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# BUILDING SAFE, THRIVING COMMUNITIES: RESEARCH-BASED STRATEGIES FOR PUBLIC SAFETY

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# EXECUTIVE SUMMARY

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Decades of harsh, carceral law enforcement practices have perpetuated cycles of violence and harm without making us safer. The number of individuals behind bars—particularly for low-level offenses—is not a measure of public safety, and in fact has tremendous costs and consequences that detract from the goal of creating healthy, stable communities. Progress toward this goal requires transformational change in the way we approach law enforcement practices, specifically in the fields of policing, prosecution, and sentencing. We cannot continue to use incarceration as our default solution. All over the country, law enforcement officials, prosecutors, and lawmakers are reducing their reliance on enforcement and incarceration, and are instead implementing practices and policies that focus on reinvestment, research-based strategies, and community engagement.

New models in policing include narrowing the wide scope of police responsibilities and enabling alternative first responders, such as social workers and mental health professionals, to respond to calls related to a mental or behavioral health crisis. Violence interruption programs are reducing gun violence through community-led engagement that both prevents instances of lethal violence and develops community norms toward peaceful conflict resolution. And alternative enforcement mechanisms, like non-police traffic patrols, can both reduce unnecessary force and arrests while equipping police to focus their resources on the most serious offenses.

Lawmakers and prosecutors across the country are implementing policies to reduce the reliance on money bail as a mechanism for pretrial detention and to replace the wealth-based system with practices designed to help individuals meet their pretrial obligations. In addition, reforms to probation systems are decreasing recidivism rates by tailoring conditions to serve rehabilitative purposes and reducing the length of supervision. And many jurisdictions are rethinking their approach to marijuana enforcement, either legalizing or decriminalizing the use of small amounts, or reducing the severity of the consequences associated with marijuana offenses.

Sentencing reforms include second-look or sentence review policies in district attorney offices that reevaluate excessively harsh sentences or dubious convictions. Lawmakers have introduced measures aimed to eliminate mandatory minimums, allow people to seek early release or reduction in sentence length under certain conditions, and improve parole processes.

The evidence demonstrates that these new approaches are effective in reducing crime and incarceration rates. Polling demonstrates that these reforms are also widely popular with the public. More and more, elected leaders and their constituents are recognizing that a path to safety and stability does not lie in a return to past, failed practices, but in an evidence-based, innovative reimagining of our law enforcement system.

# INTRODUCTION

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Safety is a core need for every person, family, and neighborhood in America, and it is the chief responsibility of government to ensure that people have the security and stability necessary to thrive and live with dignity. Over the past half century, the United States has embraced the philosophy that more policing, prosecution, and incarceration will achieve public safety. Overwhelming evidence has demonstrated that this is a failed approach. In fact, these practices have had ruinous consequences for individuals, families, and communities—particularly those in neighborhoods that experience both over-investment in carceral practices and under-investment in housing, education, and healthcare. The reform efforts underway by prosecutors, city councilmembers, and state legislators reflect an understanding that past practices have not only proven ineffective at keeping us safe but have wrought tremendous damage on communities that have been harmed by divestment and inequality. A true vision for public safety includes reducing our reliance on police for situations that call for a non-criminal approach; reconsidering prosecutorial practices that use the wrong metrics for evaluating risk and accountability; reevaluating sentences as drivers of mass incarceration; and reinvesting in and engaging communities so that they can become full participants in creating a safer, more stable environment. Communities can thrive when we dramatically reduce the footprint of criminal legal systems in people’s lives and work to end the cycle of racialized fear and punishment.

This report examines the way our criminal legal systems have driven up incarceration rates, disproportionately harmed communities of color, and failed to provide true public safety.

Specifically, we analyze sentencing and incarceration policies and law enforcement practices, including those in policing and prosecution, that have created systems of control but failed to treat underlying challenges. The report then lays out a new path for public safety that looks to the comprehensive, research-based strategies in policing, prosecution, and sentencing that elected and appointed leaders are using to move away from harsh carceral practices and respond to social and economic needs. These reforms illuminate a new vision of public safety that reduces our reliance on systems of enforcement and control while relying instead on research, collaboration, and community engagement—not incarceration—to build and support communities.

## BACKGROUND

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### The State of Our System Today

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The number of people under some form of correctional control in the United States has exploded over the past five decades. At the time the COVID-19 pandemic began, nearly 2.3 million people were behind bars in the United States—an increase of more than 500% over the past 40 years—with twice as many people on probation and parole. When combined, one in 37 people are under correctional control. We incarcerate people at a rate of 698 per 100,000, more than any other country in the world. If this population was its own state, according to the Prison Policy Initiative, it “would be the 16th largest in the nation, comparable to the size of Massachusetts or Tennessee.” People are also spending longer periods of time under some kind of correctional control. Between 2000 and 2014, the amount

of time served behind bars rose by an average of around five years, and probation terms are similarly long: Many states allow terms of five years and in some states, the term of supervision can be as long as the original sentence, up to 10-20 years. All of this imprisonment comes with a hefty price tag for taxpayers at over \$80 billion a year.

Our spending on law enforcement has similarly skyrocketed. State and local police spending jumped from \$2 billion in 1960 to \$137 billion in 2018. But we have little evidence to evaluate the effectiveness of how these dollars are spent. Research illustrates that neither our reliance on incarceration nor policing has been the driving factor behind lower crime rates.

Indeed, we are learning that the investments we have made in policing, prosecuting, and incarcerating people have generated substantial collateral consequences without meaningfully benefiting community safety or addressing the challenges that led to criminal legal system involvement. Many of those who are incarcerated for violent crimes suffered from “lifetimes of trauma” themselves long before they encountered the criminal legal system, and our systems of punishment and imprisonment have only perpetuated that cycle of violence. Moreover, the disproportionate burden of these consequences has consistently fallen on communities of color, and Black communities in particular. This should be unsurprising, as many of our criminal legal system policies and practices were in fact designed to exclude, control, and oppress people of color. It is long overdue, but a growing number of Americans are finally recognizing that our criminal legal systems have actually decreased safety for entire communities and must be radically reimaged.

