. Or we might find that two teams were thinking the same thing at the same time, which would make it possible for them to work together. Or someone might propose some idea or approach, only to learn from our data scientists that they couldn't do it quite that way, but that perhaps it would be possible to do it some other way. These meetings were intense and often draining, but they always left me feeling exhilarated and in awe of all that was being accomplished. They constituted a vital channel for supervisory input and for the cross-team communication and collaboration necessary for a Project that was fully remote and growing rapidly.

*5. Shared Credit and a Culture of Collaboration:* From the start, a central tenet of the Project was that everyone involved had expertise and insight from which we could all collectively benefit. Another was an openness to what I thought of as creative gambits: everyone was welcome to pursue their own initiatives and to own their own successes. Proposed innovations were collectively vetted, and anyone contemplating significant new projects needed to run them by me and Aaron. But so long as the proposals were consistent with our mission and seemed doable given available resources, the answer was always yes. And once the projects were launched, we did all we could to promote their success, while making sure that those who spearheaded them received the credit for what they accomplished.

After we started our blog, we encouraged team members to write up any findings, insights, or issues they believed warranted attention and to publish them on our platform.<sup>95</sup> We rarely published anything without

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93. This being the first months of the pandemic, we were fully remote. All our meetings were on Zoom.

94. There were also weekly meetings just for staff, which took a similar and equally fruitful form.

95. My experience with the Project left me perpetually amazed at how much a small group of dedicated, motivated people can accomplish when they combine creative thinking with a realistic sense of what is possible. Those who might wish to get a feel for what came from this dynamic could do no better than to scroll through our blog, which became the repository for many investigations and analyses conceived by team members who noticed gaps or patterns that bore pursuing. COVID BEHIND BARS DATA PROJECT: BLOG, <https://uclacovidbehindbars.org/blog> [<https://perma.cc/XTQ5-VUKB>].

editing and comments from me or Aaron (as well as our Communications Manager Josh Manson), but in terms of topic choice, framing, and argument, authors largely made their own calls. Our horizontal structure also encouraged intra-team collaborations. At internal staff meetings (which Aaron and I did not attend—who had time?), members of the staff floated ideas and pursued them in ever-changing configurations, leveraging their different skill sets and expertise to best serve each idea. And credit was accorded where credit was due: every piece was edited by several sets of eyes, but it was those team members who conceived, investigated, and/or drafted each post or report who received co-authorship. It is a source of pride to me that many people on our staff left the Data Project with resumes full of publications and accomplishments sure to enhance their future opportunities.

6. *Effective Volunteer Management*: Almost immediately after the Project launched, two things happened: we began receiving emails from people all over the country who were keen to help, and we became aware that, without volunteer help, much of what we wanted to do would be impossible. But managing volunteers takes time and effort, and we knew that, if we were to successfully leverage these many offers of assistance, we needed a feasible strategy. The system we developed was extremely simple, but it worked. First, we designated a volunteer coordinator (VC).<sup>96</sup> Then we instituted a rule: any staff member or team lead in need of volunteer help had to send the VC a brief written description of the work their volunteers would be tasked with performing. Most of the emails from people offering help came to me, often in response to general calls for volunteers I sent out to the law school community as a whole. I would connect anyone interested in working with us to the VC, who would send the prospective volunteer a Google form listing the project descriptions the team leads had provided. The volunteers would be invited to indicate their preferences on the form and, relying on those preferences, the VC would connect them to the staff member or team lead they would be working with. That was it. At that point, the volunteers were folded into the work and supervised by whoever initially requested their help.<sup>97</sup>

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96. Rebecca Fordon graciously agreed to play this role as we launched. She eventually handed it off to Danielle Flores, who joined the staff as Project Coordinator in August 2020. Danielle served in the VC role during the height of the Project's size and ambition, and without her otherworldly administrative abilities, the whole volunteer operation would have fallen apart. Danielle stayed with us until she went to graduate school in the fall of 2021. At that point, the task fell to Cece Bobbitt, who took over from Danielle as Project Coordinator.

