

February 3, 2022

Bard Prison Initiative Written Testimony Submission  
Higher Education Committee Hearing  
Monday February 7, 2022

Hello and thank you committee chairs Senator Kreuger, Senator Mayer, Assemblymember Glick, Assemblymember Weinstein, and members of the committees for the opportunity to testify on this important subject. This testimony is given in support of Governor Kathy Hochul’s plan to restore Tuition Assistance Program (TAP) funding to incarcerated people.

My name is Max Kenner and I am founder and executive director of the Bard Prison Initiative (BPI), a unit at Bard College that enrolls incarcerated women and men in coursework across seven New York State prisons, culminating in Bard AA and BA degrees. BPI’s core college-in-prison program prepares incarcerated women and men for full lives and meaningful careers upon their release and return home to New York City and other parts of New York State.

Here at Bard College we have been working to restore college opportunity to incarcerated people in New York for over twenty years. Through that time, we have been privileged to collaborate with an extraordinarily diverse group of New Yorkers – advocates, business leaders, members of the clergy, families and community organizations, formerly incarcerated people, leaders in law enforcement, and many others. We are all motivated by a belief that our justice system in New York State should be about more than simply retribution; and, we know that genuine educational opportunity is central to any prison system that is concerned about the future and not just the past.

In her January 5, 2022 State of the State address, New York Governor Kathy Hochul pledged to “restore the Tuition Assistance Program for incarcerated people.” When New York implemented a ban on TAP eligibility in 1995, following the federal government’s ban on Pell Grant access in 1994, the number of college-in-prison programs in New York fell from over 70 to 4. Of all the short-sighted criminal justice policies of the 1990s, none was more cruel, destructive, or vindictive than the elimination of genuine educational opportunity from our prison system.

Ironically, in 2020 the federal government acknowledged this: the bipartisan restoration of Pell Grant eligibility to incarcerated students is a clear endorsement of the value of college-in-prison. It is also a signal to New York that it is past time to restore TAP.

Let's do this now. Restoring the place of education in New York's prisons would be among the most important changes in justice policy in decades. It is over 25 years in the making and would rectify the vindictive elimination of higher education from our prisons – among the most short-sighted policy changes during the peak of mass incarceration.

Even when college-in-prison was eliminated, we all knew the facts: college increases public safety, saves money, reduces recidivism and increases the likelihood that an incarcerated person maintains connection with their family and a career future. We also know that college-in-prison is an extraordinary extension of our system of education in New York: directly engaging students and communities that we have otherwise failed most badly. This is smart, just, and bipartisan policy.

For decades, New York has been a national trendsetter in criminal justice in ways good and bad. Now, in ways that matter most, we are behind the curve. The legislature must work to include S4464 (Jackson) and A2322 (Aubry) in the respective one-house budgets.

Thank you for your consideration of this important matter.

Yours sincerely,



Max Kenner '01  
Executive Director

## TAP to Incarcerated People Promotes Educational Equity

New York State is known for its commitment to promoting high-quality affordable education, but this promise is unfulfilled as long as those behind bars are left behind. Black and Brown communities are [hyper-policed](#), [over-criminalized](#), and [disproportionately imprisoned](#). Meaningful gains in racial equity must include closing racial opportunity gaps. Restoring TAP will help close New York's educational gap.

- While 45% of the general population has a college degree, this is true for less than 5% of those incarcerated.
- There are 15,000 incarcerated people in New York State prison with a high school diploma or GED, but only 10% of them currently have access to higher education in prison.
- [Studies](#) show people in prison have markedly lower educational attainment, literacy, and numeracy than the general public.
- More than [half](#) of formerly incarcerated people hold only a high school diploma or GED
- [Over](#) 76% of the people imprisoned in New York are people of color, despite the fact that they constitute less than 35% of the state's population.

## TAP to Incarcerated People Promotes Social Justice

Providing college opportunities in prison has been found to [deliver](#) strong employment outcomes, [develop employer-demanded skills](#), [make prisons safer](#), and strengthen pathways to [successful reentry](#). These programs also hold the unique potential to improve students' lives, help narrow racial and economic equity gaps in postsecondary attainment and workforce participation, strengthen local economies and communities, and [disrupt cycles of incarceration](#) that continue to target, harm, and limit opportunity for Black and Brown people and people from low-income backgrounds.