## The Detrimental Effects of Incarceration and Law Enforcement Practices

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### SENTENCING AND INCARCERATION

The United States leads the world in incarceration and increased sentence lengths. This, combined with strict limits on early release opportunities, has caused the prison population to increase exponentially. While crime has declined dramatically since the early 1990s, and violent crime continues to decrease in many of our largest cities, an explosion in extreme sentences (including life sentences, along with truth-in-sentencing laws, mandatory minimums, and three-strikes laws) have left our jails and prisons overflowing with people who would be far better off living freely than they are behind bars. Ending over-incarceration and developing a more dignified, humane, and sensible system requires a new approach to criminal sentencing practices.

Reforms to the criminal legal system have gained traction nationwide, yet few mechanisms are in place to permit those already serving time to be released upon rehabilitation. The system keeps people in prison despite clear evidence they have been rehabilitated, and locks them up as they age even though criminal behavior drops dramatically once people reach their thirties and then continues to decline. The result is that thousands of people are locked in prisons even though they are no longer a risk to public safety and their incarceration provides no benefit to the community.

Lengthy prison sentences have caused great harm to families and communities, in particular low-income communities and communities of color. They have contributed to pronounced race-based disparities in incarceration; cost billions of taxpayer dollars; overfilled prison systems; and led to the unnecessary and inhumane incarceration of sick and elderly people.

Extreme sentences, including for crimes the public no longer believes are deserving of such sentences or of punishment at all, and the enormous price tag that accompanies them, have diverted resources that could be spent more effectively addressing the root causes of crime and reducing crime in the first place. Many prisons have been forced to become elder-care centers as the proportion of people in prison who are 55 years or older has increased over the past two decades. In many cases, this is because so many individuals are serving extremely long sentences, which in effect become death sentences. This trend is epitomized by the Louisiana State Penitentiary where the average age is over 40 and the average sentence is longer than 90 years. These kinds of extreme sentences do not promote safety, as the vast majority of elderly people in prison would pose no threat if released, and yet each year American prisons spend \$16 billion in elder care alone. In short, these extreme sentencing practices have neither served the interests of justice nor made the public safer.

In fact, evidence would suggest that incarceration does little to reduce recidivism or rehabilitate those convicted of crimes. Recently, a state audit of California's prison rehabilitative programs found they were largely ineffective at reducing recidivism because the programs weren't providing consistent, quality care, nor were they targeting individual needs.

## POLICING AND LAW ENFORCEMENT PRACTICES

Similarly, our substantial investments in policing and law enforcement have had mixed results in terms of reducing crime while creating substantial collateral harms. Policing studies that appear to show a correlation with reduced crime rates are framed in such a way that shows police can be effective, but not necessary, for this purpose. Further, these studies do not capture the harms or opportunity costs associated with policing, as compared to other methods that would reduce crime. A recent Washington Post analysis of state and local police spending found that despite enormous increases in spending over the past few decades, there is “no correlation nationally between spending and crime rates.” Both police funding and crime rates increased from 1960 through the mid-90s. But then crime began to decline significantly, while spending continued its upward march. Even when there was a dip in spending in 2012, crime continued to drop. The analysis concluded that “[M]ore spending in a year hasn't significantly correlated to less crime or to more crime. For violent crime, in fact, the correlation between changes in crime rates and spending per person in 2018 dollars is almost zero.”

This should be unsurprising, as we are not using those substantial resources to address the most serious crime. A recent study of three major jurisdictions found that for those police departments, “the share [of time] devoted to handling violent crime is very small, about 4 percent.” This study also found that the vast majority of officers' shifts are spent on noncriminal, medical, traffic, property crime, or administrative issues. With this distribution

of resources, we have failed to move the needle on a key metric: unsolved homicide rates. Despite extraordinary technological advancements, the unsolved homicide rate grew by 76% between 1960 and 2002. According to data from the FBI, in 2018, the year for which the most recent data exists, the homicide clearance rate was just 62.3%. In other words, more than one-third of all cases were unsolved. In some cities, even hitting 62% is a lofty goal. It's estimated there are 250,000 unsolved murders in the U.S—and the longer these cases linger, the costlier they become to solve.

Rape cases have even higher unsolved rates, and these rates can vary wildly across jurisdictions. For example, a 2018 ProPublica investigation found that the Tucson Police Department only cleared 6% of their rape cases, while the Miami-Dade County Police Department had a clearance rate of 71%. But the national rate remains disturbingly low: In 2018, police departments across the country only cleared 33.4% of rape cases. Nationally, more than an estimated 200,000 rape kits have yet to be tested. These failures have weighed especially heavily on Black women who face exceptionally high levels of sexual violence—including sexual violence committed by police officers themselves.

Our unparalleled investments in law enforcement and incarceration have failed to properly meet victims' needs—such as social services, counseling, medical care, and restorative justice—and with those policy choices, we have ignored their preferences. According to a recent first-of-its-kind survey of crime victims, nearly two-thirds of those surveyed wanted the criminal legal system to put a greater focus on rehabilitation, and for people convicted of crimes to serve shorter prison sentences. Job creation and education were also top safety priorities. As one sexual assault

survivor said, “The vast majority of incarcerated women—and a large number of incarcerated men—are themselves victims of physical or sexual abuse who need mental health services, addiction treatment, counseling, and support rather than longer prison sentences.”

By contrast, we have overwhelming evidence that our carceral strategies have been devastating for families and communities, with “negative social and economic effects ... concentrated in the poorest communities.” Most incarcerated men are fathers, which deprives families of vital financial support both while they are behind bars and after re-entry. In the United States, one out of every 33 minor children has an incarcerated parent, and young children whose parents become incarcerated can suffer emotional or psychological problems. Those in school often experience poor grades or instances of aggression, and struggles with education can increase the risk of incarceration for children themselves. Even after release, the effects of incarceration continue to damage family prospects, as the annual earnings of people who previously spent time in prison is reduced by 52%; on average these people earn nearly \$500,000 less over their careers than they would have otherwise.

The most devastating consequences from our harsh incarceration and policing policies have been borne disproportionately by people of color, and Black people in particular. Black people only constitute 13% of our country's population, but 40% of those incarcerated. State prisons incarcerate Black people at five times the rate of white people, and in a few states, at 10 times the rate of white people. One in every three Black men and one in every 18 Black women are expected to spend time behind bars during their lifetimes,

and these kinds of racial inequities become even more severe for people serving long sentences. For example, in 2017, only 11% of Pennsylvania's population was Black, but Black people made up 60% of those serving the longest sentences in state prison.

