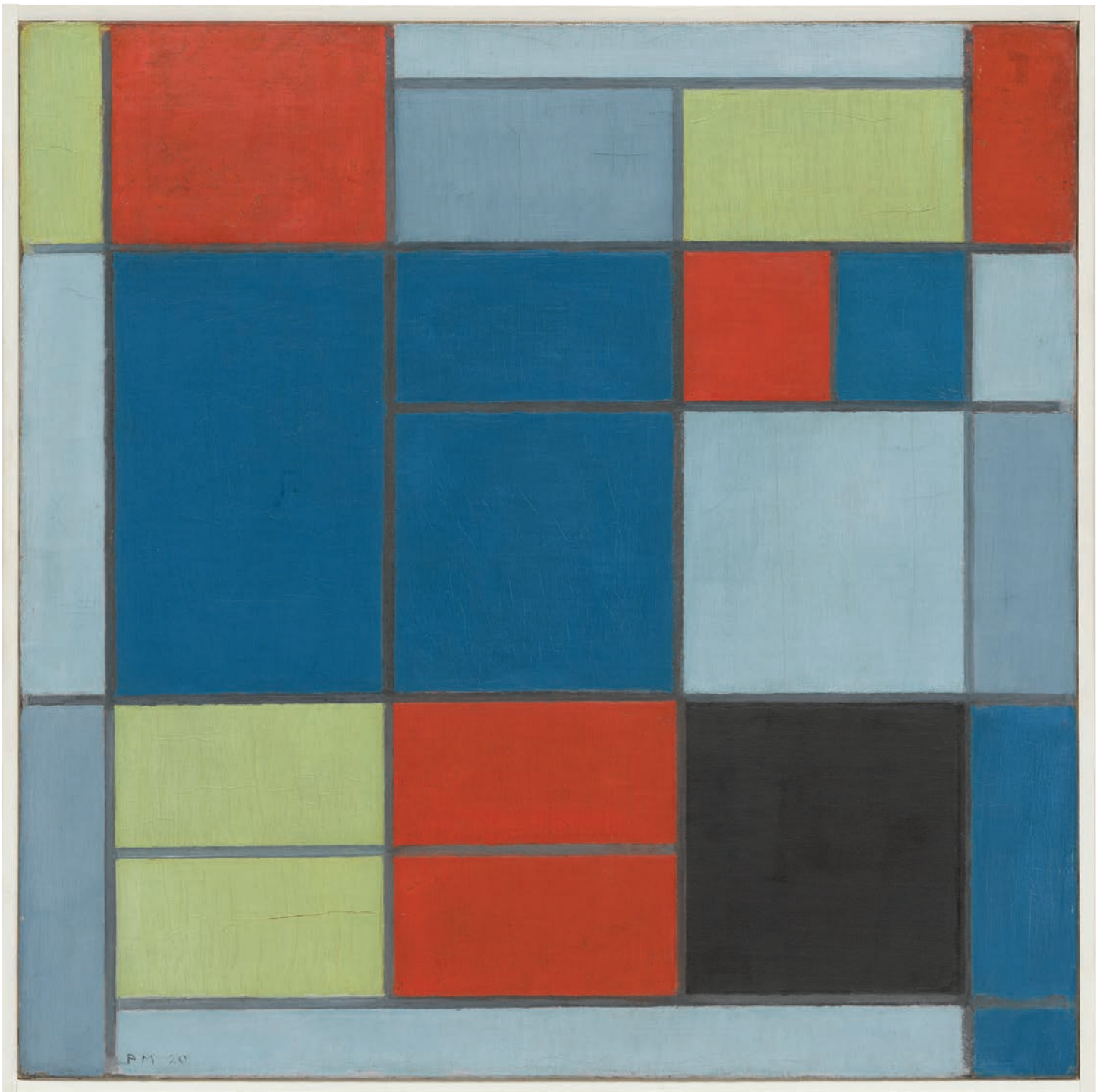


# Disrupting the Cycle: Reimagining the Prosecutor's Role in Reentry

A Report of the  
NYU Center on  
the Administration  
of Criminal Law

## *A Guide to Best Practices*



## About the Center

The Center on the Administration of Criminal Law analyzes important issues of criminal law, with a special focus on prosecutorial power and discretion. It pursues this mission in three main arenas: academia, the courts, and public policy debates.

Through the academic component, the Center researches criminal justice practices at all levels of government, produces scholarship on criminal justice issues, and hosts symposia and conferences to address significant topics in criminal law and procedure. The litigation component uses the Center's research and experience with criminal justice practices to inform courts in important criminal justice matters, particularly in cases in which exercises of prosecutorial discretion create significant legal issues. The public policy component applies the Center's criminal justice expertise to improve practices in the criminal justice system and enhance the public dialogue on criminal justice matters.

To contact, contribute to, or read more about the Center, please visit [prosecutioncenter.org](http://prosecutioncenter.org) or write to [info@prosecutioncenter.org](mailto:info@prosecutioncenter.org).

## Acknowledgments

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# Introduction

Prosecutors care about public safety. When they perform their duties of investigating, prosecuting, and sentencing defendants, they are doing their part to keep their communities safe. Prosecutors are also powerful actors in the criminal justice system because, in performing these duties, they have discretion over which cases to bring, what offenses to charge, what type of plea offers to make, and what sentences to seek. In championing public safety, prosecutors have traditionally focused on the exercise of judgment and discretion in their “front-end” role—from the initial investigation of a case through its disposition. However, by defining their role as ending at case disposition, prosecutors miss an important opportunity to have a greater impact on public safety.

A number of prosecutors’ offices have begun to reimagine their roles in the justice system and think about how they can positively impact public safety not just by charging and incarcerating individuals, but by breaking the cycle of recidivism. This new focus can be seen at different stages in the criminal justice system. At the “front end,” these prosecutors have begun using diversion programs and alternatives to incarceration to avoid over-incarcerating individuals who could benefit from meaningful alternatives. At the “back end,” these prosecutors have begun participating in, and sometimes leading, initiatives focused on prisoner reentry—the process whereby individuals who are sentenced to terms of incarceration are released and return to their communities. By shifting their offices’ focus, these prosecutors are able to reduce the likelihood that individuals will reoffend and, as a result, improve public safety outcomes. By reimagining their roles in the administration of criminal justice, these prosecutors are working to disrupt the cycle of recidivism and mitigate the growing financial costs of administering the justice system.

The public, including communities disproportionately affected by incarceration, also benefits from prosecutors’ emerging focus on preventing recidivism. Statistics show that the population of returning inmates is substantial: nearly 650,000 people are released from prison every year, while over 11 million are released from jails.<sup>1</sup> Of the vast number of those who are incarcerated, 95 percent eventually leave correctional facilities and return to their communities.<sup>2</sup> Statistics show that these inmates face barriers to successful reintegration including the loss of civic rights, barriers to obtaining jobs and housing, onerous conditions of post-release supervision, a heavy criminal debt load, and a complex web of collateral consequences that can bar them from driving, obtaining certain

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1 For prison release figures, see Council of State Governments. (2004). *Report of the Re-entry Policy Council: Charting the Safe and Successful Return of Prisoners to the Community* (New York, NY: Council of State Governments) xviii, <https://csgjusticecenter.org/wp-content/uploads/2013/03/Report-of-the-Reentry-Council.pdf>. For jail statistics, see Minton, T. and Zeng, Z. (2015). *Jail Inmates at Midyear 2014* (Washington, DC: Bureau of Justice Statistics), <https://www.bjs.gov/content/pub/pdf/jim14.pdf>.

2 Hughes, T. and Wilson, D. “Reentry Trends in the United States: Inmates returning to the community after serving time in prison,” <https://www.bjs.gov/content/reentry/reentry.cfm>. See also James, N. (2015). *Offender Reentry: Correctional Statistics, Reintegration into the Community, and Recidivism* (Washington, DC: Congressional Research Service), <https://fas.org/sgp/crs/misc/RL34287.pdf>.



*Having prosecutors think about recidivism and reentry is, in Bharara's view, "an effective law enforcement tool."*

occupational licenses, and living in public housing.<sup>3</sup> Perhaps not surprisingly, recidivism risks are high. Two-thirds of people in state prisons are rearrested within a year of release and about half are re-incarcerated.<sup>4</sup> The fastest growing category of admissions to prisons and jails consists of people already under post-release supervision at the time of their readmission.<sup>5</sup>

This report offers guidance and best practices to prosecutors seeking to expand their duties to encompass anti-recidivism and reentry initiatives. The report provides examples of successful reentry programs and offers actionable steps that prosecutors can take to reduce the risk of recidivism and enhance public safety.

3 See Fact Sheet: Barriers to Successful Re-Entry of Formerly Incarcerated People. The Leadership Conference, March 27, 2017, <http://civilrightsdocs.info/pdf/criminal-justice/Re-Entry-Fact-Sheet.pdf>; and Schanzenbach, D.W., Nunn, R., Bauer, L., Breitwieser, A., Mumford, M., and Nantz, G. (2016). Twelve Facts about Incarceration and Prisoner Reentry (Washington, DC: The Hamilton Project), Fig. 12 (access to social safety net, voting rights, and licensed employment are heavily restricted in a number of states, especially in the South), [https://www.brookings.edu/wp-content/uploads/2016/10/thp\\_20161020\\_twelve\\_facts\\_incarceration\\_prisoner\\_reentry.pdf](https://www.brookings.edu/wp-content/uploads/2016/10/thp_20161020_twelve_facts_incarceration_prisoner_reentry.pdf). See also National Inventory of the Collateral Consequences of Conviction. Justice Center, The Council of State Governments, <https://niccc.csgjusticecenter.org/>.

4 Durose, M., Cooper, A., and Snyder, H. "Recidivism of Prisoners Released in 30 States in 2005: Patterns from 2005 to 2010—Update." *Bureau of Justice Statistics*, April 22, 2014 (about two-thirds of released prisoners were arrested for a new crime within three years, and three-quarters were arrested within five years), <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=4986>. In the federal system, a study that traced individuals eight years after release found that nearly half of those released were rearrested for a new crime or violation of supervision conditions and, of those, almost one-third were reconvicted, with one-quarter reincarcerated. U.S. Sentencing Commission (2016). *Recidivism among Federal Offenders: A Comprehensive Overview* (Washington, DC: U.S. Sentencing Commission), 5, [http://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2016/recidivism\\_overview.pdf](http://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2016/recidivism_overview.pdf).

5 Council of State Governments, *Report of the Re-entry Policy Council* (2004) at 4.

## Reimagining the Prosecutor's Role

Prosecutors who are committed to public safety can and should expand their focus to disrupt the cycle of recidivism through both front-end and back-end reforms. While this shift in outlook may be dramatic, the actual practices summarized in this report are straightforward. In some instances, this shift will involve maintaining contact with prosecuted individuals and working to defeat barriers to reentry that burden these individuals when they return to their communities, such as the inability to obtain employment due to employers' stigma against people with criminal records. In other instances, the shift will mean recognizing that neither the public nor the individual will be served by a sentence of incarceration and creating front-end alternatives to incarceration that lower the risk of recidivism. In all cases, this reframing of the prosecutorial role asks prosecutors to understand how their discretion at all stages of criminal prosecution (from the bail hearing through sentencing) impacts reentry and the risk of recidivism. This understanding will not necessarily be dispositive in case determinations, but it will allow the prosecutor to take a broader view of his or her role in the criminal justice system.

Why should prosecutors, whose work has traditionally focused on case processing, care about recidivism and reentry? In the words of Preet Bharara, the former U.S. Attorney for the Southern District of New York, focusing on "reentry reduces recidivism, increases public safety, boosts the economy, and is smart."<sup>6</sup> The best result for public safety is for the criminal justice system to refrain from over-incarceration at the front end and, at the back end to put individuals who have been incarcerated in a position to thrive when they return to their communities.

In shifting their focus to think more broadly about public safety, prosecutors "are an important category of leaders" to advocate for anti-recidivism and reentry initiatives, according to Bharara.<sup>7</sup> And in order to seize this opportunity to promote public safety, prosecutors must move away from an

6 Bharara, P. Remarks as Featured Speaker. "Disrupting the Cycle: Reforming Reentry Conference," April 7, 2017, NYU Law School, New York, NY.

7 *Ibid.*



outdated model that emphasizes “catching bad guys and locking them up.” Instead, prosecutors should ask whether office practices at both the front and back end are effective: are they working to lower recidivism, or are they criminogenic practices that send individuals back to their communities destined to fail, be rearrested, and cycle back into the criminal justice system? Having prosecutors think about recidivism and reentry is, in Bharara’s view, “an effective law enforcement tool.”<sup>8</sup>

### The Center’s Research

This report is the outgrowth of the NYU School of Law’s Center on the Administration of Criminal Law’s research on reentry. On December 12, 2016, the Center brought together prosecutors and policy leaders from around the nation to share promising ideas, identify hurdles to implementation, and build consensus around tools that prosecutors can use to facilitate reentry and reduce recidivism. On April 7, 2017, the Center hosted a conference, titled “Disrupting the Cycle: Reforming Reentry,” that sought input from criminal justice practitioners, academics, advocates, and also people who had formerly been incarcerated and went through the reentry process.