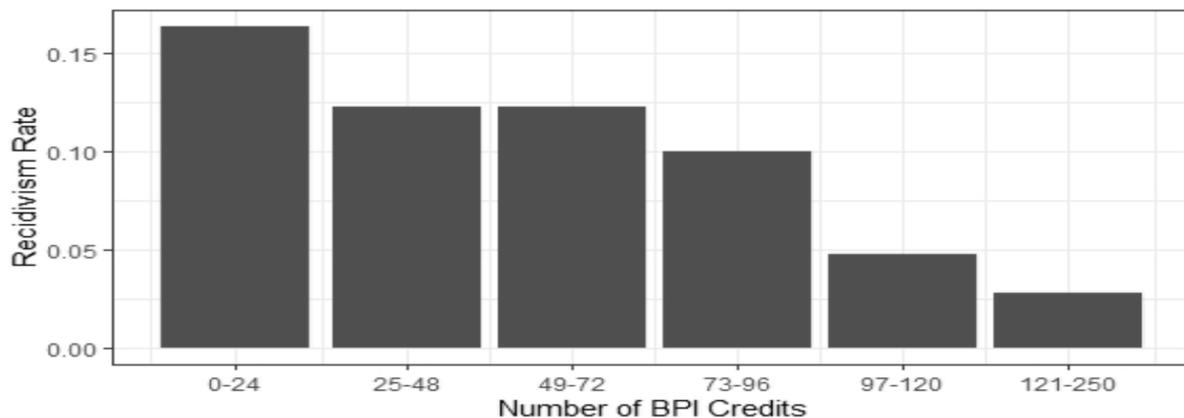
- Public Support
  - The majority of New York voters have been found to [support](#) college in prison.
  - A [recent national poll](#) shows that voters across different demographic groups agree that people in prison should be allowed to access Pell Grants (the federal equivalent of TAP), with overwhelming support from Black voters (81 percent), Latinx voters (75 percent), and white voters (67 percent).
- Employment

- [Employment rates](#) are higher among workers who have participated in an educational program while in prison compared to those who had not participated in one.
- In New York, [85%](#) of [Bard Prison Initiative](#) (BPI) students are employed within 60 days of their release from prison.

### College in Prison Radically Reduces Recidivism

In New York, 90% of BPI alumni have never returned to prison over the past 20 years. That's a rate of success in stark contrast to New York's average recidivism rate of about 40% within three years. In December 2021, *Justice Quarterly* released a study by the Yale Policy Lab further demonstrating how higher education in prison reduces recidivism. In that study, Denney and Tynes find that participation in a college in prison program leads to a “large and significant reduction in recidivism rates” and that people with “higher levels of participation” in a college in prison program recidivate at lower levels. **The recidivism rate for BPI students who earn an AA degree is 8.7% but that of students who go on to earn a BA degree falls to 3.1%.<sup>1</sup>**

**Figure 1** shows a decrease in recidivism rates as the number of Bard Prison Initiative credits an incarcerated person earns increases.



**Figure 1.** Recidivism Rates by Number of BPI Credits Received (Justice Quarterly: Denney and Tynes 2021), showing that recidivism rates decline as the number of credits earned increase.

<sup>1</sup> Denney, Matthew G.T., and Robert Tynes. “The Effects of College in Prison and Policy Implications.” *Justice Quarterly*, 2021, 1–25. <https://doi.org/10.1080/07418825.2021.2005122>.

## Cost Analysis for Restoring TAP to Incarcerated People

### Background

The Higher Education Reauthorization Act of 1992, in conjunction with the 1994 Violent Crime Control and Law Enforcement Act, made incarcerated people ineligible to receive federal Pell Grants. In 1995, following the federal lead, New York banned incarcerated people from accessing its Tuition Assistance Program (TAP). As a result of these shortsighted and misguided policies, the number of college-in-prison programs in New York fell from over 70 to 4.<sup>2</sup> According to research by Human Impact Partners, “Until 1994, TAP and Pell grants helped incarcerated people in 45 New York prisons enroll in courses offered by 23 colleges. That year, about 3,500 students in prison received assistance, funded by a very small share of the total TAP budget (less than 1%).<sup>3</sup> Further, Rand has found that every \$1 a state invests in higher education in prison, saves it \$4-5 on incarceration costs.<sup>4</sup>

### Methodology

Only 29 New York prisons currently have college-in-prison programs, full and part time. With the return of Pell, that number should increase. As for the size of the overall college student body, there are no authoritative figures on how many people are taking higher education classes inside prison. Additionally, we know that students need to complete two semesters at 12 credits or more before they can qualify for a part-time prorated reward,<sup>5</sup> and not all incarcerated students will meet this requirement. Given these variables, we find that a reasonable estimate should be drawn from what we already know about TAP to incarcerated people prior to 1995.

### The Calculation

Prior to New York’s TAP ban in 1994, 5% of incarcerated people received TAP funding.<sup>6</sup> There

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<sup>2</sup> Human Impact Partners (2015). “Turning on the TAP: How Returning Access to Tuition Assistance for Incarcerated People Improves the Health of New Yorkers.” Available at: <https://humanimpact.org/hiprojects/turnonthetapny/>

<sup>3</sup> Ibid.