These disparities in turn exacerbate existing structural inequality in areas of employment, wealth, housing, and voting. Black men already face a wage gap compared to their white peers, and the “net worth of a typical white family is nearly 10 times greater than that of a Black family.” Criminal legal system involvement worsens these economic disadvantages. While formerly incarcerated white people see modest increases in their career earnings, earnings remain flat for Black and Latinx people after incarceration. This reality was confirmed in a recent study which found that Black men returning from incarceration face a “racialized re-entry” into the job market, meaning that “economic opportunities after incarceration are more limited for minorities, and African Americans in particular.” Because these groups face disproportionate incarceration rates, their communities experience a disproportionate loss of collective wealth as well.

Communities of color are also policed differently than white communities, leading to disparate outcomes. Neighborhoods with larger Black populations experience an increased police presence, which leads to “hyper-criminalization tactics” and aggressive patrol practices, such as increased sidewalk stops, interrogations, and searches, which ultimately increases the crime rates in those neighborhoods. A recent examination of policing patterns in a Rust Belt city found law enforcement in Black neighborhoods rely more heavily on “surveillance and social control,”

with a focus on intervening in violence while providing fewer emergency response services. In fact, an examination of 26,000 unsolved murders over the past decade found that three-quarters of the victims were Black. A recent Pew survey lent qualitative support to the quantitative evidence of racially disparate policing practices: 84% of Black respondents said that police treat Black people less fairly than white people. In the white neighborhoods, on the other hand, police served as responsive emergency service providers who worked more collaboratively with community members.

Over-policing of communities of color draws heavily from the largely debunked “Broken Windows” theory of policing, which suggests arresting or penalizing people for minor offenses can deter more violent crime. But instead of improving community safety, aggressive police tactics have fractured community trust in law enforcement, criminalized people of color, and drained substantial resources from communities through fines and fees.

“Stop-and-frisk” policies are emblematic of this investigatory approach to policing of Black and Latinx people. The most famous example of this policy took place in New York City, where law enforcement unconstitutionally used their authority to stop and search anyone they labeled suspicious, or most commonly for having “furtive movements.” Between 2004 and 2012, NYPD used its authority under the stop-and-frisk policy to stop and search 4.4 million people, 80% of whom were Black or Latinx. But nearly nine out of 10 of those stopped were innocent, and studies have found no consistent correlation between the use of stop-and-frisk and New York City's dropping crime rates.



Despite growing awareness of both the inefficacy and racially disparate impacts of stop-and-frisk policies, [a recent Prison Policy Initiative analysis of federal data](#) found that racially discriminatory stops still persist. Black residents are still more likely to be stopped by police than Latinx or white people and are more likely to have multiple contacts with the police. These trends continue despite evidence demonstrating that stops of Black drivers usually yield [fewer discoveries of contraband](#) than stops involving white drivers. This was starkly demonstrated by a 2016 [Chicago Police Accountability Task Force Report](#), which found that police searched Black and Latinx drivers four times as often as white drivers, though police found contraband twice as often among white drivers.

One of the most dangerous consequences of over-policing communities of color are increased rates of physical and excessive force. A [study of use of force](#) in stop-and-frisks (including pushing people to the ground, forcing them against a wall or a car, pointing guns at them, and using batons or pepper spray) found that “police reported using force in 23% of stops of Blacks and Latinos, but in only 16% of stops of whites.” But these disparities were not connected to public safety, as the same study revealed that police found weapons—mostly knives—in only about 1% of stops of Black and Latinx people while stops involving white people produced weapons nearly twice as often. Similarly, in Chicago, analysis of [police department data](#) revealed that use of physical force is applied grossly disproportionately against Black people. Young Black men in Chicago are 14 times more likely to experience police use of force than young white men. While Black people constitute only 32% of the city’s population, they comprised 72% of those against whom the Chicago Police Department used physical force.

But racially discriminatory violence by the police has also proven deadly. For men of color, police use of force is among the [leading causes](#) of death, and Black men face a one in 1,000 lifetime chance of being killed by police. This has only been exacerbated by the creation of heavily militarized SWAT teams, which are receiving renewed attention as a result of Breonna Taylor’s recent tragic death at the hands of police. In one analysis, between 1980 to 2000, it was [estimated that SWAT team use increased by about 1,500%](#), and between 1997 and 2014, these units increased their weaponry through [transfers of \\$4.3 billion in military equipment](#) from the Pentagon. The origins of SWAT teams, which were created [as a response to the 1965 Watts Rebellion](#) in Los Angeles and deployed for the first time [in an attempt to serve arrest warrants on the Black Panthers in 1969](#), illustrates why Black communities are mistrustful of their use. And in fact, [a recent analysis justifies that mistrust](#). This study found that in Maryland, where SWAT data was readily available, SWAT teams were deployed more often in predominantly Black communities, even where those communities had low crime rates. And while SWAT raids provided no benefit such as lowering violent crime rates or reducing law enforcement deaths, they did damage police-community relations, rendering residents even less supportive of police patrols.

In fact, one of the most underemphasized but intractable harms of our harsh policing and incarceration tactics is the way they have [damaged relationships](#) between community residents and law enforcement. This is particularly true in low-income neighborhoods that have simultaneously experienced overly aggressive policing and under-investment in education, housing, healthcare, and other social services. Mistrust of law enforcement disincentivizes engagement with



local government, and with police interactions becoming the primary means through which many communities experience local government, the individuals who would be best served by contributing their voices to public safety policy are more likely to avoid participation in the process altogether.

## A NEW PATH TO PUBLIC SAFETY: RETHINKING POLICING, PROSECUTION, AND SENTENCING PRACTICES

Our public safety strategies over the past few decades have not increased safety. They have exacerbated disparities and divisions among our communities. They have hollowed out communities and perpetuated huge, generational disparities in wealth, education, health, and other key factors necessary for stable, thriving people. This in turn has sustained the longstanding racial inequality woven into our social, political, and economic systems. In order to achieve real safety, for all communities, we must be willing to honestly grapple with our carceral failures. We must develop factual, community-based strategies that provide greater stability, transparency, and accountability for everyone. We must reorient our priorities toward solutions that will both prevent, and provide accountability for, serious violent offenses while diverting those who commit non-serious offenses rooted in mental health challenges, housing and food insecurity, poverty, or substance use disorders from the criminal legal system.