Through these efforts, as well as extensive research on recidivism and reentry, the Center finds that prosecutors can consider recidivism risks at key stages of a criminal case: before and during the charging stage, during the consideration of bail versus detention, during plea bargaining, and at sentencing. The Center also finds that prosecutors can impact recidivism and reentry by keeping defendants’ files “open” after sentencing and maintaining involvement with defendants. The Center’s goal in conducting this research is to propose best practices that encourage prosecutors to recognize recidivism and reentry factors early on in the administration of their cases. These practices will produce outcomes that are both cost-effective and promote public safety.

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<sup>8</sup> *Ibid.*

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# Executive Summary

The report provides concrete recommendations that prosecutors can implement in order to focus on reentry and target the risk of recidivism. The report proceeds in four parts:

**PART I** focuses on reforms that prosecutors can implement at the “front end” of the process, including considering how prosecutorial discretion at various stages of a criminal case can impact defendants’ risk of recidivism and affect their reentry process. This includes using discretion to make screening and charging decisions, considering diversion and other alternatives to incarceration, supporting pretrial release of defendants where appropriate, and considering the use of creative sentencing alternatives;

**PART II** focuses on reforms that prosecutors can implement at the “back end” of the process to begin preparing for an incarcerated individual’s eventual reentry to their community. This includes pre-release reentry planning, and removing barriers that interfere with their ability to reintegrate into their communities, such as obtaining identification and drivers’ licenses, providing them opportunities to expunge their convictions and reduce fines that may burden them upon release, and collaborating with employers and community-based resources;

**PART III** focuses on the prosecutor as office leader and highlights office-wide reforms that can shift office culture to include anti-recidivism concerns as part of a broader focus on public safety; and

**PART IV** focuses on the prosecutor’s role in the larger community and how he or she can use his or her power to engage a diverse group of stakeholders in outreach and education initiatives, including legislative reforms designed to target recidivism at the front and back ends of the justice system.

# Reentry and the Criminal Justice Process: A Road Map for Prosecutors

Prosecutors have the opportunity to impact the long-term safety of their communities by taking steps at every phase of a criminal case to ease the reentry process and reduce recidivism.

Case Screening and Charging	Implement policies to clarify screening and charging priorities	Consider collateral consequences when making charging decisions	Triage appropriate defendants to diversion programs and other alternative noncriminal justice paths
Pretrial Release and Bail	Advocate for the use of risk assessment tools	Support conditions of pretrial supervision narrowly tailored to individual risks and needs	Support individualized bail determinations over the use of bond schedules
Plea Bargaining and Sentencing	Explore creative sentencing	Begin planning for reentry before disposition	Consider recommendations for placement
Disposition	Advocate for narrowly tailored post-sentence conditions of community supervision	Support in-reach into correctional facilities to ease reentry release	
Release	Help with expungement and other forms of relief from criminal records  Help to reinstate drivers' licenses and obtain identification	Assist in reducing fines and arrears  Partner with employers to find jobs for the formerly incarcerated	Gather and distribute information on local reentry resources  Participate in reentry courts

## The Prosecutor as Advocate: Ten Steps for Action

1

Support the use of pretrial risk assessment tools validated for the jurisdiction in which they are used, so that pretrial release decisions are based on objective factors and pretrial detention is reserved for the highest risk population.

2

Advocate for an end to the use of bond schedules and for reform in bail practices so that money bond is tied to individual ability to pay, helping to avoid pretrial detention for those without means.

3

Support increased funding for pretrial diversion and ATI programs that keep individuals with low-level offenses and those without criminal histories out of the system on the front end, and provide treatment pathways for those with drug abuse or mental health issues.

4

Minimize the collateral consequences of criminal acts.<sup>179</sup>

5

Lobby for the reduction of criminal justice fines and fees imposed at disposition, and for tailoring the imposition of such fines and fees to an individual's ability to pay.

6

Support increased funding for the development of reentry courts and reentry services that maximize individual success upon release.

7

Promote the use of evidence-based, narrowly tailored conditions of community supervision both at the pretrial stage and during probation.

8

Lobby for laws that codify procedures for expungement, sealing of juvenile records, and issuance of certificates of rehabilitation.

9

Seek funding for data-driven research into reentry practices to measure the impact and outcomes of programs to determine what works in reducing recidivism.

10

Support prison rehabilitative programs.

<sup>179</sup> See, e.g., Uniform Collateral Consequences of Conviction Act (as amended 2010), [http://www.uniformlaws.org/shared/docs/collateral\\_consequences/uccca\\_final\\_10.pdf](http://www.uniformlaws.org/shared/docs/collateral_consequences/uccca_final_10.pdf).

# PART I

## Front-End Reforms: Thinking About Reentry and Recidivism at the Earliest Stages

*More advanced reentry models posit that “reentry be defined as a process that begins at arrest,” so that reentry considerations can be incorporated and considered during the life cycle of a criminal case.*

Traditionally, reentry has been seen as a back-end reform that “focus[ed] on providing reentry services to people immediately upon their release from incarceration.”<sup>1</sup> More recently, some reentry models “recognize the need to prepare for the transition back to the community prior to release from incarceration and envision that reentry planning begins when the person enters prison.”<sup>2</sup> But even this may be too late. Reentry planning that begins after the individual has been incarcerated and removed from social supports, jobs, education, family, and housing may negate the benefits that reentry planning can offer. More advanced reentry models posit that “reentry be defined as a process that begins at arrest,” so that reentry considerations can be incorporated and considered during the life cycle of a criminal case.<sup>3</sup>

This section recommends prosecutorial reforms that can be implemented at the front end of the justice system and urges prosecutors to consider the reentry process at critical junctures in criminal cases. By redefining reentry as a process that starts at arrest, prosecutors have an earlier opportunity to positively impact public safety. Accounting for reentry at the inception of a criminal case allows prosecutors to evaluate a defendant’s risks and needs at the earliest possible point. Armed with more knowledge about a defendant, they can then exercise their discretion to divert appropriate candidates out of the system and guard against over-incarceration.

This redefinition of reentry also benefits taxpayers. A 2016 report by the Council of Economic Advisers (“CEA”), *Economic Perspectives on Incarceration and the Criminal Justice System*, found that longer sentences of incarceration did not have a deterrent effect on crime.<sup>4</sup> Instead, the CEA report found that longer spells of incarceration were in fact associated with an increased risk of recidivism: each additional year of sanction causes an average increase of future offending of 4 to 7 percentage points.<sup>5</sup> Thus, considering reentry early in the process not only promotes public safety, but can also decrease the use of incarceration and save taxpayer dollars.

### A. Initial Case Screening and Charging Decisions

Many of the prosecutors who attended the Center’s December 2016 Roundtable viewed the case screening and charging phase as their first opportunity to impact reentry and disrupt the cycle of recidivism. At this stage of the criminal justice process, prosecutors have the opportunity to decide who should and should not be in the system. Reforms at this juncture, therefore, provide prosecutors the earliest opportunity to influence an individual’s future trajectory in the system. These reforms also allow prosecutors to influence the system as a whole by increasing its fairness, and reducing the number of people who will be saddled with a criminal history, burdened by collateral consequences, and in need of reentry services. Charging decisions, then, should be viewed as serving a gatekeeping role that promotes both public safety and financial efficiency.

Adam Foss, a former Assistant District Attorney with the Juvenile Division of Suffolk County, Massachusetts, has noted that prosecutors are “the most powerful actors” in the justice system.<sup>6</sup> They can decide whether to arraign someone for

1 Rosenthal, A. and Wolf, E. (2004). *Unlocking the Potential of Reentry and Reintegration* (Syracuse, NY: Center for Community Alternatives), 2, [https://pdfs.semanticscholar.org/4dd1/210651fe3ded5c1d8fc0fad43e914f86ef03.pdf?\\_ga=2.193786661.92356410.1496527944-1972475136.1496527944](https://pdfs.semanticscholar.org/4dd1/210651fe3ded5c1d8fc0fad43e914f86ef03.pdf?_ga=2.193786661.92356410.1496527944-1972475136.1496527944).

2 *Ibid.*

3 *Ibid.*

4 Council of Economic Advisers. (2016). *Economic Perspectives on Incarceration and the Criminal Justice System* (Washington, DC: Office of the President), 4, <https://obamawhitehouse.archives.gov/sites/whitehouse.gov/files/documents/CEA%2BCriminal%2BJustice%2BReport.pdf>.

5 *Ibid.*

6 Foss, A. “A Prosecutor’s Vision for a Better Criminal Justice System.” *TED*. March 2016, [https://www.ted.com/talks/adam\\_foss\\_a\\_prosecutor\\_s\\_vision\\_for\\_a\\_better\\_justice\\_system/up-next](https://www.ted.com/talks/adam_foss_a_prosecutor_s_vision_for_a_better_justice_system/up-next).

multiple felonies, one felony, a misdemeanor, or not at all. Foss sees the case screening and charging phase as an opportunity for prosecutors to impact public safety by thinking creatively about case disposition. For one of Foss's defendants, this meant that, when he stole thirty computers from a store, Foss did not arraign him for thirty felonies, one felony, or even a misdemeanor. Instead, Foss had him recover the stolen items, create a financial plan to repay the store, perform community service, and write an essay about how his actions could impact his future and the community.<sup>7</sup>

Currently, there is little research on how prosecutors make charging decisions. According to law professor Rachel Barkow, "We don't know very much about why prosecutors choose to charge cases as felonies versus misdemeanors, or why they dismiss or divert."<sup>8</sup> Prosecutors' offices rarely make their charging priorities public, and there is little transparency in the process, for fear of overtly sending messages to offenders about what behavior will or will not be prosecuted. But charging decisions have a huge impact on incarceration levels, correctional costs, and individual outcomes like rates of rearrest, recidivism, and re-incarceration.

Several office reforms can help improve this process, allowing for more thoughtful consideration of complaints, triaging of resources, and flagging cases for dismissal or nontraditional pathways outside of criminal justice system processing.

## 1. Improve Case Screening and Charging Practices

There are a number of different reforms that prosecutors can make to the case screening and charging process. Importantly, there is no "one-size-fits-all" approach: a variety of strategies can lead to improvements. For instance, the San Diego City Attorney's Office has increased staffing, tripling the number of people in the charging unit in order to increase screening capacity. This has the benefit of not only allowing for review of more cases, but

also of avoiding a model whereby a single line prosecutor (who may not have the depth of experience to evaluate cases) is vested with responsibility for determining which cases to accept or decline or which charges to file or dismiss.

The Philadelphia District Attorney's Office took a different approach by restructuring perceptions about the charging unit: once seen as a "punishment" assignment, the office appointed a respected veteran attorney to lead the unit to ensure that prosecutors charged only what they could prove.<sup>9</sup> Senior attorneys bring to bear years of experience assessing and prosecuting cases, are better positioned to determine which cases are meritorious and worthy of prosecution, and can provide guidance to newer line assistants. Using experienced prosecutors in the case screening process increases the likelihood that cases will be appropriately charged (or dismissed).<sup>10</sup> Their experience also lends them a level of credibility in instances where they may deviate from law enforcement recommendations or requests for charges.

Prosecutors should also employ risk assessment tools as early as possible during case screening and charging. As the Pretrial Justice Institute notes, pretrial risk assessment tools aid in assessing the risk of future offenses and the danger that individuals may (or may not) present to the community. Using this information, prosecutors can determine whether an individual should be charged or diverted to alternative programs or specialty courts. This enhanced information can improve the case screening and charging process, especially when it is combined with senior prosecutors' depth of experience.

By reallocating staff, promoting senior line prosecutors to supervisory roles, and using risk assessment tools to inform their decision-making process, prosecutors can make educated decisions about which cases merit incarceration and which merit diversion. These reforms are also consistent with prosecutors' obligations to consider, among other things, the availability and suitability of alternative

*... Considering reentry early in the process not only promotes public safety, it can also decrease the use of incarceration and save taxpayer dollars.*

<sup>7</sup> Ibid.

<sup>8</sup> Prisoner Reentry Institute (2016). *Pretrial Practice: Building a National Research Agenda for the Front End of Criminal Justice System* 12 (New York, NY: John Jay College of Criminal Justice), [http://johnjaypri.org/wp-content/uploads/2016/05/ArnoldReport2\\_webversion.pdf](http://johnjaypri.org/wp-content/uploads/2016/05/ArnoldReport2_webversion.pdf).

<sup>9</sup> Philadelphia District Attorney's Office, FY 2012 Budget Hearing Statement, <http://www.phila.gov/districtattorney/pdfs/2012%20budget.pdf>.

<sup>10</sup> Pretrial Justice Institute, "Early Screening by an Experienced Prosecutor: Recommendation," <http://www.pretrial.org/solutions/early-screening/>.