97. If any issues arose, the VC served as the point person. These issues tended to take one of two forms. Either people who committed to the work would disappear, in which case the VC would find others to take their place, or else volunteers came back to the VC indicating they would prefer work of a different sort, in which case the VC would reassign them to another team.

It is hard to overstate the effectiveness of this system. It is the reason why our org chart, continually updated, was so jam-packed, and the explanation for how we were able to do so much on so many fronts with so few resources in such a short time.<sup>98</sup> Our volunteer management system also allowed us to easily leverage the particular skillsets of the people who reached out, for example, routing volunteers with data science skills directly to the Data Team.<sup>99</sup> In several cases, people who signed on as volunteers wound up authoring reports on topics we had hoped to investigate but lacked the staff resources to pursue.<sup>100</sup> Others who started as volunteers eventually joined the Project as team leads<sup>101</sup> or staff.<sup>102</sup>

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98. Our org chart dated March 9, 2021, a year into our work, clearly illustrates just how great a contribution volunteers made to the Project. *See* Appendix (Project Org Chart, March 9, 2021). It shows twelve volunteers working with Grace DiLaura on the Prison Policy Index, and twenty-one volunteers working with the data team on a host of projects, including data collection, populating facility crosswalks, filling in the backlogged historical death data, conducting a gender analysis, helping with data visualizations, filling out our SQL database, fixing the scrapers, assisting with our public records work, and investigating data patterns in private prisons and in psychiatric facilities. Our “qual team,” comprised of Liz DeWolf (Project Manager), Josh Manson (Comms Manager), Poornima Rajeshwar (Policy Fellow), and Victoria Rossi (Investigator) had three volunteers helping with social media, three investigating state testing initiatives, four working on our oral history project, and ten working on public records requests, family outreach, and medical data entry. Another forty volunteers were working with our sub-teams: three on releases, three on court filings, eleven on youth facilities, nine on the grassroots team, and the rest on various projects with the immigration detention team.

99. The Google form shared with prospective volunteers had a place for people to indicate any particular skills or expertise they would bring to the work. We paid careful attention to this information.

100. *See, e.g.,* Alix M.B. Lacoste et al., “Horrible Here”: *How Systemic Failures of Transparency Have Hidden the Impacts of COVID-19 on Incarcerated Women*, UCLA LAW COVID BEHIND BARS DATA PROJECT (Nov. 23, 2021), <https://uclacovidbehindbars.org/horrible-here-covid-impacts-incarcerated-women> [<https://perma.cc/QUN5-8WFF>]; Aparna Komarla, *COVID-19 Vaccination Data in California Jails: Lessons from an Imperfect Model*, UCLA LAW COVID BEHIND BARS DATA PROJECT (Nov. 17, 2021), <https://uclacovidbehindbars.org/covid-vaccination-data-in-california-jails> [<https://perma.cc/C3JP-DT4N>]; Alix M.B. Lacoste, Erika Tyagi & Hope Johnson, *Fast, Frequent, and Widespread: COVID-19 Outbreaks Inside Federal Prisons*, UCLA LAW COVID BEHIND BARS DATA PROJECT (Nov. 2, 2021), <https://uclacovidbehindbars.org/federalprisonoutbreaks> [<https://perma.cc/UT8T-XXWT>]; Andrea Allen, Minali Aggarwal & Neal Marquez, *As Long as There Is COVID-19, ICE Detention Centers Will Be Poised for Disaster*, UCLA LAW COVID BEHIND BARS DATA PROJECT (Jul. 27, 2021), <https://uclacovidbehindbars.org/ice-outbreaks-report> [<https://perma.cc/C2EW-VYA8>].

101. Ishan Nagpal and Ben Woolley joined as volunteers with the immigration team and ended up as team leads.

102. Cece Bobbitt joined the grassroots team as a volunteer and wound up as team lead and then as Project Coordinator. Cece’s energy, organizational capacity, and ability to handle any challenge were legendary.