We also must give community members the tools to work directly with local officials to guide public safety policy by identifying and tailoring solutions to local social and economic needs. Building safe communities requires an inclusive re-engagement strategy that brings individuals into the decision-making process and gives them a meaningful role in social, economic, and democratic participation. Not only does this approach improve safety metrics, it can help repair frayed community relationships with government.

Incarceration cannot be the default. Instead of a reliance on policing and confining people, the path to public safety lies in reinvestment, new strategies, and community empowerment. Indeed, while efforts to diminish reliance on police and prisons often trigger accusations that such reforms threaten public safety, evidence demonstrates they do no such thing. In fact, consistent with our new understanding of what actually makes communities safe, we are observing crime and incarceration rates decline simultaneously. For example, in California, where the most transformative measures to decrease jail and prison populations and reduce penalties for low-level offenses are underway, crime rates fell in 2019 to their lowest point since the DOJ began tracking crime data in 1969.

Finally, hand in hand with changing laws, policies, and practices must be efforts to change perceptions, including the underlying biases and assumptions that have driven many of the disparate law enforcement practices. Presumptions of criminality and dangerousness, particularly acute in law enforcement interactions with people of color, can perpetuate inequality in the criminal system, and efforts to identify and disrupt these biases must accompany all reforms. While such efforts are beyond the scope of this

report, we recognize their importance in the ongoing efforts to transform our society.

All over the country, lawmakers, prosecutors, and law enforcement officials have committed to building safe and healthy communities without resorting to over-incarceration or hyper-enforcement. National efforts, such as the Motion for Justice initiative, are underway to bring together prosecutors, community members, advocates, and researchers who have recognized the failures of aggressive enforcement and punishment and are seeking more effective ways to build safer communities. And many elected prosecutors across the country have already introduced innovative reforms through their office policies and practices.

Philadelphia District Attorney Larry Krasner, first elected in 2017, ran on a platform to fundamentally transform the city's most prominent law enforcement office. By December 2019, Krasner, who long pushed for less carceral prosecution policies, was convicting 45% fewer people for simple drug possession, having implemented a policy of withdrawing charges for people charged solely with drug possession who can demonstrate they are undergoing treatment. And in recognition that much of Philadelphia's gun violence is in large part due to what The New Republic called "the sustained alienation of marginalized communities," Krasner has implemented a diversion program for some people arrested for unlicensed gun possession. Contrary to operating under the assumption that increased punishment is always the solution, Krasner is considering the context and causes of crime and striving for a response that provides communities the opportunity to build real safety for impacted individuals.

In Suffolk County (Boston), Massachusetts, District Attorney Rachael Rollins has called out the "public safety myth" that incarceration and aggressive law enforcement makes us safer. After her election in 2018, Rollins issued an office memo announcing a presumption to decline to prosecute 15 categories of low-level offenses related to trauma, substance use, poverty, and mental health, directing staff to refer cases to community-based public health providers and services instead. Despite facing sustained and withering critique from the moment she took office, Rollins filed a successful emergency petition to prevent judges from interfering with her authority to decline to prosecute peaceful protestors, sued ICE to prevent them from civilly arresting and detaining people in and around courthouses, created a first-in-the-nation Discharge Integrity Team that revolutionized the office's handling of police shootings of civilians, and devoted fresh investigatory resources to a backlog of over 1,000 unsolved homicides.

San Francisco District Attorney Chesa Boudin, who won in 2019 on a campaign to reduce incarceration, has taken a "longer view of public safety" that dramatically reduces the number of people prosecuted and incarcerated. Making good on his word, Boudin recently drafted a policy that will significantly restrict his office's use of sentencing enhancements. Many sentencing enhancements have a racially disparate impact, and Boudin acknowledged when we "punish people more harshly because we collectively failed to rehabilitate them, because we collectively set up these roadblocks and obstacles for them," and we are therefore failing to improve safety in any meaningful way. This decarceration policy is just one among several Boudin has embraced since taking office. He has created a diversion program under which some people who are the parents

or primary caregivers of a child will be eligible for alternatives to incarceration and rolled out a policy forbidding prosecutors from requesting money bail and restricting when they can seek pretrial detention.

Several prosecutors are also recognizing the need to move to more data-driven decision-making as well as increased transparency on decisions to arrest, charge, prosecute, and incarcerate. They are also taking steps to ensure accountability for law enforcement officers who abuse their power, mislead the public, or are otherwise untrustworthy for public service. In Milwaukee, District Attorney John Chisholm has created a publicly accessible dashboard that tracks specific metrics in his office, including the number of referrals his office receives, how long it takes to contact victims, how many cases are dismissed, the types of charges issued, and ultimate disposition of cases. Similarly, Cook County Attorney Kim Foxx campaigned and won partially due to her commitment to increase accountability for law enforcement and to reduce prosecution for low-level offenses. One year after being elected, Foxx released six years of data related to every felony case in her office, revealing in part that she had declined more than 5,000 low-level cases that her predecessor would have prosecuted.

Prosecutors are just some of the elected officials rethinking their approach to public safety. Elected city officials are recognizing how much they have invested in jails and police, and how little those investments have actually helped communities. Following George Floyd's murder at the hands of Minneapolis police and the ensuing protests over police brutality, these officials are pushing back against the current, historically high rates of funding for law enforcement and calling for greater investment in other social services, such as housing, treatment, and healthcare. Recently,

Baltimore City Councilmember Brandon Scott called for reducing dependence on Baltimore's police force in order to better invest in the youth of Baltimore and marginalized communities. To that end, Scott recently voted to reduce Baltimore's policing budget, and called for the Mayor to transfer those funds to various youth programs and schools.

Similarly, Austin Councilmembers recently voted unanimously to shift \$150 million away from the police department's budget and into a new family violence shelter, violence interruption programs, and the creation of mental health crisis teams, among other uses. Councilmember Greg Casar, who proposed the budget changes, also fought to end unnecessary arrests for non-violent, low-level misdemeanors, noting the huge racial disparities in arrests. Like other city officials who are pushing for a reimagining of public safety, Casar has criticized the ways in which the status quo has harmed members of the community and is calling for new strategies that make public safety a meaningful reality for all Austinites.