*... Because collateral consequences can hinder a person's ability to find and keep housing, education, and employment—all factors that contribute to successful reentry and thus reduce recidivism—prosecutors should be concerned about the collateral burdens a particular charge will carry for an individual.*

diversion programs and whether non-prosecution can free resources for prosecutors to pursue more serious offenses.<sup>11</sup> Finally, these reforms promote the dual goals of ensuring public safety and conserving office resources over both the short- and long-term.

Prosecutors should also create written policies that provide a framework for attorneys when screening cases for prosecution, diversion, or dismissal. Such policies not only help to articulate office priorities (which, if communicated to and/or created in collaboration with local law enforcement, can also help reorganize policing priorities), they can also be used as training materials to orient new prosecutors. Written policies avoid ad hoc decision-making that may result in charging decisions that contradict the office's crime prevention and recidivism reduction strategies. Prosecutors engaged in screening could also be given a checklist of factors to consider when making charging decisions to assist them in thinking about the case before them, including the types of charges to prioritize for prosecution, what types of cases to flag for pretrial diversion programs or participation in specialty courts, and when dismissal might be appropriate.

For example, the Essex County Prosecutor's Office in New Jersey ("ECPO") has published written guidelines on its website explaining the framework prosecutors use in screening cases. In the ECPO, case screening is handled by the Initial Screening Unit ("ISU"), which serves as a clearinghouse for all criminal cases. ECPO guidelines mandate that prosecutors consider the following factors in determining whether cases can be appropriately diverted or should be referred for further prosecution:

- the nature of the offense;
- the surrounding circumstances;
- the quality of the evidence; and
- the character of the defendant.<sup>12</sup>

<sup>11</sup> National District Attorneys Association. *National Prosecution Standards: Third Edition* § 4-1.3, <http://www.ndaa.org/pdf/NDAA%20NPS%203rd%20Ed.%20W%20Revised%20Commentary.pdf>.

<sup>12</sup> "Initial Screening / Central Judicial Processing Units." *Essex County Prosecutor's Office*, [http://www.njecpo.org/?page\\_id=2594](http://www.njecpo.org/?page_id=2594).

In screening complaints and cases, the ISU works closely with law enforcement officers, court staff, and potential complainants to ensure that only the appropriate cases are referred to the ECPO.<sup>13</sup> Thus, the ISU screens complaints and cases to ensure that offenses are classified appropriately and referred to the proper court, "with an emphasis on diverting those complaints not warranting prosecution on the Superior Court level to the Municipal Court."<sup>14</sup> Likewise, the ISU also diverts appropriate cases to the newly established Mental Health Unit, which recognizes that certain individuals require treatment and intervention for underlying health issues, not a lengthy prison sentence.<sup>15</sup>

The ISU also relies heavily on digital and integrated data sharing between the prosecutor's office, law enforcement, and the courts in expediting screening and measuring outcomes. The ISU's screening process has reduced the number of cases in the Superior Court and the consequences for those involved. In 2014, of 13,792 cases, 7,522 were downgraded to Municipal Court or prosecuted as disorderly persons offenses in Special Remand Court. A full description of the program's particulars and its connections to law enforcement and the judicial branch is available [here](#).

## 2. Consider Collateral Consequences at the Charging Stage

Prosecutors should also consider the impact of collateral consequences at the front-end of their cases, including when they make charging decisions. Just as in the screening phase of a case, evaluation of these consequences should be done with an eye toward ensuring that the charges are proportionate to an individual's actions. In addition, because collateral consequences can hinder a person's ability to find and keep housing, education, and employment—all factors that contribute to successful reentry and thus reduce recidivism—prosecutors should be concerned about the collateral burdens a particular charge will carry for an individual.

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*

Criminal convictions often carry a host of collateral consequences that can last indefinitely, “long after an individual is fully rehabilitated.”<sup>16</sup> While some consequences are required to be disclosed during the course of criminal proceedings, others do not require disclosure—and their impact is thus not known—until well after a sentence has been served or community supervision completed. In practice, these consequences “serve to extend the punishment of and further marginalize and stigmatize ex-offenders.”<sup>17</sup> When these consequences are aggregated together, they can have adverse effects on individuals during the reentry process and make it difficult for them to become productive members of their communities.

The number and type of collateral consequences are many and varied. Certain consequences are well-known—such as immigration consequences and voter disenfranchisement—while other consequences are less apparent during the life cycle of a criminal case. These collateral consequences cut across different areas of life and can include the following:

- ineligibility for federal welfare benefits;
- ineligibility for government-assisted housing;
- ineligibility for jury service;
- ineligibility for military service;
- prohibitions on obtaining employment-related or other professional licenses; and
- restrictions on obtaining and using a driver’s license.<sup>18</sup>

The number of collateral consequences has also increased dramatically.<sup>19</sup> Researchers found that most states have close to 1,000 separate rules that attach upon conviction of a crime, with some having many more.<sup>20</sup> In addition, federal and state laws that impose collateral consequences are often spread across different statutory sections, which can make ascertaining the effect of a conviction difficult.

While immigration and voter disenfranchisement consequences receive a lot of attention, the network of other collateral consequences can have equally negative effects on individuals reentering their communities after a period of incarceration or supervision. For instance, having a criminal record can also interfere with their ability to obtain employment or housing when applications require disclosure of criminal records or a criminal background check. Likewise, collateral consequences can effectively prevent them from pursuing education alternatives by disqualifying them from government-sponsored student loan programs. In addition, when an individual is unable to drive due to driver’s license restrictions or is unable to find employment due to similar occupational license restrictions, this can severely hamper his or her ability to thrive.

In order to fully understand the consequences that flow from charging decisions, prosecutors should consult the *National Inventory of the Collateral Consequences of Conviction* (the *National Inventory*), an online database that collects collateral consequences and other post-conviction obstacles across the country.<sup>21</sup> The *National Inventory* allows prosecutors to sort by triggering offense, category

## The National Collateral Consequence Database

[Click here](#) to access the *National Inventory of the Collateral Consequences of Conviction*. For the User Guide to and frequently asked questions about the *National Inventory*, [click here](#).

For a compilation of the collateral consequences of juvenile convictions in ten states, see National Juvenile Defender Center, “[Collateral Consequences](#).”

For more on juvenile cases, see the ABA’s [Juvenile Collateral Consequences Project](#).

16 Berson, S. “Beyond the Sentence—Understanding Collateral Consequences.” *National Institute of Justice*, <https://www.nij.gov/journals/272/Pages/collateral-consequences.aspx>.

17 Shames, A. and Subramanian, R. (2014). “Doing the Right Thing: The Evolving Role of Human Dignity in American Sentencing and Corrections.” *Federal Sentencing Reporter*, vol. 27, no. 1, pp. 9–18, at 11.

18 See Pinard, M., (2010). “Reflections and Perspectives on Reentry and Collateral Consequences,” *Northwestern University J. Crim. L. & Criminology*, vol. 100, no. 3, pp. 1213–1224, at 1214.

19 *Id.* at 1214–15 & n.11.

20 Colgate Love, M., Roberts, J., and Klingele, C. *Collateral Consequences of Criminal Convictions: Law, Policy and Practice*. (Thomson West, 2013), 521, § 9:10. States have begun to revisit their legislation on collateral consequences of criminal convictions. Between 2009 and 2014, forty one states and Washington, D.C. enacted 155 pieces of legislation “to mitigate the burden of collateral consequences for people with certain criminal convictions”—covering expungement and record sealing, certificates of relief, and relief from employment-related consequences, among other topics. See Subramanian, R., Moreno, R., and Gebreselassie, S. (2014). *Relief in Sight? States Rethink the Collateral Consequences of Criminal Conviction, 2009–2014* (New York, NY: Vera Institute of Justice), 11.

21 *National Inventory of the Collateral Consequences of Conviction*. Justice Center, The Council of State Governments, <https://niccc.csgjusticecenter.org/>.

of consequence (employment, licensure, property rights, education, etc.), and whether the consequence is discretionary or mandatory. In total, the *National Inventory* contains information on more than 44,000 separate collateral consequences from all 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, and the federal government. “The Inventory can serve as a first-stop resource for judges, defense counsel and prosecutors, allowing them to quickly locate the significant details of relevant collateral consequences” and “allow lawyers and their clients to consider these consequences as part of criminal proceedings.”<sup>22</sup>

Prosecutors should use and consult the *National Inventory* database when assessing a defendant’s case and deciding what charges to file. This will allow the prosecutor to better understand how such charges will impact that defendant (for example, in Minnesota anyone convicted of leaving the scene of an accident is barred from obtaining a commercial driver’s license for anywhere from one year to life,<sup>23</sup> a consequence that is clearly relevant if the defendant relies on such a license for his or her livelihood). By using the information available in the *National Inventory* database, prosecutors can make informed decisions regarding whether to (i) adjust charges so as to avoid any inequitable consequences or (ii) assist the defendant as early as possible in post-release reentry planning in the event that the charges should not be adjusted or amended. Weighing the nature of collateral consequences also allows prosecutors to ask an important question: whether the negative, long-term effects of these consequences outweigh whatever the deterrent and/or incapacitative benefits are from charging a given case.

22 Berson, S. “Beyond the Sentence—Understanding Collateral Consequences.” *National Institute of Justice*, <https://www.nij.gov/journals/272/Pages/collateral-consequences.aspx>.

23 MINN. R. 7409.0200 (2003).

## B. Pretrial Diversion Programs

Appropriate pretrial diversion can be used as a front-end mechanism to promote public safety while also lowering the risk of recidivism that comes with entry into the criminal justice system. In its national survey of diversion programs, the Center for Health and Justice at the Treatment Alternatives for Safe Communities (TASC) provides the following definition of diversion programs:

In its most general usage, diversion means that an individual is placed on a justice track that is less restrictive and affords more opportunities for rehabilitation and restoration. In its purest form, diversion may result in the avoidance or dropping of a charge and dismissal of a case completely. At either end of the diversion spectrum, the overriding goals are the same—to maximize the opportunity for success and minimize the likelihood of recidivism.<sup>24</sup>

Regardless of the type of diversion program used, they are all “designed to address factors that contribute to the criminal behavior of the accused.”<sup>25</sup> A number of jurisdictions at the federal, state, and local levels have begun using diversion programs as a means to address public safety concerns without unnecessarily raising the risk of recidivism.

24 Center for Health & Justice at TASC. (2013). *No Entry: A National Survey of Criminal Justice Diversion Programs and Initiatives* (Chicago: Center for Health and Justice at TASC), 6, [http://www2.centerforhealthandjustice.org/sites/www2.centerforhealthandjustice.org/files/publications/CHJ%20Diver%20Report\\_web.pdf](http://www2.centerforhealthandjustice.org/sites/www2.centerforhealthandjustice.org/files/publications/CHJ%20Diver%20Report_web.pdf) [hereinafter TASC Survey].

25 “Pretrial Diversion,” *National Conference of State Legislatures*, May 13, 2015, <http://www.ncsl.org/research/civil-and-criminal-justice/pretrial-diversion.aspx>.

At the state level, according to the National Conference of State Legislatures, “[a]t least 44 states statutorily provide pretrial diversion alternatives to traditional criminal justice proceedings for persons charged with criminal offenses... [and] a guilty plea may or may not be required.”<sup>26</sup> These programs, which are often authorized for specialized populations, include the following:

- twenty six states have diversion programs designed to address substance abuse for people charged with drug or alcohol related offenses, or defendants with identified substance abuse histories;
- seventeen states have diversion programs for people with mental illness;
- fifteen states have programs specifically designated for veterans;
- eight states allow diversion for domestic violence and child abuse cases;
- nine states have diversion programs for worthless check offenses; and
- six states have diversion programs for other populations, including property offenses, prostitution, certain traffic offenses, and defendants who are victims of human trafficking.<sup>27</sup>

Diversion programs are important tools, because they allow a prosecutor to consider moving beyond the traditional model of criminal justice. These programs allow prosecutors to propose a different intervention that both addresses the root causes of an individual’s criminal behavior and also empowers the individual to avoid re-offending in the future. These interventions are varied and can include providing people connections to work, education, mental health and/or social services, or restorative justice programs, which help to change behavior by showing defendants the impact their criminal behavior has on their victim and helping to repair that damage.

Diversion programs typically occur at one of three points in the criminal justice process. There are opportunities for prosecutors to be involved as advocates, advisers, and program implementers at every phase:

- prebooking diversion programs typically operated by law enforcement officers;
- pretrial diversion programs run by prosecutors’ offices; and
- specialty and problem-solving courts operated as part of the judicial branch.

Below are examples of diversion programs that operate at these three phases of the criminal justice system.

### 1. Law Enforcement–Led Diversion Programs

Law enforcement diversion programs generally occur at the prebooking phase, when officers respond to incidents and must decide whether to arrest an individual or divert them to a different track. These programs serve an important gatekeeping function. They enable individuals to avoid arrest (and possible lengthy pretrial detention, which can be disruptive and lead to a higher risk of recidivism), work to deescalate situations involving individuals with behavioral health symptoms or addiction issues, and offer services to treat these underlying problems. Law enforcement diversion programs also contribute to the safety of both the public and the officers who protect them: studies suggest that these diversion programs reduce officer injuries, jail use, and rearrest rates.<sup>28</sup>

### State Diversion Legislation

For a complete list of state statutes setting out authorized diversion programs and their particulars, visit the [National Conference of State Legislatures](#).