Our volunteer management system allowed us to greatly expand the work of the Data Project. And it had a further positive effect that may in the long run prove even more consequential: it exposed hundreds of people, most of them students in college or law school, to the daily experience of people in detention. Some of our volunteers were drawn to the work by a previously developed sense of the injustice of mass incarceration and a desire to shrink the state's carceral footprint and improve the lives of those people remaining behind bars. But many had no prior knowledge of the issues and were drawn simply by the chance to do meaningful work during the COVID lockdown. Whatever corner of the Project they worked on, they will have been exposed to something of the nightmare experience of being in custody, whether during COVID or otherwise. For some, their work with the Project may well have seeded a lifelong commitment to work on behalf of the incarcerated. And even for those who never again work on carceral issues, this exposure will have sensitized them to a site of state power that no one concerned with social justice can ignore. I count this effect as one significant long-term benefit of our work.

#### **IV. The Gradual Fading of COVID Prison Data and the Pivot to All-Cause Mortality**

In the first weeks of the pandemic, corrections agencies began to voluntarily report their COVID data. This was a dramatic departure from the usual way prisons and jails manage information. The standard approach to data-sharing by prison and jail administrators has long been to treat all information concerning life inside as proprietary, to be accessed only by corrections officials.<sup>103</sup> Whatever drove the DOCs to depart from this practice and create public-facing COVID dashboards, the official reporting of COVID data for carceral facilities helped reveal an otherwise hidden world and made it possible to confirm in real time the outsized harm the virus was causing those in custody. More than anything else, it was this real-world development that enabled our work, and helped journalists and others force onto the public radar a realistic picture of the inhumane conditions and consequent suffering experienced daily by the incarcerated.

Yet if the COVID prison data provided a rare and welcome window into what was happening inside carceral institutions, the data itself was deeply inadequate across the board.<sup>104</sup> A year in, in March 2021, the

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103. As I have argued at length elsewhere, this culture of secrecy is wholly inappropriate in a liberal democratic society. *See Mass Incarceration, supra* note 19, at \*28–\*30. Prisons and jails are public institutions, operated on behalf of society as a whole. Corrections officials are not sovereign over the people in their custody. They are public servants whose sole job is to administer carceral facilities in ways consistent with the public interest. In order to ensure that the public's interests are served, we need a full and complete accounting of what goes on inside.

104. The lack of data transparency was especially pronounced as to youth detention:

Data Project published our first scorecard, grading corrections agencies on the quality and transparency of their published COVID data over the first 12 months of the pandemic.<sup>105</sup> Scores were compiled for twelve metrics—eight addressing which data were being reported<sup>106</sup> and four bearing on the quality of that data.<sup>107</sup> The results were not inspiring: of the fifty-three agencies we assessed,<sup>108</sup> one jurisdiction (West Virginia) earned a B, eight jurisdictions received a C, five got a D, and the rest—forty-one in total—failed.<sup>109</sup> Over the next thirteen months, we regularly revised our metrics to take account of changing conditions, for example, adding reporting variables for vaccine data. Over time, agency performance either remained equally poor or got worse.<sup>110</sup>

Performance on our scorecard was only one measure of the progressively worsening quality of the data being reported and the increased opacity of corrections agencies concerning COVID in their facilities. In August of 2021, as the Delta variant surged nationwide, multiple DOCs simply stopped reporting their COVID data—including prison systems in states hardest hit by Delta.<sup>111</sup> By October of 2022, twenty-one states and

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nationwide, only 16 percent of youth facilities reported their COVID data, and of county-run youth facilities, which constitute more than half of all youth detention centers, only 1 percent reported their data. *See* Yücel, *supra* note 66. There was also extremely limited COVID data bearing on county jails. There are roughly 3200 county jails nationwide. Of these, scrapeable data was available for 155, of which 121 are in Texas, where some COVID data was made available through standardized reports from the Texas Commission on Jail Standards, a state monitoring agency. *See* TEX. COMM’N. ON JAIL STANDARDS, <https://www.tcjs.state.tx.us> [<https://perma.cc/4KWV-U3SZ>]. But for the most part, the largest county jail systems had scrapeable dashboards, which meant that, although the vast majority of jails did not report COVID data, the jail data we were able to collect covered a substantial percentage of the national jailed population.