Many others support change as well. State legislators are advancing bills to eliminate mandatory minimums, make it easier to hold law enforcement accountable, and enable earlier release of people from prison. Members of the public are voting for ballot initiatives to reform their criminal legal systems, which reflects the widespread public support, including among crime survivors, for this new vision for public safety. For example:

- As noted above, a national survey of crime survivors found that victims prefer, two to one, that the criminal legal system focus more on rehabilitation than punishment. Six in 10 victims prefer shorter sentences and more spending on prevention and rehabilitation,



- ▶ in contrast to sentences that keep people locked up as long as possible. Victims prefer investments in schools and education (15 to one), job creation (10 to one), mental health treatment (seven to one), and drug treatment (four to one) over investments in prisons and jails.
- ▶ 60% of likely voters, including 52% of Republicans, agree with treating drug use as a public health issue rather than a criminal justice issue.
- ▶ 69% of likely voters, including 67% of Republican voters, believe the federal government should respect the rights of individual states that have already legalized marijuana sales and not pursue legal action against them; 63% of likely voters, including 59% of Republicans, believe that some tax funds from the sale of marijuana should go to community reinvestment funds to support the communities most harmed by punitive drug policy.
- ▶ 56% of voters, including 53% of Republicans, agree that the federal government should legalize the use and sale of marijuana for adults.
- ▶ Even in states where marijuana remains illegal, 60% of likely voters, including 58% of Republicans, believe that police should stop arresting people for the possession of marijuana intended for personal use; while 55% overall, and 50% of Republicans, believe police should stop arresting people for the sale of small quantities of marijuana.
- ▶ On sentencing reform, national polling by Data for Progress and The Justice Collaborative Institute found that, overall, 69% of voters support “second look” legislation that allows for “the re-examination of old sentences to provide a second chance for people who have been in prison for more than 10 years and who can be safely returned to the community.” Support for these reforms is bipartisan and cuts across geography and ideology. Support among “very conservative” voters for second-look legislation is 63% while support among “very liberal” voters is 82%. These numbers track support along party lines, with 81% of Democrats and 64% of Republicans supporting.
- ▶ Similarly, two-thirds (67%) of voters support “elected prosecutors reexamining past sentences to provide a second chance to people who have been in prison for 10 years or longer and who can be safely returned to the community.” Strong support for prosecutors’ sentence review also cut across political lines, with 69% of “very conservative” and 73% of “very liberal” voters supporting, respectively.
- ▶ Polling also shows widespread support for rethinking youth justice, with two-thirds of likely voters, including two-thirds of Republicans, saying that they believe the juvenile justice system should focus more on prevention and rehabilitation than on punishment and incarceration. Roughly the same number believe that all children have the capacity for change, and individuals who committed crimes as children should be paroled if parole boards find they no longer pose a risk to public safety.
- ▶ A majority of respondents believe that no child should be sentenced to life in prison without hope or opportunity for a second chance. And over two-thirds of respondents agree that children who receive lengthy sentences should receive a review of their sentence by a judge or parole board after no more than 15 years.

While there are many types of reform necessary to creating thriving, healthy, and safe communities, we have identified three major areas where mechanisms of control and punishment, deployed most harshly against communities of color, can be transformed to achieve true safety: policing, prosecution, and sentencing. Below, we set forth a research-based and holistic approach to safe communities by looking at new strategies that are already working across these three core areas.

## Policing

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A fundamental piece in a new public safety vision involves dramatically re-thinking the scope of police responsibilities. To begin, we must identify the right experts for the right problems. We rely too heavily on armed police to manage a range of social problems they have neither the training nor expertise to address, a misuse of resources many in law enforcement have long pointed out. We call on police to perform tasks well outside their purview, compelling them to function largely as social workers, mental health counselors, conflict mediators, and addiction specialists. They are tasked with enforcing even the most minor infractions, like traffic violations and noise complaints.

But police officers are not equipped to serve as such public service jack-of-all trades. They are provided a limited toolkit of guns, tasers, and handcuffs, and trained to treat people as suspects to be feared and restrained. A current buzzword of police reform, “de-escalation,” assumes officers can be trained to identify situations where they need to scale back their use of force and instead enter into negotiations and conversation, but the goals of law enforcement are inherently at odds with this concept. The very nature of armed

police is to respond with authority and force, escalating fear and tension, and thus far efforts to implement de-escalation training have achieved mixed results at best.

Across the country, a growing number of model programs show that, rather than continuing to rely on law enforcement for all situations, we can smartly and safely replace armed law enforcement with more effective solutions in a variety of circumstances.

## CRISIS RESPONSE

The role of law enforcement in many places encompasses crisis response responsibilities that trained social workers and mental health professionals are far better suited to bear. When armed police officers are the default first responders, the result is often unnecessary arrests and incarceration—and sometimes deadly force. Particularly in mental or behavioral crisis situations, police intervention often makes matters worse. Law enforcement involvement can lead to violence and create conflict in situations that could be safely and peacefully resolved by other, appropriately trained, professionals. Instead of dispatching police to intervene when someone is in crisis, communities should be able to rely on mental health experts and social workers who are trained to de-escalate tense situations and work with vulnerable populations.

Communities are better served by trained crisis response teams that include mobile units that can travel to the site of a crisis and help with referring or transporting individuals to appropriate services. Crisis response teams can also proactively engage with vulnerable populations to provide referrals for community-based treatment and services. For example, the Crisis Assistance Helping Out On The Streets

(CAHOOTS) program, in Eugene, Oregon, is a mobile crisis intervention team that includes a medic and a crisis worker. The mobile team responds to behavioral health emergency situations to provide “immediate stabilization in case of urgent medical need or psychological crisis, assessment, information, referral, advocacy and (in some cases) transportation to the next step in treatment.” And in Dallas, Texas, the Rapid Integrated Group Health Care Team (RIGHT Care) responds to mental health emergency calls in South Central Dallas. The goal of the program is to stabilize individuals at the scene and refer them to appropriate services. These programs serve an important function in diverting patients with mental health disorders from emergency rooms and jails.

The public widely supports community-based, non-police emergency response systems. Polling from Data for Progress and The Justice Collaborative Institute found that 68% of likely voters support the creation of non-law enforcement emergency responders programs; 70% of likely voters support a non-police response for when a family member calls 9-1-1 because of a mental health crisis; and 65% of likely voters support a non-police response to a drug overdose.

## VIOLENCE INTERRUPTION

Cities have also reduced gun violence through interventions that target the root causes of violent behavior. Reducing gun violence is not a matter of arresting the perpetrators and locking them away. The reality is far more complicated. Gun violence is concentrated in the cities and neighborhoods where the burdens of structural socioeconomic inequality are most severe. These burdens fuel conflict that can spark cycles of retaliatory violence, often further concentrated

within small networks of people, that spread like a contagious disease. As a result, the perpetrators and victims of gun violence often come from the same community, and in fact are the same people: Those who perpetrate gun violence are also the most likely to be victimized by it.