<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid.*

<sup>28</sup> TASC Survey at 12–13 (citations omitted).

## The LEAD Program | King County, Washington<sup>29</sup>

### Law Enforcement Assisted Diversion (LEAD).

LEAD is a prebooking diversion program designed to address low-level drug and prostitution crimes in certain neighborhoods in Seattle. LEAD moves the diversion point from the prosecutor's office to the earliest stage in the criminal justice system: the point of initial contact with a law enforcement officer. When appropriate, law enforcement officers redirect these offenders to community-based services, rather than arresting and booking them for future consideration for criminal charges. Support services include housing, health care, job training, drug treatment, and behavioral health support. Both the Seattle City Attorney's Office and the King County Prosecuting Attorney's Office serve on the LEAD Policy Coordinating Group. The goals of the program are several: to improve public safety and public order, to reduce recidivism among its participants, and to reduce the harms a drug offender causes to himself or herself. In so doing, the program "preserve[s] expensive criminal justice system resources for more serious or violent offenders."<sup>30</sup> A 2015 evaluation of the program found that LEAD program participants had 1.4 fewer jail bookings on average per year, spent 39 fewer days in jail, and had an 87 percent lower chance of at least one prison incarceration. This same evaluation also showed significant reductions in felony cases and substantial system cost reductions.<sup>31</sup>

*Prosecutors' offices should collect data and measure all pretrial diversion program outcomes, including recidivism rates, jail stay reductions, and improved health, education, and employment outcomes for participants.*

Although prebooking diversion programs are generally officer-led and controlled, prosecutors can and should be involved in supporting funding for the development and implementation of these programs, and by partnering with law enforcement to support diversion for individuals who commit low-level offenses and who have mental health and/or substance abuse issues. These types of programs protect the limited financial resources of prosecutors' offices by ensuring that they are not burdened with cases that could best be treated through alternative means.

## 2. Prosecutor-Led Pretrial Diversion Programs

Pretrial diversion programs run by prosecutors' offices vary widely among jurisdictions, and there are no national standards or norms underlying their design and implementation. For instance, some programs are implemented at the pre-plea phase, while others require a conditional plea that can later be dismissed pending successful completion of the program. Researchers have identified several common components of prosecutor-led diversion programs: "1) the deferment of traditional justice processing pending completion of the program; 2) specific guidelines for eligibility, either in law or practice; 3) interagency decision-making about participation (e.g., the agreement of the prosecuting attorney and the judge) with one entity serving as final arbiter; 4) managed supervision and reporting, typically by a pretrial service agency or local not-for-profit entity; and 5) articulated criteria for determining success or failure and implications of both."<sup>32</sup>

Prosecutors' offices should collect data and measure all pretrial diversion program outcomes, including recidivism rates, jail stay reductions, and improved health, education, and employment outcomes for participants.

<sup>29</sup> For other examples of prebooking diversion programs run by law enforcement, see TASC Survey at 14–15 & Appendix A.

<sup>30</sup> "About LEAD," LEAD: Law Enforcement Assisted Diversion, <http://leadkingcounty.org/about/z>

<sup>31</sup> Collins, S., Lonszak, H., and Clifasefi, S. (2015). *LEAD Program Evaluation: Criminal Justice and Legal System Utilization and Associated Costs* (Seattle: University of Washington), 2-3, <http://static1.1.sqspcdn.com/static/f/1185392/26401889/1437170937787/June+2015+LEAD-Program-Evaluation-Criminal-Justice-and-Legal-System-Utilization-and-Associated-Costs.pdf?token=iENRyjoj%2F%2FJHn5bb%2BkUjHQKorOU%3D>.

<sup>32</sup> TASC Survey at 16.



## Pretrial Diversion | Examples of Prosecutor-Run Programs

### Juvenile Diversion

#### Bridging the Gap Diversion Program

##### Suffolk County, Massachusetts

##### District Attorney's Office

Recognizing that early contact with the criminal justice system can lead to a lifetime of entanglement, the Suffolk County Attorney's Office partners with the Salvation Army by referring juvenile offenders who committed their first offense to its Bridging the Gap Diversion Program.<sup>33</sup> Designed for court-involved youth ages twelve to seventeen, the three-month program aims to steer at-risk juveniles away from crime, violence, and substance abuse through programming that covers ethics, self-esteem, peer pressure, addiction, anger management, job-seeking and financial planning, relationships, and more. After successful completion, participants' records are cleared.<sup>34</sup>

In addition to this formal diversion program, the County Attorney's Office disseminates the *Overcoming Violence* curriculum to schools as a teaching tool to provide early prevention. Experienced prosecutors meet in small groups with schoolchildren to discuss the ramifications of gun and gang-related violence. The office also supports early intervention through its Community Based Juvenile Justice program, a school-based safety initiative aimed at reducing school and community violence by identifying at-risk youth and using proved prevention strategies. As part of its Juvenile Alternative Resolution (JAR) pilot project, the Suffolk County Attorney's Office is committed to serving a broader class of juveniles, beyond those who committed their first

offense. County Attorney Daniel F. Conley explains: "[JAR] will assess their specific backgrounds, identify their specific needs, and help them achieve specific goals—not just avoiding prosecution but having a net-positive effect on their lives, victims' satisfaction, and the community as a whole."<sup>35</sup> With its partner agencies, the program has two primary goals: "First, reducing juvenile involvement with Suffolk County's criminal justice system, and second, minimizing the social, academic, and employment consequences that can follow that involvement."<sup>36</sup>

### Diversion for Low-Level Drug Offenders

#### "The Choice Is Yours" Program

##### Philadelphia District Attorney's Office

Modeled after San Francisco's Back on Track program, the Choice is Yours diversion program targets people who have committed first-time, nonviolent felony drug offenses and are facing one- to two-year prison sentences. Operated in partnership with the District Attorney's Office, Municipal Court, and the Defender Association of Philadelphia, the program provides individualized case management, skills training and basic education services, job search and placement assistance, and community service placements. Participants must be referred by the District Attorney's Office and, upon successful completion, graduates have their charges dismissed. If there are no new violations after another year, they can petition to have their criminal records expunged.<sup>37</sup> The intensive one-year program, run by Jewish Employment and Vocational Services, costs about \$5,000 to \$8,000 per year per participant, much less than the approximately \$40,000 per year it costs to incarcerate someone in prison.<sup>38</sup> The program has dramatically reduced recidivism rates: its participants have recidivism rates of

33 "Bridging the Gap Diversion Program," *Suffolk County District Attorney*, Massachusetts, <http://www.suffolkdistrictattorney.com/bridging-the-gap-diversion-program/>.

34 "Early Intervention and Prevention," *Suffolk County District Attorney*, Massachusetts, <http://www.suffolkdistrictattorney.com/partnerships-and-prevention/early-intervention-and-prevention/>.

35 "Remarks of Suffolk County District Attorney Daniel F. Conley on the Juvenile Alternative Resolution Pilot Program," *Suffolk County District Attorney*, Massachusetts, February 3, 2017, <http://www.suffolkdistrictattorney.com/remarks-of-suffolk-county-district-attorney-daniel-f-conley-on-the-juvenile-alternative-resolution-pilot-program/#more-9979>.

36 *Ibid.*

37 "The Choice Is Yours," *JEVs Human Services*, <https://jevshumanservices.org/job-readiness-career-services/the-choice-is-yours/>.

38 "'The Choice Is Yours' Diversionary Program," *Philadelphia District Attorney's Office*, March 21, 2012, <https://phillyda.wordpress.com/2012/03/21/the-choice-is-yours-diversionary-program/>.

*Data and evidence should also be used to consider whether to expand pretrial diversion programs to include participants who, at first blush, appear to be higher-risk defendants.*

just 7 to 8 percent, compared with Pennsylvania's 71 percent recidivism rate for justice-involved youth overall.<sup>39</sup>

The office also runs a host of other pretrial diversion programs, including those aimed at non-first time misdemeanors, domestic violence, small amounts of marijuana, certain first-time felonies, and prostitution.<sup>40</sup> Forty percent of all misdemeanor cases in the city go through a diversionary program. For a detailed look at the range of pretrial diversion programs operated by the Philadelphia District Attorney's Office, including their programming components and eligibility requirements, see Philadelphia District Attorney's Office, [Pre-Trial Diversion Programs](#).

In implementing programs, prosecutors' offices should consult the wealth of information in the **Center for Health and Justice at TASC's** comprehensive [survey of programs](#), which provides detailed descriptions of program components, targeted populations, and outcomes.

Regardless of the type of program an office decides to implement, prosecutors should track individual participants and maintain data on their outcomes after they graduate or leave the program. This will enable prosecutors to make future diversion decisions that are based on evidence and data. Currently, there is evidence that these diversion programs result in less incarceration time, avoidance of criminal records, and positive mental health and substance use outcomes.<sup>41</sup> Some programs, like Operation De Novo, which operated in Hennepin County, Minnesota, had measured reductions in recidivism rates.<sup>42</sup> However, in a major survey of

national pretrial diversion programs, only 36 percent of such programs reported that they collected data about recidivism.<sup>43</sup>

Data and evidence should also be used to consider whether to expand pretrial diversion programs to include participants who, at first blush, appear to be higher-risk defendants. This can actually improve public safety outcomes, where underlying data suggests that the driving force behind the criminal behavior is readily identifiable and can be addressed through intensive supervision and rehabilitative services. For instance, the St. Louis Circuit Attorney's Office has started The Gun Redirect Program, a post-plea, felony diversion initiative that takes steps to parse individuals who are arrested and charged with illegal gun possession. In conjunction with a crime analyst, the Office develops a pool of individuals charged with gun offenses who are carrying a gun for reasons other than to perpetuate future violence. A risk needs assessment is also conducted for these program participants, who then meet weekly with a prosecutor, diversion manager, judge, and probation officer to discuss progress. Sentencing is deferred for up to one year and, upon successful completion of the program, the guilty plea is withdrawn and the charge dismissed. In addition, participants are given access to employment and education support, as well as behavioral and cognitive therapy.<sup>44</sup> Likewise, the Conviction and Sentences Alternatives Program (CASA), which is discussed below at page 21, is a post-plea, presentence diversion program operating in the Central District of California. The CASA program aims to identify individuals who commit crimes for specific and identifiable reasons

39 See Miller, L., "District Attorney's Office Offers a Second Chance," *The Philadelphia Tribune*, May 8, 2015, [http://www.phillytrib.com/news/district-attorney-s-office-offers-a-second-chance/article\\_3e3a7dfd-17b7-50f8-874d-708e0201aedb.html](http://www.phillytrib.com/news/district-attorney-s-office-offers-a-second-chance/article_3e3a7dfd-17b7-50f8-874d-708e0201aedb.html); and Goldman, L., "The Choice is Yours, Philadelphia DA's Program for Young Drug Dealers Succeeds with Minimal Recidivism," *HuffPost*, August 9, 2013, [http://www.huffingtonpost.com/laura-goldman/the-choice-is-yours-phila\\_b\\_3732718.html](http://www.huffingtonpost.com/laura-goldman/the-choice-is-yours-phila_b_3732718.html).

40 See Philadelphia District Attorney's Office, *Pre-Trial Diversion Programs: Preventing Future Crime and Preserving Judicial Resources Through Non-Traditional Prosecution*, <http://phl-council.com/wp-content/uploads/2016/04/Pre-Trial-Diversion-Philadelphia.pdf>.

41 TASC Survey at 17 & n. 45.

42 TASC Survey at 17 & n.47 (citing Schillo, B., Erickson, B., and Schauben, L. (2003). *Review of Operation DeNovo's Adult Diversion Program: Clients Who Entered the Program in 2001*.

Minneapolis, MN: Council on Crime and Justice.

43 TASC Survey at 17 & n.51 (citing National Association of Pretrial Services Agencies (NAPSA). (2010). *Promising Practices in Pretrial Diversion*. (Washington, DC: NAPSA), 16, <http://www.nationaltasc.org/wp-content/uploads/2012/11/Promising-Practices-in-Pretrial-Diversion%E2%80%9D-Published-by-the-National-Association-of-Pretrial-Service-Agencies-with-support-from-the-Bureau-of-Justice-Assistance.pdf>).

44 See "Smart Prosecution Site Map," Bureau of Justice Assistance, <http://www.smartprosecution.apainc.org/smart-prosecution-site-descriptions>; Smart Prosecution, "St. Louis Circuit Attorney's Office Smart Prosecution Initiative: Gun Diversion Project," [http://docs.wixstatic.com/ugd/2ae0d4\\_fee-79b356904a028cfa1245506122e4.pdf](http://docs.wixstatic.com/ugd/2ae0d4_fee-79b356904a028cfa1245506122e4.pdf); and City of Saint Louis Circuit Attorney's Office, "Gun Redirect Program," <http://www.circuitattorney.org/GunRedirectProgram.aspx>.



and does not automatically exclude individuals with serious criminal histories, so long as their conduct appears to have been motivated primarily by substance abuse, mental illness, or even the negative influence of more culpable codefendants.