105. *Missing the Mark*, *supra* note 64. This effort, and the ongoing work of updating the scorecard and analyzing changes, was collectively undertaken by Senior Project Manager Liz DeWolf, Policy Fellow Poornima Rajeshwar, and Senior Data Scientist Erika Tyagi. *See Update: Data Reporting & Quality Scorecard, Rounds 1 – 6*, UCLA LAW COVID BEHIND BARS DATA PROJECT: BLOG, <https://uclacovidbehindbars.org/blog> [<https://perma.cc/9489-MCK6>].
106. Five of the transparency metrics in our first scorecard related to data concerning prisoners: cumulative cases, cumulative deaths, cumulative tests, active cases, and total population. Three of the metrics related to data concerning staff: cumulative cases, cumulative deaths, and cumulative tests. *See Missing the Mark*, *supra* note 64.
107. The data quality metrics asked whether the posted data were machine readable, regularly updated, clearly defined, and contextualized historically.
108. Our scorecard rated the data quality and transparency of 50 state DOCs, the BOP, ICE and the DC DOC. *See Missing the Mark*, *supra* note 64.
109. *Missing the Mark*, *supra* note 64.
110. By the sixth and last update in April 2022, West Virginia’s score had dropped to a D, and Pennsylvania was the highest scorer, with the lone C. *Update: Data Reporting & Quality Scorecard, Round 6*, UCLA LAW COVID BEHIND BARS DATA PROJECT (Apr. 7, 2022), <https://uclacovidbehindbars.org/blog/march22scorecard> [<https://perma.cc/4D9U-P8KJ>].
111. *See* Dolovich, Tyagi & Marquez, *The States That Lead the Nation*, *supra* note 65.

DC had ceased entirely to report active case numbers in their facilities, despite the presence of community outbreaks.<sup>112</sup>

The progressively poor quality of the data as the pandemic unfolded meant that our data-scraping efforts produced diminishing returns. And as in society in general, despite persistent COVID mortality in the prisons, the increasingly endemic nature of the virus also suggested diminishing returns for policy efforts focused exclusively on COVID. This situation, which evolved over time, eventually signaled that the moment had come for the Data Project to change course.

The question of our post-COVID future was one we had long wrestled with. The success of the vaccine and its rollout in early 2021 widely raised hopes that, come summer 2021, the pandemic threat would entirely recede. In the spring of that year, there was a brief period of calm, which we used to backfill our data, focus on initiatives in progress, and contemplate the winding down of our work. Then things changed again, and Delta, Omicron, and widespread vaccine denial made our efforts as relevant as ever. The summer and fall of 2021 proved to be some of our busiest months. Still, the question of the Project's post-COVID future continued to loom.

In the end, the answer was obvious, with two pieces of our work together pointing the way. The first piece was our emergent in-house research agenda. Starting in 2021, Neal Marquez began digging into the scale of COVID deaths in custody. Neal has advanced training in epidemiology and quantitative methods and was the perfect person to lead our Project's efforts to quantify the mortality impact of COVID behind bars. With Neal at the helm, our team produced two studies, each of which had awful, jaw-dropping results.<sup>113</sup>

The first focused on Florida. In it, we found a striking disparity during the first year of COVID in the life expectancy drop among people incarcerated in Florida prison as compared with Floridians in general.<sup>114</sup> Specifically, while life expectancy across the state's population fell by 2.7 years between the calendar years 2019 and 2020 (itself a catastrophic decline), the drop among those incarcerated in the state over the same period was 4 years, fully 100 percent of which was attributable to COVID deaths.<sup>115</sup> The second study addressed the question of racial disparity in

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As we reported at the time, this trend was most pronounced in those states in which Delta-driven infections and deaths were especially elevated, most notably in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Nevada, and Texas. *See id.*

112. *See* Tumendemberel & Stein, *supra* note 65.