A police-first response, then, means arresting and incarcerating victims of violence, and it means further destabilizing families and communities already struggling under the weight of oppressive inequality. Again and again, the tactics of law enforcement—surveillance, patrols, intimidation, arrests—have proven ineffective at reducing violence in the communities where it is most acute.

Violence interruption programs, on the other hand, use community engagement to stop lethal violence before it occurs, prevent its spread by interrupting ongoing conflicts, and develop community norms toward peaceful conflict resolution. These programs are led by community members, not law enforcement, and are designed to strengthen communities and those most at risk of committing, and becoming victims of, violence. These programs are most effective with a holistic approach, going beyond conflict resolution to also provide peer-based mentorship, job training, and other community support that can mitigate the structural causes of violence.

These programs have proven results. For example:

- ▶ In Baltimore, a violence interruption program was attributed to more than 50% drops in homicides in some of the most violence-afflicted neighborhoods.
- ▶ In New York City, one study found that gun violence rates declined significantly in two areas operating violence interruption programs.



- In Richmond, California, one study found that gunshot homicides in the city fell by 55% since its violence interruption program began, and now other cities are working to adopt the same model.

Violence interruption programs are also popular. Polling from Data for Progress and The Justice Collaborative Institute found that 68% of likely voters support funding programs to train community leaders to de-escalate potentially violent situations, and 65% of likely voters, including 60% of Republicans, believe that interrupting violence in the communities where it is concentrated makes more sense than sending in an armed police force.

## ALTERNATIVE ENFORCEMENT MECHANISMS

In other cases, we send armed police to handle minor enforcement issues that could be handled more safely and effectively by other government agencies. Consider basic traffic stops. Granting police the discretion to conduct traffic enforcement invites racial profiling and allows police to use traffic violations as a pretext to stop people, conduct unwarranted searches, and make arrests. Black drivers are 30% more likely to be stopped than white drivers, and people of color are more likely to have their cars searched and their cash seized. Each police encounter poses a threat to public safety; traffic stops often lead to tense confrontations and, in some cases, deadly force. Sandra Bland, for example, was arrested after a stop for failing to use a signal, and then died three days later in jail. Philando Castile was shot seven times and killed while stopped for a broken taillight. Castile, who was licensed to carry, had calmly informed the officer that there was a firearm in the car. The officer killed him anyway.

While police enforcement creates dangerous situations, there's no evidence that it makes the roads any safer. There is also no evidence that traffic stops are an effective law enforcement strategy. According to a recent report by Sarah Seo, a law professor at Columbia Law School, “[s]tatistical studies conducted in states that collect traffic stop data uniformly indicate that ‘hit rates’—the percentage of car searches that lead to the discovery of criminal evidence—are low and most drugs that are found are in small amounts.” Seo concludes that “investigative traffic stops are ineffective, especially at pursuing dealers and traffickers, and mostly harass and alienate those who are unjustifiably targeted for inspection.”

As an alternative, unarmed traffic patrols can better respond to traffic accidents, direct traffic, and enforce traffic laws. Some may object that traffic stops are inherently too dangerous for unarmed government workers, but in many cases it is the police officer, not the person stopped, who is the source of danger. And as Seo explains in her report, “[n]arratives depicting routine traffic stops as fraught with unpredictable danger—which inform police training as well as constitutional laws that give police far-ranging search and seizure powers—do not accurately reflect reality.” A recent analysis of traffic stops in Florida over a 10-year period found that serious violence against officers is exceptionally rare. According to the report’s “conservative estimates” (meaning the actual rates of violence could be lower) the rate for a “felonious killing” was one in 6.5 million stops; the rate of assault with serious injury resulting was one in 361,111 stops, and the rate of assaults, regardless of injury, was one in 6,959 stops (or .014%).

And a proposal in Berkeley, California, would replace police with a city department of transportation, staffed by unarmed public works officials, who would conduct parking enforcement and stop cars for violations such as running a stop sign or driving at night without headlights. Even more serious traffic incidents do not require armed police. Traffic patrol officers with substance abuse training, for example, could be trained to respond to violations of driving while intoxicated.

This idea is gaining traction. A recent national poll from Data for Progress and The Justice Collaborative Institute shows majority support for “moving most traffic enforcement to traffic cameras and non-police agencies.”

A new report from The Center for American Progress provides a road map for local governments to create community-oriented safety interventions by establishing a civilian arm of government dedicated to public safety: the Office of Neighborhood Safety (“ONS”). An ONS would oversee and provide services such as mentoring, job readiness programs, and civilian first responders in a sustainable model that reduces the reliance on arrest and incarceration. Richmond, California, was an early pioneer of this model. In 2007, the city launched its ONS to prevent gun violence and promote community health and safety. By 2017, Richmond’s homicide rate had dropped by 80%. Several other cities, including New York City; Milwaukee; and Oakland, California, have since created similar civilian safety agencies.

Finally, divesting police of the responsibility to manage situations for which they lack the relevant expertise will enable cities and counties to invest more resources toward innovative law enforcement strategies that help reduce violence in communities where it is most acute.

This includes reorienting the police function away from the traditional tactics of law enforcement—surveillance, patrols, intimidation, arrests—which have failed to meaningfully prevent or solve violent crime, and instead toward preventing and responding to imminent threats to an individual’s safety. It will also create capacity for police to do the work most people assume they are doing already: Solving the most serious crimes that present the most actual risk to public safety.

## Prosecution

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Prosecutors occupy an unparalleled role in the criminal legal systems, equipped with the power and discretion to either destroy the lives of the people they prosecute or address the harms that drove those targeted by law enforcement into the criminal system. A vision of public safety that reduces reliance on the ineffective tools of punishment and prisons requires that prosecutors divert as many people away from prosecution and incarceration as possible while directing resources toward addressing and preventing serious, violent crime and its root causes.