### 3. Specialty and Problem-Solving Courts

Problem-solving or specialty courts within the judicial branch offer another opportunity to triage defendants into interventions outside of traditional case processing. Generally speaking, while these programs are court-operated, they are administered in conjunction with other law enforcement-and/or prosecutor-led programs and include other key criminal justice stakeholders like prosecutors, defense counsel, probation officers, judges, reentry service providers, and case managers. Some programs operate on a post-plea model in which defendants must plead guilty and a conviction is entered. Others are truly diversionary and follow a pre-plea model, in which no plea is entered and there is an agreement that charges will be dropped upon successful program completion.<sup>45</sup>

Prosecutors play an essential role in the success of specialty courts because individual candidates who meet eligibility requirements are usually identified during the case screening and charging process. For instance, the Multnomah County, Oregon Community Court operates with oversight by the Multnomah County District Attorney and focuses on low-level quality of life crimes. Successful completion of required community service or other social service interventions usually results in a dismissal of first-time cases in the program.<sup>46</sup>

Although the particulars of specialty court programs vary widely, typically these “special court dockets...focus on a targeted segment of the offender population with distinct needs, including drug addiction, mental illness, or homelessness, or individuals involved in prostitution or who are veterans.”<sup>47</sup> Their goal is to address the root causes of an individual’s behavior by providing drug treatment and behavioral health interventions, and by “fostering relationships within the justice system and with residents, businesses, the faith community, and schools,”<sup>48</sup> as well as vocational training. The programs “focus on providing safe and effective interventions, treatment, services, and supervision to eligible defendants in the community—as opposed to in jail or prison—and place greater emphasis on behavioral progress along a continuum.”<sup>49</sup>

In 2010, the Center for Court Innovation outlined a set of universal performance indicators for problem-solving courts, broken down into three organizing principles: problem-solving orientation, collaboration, and accountability. From its report, these are defined as:

- **Problem-Solving Orientation:** This principle indicates a focus on solving the underlying problems of litigants, victims, or communities. The concept often implies an interest in individual rehabilitation; but sometimes the defining “problems” of interest belong less to the presenting litigant than to the victims of crime, including the larger community;
- **Collaboration:** This principle highlights the role of interdisciplinary collaboration with players both internal and external to the justice system, including court administrators, judges, attorneys, supervision agencies, service providers, and community members; and

*Prosecutors play an essential role in the success of specialty courts because individual candidates who meet eligibility requirements are usually identified during the case screening and charging process.*

<sup>45</sup> TASC Survey at 23.

<sup>46</sup> Multnomah County District Attorney, “Community Court,” <http://mcda.us/index.php/community-initiatives-special-programs/community-court/>. See also TASC Survey at 26.

<sup>47</sup> Shames and Subramanian, “Doing the Right Thing” (2014), at 12.

<sup>48</sup> TASC Survey at 23.

<sup>49</sup> Shames and Subramanian, “Doing the Right Thing” (2014), at 12.

- **Accountability:** This principle focuses on promoting compliance by participants/litigants, quality services among service providers, and accountability by the court itself to the larger community to implement its intended model and track its performance.<sup>50</sup>

Drug courts provide the oldest model for problem-solving courts, with the first official such court established in Miami-Dade County in 1989.<sup>51</sup> The court arose in response to an upsurge in drug-related cases overwhelming the court's docket and local jails, and a pattern of defendants repeatedly cycling between courts and jails without receiving treatment. "While specialized courtrooms dedicated to drug cases were not new, a court with an explicitly rehabilitative orientation rather than a retributive and deterrent one was novel."<sup>52</sup> A 2009 outcome and impact evaluation of Florida's adult drug courts showed that individuals who completed the program were 80 percent less likely to go to prison than a comparison group.<sup>53</sup>

The Miami-Dade experience spawned a drug court movement and, as of 2012, there were more than 2,700 such courts in the U.S.<sup>54</sup> As of 2013, there were more than 1,100 other types of problem-solving courts nationally.<sup>55</sup> Mental health courts, for example, attempt to align both criminal justice and public health interests with a behavioral health pathway for qualifying defendants, "so that each system can fulfill its duty and produce the best outcomes for people with mental illnesses and their communities."<sup>56</sup> Operating on both pre- and post-plea models, the courts connect individuals with community-based services, and the treatment offered varies depending on each individual's assessed needs and the available programming resources.<sup>57</sup> Some post-plea court models allow for dismissal and expungement upon successful completion of the program.<sup>58</sup>

50 Porter, R., Rempel, M., and Mansky, A. (2010). *What Makes a Court Problem-Solving? Universal Performance Indicators for Problem-Solving Justice* (New York, NY: Center for Court Innovation), iii-iv, [http://www.courtinnovation.org/sites/default/files/What\\_Makes\\_A\\_Court\\_P\\_S.pdf](http://www.courtinnovation.org/sites/default/files/What_Makes_A_Court_P_S.pdf). The report provides a thorough discussion of the operation of problem-solving courts and recommendations for best practices in their administration.

51 "Drug Courts," *Florida Courts*, <http://www.flcourts.org/resources-and-services/court-improvement/problem-solving-courts/drug-courts/>.

52 TASC Survey at 23.

53 NPC Research. (2013). *Florida Adult Felony Drug Courts: Evaluation Report* (Portland, OR: NPC Research), VI-VIII (drug court participants had significantly lower recidivism rates at twelve to twenty-four months post-program exit for both drug arrests and felonies), <https://www.flcourts.org/core/fileparse.php/266/urlt/FloridaAdultFelonyDrugCourtsEvaluationReport.pdf>.

54 TASC Survey at 24.

55 *Ibid.*

56 Almquist, L. and Dodd, E. (2009). *Mental Health Courts: A Guide to Research-Informed Policy and Practice* (New York, NY: Council on State Governments Justice Center), 5, [https://www.bja.gov/Publications/CSG\\_MHC\\_Research.pdf](https://www.bja.gov/Publications/CSG_MHC_Research.pdf).

57 *See id.* at 16.

58 *Id.* at 12 (in a 2003 national survey of twenty mental health courts, approximately half required a "guilty" or "no contest" plea prior to participation, and one-third allowed for either dismissal of charges or expungement upon completion).

## Philadelphia's Specialty Courts

Philadelphia's judicial branch operates numerous specialty courts, with the District Attorney's Office playing a key role in screening cases to identify potential candidates and referring eligible participants to the programs. Three examples of these programs are below:

### Drug Court Program

Philadelphia's drug treatment court targets individuals with nonviolent drug-related offenses with no more than two previous juvenile adjudications or adult convictions. Defendants plead no contest and the plea is held in abeyance until they complete the twelve-month, four-phase program, which includes drug and alcohol treatment, regular drug testing, meetings with case managers, and monthly progress meetings with a supervising judge. There are graduated sanctions for infractions, including writing essays, increased reporting, and short jail stays.

- Phase 1, which lasts one month, focuses on detoxification and assessment to determine a treatment plan and whether the individual has a dual mental health diagnosis. During this phase, housing needs are also assessed.
- Phase 2 lasts for three months and includes intensive treatment, life skills training, and counseling services.
- Phase 3 lasts for four months and emphasizes relapse prevention, while working to develop an aftercare program.
- Phase 4 lasts for four months and requires 100 percent abstinence from drugs and alcohol.

Upon completion, defendants graduate from the program and their no contest plea is withdrawn and charges are dismissed with prejudice. If they remain drug and alcohol free for the following year, their cases are expunged.

### Project Dawn Court

Project Dawn targets women with open prostitution cases who have a nonviolent record and a history of prostitution convictions. Defendants are accepted at the discretion of the District Attorney's Office. The defendant's plea is held in abeyance while she undergoes the program, with specific services based on

an individualized evaluation that can include reentry services, treatment for drug abuse, trauma counseling, and parenting classes. The 12-month program also includes 120 days of reintegration preparation. Progress is assessed in monthly appearances before a judge, with escalating sanctions for violations of program terms. Upon graduation, the case is dismissed with prejudice and, if the defendant remains arrest-free for the following year, the underlying case may be expunged.

### Veterans Court

The Veterans Court program serves defendants charged with a nonviolent misdemeanor who are former or active members of the military and who have not had a felony or gun-related conviction within the previous ten years. Although the program uses both a post-plea and pre-plea model, the majority of cases are resolved without a verdict being entered. Candidates meet with court-based Veterans' Administration officials for a needs assessment and to determine benefits eligibility. VA staff then recommend available appropriate VA programming, which can include drug and alcohol treatment, mental health treatment, medical referrals, housing, and employment training, which takes place under court supervision. Participants are assigned a VA mentor. Upon completion, they graduate from the program and cases that are entered as pretrial statuses may be expunged once dismissed by the court.

### Further Resources

- For a full description of eligibility for and program components of Philadelphia's many diversion and ATI programs, see Philadelphia District Attorney's Office, [Pretrial Diversion Programs](#).
- For a survey of other diversion programs at the court phase, see Center for Health & Justice at TASC, [No Entry: A National Survey of Criminal Justice Diversion Programs and Initiatives](#), at 23-27.
- For best practices in establishing problem-solving courts, see Center for Court Innovation, [What Makes a Court Problem-Solving? Universal Performance Indicators for Problem-Solving Justice](#).
- For a list of state statutes authorizing problem-solving courts, see National Conference of State Legislatures, [Pretrial Diversion](#).

## Conviction and Sentence Alternatives Program, Central District of California<sup>59</sup>

In 2012, the Central District of California established the Conviction and Sentence Alternatives Program (CASA), which was the first of its kind in the federal system. CASA is a post-plea presentence diversion program that was established in partnership between the district court for the Central District of California, the U.S. Attorney's Office (USAO), the Federal Public Defender (FPD), and the Pretrial Services Agency (PSA). CASA's goals are to identify people who committed their offenses for a specific and identifiable reason; provide intensive supervision and resources tailored to each participant's needs to address the underlying basis for the criminal conduct; and lower rates of recidivism and substance abuse at a cost lower than the traditional incarceration model. The program accomplishes this through the following steps:

### The CASA Team

Four district judges throughout the Central District of California preside over the CASA Program, along with magistrate judges, and representatives from the USAO, FPD, and PSA.

### Track 1 or Track 2

The CASA team identifies and designates participants as either "Track 1" or "Track 2" upon acceptance into the program. Track 1 participants are usually those with minimal criminal histories and whose criminal conduct appears to be an aberration that could be addressed by a one-year monitoring period with terms including restorative penalties and programs to address the contributing causes to the criminal conduct, such as substance abuse, behavioral issues, and education training. Track 2 participants tend to have more serious criminal histories or more involvement in the underlying criminal offense. Their

conduct, while perhaps serious, appears to be motivated primarily by substance abuse, mental illness, or the negative influence of more culpable codefendants. Despite potentially serious criminal histories, Track 2 participants' conduct can be addressed by a one- to two-year period of intensive supervision, accompanied by drug and/or mental health treatment, as well as other support services offered to Track 1 participants.

### Participant Selection

Defense lawyers and, on occasion prosecutors, judges, and PSA officers, recommend participants for the program. The team reviews defendants' criminal histories and written submissions and engages in a collaborative discussion before admitting individuals and assigning them to a track. The judge presiding over the defendant's criminal case retains some discretion and can, along with the CASA judge, veto participation or the track into which someone is placed.

### Plea

Upon acceptance into CASA, a defendant signs a detailed written contract explaining the terms of the program, along with a written plea agreement with the U.S. Attorney's Office. The criminal case is then transferred to the CASA judge, and the defendant pleads guilty before him or her. While the Probation Office prepares a Presentence Report, sentencing is deferred pending completion of the CASA program. Participants are also assigned an FPD for the duration of the program.

### Pre-Meetings and Meetings

The CASA Team has pre-meetings before each session to discuss participant progress. Participants also have telephone call pre-meetings with their PSA officer. The purpose of the meetings is to assess progress and confer on any issues or problems that may have arisen during the week. At the meetings themselves, which occur weekly, biweekly, or monthly, depending on a participant's circumstances, the team and participants meet in a CASA judge's courtroom. The sessions touch on a broad range of topics, and can include outside speakers and CASA alumni. Some participants are also required to complete therapy or life skills classes.

59 "Written Statement of Dolly M. Gee, United States District Judge, Central District of California, Western Division," March 24, 2017 (remarks about CASA program to the U.S. Sentencing Commission), <http://www.uscc.gov/sites/default/files/pdf/amendment-process/public-hearings-and-meetings/20170418/Gee.pdf>. See also United States District Court, Central District of California, "Conviction and Sentence Alternatives (CASA) Program Overview," <https://www.cacd.uscourts.gov/judges-requirements/court-programs/casa>.