113. *See* Neal Marquez et al., *Racial and Ethnic Inequalities in COVID-19 Mortality within Carceral Settings: An Analysis of Texas Prisons*, 41 HEALTH AFFS. 1626 (2022); Neal M. Marquez et al., *Life Expectancy and COVID-19 in Florida State Prisons*, 62 AM. J. PREVENTIVE MED. 949 (2022).

114. *See* Marquez et al., *Life Expectancy and COVID-19*, *supra* note 110, at 951.

115. *Id.*

COVID mortality in custody.<sup>116</sup> Here, we focused on Texas, and found that, of those people in Texas state prison who died of COVID over the first year of the pandemic, mortality was considerably higher for Black and Hispanic populations than for Whites: specifically, 1.61 times higher for Blacks and 2.12 times higher for Hispanics.<sup>117</sup> We viewed these studies as pilots. The obvious next step was to see if the findings also applied to other states.

Meanwhile, in collaboration with successive teams of UCLA Law students, Michael Everett had been quietly building out a remarkable dataset on deaths in custody from 2015 forward.<sup>118</sup> The database, painstakingly constructed from information obtained through public records requests, contains death data for fifty state DOCs and the BOP.<sup>119</sup> For forty state prison agencies and the BOP, Michael also collected individual-level records that provided a specific date for each death, along with detailed demographic data for the prison populations of twenty-eight states.<sup>120</sup> This data, which had never before been compiled, will allow for a range of investigations into rates and disparities concerning deaths in custody.<sup>121</sup>

Between Neal's pilot research studies and Michael's data repository, we realized that, going forward, we had the potential to play a significant contributing role in the growing national conversation around deaths in custody. Reinforcing this sense was the fact that, in spring 2021, the Department of Justice's Bureau of Justice Statistics "quietly announced" that it would no longer "collect [] data on deaths of incarcerated people."<sup>122</sup> In early 2023, we published our data repository

116. See Marquez et al., *Racial and Ethnic Inequalities in COVID-19 Mortality*, *supra* note 110.

117. *Id.* at 1631. In our paper, we speculate as to the causes of the racial disparity we identified. See *id.* at 1631–32. Possible explanations include racial disparities in housing with greater population density, in medical co-morbidities, in the quality of medical care provided to people in prison and in the way people interact with a prison's medical system. All these possibilities require further study.

118. See Michael Everett & Lauren Woyczynski, *UCLA Law Releases New Database to Monitor Deaths in U.S. Prisons with Funding from Arnold Ventures*, UCLA LAW COVID BEHIND BARS DATA PROJECT: BLOG (Feb. 18, 2023), <https://uclacovidbehindbars.org/intro-carceral-mortality> [<https://perma.cc/YXS7-V6SR>] (mapping the dataset and identifying initial findings); Sharon Dolovich et al., UCLA LAW COVID BEHIND BARS DATA PROJECT: PRISON MORALITY DATASET, [https://github.com/uclalawcovid19behindbars/custodial\\_mortality\\_project](https://github.com/uclalawcovid19behindbars/custodial_mortality_project) [<https://perma.cc/NH6Z-8UVH>] [hereinafter PRISON MORALITY DATABASE].

119. The dataset also contains pre-2015 ICE custodial death data collected by Muckrock. *Detainee Death Reports – 2016*, MUCKROCK, <https://www.muckrock.com/foi/united-states-of-america-10/detainee-death-reports-2016-43930> [<https://perma.cc/75XQ-ZEEG>].

120. Michael has also begun the task of accessing data bearing on mortality in county jails.

121. The BJS dataset on carceral mortality only reported aggregated data. As a result, it could not be used to analyze rates or disparities concerning deaths in custody.