## BAIL REFORM

Pretrial detention practices that rely on financial conditions of release make pretrial freedom contingent not on risk, but on a person’s ability to pay set bond amounts. This approach has predictable results: Across most types and levels of offenses, those with money get out, while those without stay in. Since the early 1990s, the use of money bail has dramatically expanded, and average bail amounts have increased. This reliance on money bail has led to a substantial

rise in the proportion of individuals who are detained pretrial and a marked growth in jail populations nationwide. But despite its widespread use, it is well documented that cash bail fails to maximize release, serves essentially no public safety function, and is not necessary to ensure court appearance—which are the main goals of pretrial detention. On the other hand, it perpetuates poverty, particularly for the poorest third of America, and for those who cannot afford to meet their bail, pretrial detention can lead to the loss of jobs, child custody, housing, and other social welfare benefits. The impacts of cash bail also fall, once again, disproportionately on communities of color. Blacks, Latinxs and Native Americans are twice as likely as white people to be detained pretrial as a result of cash bail, with “higher bail amounts on average than white defendants with similar charges.”

State legislatures and prosecutors across the country are implementing reforms that research indicates more effectively advance pretrial detention’s goals. In Washington, D.C., an early leader in reforming pretrial detention practices, most (94%) of accused individuals are released before trial, and most (91%) appear for trial.

Similarly, in Harris County, Texas, pretrial reforms, including those made subsequent to a consent decree, have all but eliminated cash bail on misdemeanor charges. Where previously 40% of individuals charged with misdemeanors were locked up while their case progressed, an estimated 90-95% of those individuals will now be released pending adjudication. If an individual is still eligible for financial conditions of release, the judge or hearing officer must consider non-financial conditions first. Before setting a money bond, the judge or officer must also evaluate a person’s ability to pay and make findings supported by clear and convincing evidence.

The reforms also provide for representation at bail hearings as well as other pretrial assistance, such as social workers and support services, including reminders about court dates.

After campaigning on the detrimental effects that the traditional law and order approach has had on families and communities, newly-elected prosecutors are also directly implementing policy changes. In Philadelphia, District Attorney Larry Krasner announced in 2018 that he would no longer request monetary bail for defendants charged with certain eligible offenses. A study found that the change led to a 22% increase in likelihood that a defendant would be released with no monetary or supervision conditions. In Suffolk County (Boston), District Attorney Rachael Rollins has moved away from cash bail and named 15 non-violent charges such as drug possession and driving without a valid license, that her office will generally now decline to prosecute criminally, instead seeking restitution, treatment, and other measures.

National polling indicates people across the country want to see the elimination of money bail. Twice as many want to see the end of money bail as support it. Ahead of a referendum on ending cash bail, 50% of likely voters in California indicated they supported the reform, and among younger people, support rose to over 60%.

## PROBATION

Our probation system initially was conceived as an alternative to incarceration. Individuals placed on probation could avoid jail or prison time, remain in their communities, and receive treatment or other interventions needed for rehabilitation. But over time, the probation system has developed not to serve rehabilitative purposes,



but to focus on supervision and control. Despite the fact that people who receive probation have only committed minor offenses and pose little risk to public safety, they receive both lengthy terms of supervision as well as numerous and often burdensome restrictions and mandates. Research shows that the probation system is ineffective to reduce recidivism and may, for some individuals, increase the likelihood that they will recidivate.

For these reasons, a number of jurisdictions have started to implement reforms to their probation systems. In an effort to reduce the probation revocations that constituted 40% of new prison admissions, California passed a bill to incentivize local probation departments to reduce these numbers. After implementation, the probation violation rate dropped by 23%, equivalent to 6,182 fewer people, and the California Department of Finance calculated an estimated savings of \$179 million.

Missouri adopted a practice called earned discharge, which allows individuals on probation and parole to earn time reductions from their sentences. As a result, the length of supervised release shortened by 14 months, and the number of supervised individuals fell 18%—all without an increase in recidivism rates.

Probation reform is also popular with the public and generally has produced favorable results in the jurisdictions where it has been implemented. Two-thirds of the public supported a bipartisan bill in Pennsylvania that would reduce the amount of time people spend on probation and prevent people from going back to jail for minor technical violations. Further, research confirms that jurisdictions can reform their probation systems, continue to reduce incarceration rates, and, most importantly, actually increase public safety, even in large cities like New York City.

## DRUG RESPONSE

Popularized by President Richard Nixon, the United States’ “War on Drugs” has cost more than \$1 trillion over the last four decades and the number of people incarcerated for drug offenses ballooned from 25,000 in 1980 to nearly 300,000 people today—an 1100% increase. Despite all this imprisonment, however, states have not realized any improvements in their key safety metrics of drug use rates, drug arrests, or overdose deaths. Yet the war on drugs has generated dramatically unequal outcomes across racial lines. Drug laws are enforced more aggressively in communities of color; Black people serve longer sentences than white people for drug crimes, and the substantial majority of people incarcerated for drug offenses—almost 80% of people in federal prisons and 60% of those in state prisons—are Black or Latinx. While the recent opioid epidemic, which has landed most heavily in white, rural, and suburban communities, has accelerated public willingness to treat drug use as a public health issue in need of a public health response, many states remain entrenched in a prosecute-and-punish approach.

One drug policy reform that has gained traction across state and federal governments is the decriminalization and legalization of marijuana. The Controlled Substances Act (CSA), signed in 1970 by Nixon, classified marijuana as a Schedule I drug, a designation reserved for drugs that have a high potential for abuse, but little or no medical value. The decision to categorize marijuana as more dangerous than, for instance, cocaine, was not based entirely on the drug’s properties or its health effects. Nixon’s own former counsel has admitted this decision was actually about cultural considerations. Criminalizing marijuana provided a mechanism for controlling and

surveilling communities of color, allowing police to target Black people for enforcement.

In the decades since, this policy decision has resulted in increased arrests, jail time, and lengthy prison sentences. Marijuana enforcement does not promote public safety, but it does enforce and exacerbate systemic racism within the nation's criminal legal system. Enforcement of marijuana laws centered most heavily on communities of color, with Black people nearly four times more likely to be arrested for marijuana possession than white people, despite similar usage rates. In recognition of this fact, federal legislators have introduced a bill that would legalize marijuana at the federal level, incentivize states to reduce their prison populations, and reinvest in the communities that have been most harmed by drug policy over the last few decades.