### Expectations and Consequences

Expectations are clearly laid out in the written contract signed by the parties. Participants are expected to attend weekly or biweekly meetings and do periodic homework assignments. They must also be constructively occupied for forty hours per week with activities such as employment, job searches, parenting, or treatment. Consequences are also clearly laid out: sanctions result from noncompliance, and dishonesty or new criminal charges result in dismissal from the CASA Program.

### Graduation

Depending on the participant, the CASA Program lasts anywhere from twelve to twenty-four months. Graduation is not automatic, and participants must show some sort of progress—such as a job or attainment of educational goals, being substance-free, and/or overall stability in their lives. The CASA Team also looks at whether there is a solid and realistic life plan suggesting that a participant is not likely to reoffend in the future.

### Sentencing and/or Dismissal

Track 1 graduates will have their criminal convictions dismissed and are subject to supervision following graduation. Track 2 graduates generally have more serious criminal histories or more significant offenses and are generally sentenced by the CASA judge to a period of probation.

### Termination

For participants who are terminated from the Program before graduation, they proceed to a traditional, adversarial sentencing based on the plea agreement they signed. The CASA judge performs the sentencing.

The CASA Program has primarily measured success by graduation rates, with an eye toward longer-term reductions in cost-savings and recidivism rates. Over its five years in existence, 222 defendants were accepted into the CASA Program and, when the graduation versus termination rates are compared, 88 percent have graduated versus 12 percent who were terminated prior to completing the program. When conservatively estimating what it would have cost to house these participants with the Federal Bureau of Prisons, the CASA program saved an estimated \$3,800,928 million in costs.

## C. Pretrial Release and Bail

The pretrial period is another place where prosecutors can positively impact public safety through reentry reforms. By taking an evidence-based approach to pretrial detention, prosecutors can also avoid unnecessarily raising the risk that defendants will reoffend when they return to the community. Statistics have shown that pretrial detention can have criminogenic effects: even short periods of pretrial detention for low- and moderate-risk defendants—as few as two days behind bars—have been found by researchers to correlate with negative pretrial outcomes and post-disposition recidivism, including “higher rates of new criminal activity both during the pretrial period and years after case disposition.”<sup>60</sup> And, as the length of pretrial detention increases up to thirty days, “recidivism rates for low- and moderate-risk defendants also increase significantly.”<sup>61</sup> In fact:

- when held for only two to three days, low-risk defendants are nearly 40 percent more likely to commit new crimes than similarly situated defendants who are held no more than twenty-four hours; and
- when held for eight to fourteen days, low-risk defendants are 51 percent more likely to commit a new crime within two years after case disposition than similarly situated defendants who are held no more than twenty-four hours. As the length of time an individual is detained pretrial increases, so does their likelihood of recidivism at both twelve- and twenty-four-month periods.<sup>62</sup>

*Even short periods of pretrial detention for low- and moderate-risk defendants—as few as two days behind bars—have been found by researchers to correlate with negative pretrial outcomes and post-disposition recidivism, including “higher rates of new criminal activity both during the pretrial period and years after case disposition.” And, as the length of pretrial detention increases up to thirty days, “recidivism rates for low- and moderate-risk defendants also increase significantly.”*

60 Lowenkamp, C., VanNostrand, M., and Holsinger, A. (2013). *The Hidden Costs of Pretrial Detention* (New York, NY: Laura and John Arnold Foundation, 3, [http://www.arnoldfoundation.org/wp-content/uploads/2014/02/LJAF\\_Report\\_hidden-costs\\_FNL.pdf](http://www.arnoldfoundation.org/wp-content/uploads/2014/02/LJAF_Report_hidden-costs_FNL.pdf)).

61 *Ibid.*

62 *Ibid.*



*When held for only two to three days, low-risk defendants are nearly 40 percent more likely to commit new crimes than similarly situated defendants who are held no more than twenty-four hours*

Pretrial detention also impacts other trial outcomes. According to pretrial expert Dr. Marie VanNostrand:

Research has shown that being detained pending trial impacts the likelihood of receiving a sentence to incarceration, the length of the sentence to incarceration, and public safety in both the short and long-term. Not surprisingly, the release of “high-risk” defendants is related to higher rates of failure to appear and new crime pending trial. What is less apparent is that even short periods of pretrial detention (as few as 2-3 days) for “low-risk” defendants is related to higher rates of failure to appear, new crime pending trial, and recidivism two years post-disposition.<sup>63</sup>

Finally, pretrial detention is a contributing factor to tax increases associated with maintaining jails. In 2010 in the United States, 487,000 unconvicted individuals were held in the nation’s prisons, representing 21.5 percent of the total prison population.<sup>64</sup> As of 2015, nearly two-thirds of county jail populations consisted of pretrial detainees, the majority of whom are low-risk.<sup>65</sup> The National Association of Counties reported that county corrections costs grew by 74 percent between 2000 and 2012 and, in a 2015 survey conducted of county jails, 44 percent of respondents reported that managing jail costs was one of their top challenges.<sup>66</sup>

What does this mean for prosecutors? No one is suggesting that prosecutors should recommend pretrial release for high-risk defendants. Rather, prosecutors should begin to think about the risk that a defendant presents to the public, so as not to detain low- to moderate-risk defendants. By reframing the bail hearing as a focus on the

defendant’s risk, prosecutors can mitigate the effects of pretrial detention on low- and moderate-risk defendants’ recidivism rates while continuing to detain those certain defendants present sufficient risk to the community. Finally, in weighing the costs of detaining a defendant with the benefits associated with pretrial release, prosecutors can conserve valuable jail resources and cut the financial costs associated with pretrial detention.<sup>67</sup>

## 1. Advocate for the Use of a Validated Pretrial Risk Assessment Tool

Prosecutors generally seek pretrial detention to ensure a defendant’s presence at future court proceedings and/or to protect the safety of the community. When arguing for detention, prosecutors are carrying out their duty to protect the public. However, many times these decisions are made without the benefit of evidence or data indicating whether a defendant is a flight risk or danger and involve prosecutors arguing for detention, defense attorneys arguing for release, and courts making rulings based on hearings that can take mere minutes to complete. This subjective decision-making results in documented errors of both over- and under-inclusion, with low- and moderate-risk defendants being held and high-risk defendants being released. Often, release determination are based solely on the defendant’s ability to pay the bail set by the court. Former New Jersey Attorney General Anne Milgram observed that “every time we pull data, we find the exact same thing.... More than 50% of high-risk people are released and low-risk people are being kept in jail at high rates.”<sup>68</sup>

There is, however, an evidence-based method to determine an individual defendant’s risk of failure to appear and likelihood to reoffend pending trial: pretrial risk assessment tools. These instruments provide an objective analysis of the risks posed by an individual, reducing bias and subjectivity in decision-making. Typically, the instrument is

63 Prisoner Reentry Institute. (2016). *Pretrial Practice: Rethinking the Front End of the Criminal Justice System* (New York, NY: John Jay College of Criminal Justice), 14, [http://johnjaypri.org/wp-content/uploads/2016/04/RoundtableReport\\_web1.pdf](http://johnjaypri.org/wp-content/uploads/2016/04/RoundtableReport_web1.pdf).

64 Aborn, R. and Cannon, A. (2013). “Prisons: In Jail, But Not Sentenced,” *Americas Quarterly*, table 1, <http://www.americas-quarterly.org/aborn-prisons>.

65 Ortiz, N. (2015). *County Jails at a Crossroads: An Examination of the Jail Population and Pretrial Release* (Washington, DC: National Association of Counties), 5–6, [http://www.naco.org/sites/default/files/documents/Final%20paper\\_County%20Jails%20at%20a%20Crossroads\\_8.10.15.pdf](http://www.naco.org/sites/default/files/documents/Final%20paper_County%20Jails%20at%20a%20Crossroads_8.10.15.pdf).

66 *Id.* at 8.

67 Nationally, the cost of detaining pretrial defendants in local jails is estimated at \$9 billion per year. Crime and Justice Institute. *The Cost of Pretrial Justice* (Boston: Community Resources for Justice), 1 & n.2, <http://www.crj.org/page/-/cjifiles/Costs%20of%20Pretrial%20063014%20FINAL.pdf>.

68 Prisoner Reentry Institute, *Pretrial Practice: Rethinking the Front End of the Criminal Justice System* (2016), at 20.

a questionnaire that identifies factors that have been correlated with negative pretrial outcomes, such as criminal history, prior failures to appear, and the nature of the pending charges.<sup>69</sup>

These factors are weighted and the individual is given a low, medium, or high risk score, which the court can then use to inform its decision about the method of pretrial release, the nature of any pretrial supervision conditions, or the amount of bail to be set. Most arrested people fall into the low- and medium-risk categories.<sup>70</sup>

To be effective, risk assessment tools must be validated or normed to ensure that they are predictive for the population in the jurisdiction in which they are to be used. The Pretrial Justice Institute found that of the jurisdictions using a risk assessment tool, only 42 percent had developed the instrument based on research in their own jurisdictions. Forty-eight percent had never validated their instrument.<sup>71</sup> The vast majority of jurisdictions use no tool at all—validated or not—in making risk decisions. A 2009 survey found that 64 percent of pretrial programs relied on a mix of objective and subjective factors in assessing risk; and 12 percent relied solely on subjective factors.<sup>72</sup>

Given what we know from research about the criminogenic effects of pretrial detention for low- and moderate-risk individuals, the following reforms can and should be promoted by prosecutors seeking to maximize public safety during the pretrial process:

- advocate for the use of risk-based assessment tools to help all stakeholders make more informed decisions regarding pretrial detention or release;
- perform outreach to the courts about the evidence supporting the use of objective criteria over subjective decision-making in making pretrial release decisions;
- seek the funding needed to validate the tool

on the population you serve to ensure that it is normed to be predictive for your community; and

- seek partnerships with organizations that have experience developing and implementing these tools. The Laura and John Arnold Foundation (Arnold Foundation), which created the Public Safety Assessment (PSA)—an evidence-based risk assessment tool designed to predict the likelihood that an individual will commit a new crime if released and/or fail to return for future court proceedings—has offered to assist jurisdictions who choose to adopt the PSA.<sup>73</sup>

## 2. Disclose Risk Scores to All Stakeholders

Once a risk assessment tool is in use, prosecutors can promote transparency in the pretrial release process by disclosing final risk scores to judges, prosecutors, defense counsel, and defendants, so that all parties can make evidence-based arguments about whether a given defendant should be detained or released subject to certain conditions. Disclosure of risk scores allows prosecutors to make sound arguments regarding detention and release, while also conserving the resources involved whenever a defendant is ordered detained and held pretrial. For instance, the Arnold Foundation PSA analyzed a wide swath of pretrial data—1.5 million cases from across 300 jurisdictions—to determine the risk that an individual will (i) commit new criminal activity, (ii) commit new violent criminal activity, or (iii) fail to appear for future court proceedings. In order to assess these risks, the PSA identifies approximately nine risk factors that, broadly speaking, focus on a defendant's age, criminal history, current offense, and prior failure to appear.<sup>74</sup> The PSA does not include factors such as race, ethnicity, geography, or even employment or education levels, which can be correlated with race and thus possibly introduce bias into the risk assessment.

*Prosecutors can promote transparency in the pretrial release process by disclosing final risk scores to judges, prosecutors, defense counsel, and defendants.*

<sup>69</sup> *Id.* at 19.

<sup>70</sup> "Pretrial Risk Assessment," *Pretrial Justice Institute*, <http://www.pretrial.org/solutions/risk-assessment/>.

<sup>71</sup> Mamalian, C.A. (2011). *State of the Science of Pretrial Risk Assessment* (Rockville, MD: Pretrial Justice Institute), 19, [https://www.bja.gov/publications/pji\\_pretrialriskassessment.pdf](https://www.bja.gov/publications/pji_pretrialriskassessment.pdf).

<sup>72</sup> *Id.* at 17.

<sup>73</sup> Laura and John Arnold Foundation. (2013-2016). "Public Safety Assessment: Risk Factors and Formula" (New York, NY: LJAF), <http://www.arnoldfoundation.org/wp-content/uploads/PSA-Risk-Factors-and-Formula.pdf>.

<sup>74</sup> *Id.* at 2.



*Given the detrimental effects that pretrial detention has on low- and moderate-risk defendants, prosecutors should support and advocate for alternatives to money bail.*

### 3. Consider Alternatives to Money Bail for Low- and Moderate-Risk Defendants

When prosecutors do consent to pretrial release, they should explore alternatives to the money bail system. As currently structured, the bail system relies on commercial bail bondsmen to guarantee a defendant's appearance at future proceedings. This type of bond typically requires an individual to pay a for-profit company a nonrefundable premium of 10 percent of the set bail amount in order to obtain release. According to bail expert Timothy Schnacke, despite "decades of empirical research showing that secured financial conditions of release lead to unnecessary pretrial detention, the use of those conditions has actually increased about 65 percent between 1990 and 2009."<sup>75</sup> The increased use of bail conditions, combined with the absence of risk assessment tools that measure a defendant's risk of flight, means that bail tends to operate as a de facto means of ensuring pretrial detention, given that most defendants do not have sufficient funds to pay even low bail amounts.