122. M. Forrest Behne et al., *When It Comes to Reporting Deaths of Incarcerated People, Most States Break the Law*, THE APPEAL (Mar. 2, 2022), <https://theappeal.com>.

on deaths in custody,<sup>123</sup> and turned our attention away from COVID to a new focus on all-cause carceral mortality. Our first step in this direction, taken before the public release of our dataset, was to work with investigative reporters at the *New York Times*, who performed the first comprehensive analysis of our data.<sup>124</sup> The findings were at once chilling and unsurprising: during the first year of the pandemic, “[d]eaths in state and federal prisons across America rose nearly 50 percent . . . , and in six states they more than doubled.”<sup>125</sup> In keeping with what was widely predicted from the start of the pandemic,<sup>126</sup> the *Times* found a marked disparity in outcomes for people in custody as compared with the American population as a whole, with the jump in carceral mortality in 2020 representing “more than twice the increase in the United States overall,” greater even than the “percentage increase at nursing homes, among the hardest-hit sectors nationwide.”<sup>127</sup>

These initial findings, published on the front page of the nation’s paper of record, make the case for the power of data collection, analysis,

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org/when-it-comes-to-reporting-deaths-of-incarcerated-people-most-states-break-the-law [https://perma.cc/MX89-PYCX]. Under the Death in Custody Reporting Act of 2013 (DCRA), all states receiving federal funding under the Omnibus Crime Control and Safe Streets Act of 1968 (i.e., all states) are required to report to the Attorney General certain basic information pertaining to “the death of any person who is detained, under arrest, or is in the process of being arrested, is en route to be incarcerated, or is incarcerated at a municipal or county jail, State prison, State-run boot camp prison, boot camp prison that is contracted out by the State, any State or local contract facility, or other local or State correctional facility (including any juvenile facility).” Death in Custody Reporting Act of 2013, Pub. L. No. 113–242, 128 Stat. 2860, 2860 (2013). Until 2019, it fell to the Bureau of Justice Statistics (BJS) to collect this data. Starting in 2019, DOJ’s Office of Justice Programs (OJP) transferred this responsibility to the Bureau of Justice Administration (BJA). Unfortunately, for a variety of reasons, the data being collected by BJA is sufficiently unreliable that it is unlikely to be released publicly. See U.S. SENATE PERMANENT SUBCOMM. ON INVESTIGATIONS, UNCOUNTED DEATHS IN AMERICA’S PRISONS & JAILS: HOW THE DEPARTMENT OF JUSTICE FAILED TO IMPLEMENT THE DEATH IN CUSTODY REPORTING ACT 12 – 13 (2022) (“When compared to [BJS], BJA’s data collection did not capture any state prison deaths in 11 states or any local jail deaths in 12 states and the District of Columbia . . . BJA’s collection included only 38.9% of local jail deaths and 66.3% of state prison deaths” that BJS collected . . . . There were [also] various data quality concerns with BJA’s collection, such as inaccuracies and missing fields. For example, 56 of the deaths reported to BJA as deaths during arrest had actually occurred in jails and prisons when reported to BJS.”).

123. See *supra* PRISON MORALITY DATABASE, note 115.

124. See Jennifer Valentino-DeVries & Allie Pitchon, *As the Pandemic Swept America, Deaths in Prison Rose Nearly 50 Percent*, N.Y. TIMES, (Feb. 19, 2023) <https://www.nytimes.com/2023/02/19/us/covid-prison-deaths.html> [https://perma.cc/TA8N-L3EX].

125. *Id.*

126. See, e.g., *Mass Incarceration*, *supra* note 19, at \*4 (“From the earliest days of the pandemic, it was clear that the novel coronavirus posed an outsized danger to the more than two million people locked inside America’s prisons and jails.”).