- ▶ Several states have also taken action to either legalize marijuana use, decriminalize it, or reduce the severity of consequences associated with marijuana offenses.
- ▶ Eleven states and Washington, D.C., have legalized the recreational use of small amounts of marijuana.
- ▶ Sixteen other states have decriminalized marijuana use.
- ▶ In 2019, Hawaii passed House Bill 1383, which imposed a fine of \$130 for possession of three grams or less of marijuana.
- ▶ New Mexico passed HB 323 in 2019, which reduced the penalty for the possession of up to a half an ounce of marijuana to a civil offense carrying a \$50 fine.
- ▶ North Dakota's House Bill 1050 went into effect August 1, 2019, and reclassified

possession of up to a half an ounce of marijuana as an infraction, with a fine of up to \$1,000.

- ▶ Kansas (SB 112) reduced the charge level for possession of most drug paraphernalia from a class A to a class B misdemeanor.
- ▶ North Dakota (HB 1041) similarly reduced the charge level for possession of marijuana to a Class A misdemeanor for those convicted of first-time offenses. The bill provides for a presumptive sentence of probation for non-serious felonies.

Prosecutors are also leading on this front. In Baltimore City, Maryland, State's Attorney Marilyn Mosby released a plan in 2019 changing the city's approach to marijuana enforcement. Specifically, she announced she would not prosecute individuals for the possession of marijuana regardless of weight and/or criminal history, a policy to refer people convicted for the first time for distribution offenses to a diversion program instead of jail time, and an intention to vacate past marijuana possession charges.

Both research and popular opinion support these reforms. Other countries that have reduced punitive drug policies and invested in harm reduction measures have seen more favorable outcomes in public health and safety, compared to countries with harsher policies. In a 2020 poll by Data for Progress and The Justice Collaborative Institute, around 60% of respondents said they thought the federal government should legalize the use and sale of marijuana, and that local police should stop arresting people for possession of marijuana intended for personal use.

## Sentencing

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Evidence shows that prison populations can be safely reduced, as research on early release finds that many people, no matter the seriousness of the offense, can be released without compromising public safety and, indeed, benefit the community in turn. For example:

- ▶ The Brennan Center for Justice documented that 34 states reduced both their prison populations and their crime rates over a 10-year span.
- ▶ Following a ruling by the state's highest court, Maryland began releasing people early from prison, mostly elderly people convicted of rape and murder. Six years later, only one of the nearly 200 people released had been arrested for a new offense.
- ▶ In 2016, then 2018, Washington, D.C., passed a law permitting people who were sentenced as children to seek new sentences if they had served at least 15 years in prison. As of August 2019, of the nearly 20 people released from prison under the law, none have committed new crimes. Many have taken on roles as community organizers, mentors, and youth advocates.
- ▶ In New York, the state legislature is considering two bills that will improve parole processes and increase access to release opportunities, particularly for elderly individuals.

Studies confirm that early release is consistent with public safety. In all but the most rare situations, people age out of lawbreaking, and therefore lengthy sentences do not deter further criminal behavior. Neuroscience research has shown us that the brain, in particular the

centers that evaluate risk and reward, are still developing until the age of 25. This is also the age at which criminal activity declines. People tend to cease property crimes in their twenties, and leave behind more violent offenses in their early thirties, and drug crimes in their mid-thirties.

Additionally, once a person passes the age of 40, the likelihood of returning to prison after being released drops even more. After release, only 7% of those aged 50-64 and 4% of those over 65 are incarcerated for new convictions. And older adults have an arrest rate of only 2% by age 50, and nearly 0% by age 65. In fact, the Office of Inspector General of the Department of Justice has recommended the early release of aging individuals to help manage incarcerated populations and reduce costs at the Bureau of Prisons.

With this research in mind, some District Attorney Offices have started to reconsider old sentences:

- ▶ Groups of district attorneys in Georgia have collaborated to re-evaluate overly harsh drug sentences that no longer would be imposed today.
- ▶ In California, several district attorneys supported the state's effort to pass sentence review legislation.
- ▶ San Francisco District Attorney Chesa Boudin created a Post-Conviction Unit to review cases "in which the sentences imposed may be excessive or where the convictions may otherwise be legally questionable."
- ▶ In Suffolk County, Massachusetts, District Attorney Rachael Rollins joined with defense counsel in supporting more than 200 petitions for bail reduction or release



during the COVID-19 outbreak, created an Integrity Review Bureau that has petitioned for and righted multiple instances of past prosecutorial misconduct, and she launched a LEAD database to hold police officers accountable for their misconduct.

- ▶ In Philadelphia, as part of a conviction integrity unit, District Attorney Larry Krasner is identifying sentences where the “facts [do] not warrant such harsh sentences.”
- ▶ In Seattle, District Attorney Dan Satterberg has proactively taken steps to support clemency petitions of those sentenced under the state’s three-strikes law.
- ▶ In Brooklyn, District Attorney Eric Gonzalez has introduced a Post-Conviction Justice Bureau, which will include a unit dedicated to eliminating his office’s reflexive opposition to parole and increasing parole opportunities.

Legislative reform measures are underway in several places as well:

- ▶ New Jersey is considering a package of reforms to its criminal sentencing laws that would, in part, eliminate mandatory minimum sentences for a number of non-violent offenses. The reforms come at the recommendation of the state’s Criminal Sentencing and Disposition Commission.
- ▶ This year, Arizona lawmakers introduced a bill to reduce sentences for incarcerated people who participate in rehabilitative programs.
- ▶ The Washington, D.C., Council is considering an amendment to the 2016 Incarceration Reduction Amendment Act (IRAA) to allow more individuals sentenced as children to petition for release after they have

served at least 15 years of their sentence. The Second Look Amendment Act would expand eligibility to individuals under the age of 25 at the time of their offense, an age more consistent with neuroscience on developmental maturity.

There is broad bipartisan public support for reducing incarceration and re-examining sentences. As mentioned above, Polling by Data for Progress and The Justice Collaborative Institute in 2020 found that 69% of voters support “second look” legislation that allows for “the re-examination of old sentences to provide a second chance for people who have been in prison for more than 10 years and who can be safely returned to the community.” Support for these reforms is bipartisan and cuts across geography and ideology. Support among “very conservative” voters for second-look legislation is 63% while support among “very liberal” voters is 82%. These numbers track support along party lines, with 81% of Democrats and 64% of Republicans supporting. Similarly, two-thirds (67%) of voters support “elected prosecutors reexamining past sentences to provide a second chance to people who have been in prison for 10 years or longer and who can be safely returned to the community.” Strong support for prosecutors’ sentence review also cut across political lines, with 69% of “very conservative” and 73% of “very liberal” voters supporting, respectively.