<sup>4</sup> RAND (2016). Evaluating the Effectiveness of Correctional Education: A Meta-Analysis of Programs That Provide Education to Incarcerated Adults. Available at: [https://www.rand.org/pubs/research\\_reports/RR266.html](https://www.rand.org/pubs/research_reports/RR266.html)

<sup>5</sup> See The New York State Tuition Assistance Program (TAP) from The Higher Education Services Corporation. Available at: <https://www.hesc.ny.gov/pay-for-college/apply-for-financial-aid/nys-tap.html>

<sup>6</sup> See fn 1, Human Impact Partners (2015); Also note, in states where state level aid has already been restored to incarcerated people—Ohio, California, New Jersey--the number of students enrolled is between 3-5%. In California, the BOG waiver and an enrollment policy change in 2014 allows for community colleges to teach at every prison. This state enrolls 3.5% of all people in state prisons in community college programs. In OH, a state contract program that replaced Pell after the revocation in 1994 allows for programs at nearly all prison facilities and the state plans to expand to the locations where it does not currently have college programs. This includes vocational and academic programs. This state planned to expand enrollment to 5% of its prison population when access was granted to all facility levels. NJ operates college programs in 7 of the 9 prison facilities that could host a college program in the state. The program serves 4% of the state prison population at present (with facilities not served

are currently 33,000 people incarcerated in New York. Five percent (5%) of this current population would be 1650 people. According to the Higher Education Services Corporation, from 2016-19, the state awarded a total of \$2,723,000,000 in TAP funding to students (not incarcerated) with an average award of \$3,315.<sup>7</sup> Taking the number of potential college-in-prison student recipients (1650) in conjunction with the average student award (\$3,315) the projected cost of TAP for all college-in-prison students would be \$5,469,750 (Note that this number is only .67% of the average yearly TAP expenditure from 2016-2019, the average of which was \$816,900,000 per year<sup>8</sup>).

While the cost of TAP to incarcerated individuals would be negligible in relation to the state's total TAP expenditures, the cost savings that TAP would yield is significant. A 2016 Rand Corp. study found that for every \$1 a state invests in college in prison, it saves \$4-5 five dollars in terms of incarceration costs. In other words, by restoring TAP to incarcerated people would save the state between \$22 and \$27.5 million a year.

## COST OF TAP

Average Award (2016-2019) = \$3315

Percentage of incarcerated people receiving TAP before ban = 5%

Current number of people incarcerated in NY = 33,000

Number of potential recipients of TAP =  $33,000 \times 5\% = 1650$  people

Cost of TAP =  $\$3315 \times 1650 = \mathbf{\$5,469,750}$

## SAVINGS FROM TAP

For every \$1 spent on education, a savings of \$4-\$5 in incarceration costs.

TAP spending = \$5,469,750

Savings in incarceration costs =  $\$4 \text{ to } \$5 \times \$5,469,750 = \mathbf{\$22 \text{ to } \$27.5 \text{ million a year}}$

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subtracted from the total). In estimating expansion to those facilities, adding students and the populations of currently not served facilities would still result in a 4% enrollment rate. See Don't Stop Now: California leads the nation in using public higher education to address mass incarceration. Available at: <https://correctionstocollegeca.org/resources/dont-stop-now>. The NJ and OH figures are courtesy of the Vera Institute of Justice as directly reported by college programs or the DOC in those states.

<sup>7</sup> See NY state budget reports from Higher Education Services Corporation, New York State (2017, 2018, 2019). Available at: <https://www.budget.ny.gov/pubs/archive/fy19/exec/agencies/appropData/HigherEducationServicesCorporationNewYorkState.html>

AND <https://www.budget.ny.gov/pubs/archive/fy20/exec/agencies/appropData/HigherEducationServicesCorporationNewYorkState.html>

AND <https://www.budget.ny.gov/pubs/archive/fy21/exec/agencies/appropdata/HigherEducationServicesCorporationNewYorkState.html>

<sup>8</sup> Ibid.

## About BPI

The Bard Prison Initiative (BPI) provides access to higher education to women and men imprisoned in New York State. BPI students are enrolled in Bard College degree programs. BPI students are reputed and have a reputation for achieving high-profile academic accomplishments, including the required senior thesis, and debate wins against teams from Harvard to Morehouse.

Established in 1999 as a student volunteer organization, BPI began to address the crisis of mass incarceration by radically intervening at the nexus of mass incarceration and inequity in college access and opportunity. Today, BPI enrolls more than 300 students across seven New York State prisons, extending the full breadth and depth of the Bard College liberal arts education. Since inception, BPI students have earned over 700 associate and bachelor's degrees and more than 800 alumni have returned home. BPI works closely with students through workshops and individual counseling in the 6-12 months before each person's release date to prepare him or her for reentry. Those students are then met with a comprehensive set of reentry services upon release to help ensure continued success.

BPI's work is done in a holistic, human-centered manner that recognizes the innate worth and potential of every individual, despite their circumstances. Through education, individuals who have experienced obstacles such as poverty and incarceration are able to chart entirely new courses for themselves, returning to their communities and often working to alleviate the conditions and circumstances that led to their incarceration.