127. Valentino-DeVries & Pitchon, *supra* note 121.

and dissemination as a strategy for “maximiz[ing] political pressure and transform[ing] public opinion.”<sup>128</sup> In our new focus on all-cause carceral mortality, we are supported by a generous grant from Arnold Ventures and by the UCLA Office of the Vice Chancellor for Research. Again, we are working in coalition with many partners, including Professor Andrea Armstrong, whose leadership on this issue has sparked a national effort to track deaths in prisons and jails.<sup>129</sup> And again, our aim in this new venture will be to gather and disseminate as much data as possible on a matter of vital policy import, while continuing our own efforts to analyze and thus to make sense of what is happening on the ground to the fellow human beings held in American carceral facilities. As we do this work, we will be drawing on, and implementing, some of the organizational strategies that helped us accomplish all we did over the almost three years of the UCLA Law COVID Behind Bars Data Project.<sup>130</sup> And in so doing, we will continue to model a central claim of this essay—that not only lawyers but also law schools and legal academics have a central and perhaps unique role to play in the push for social justice.

A crisis has a way of laying bare realities that may otherwise be obscured by layers of institutional myth and misunderstanding. Among other things, the work of the Data Project helped to expose as indefensible the culture of secrecy that has long reigned in American carceral spaces—and to reveal the urgent need for openness and transparency around what happens behind the walls. Where darkness and obscurity are allowed to persist, state actors may abuse their power and thereby inflict gratuitous pain and suffering on the very individuals they are sworn to protect. In a constitutional democracy, there can be no greater anathema.<sup>131</sup>

Although there is no way to know for sure, I like to think that the work of the Data Project helped to save lives. I hope too that our work

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128. Cummings, *supra* note 76, at 1696.

129. See INCARCERATION TRANSPARENCY, <https://www.incarcerationtransparency.org> [<https://perma.cc/2EDC-MC24>]. Armstrong’s path-breaking work in this space can be viewed at <https://www.incarcerationtransparency.org>. Focused primarily on deaths in custody in Louisiana and South Carolina, it provides a model that may be (and is being) replicated in other states.

130. Indeed, one of these strategies—a policy of making our data freely available to anyone who asks—has already borne fruit. The *New York Times* investigative report on deaths in custody during COVID, published in February 2023, represented the first analysis of the all-cause carceral mortality dataset that will form the foundation of our work going forward. See Valentino-DeVries & Pitchon, *supra* note 121. That report, with its blistering findings, was possible only because we (readily) shared our data with the *Times*.