New Jersey responded to these concerns by passing sweeping criminal justice reforms in 2016, including wholesale revision of its bail process. This change was prompted by a number of studies showing that pretrial detainees accounted for a majority of New Jersey's jail population, including a 2013 study which found that approximately 73.3 percent of the state's entire jail population was being held in pretrial detention.<sup>76</sup> In addition, another study found that at least 1 in 8 people were in jail because they were unable to afford bail of \$2,500 or less.<sup>77</sup> When confronted with these numbers, New Jersey chose to modify its bail system from a "resource-driven system that based pretrial release decisions on a defendant's ability to post monetary bail to a system

in which pretrial release decisions are based on a scientific assessment of the risk that a defendant will commit another offense or fail to appear in court."<sup>78</sup>

First, legislators amended state law to limit pretrial detention to "eligible defendants" charged with certain crimes and to include a presumption against preventive detention except in those cases where a defendant was charged with murder or was facing life imprisonment.<sup>79</sup> Second, New Jersey partnered with the Arnold Foundation to implement the Public Safety Assessment, which is a risk assessment tool that has strong predictive value in relation to a defendant's risk to engage in new criminal behavior or violence or to fail to appear in court.<sup>80</sup> The PSA is also race- and gender-neutral and does not require a defendant interview to be administered.<sup>81</sup> Judges will use the PSA in making pretrial release determinations, which are hierarchical: low-risk defendants will be released with few or no conditions; moderate-risk defendants will be released with nonmonetary monitoring conditions; and, upon motion of the prosecutor, high-risk defendants will be kept in jail pending disposition.<sup>82</sup>

Given the detrimental effects that pretrial detention has on low- and moderate-risk defendants, prosecutors should support and advocate for alternatives to money bail like the model in New Jersey that allow for their pretrial release in appropriate cases. In addition, the office should draft written policies that provide guidance to line prosecutors on when to seek alternative forms of bail. Moreover, given that the current money bail system is not grounded in empirical research or tied to any assessment of a person's public safety or flight risk, prosecutors should consider abolishing money bail for all defendants, regardless of risk.

<sup>75</sup> Prisoner Reentry Institute. *Pretrial Practice: Rethinking the Front End of the Criminal Justice System* (2016), at 15.

<sup>76</sup> Executive Order No. 211: Criminal Justice Reform study (2016). 41, <https://assets.documentcloud.org/documents/323395/Executive-Order-211-FINAL-REPORT-11-30-16.pdf>.

<sup>77</sup> Rabner, S., "Chief Justice: Bail Reform Puts N.J. at the Forefront of Fairness," *New Jersey Star-Ledger*, January 9, 2017, <http://www.judiciary.state.nj.us/courts/assets/criminal/starledgercolumnn.pdf>.

<sup>78</sup> New Jersey Courts. (2016). *Criminal Justice Reform: Report to the Governor and Legislature* (Trenton, NJ: New Jersey Courts), 1, <http://www.judiciary.state.nj.us/courts/assets/criminal/2016cjrannual.pdf>.

<sup>79</sup> Executive Order No. 211: Criminal Justice Reform Study, at 40.

<sup>80</sup> *Id.* at 4.

<sup>81</sup> Laura and John Arnold Foundation, "Public Safety Assessment," <http://www.arnoldfoundation.org/initiative/criminal-justice/crime-prevention/public-safety-assessment/>.

<sup>82</sup> New Jersey Courts, *Criminal Justice Reform: Report to the Governor and Legislature* (2016), at 1.

#### 4. Advocate for an End to Bond Schedules in Favor of Individualized Bail Determinations

On the opposite end of the spectrum from evidence-based risk assessments are bail schedules, which are still used by many jurisdictions.<sup>83</sup> A bail schedule standardizes the amount of bail to be set for a charged offense, regardless of a person's individual characteristics, the risks they may pose, or their ability to pay. "The use of bail schedules is problematic because there is no definitive association between a particular charge and the amount of money that would guarantee appearance at court or deter future criminal activity. Hence, the bail amounts are arbitrary, cannot guarantee safety in the community, and are unrelated to a person's financial means."<sup>84</sup>

This focus on money as a means for pretrial release means that individuals are not properly screened for true measures of public safety: their danger to the community or their risk of flight. In practice, this means that high-risk defendants may be able to buy their way out of detention, while low- and moderate-risk defendants often end up sitting in jail, despite posing little to no risk to the public.<sup>85</sup> This arbitrariness is also influenced by the commercial bail industry, because bail bondsmen have a financial incentive to bail out those who are charged with serious offenses. In addition, because commercial surety fees are based on the total bond amount, dangerous felonies result in total higher bonds—and higher profits.<sup>86</sup>

Prosecutors in jurisdictions that rely on bail schedules should advocate to courts and policy-makers for the use of evidence-based practices that include the following:

- pretrial risk assessments to objectively determine who is high risk and should be held pretrial; and
- individualized determinations of a defendant's ability to pay over arbitrary amounts set out on a bond schedule.

Prosecutors should also use litigation, where appropriate, to advocate for change. For instance, Harris County District Attorney Kim Ogg filed an amicus brief in *O'Donnell v. Harris County, Texas*, a federal lawsuit filed in the District Court for the Southern District of Texas. The *O'Donnell* plaintiff argued that Harris County's use of bail schedules violated her constitutional rights. Ogg agreed with this position, writing:

Holding un-adjudicated misdemeanor offenders in the Harris County Jail solely because they lack the money or other means of posting bail is counterproductive to the goal of seeing that justice is done... It makes no sense to spend public funds to house misdemeanor offenders in a high-security penal facility when the crimes themselves may not merit jail time. These secure beds and expensive resources should be prioritized for the truly dangerous offenders and "flight risks" who need to be separated from the community.<sup>87</sup>

With the support of the district attorney's office, the United States District Court for the Southern District of Texas held Harris County was violating the constitutional rights of the poor by using bail schedules to impose bail amounts on poor, low-level defendants without considering their ability to pay on a case-by-case basis.<sup>88</sup> The district court held that Harris County's system of secured money bail "is not just a de facto pretrial detention order; it is literally a pretrial detention order." In so holding,

*This focus on money as a means for pretrial release means that individuals are not properly screened for true measures of public safety: their danger to the community or their risk of flight.*

83 In a 2009 survey conducted by the Pretrial Justice Institute, nearly 64 percent of respondent counties indicated that they used bail schedules. Carlson, L. (2010). *Bail Schedules: A Violation of Judicial Discretion?* (Washington, DC: Pretrial Justice Institute), <https://www.pretrial.org/download/risk-assessment/PJI%20Bond%20Schedule%20Review%202010.pdf>.

84 Justice Policy Institute. (2012). *Bail Fail: Why the U.S. Should End the Practice of Using Money for Bail*. (Washington, DC: Justice Policy Institute), 4, [http://www.justicepolicy.org/uploads/justicepolicy/documents/bailfail\\_executive\\_summary.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/bailfail_executive_summary.pdf).

85 See Crime and Justice Institute, "The Cost of Pretrial Justice."

86 *Ibid*.

87 Position of District Attorney Kim Ogg About Bail Bond Litigation Pending in the United States District Court as Amicus Curiae, *O'Donnell v. Harris County, Texas*, Case 4:16-CV-01414 (S.D. Tex.), 1–2, filed March 3, 2017. The full brief is available at <http://www.courthousenews.com/wp-content/uploads/2017/03/OggBrief.pdf> [hereinafter Ogg Amicus Brief].

88 *O'Donnell v. Harris County, Texas*, No. 4:16-CV-01414 (S.D. Tex. December 16, 2016, at 94, <https://www.clearinghouse.net/chDocs/public/CJ-TX-0010-0006.pdf>).

the court found that “Harris County policymakers ...have no adequate or reasonable basis for their belief that for misdemeanor defendants, release on secured money bail provides incentives for, or produces, better pretrial behavior than release on unsecured or nonfinancial conditions.”<sup>89</sup>

### 5. Support the Presence of Defense Counsel at Pretrial Hearings Where Liberty Decisions Are Made

As actors in the criminal justice system whose job is to do justice, prosecutors should ensure that defendants are afforded defense counsel in all pretrial proceedings where bail and detention determinations are made. In many jurisdictions, defendants make first appearances without the benefit of defense counsel. “The robust participation of the public defender in the pretrial stages is one way to reduce unnecessary pretrial detention and the harms it can cause. The advocacy of defense counsel at first appearance is especially crucial, because nearly all the decisions that affect the client’s case, liberty, and outcomes are made at this hearing: whether to impose bail and in what amount, whether to release or detain the defendant pending trial, and the nature of pretrial release supervision and conditions.”<sup>90</sup>

Defense counsel’s presence at bail and detention proceedings, beyond serving traditional constitutional functions, increases the likelihood that the court is provided meaningful information to decide whether to hold or release a defendant. Defense counsel, for instance, can help identify collateral consequences that may stem from his or her client’s pretrial detention, as well as identify and advocate for his or her client to receive mental health and/or substance abuse treatment. Thus, given the importance of defense counsel, it is not surprising that, in the *O’Donnell* case, District Attorney Ogg stated that her office “support[ed] the presence of defense counsel at the 24-hour probable cause hearing [because] the law holds that this is a critical stage of litigation.”<sup>91</sup>

<sup>89</sup> *Id.* at 81.

<sup>90</sup> Garabedian, L., et al., “Five Voices on Reforming the Front End of Justice: Where Defense is not an Afterthought,” *The Marshall Project*, July 17, 2016, <https://www.themarshallproject.org/2016/07/17/five-voices-on-reforming-the-front-end-of-justice#.6Oqvn3nru>.

<sup>91</sup> Ogg Amicus Brief, at 3.

### 6. Support Individualized, Narrowly Tailored Conditions of Pretrial Supervision

Prosecutors should remain committed to ensuring public safety when arguing for pretrial conditions of release. In practice, this means avoiding a “kitchen sink” approach to pretrial supervision that can set people up for failure. Conditions that are imposed without regard to a defendant’s individualized risk assessment or his or her needs increase the likelihood that the defendant may violate one of his or her conditions. Disregard for individualized risk and needs therefore also increases the risk that release will be revoked, subjecting the defendant to the pretrial detention that the prosecutor sought to avoid in the first place. Risk assessment tools, then, should also include an assessment of needs to identify what interventions or supervision a particular defendant requires in order to successfully meet future court appearances and remain crime-free pending trial.

Prosecutors should also embrace conditions that have a measurable impact on public safety. Current research on release conditions shows that court date reminders and notifications reduce missed court appearances. These reminders can take the form of text messages, mailed postcards, robocalls, and personal phone calls.<sup>92</sup> In addition, prosecutors should consider risk assessment when determining whether to impose supervision, such as face-to-face meetings, home visits, or telephonic contact. Research shows that this type of supervision has promise in avoiding the risk that a defendant will either fail to appear or commit new crimes.<sup>93</sup>

On the other hand, prosecutors should be aware that research is inconclusive on the efficacy of drug testing and electronic monitoring, despite their frequent use as conditions of pretrial supervision.<sup>94</sup> This is important, because they are also the conditions that tend to be the most invasive and burdensome on defendants. As Janice Radovick-Dean, director of the Fifth Judicial District of Pennsylvania’s

<sup>92</sup> See Prisoner Reentry Institute, *Pretrial Practice: Rethinking the Front End of the Criminal Justice System* (2016), at 21.

<sup>93</sup> *Ibid.*

<sup>94</sup> *Ibid.*

Pretrial Services Department, notes, “[s]ome of the conditions make judges and magistrates feel better, but you’re really making defendants fail because they have to keep up with so many new responsibilities in addition to their livelihoods.”<sup>95</sup>

To ensure their continued commitment to public safety at the pretrial phase, prosecutors should tailor the conditions they request to those that are evidence-based and related to the individualized needs and risks posed by each defendant, and should advocate to judges to use the least burdensome but still effective conditions of supervision to achieve optimal pretrial release outcomes.

#### **D. Plea Bargaining, Sentencing, and Case Disposition**

Prosecutorial sentencing recommendations and initial plea offers carry great weight and can often frame future discussions of sentences, because the vast majority of cases are resolved at the plea bargaining stage.<sup>96</sup> In addition, where mandatory minimum sentences are prescribed by statute, this also constrains a defendant’s control over the plea bargaining and disposition processes. The plea bargaining stage thus represents another focal point where prosecutors should embrace an expanded vision of public safety that considers the risk of future recidivism when making case disposition decisions.

#### **1. Consider the Collateral Consequences of Proposed Pleas**

Prosecutors should be aware of the collateral consequences that flow from a given conviction when offering plea bargains. Collateral consequences can hinder a defendant’s successful reentry and raise the risk of recidivism, all of which can detrimentally impact public safety. Of course, while immigration collateral consequences must be disclosed,<sup>97</sup> there is currently no requirement or other guidance on what other consequences can or should be disclosed.