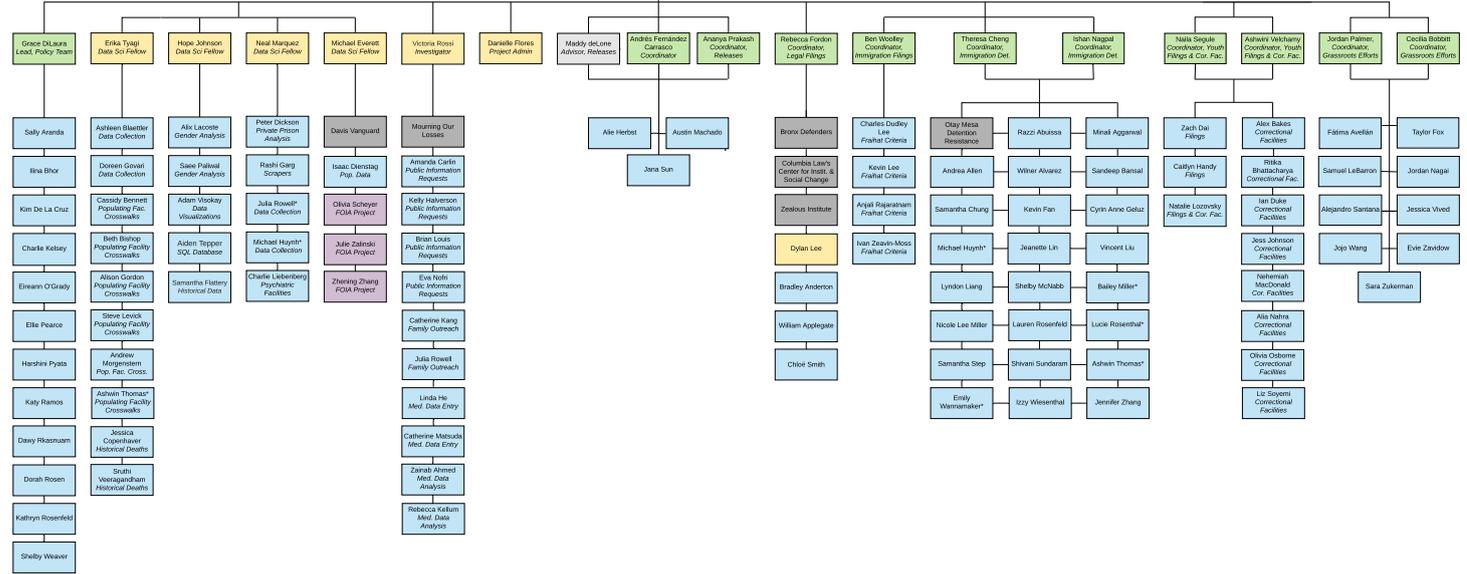
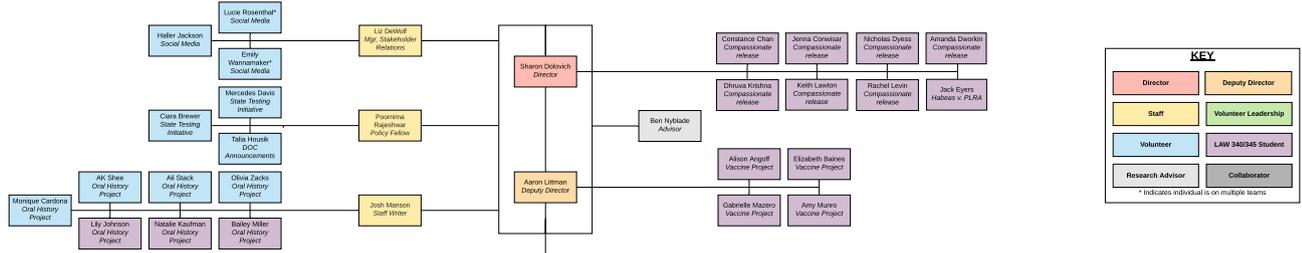
131. See Sharon Dolovich, *How Prisoners’ Rights Lawyers Do Vital Work Despite the Courts*, 19 ST. THOMAS L.J. 435, 442 (2023) (discussing the work of Judith Shklar, who “argue[d] that the preservation of liberal democracy, always a work in progress, requires that we strive to minimize as much as possible the ability of state officials to act cruelly or to instill the fear of cruelty in those over whom they wield power”).

helped people living inside, and their loved ones on the outside, feel less alone and abandoned during such a scary time. Of one thing I am certain: through our support of journalists, advocates, and other stakeholders, our efforts helped to force courts, policymakers, and the public as a whole to recognize and acknowledge the outsized threat COVID posed to the close to two million people then being held in America's prisons, jails, and detention centers.

Institutions can be slow to change. And American carceral institutions in particular are shaped and weighed down by a long history of racism, brutality, and callous indifference to the human beings trapped inside. At the best of times, the experience of imprisonment is degrading, traumatizing, and brutalizing. Ultimately, my deepest hope is that, by contributing to efforts to expose the desperate experience of people in custody during COVID, we have helped to shift public sentiment in the direction it so urgently needs to go: toward recognition of the shared humanity of those society has chosen to lock away, and the duty of care, protection, and concern we collectively owe every incarcerated person as a result of that choice.

# UCLA LAW COVID-19 BEHIND BARS DATA PROJECT

(Last updated March 9, 2021)



Appendix