What should a prosecutor’s best practices be regarding consideration of collateral consequences? At the charging stage, prosecutors should be aware of important collateral consequences that can impact a defendant. Notably, prosecutors can and should use the individualized information gleaned from pretrial risk assessment tools in order to ascertain the importance of a given consequence to a particular defendant. For instance, how should prosecutors think about first-time or nonviolent defendants whose convictions will force them to lose professional licenses and find new employment? What about defendants who risk losing public housing or education benefits? Finally, what about the defendants who, as a result of a conviction, lose their drivers’ licenses for a period of time, becoming unable to lawfully operate a motor vehicle? These are important questions, given the varied nature of the collateral consequences in play. While they will vary across jurisdictions, it is safe to say that not all of these consequences are mandatory. Prosecutors have the power to limit these effects, especially where some collateral consequences bear no relationship to the underlying offense, and others will be wholly discretionary.

Many prosecutors’ offices have already begun considering collateral consequences in the immigration arena. For instance, Brooklyn District Attorney Eric Gonzalez announced a policy to consider the deportation consequences that flow from a conviction, and he hired two immigration attorneys to train his staff and advise them on making plea offers.<sup>98</sup> Gonzalez grounded this new initiative in protecting public safety, stating that “our goal is to enhance public safety and fairness in the criminal justice system and this policy complements, but does not compromise, this goal. We will not stop prosecuting crimes, but we are determined to see that case outcomes are proportionate to the offense as well as fair and just for everyone.”<sup>99</sup>

*Collateral consequences can hinder a defendant’s successful reentry and raise the risk of recidivism, all of which can detrimentally impact public safety.*

<sup>95</sup> *Ibid.*

<sup>96</sup> Goode, E., “Stronger Hand for Judges in the ‘Bazaar’ of Plea Deals,” *The New York Times*, March 22, 2012 (94 percent of state cases and 97 percent of federal cases end in plea bargains), <http://www.nytimes.com/2012/03/23/us/stronger-hand-for-judges-after-rulings-on-plea-deals.html>.

<sup>97</sup> *Padilla v. Kentucky*, 559 U.S. 356 (2010).

<sup>98</sup> The Brooklyn District Attorney’s Office, “Acting Brooklyn District Attorney Eric Gonzalez Announces New Policy Regarding Handling of Cases against Non-Citizen Defendants,” press release, April 24, 2017, <http://www.brooklynnda.org/2017/04/24/acting-brooklyn-district-attorney-eric-gonzalez-announces-new-policy-regarding-handling-of-cases-against-non-citizen-defendants/>.

<sup>99</sup> *Ibid.*



*Prosecutors have an opportunity to positively impact public safety by thinking about how to sentence defendants in a manner that both protects the public and breaks the cycle of recidivism.*

Prosecutors can also consider opportunities for relief from collateral consequences at this stage as well. While some collateral consequences are difficult to relieve, others come with processes that allow for relief after a certain period of time, and some states, such as New York, allow individuals to apply for “Certificates of Relief from Disability” (CRD) if they meet statutory criteria.<sup>100</sup> (See page 35 for a discussion of CRDs.) A plea agreement could contain, for example, a clause stating that the prosecutor’s office will not oppose the defendant’s application for a CRD after a stated period of time has elapsed and certain conditions have been met.

## 2. Explore the Use of Creative Sentencing

Generally speaking, the prosecutor plays a large role in determining a defendant’s sentencing options. At the outset, they control the sentencing “floor,” including the applicability of mandatory minimums; by deciding what to charge (or not charge). During the resolution of a case, prosecutors have discretion to offer or seek certain sentences in a plea agreement or after trial, including negotiating down from initial charges to allow defendants to plead to a lesser offense. In jurisdictions with sentencing guidelines, a prosecutor has discretion to either add (or ignore) particular enhancements to a sentence that increase the maximum length. When considering sentences that are the result of the parties’ plea agreement, courts often defer to prosecutors’ recommendations and judgment, relying on their closer knowledge of the case file.

Because of this influence, prosecutors have an opportunity to positively impact public safety by thinking about how to sentence defendants in a manner that both protects the public and breaks the cycle of recidivism. For instance, research suggests that longer sentences do not necessarily further the justice system’s goal of deterrence and that longer spells of incarceration actually

increase the risk of recidivism.<sup>101</sup> Rather, sentencing policies that adjust the certainty, as opposed to the severity, of the sentence, have been found to alter individuals’ behavior.<sup>102</sup>

Depending on the jurisdiction, prosecutors should promulgate written policies to assist line prosecutors in determining when it is appropriate to offer the following types of sentences:

- **Non-incarceration sentences.** This type of sentence can include front-end triaging into pretrial diversion programs or other specialty courts that offer treatment and rehabilitation. It can also include recommending alternatives to incarceration, such as mediation, conflict resolution, community service, fines, and restorative justice programming.<sup>103</sup>
- **Suspended or delayed sentences.** This type of sentence is delayed pending the defendant’s satisfaction of certain conditions, such as community service or treatment programs. In the event a defendant completes these conditions, this is taken into account at sentencing. This sentencing practice might also involve a defendant pleading guilty to a more serious offense, with the parties agreeing to delay sentencing pending completion of conditions. If conditions are completed, then the defendant can withdraw his or her guilty plea and plead guilty to, and receive a sentence for, a lesser offense. Suspended or delayed sentencing is a good option for low-level offenses and for individuals without criminal records, or for those who are candidates for drug or behavioral health treatment to modify their behavior; and

101 Council of Economic Advisers (2016). *Economic Perspectives on Incarceration and the Criminal Justice System* (Washington, DC: Office of the President), 4, <https://obamawhitehouse.archives.gov/sites/whitehouse.gov/files/documents/CEA%2BCriminal%2BJustice%2BReport.pdf>.

102 *Id.* at 38.

103 See Prisoner Reentry Institute. (2016). Pretrial Practice: Building a National Research Agenda for the Front End of Criminal Justice System, 21 (New York, NY: John Jay College of Criminal Justice) (remarks of Faye Taxman), [http://johnjaypri.org/wp-content/uploads/2016/05/ArnoldReport2\\_webversion.pdf](http://johnjaypri.org/wp-content/uploads/2016/05/ArnoldReport2_webversion.pdf). Professor Taxman proposes these sorts of sentences for low-level “broken windows” type minor offenses and small property crimes. “The goal would be to find a short-term response that is proportionate to the nature of the crime and that is designed to have the individual address the harm that occurred, and to offer this alternative within 30 days of the event to create a swift response to the behavior.” *Id.*

100 New York defendants can apply for a CRD at sentencing and again after serving time in prison as a way to remove certain collateral consequences of a criminal conviction. See New York State Unified Court System, “Certificate of Relief from Disabilities,” <http://www.nycourts.gov/Courthelp/Criminal/CRD.shtml>; and *id.*, “Applying to Court for a Certificate of Relief from Civil Disabilities,” <http://www.nycourts.gov/Courthelp/Criminal/CRDApplication.shtml>.

- **Split sentencing.** This type of sentence splits time served between jail and a period of mandatory supervision in the community. Started in response to California's Public Safety Realignment initiative<sup>104</sup> to reduce the state prison population, San Diego is one district using such a model for people charged with low-level offenses, who spend part of their time in jail and the rest in community-based supervised rehabilitation. While in custody, defendants receive programming for substance abuse treatment, cognitive behavioral therapy, and job training to help them manage their later noncustodial supervision. Before release, a case plan is developed by the probation department in collaboration with correctional counselors, the court, prosecutors, public defenders, and the defendant. Though the program is in its early stages, it is so far showing reductions in recidivism: in one county, the rate was about half that of those who received straight sentences.<sup>105</sup> Other counties in California routinely use split sentencing, with Riverside and San Joaquin handing them out in two-thirds of eligible cases.<sup>106</sup> Since 2011, more than 21,500 people convicted of felony offenses have been sentenced under the new law,<sup>107</sup> which creates a presumption in favor of split sentencing unless the "interests of justice" demand otherwise.<sup>108</sup> Even if split sentencing is not available by statute in a prosecutor's jurisdiction as it is in California, prosecutors can still recommend split sentences and they can be crafted in plea bargains in collaboration with probation departments and reentry

service providers using available resources and access to programming in corrections facilities and the community.

### 3. Collaborate on a Reentry Plan Prior to Sentencing

In a justice system that collects individualized data during the pretrial process and makes individualized decisions based on a defendant's risks and needs, prosecutors have adequate information to formulate an effective defendant reentry plan. While probation and corrections officers often take the lead in determining programming and services for individual cases, prosecutors can remain involved by taking into account a defendant's post-release plans. For example, the San Diego District Attorney's Office created the SB 618 San Diego Prisoner Reentry Program<sup>109</sup> for defendants who are in custody at the time of sentencing and are facing a period of incarceration. Under the program, ADAs worked with the probation office at the time of an individual's plea or sentencing to make a plan of action, called a "Life Plan," that the offender took to prison. The Life Plan used evidence-based practices like risk-needs-responsivity testing to create "an individualized plan of action...that provides increased accountability for all stakeholders" and "is unique in that it places a focus on reentry at the point of sentencing."<sup>110</sup>

104 Cal. AB 109 (2011) and Cal. AB 117 (2011). See also California Department of Corrections and Rehabilitation, "Fact Sheet: 2011 Public Safety Realignment," December 19, 2013, <http://www.cdcr.ca.gov/realignment/docs/realignment-fact-sheet.pdf>.

105 Reynolds, K., "San Diego court for split sentence offenders having success," *Daily Journal*, August 24, 2014, <http://www.sdcca.org/files/Mandatory%20Supervision%20Court%208.25.14.pdf>.

106 *Ibid.*

107 "Mandatory Supervision: The Benefits of Evidence Based Supervision under Public Safety Realignment," *Chief Probation Officers of California*, vol. 1, no. 2 (Winter 2012), 2, <http://www.bscc.ca.gov/downloads/issuebrief2.pdf>. In comparing split sentencing to straight sentencing, the authors note that "based on research, people coming out of incarceration without any treatment have a lower likelihood of succeeding and are more likely to recidivate than those who are supervised and case managed." *Id.* at 3.

108 CAL. PENAL CODE § 1170(h)(5).

109 The program closed at the end of the 2012 fiscal year, due in part to California's passage of the Criminal Justice Realignment Act (the Act), which transferred most of the population the program served to Post-Release Community Supervision within the Probation Department. In addition, the act mandated that most of this population serve time in local county jails as opposed to state prison, which meant that state monies used to fund the program could not be used. See Letter re: SB 618, April 11, 2012, <http://www.sdcca.org/office/sb618/lettertocommunity.pdf>.

110 Little Hoover Commission Public Hearing, Testimony of San Diego District Attorney Bonnie Dumanis (March 24, 2011), 3, <http://www.lhc.ca.gov/studies/activestudies/correctionoversight/Dumanis1Mar11.pdf>.

The Life Plan ensured that people's needs were assessed prior to entering prison, and was created by a multidisciplinary team composed of program staff, with input from the inmate. The Life Plan was "designed to be modified with [inmate] input throughout the course of program delivery and... to ensure services meet identified needs," including substance abuse treatment, job and vocational training, and educational opportunities.<sup>111</sup>

#### 4. Support Appropriate Recommendations for Placement

For those sentenced to incarceration, where they serve their time can impact the reentry process because conditions and programming opportunities vary among facilities. Though placement may be handled by another criminal justice agency, the prosecutor can exert influence by making recommendations as to placement or supporting defense requests for referral to particular facilities or support services. Common requests include placement closer to family support systems and placements in facilities with particular educational or vocational training opportunities that enhance an individual's chances of securing employment upon release.

Thinking about placement can begin even at the plea bargaining stage. As one author notes:

In order to evaluate the rehabilitative potential of a plea deal, prosecutors must make an active effort to learn where defendants with different sentences are incarcerated, the conditions of those facilities, and the access [to] as well as quality of rehabilitation programs available.<sup>112</sup>

By making placement recommendations or supporting defense counsel requests for a defendant, the prosecutor is working to promote twin goals: public safety and the ultimate success of defendants when they return to their communities.

#### 5. Recommend Narrowly Tailored and Individualized Conditions of Post-Sentence Supervision

Whether a sentence includes a period of incarceration or not, most defendants will spend some time under community supervision. At year-end 2015, an estimated 4,650,900 adults were under community supervision (which includes probation and parole).<sup>113</sup> In 2014, parole violations accounted for nearly 28 percent of total state prison admissions.<sup>114</sup> These individuals have already returned to their communities and are trying to navigate the reentry process. Prosecutors can have a positive impact on recidivism by recommending that conditions of supervision be narrowly tailored to the actual risks defendants pose and their assessed needs. From a cost-benefit perspective, this approach ensures that the benefit of community supervision is not outweighed by the risk of failure: loading up on conditions of supervision can set people up to fail at reentry, leading to technical violations of the terms of their release that can land them back in jail or prison for reasons unrelated to their original offense or to public safety.

The Pew Center on the States has recommended that conditions of supervision be "Realistic, Relevant, and Research-based":

Realistic conditions are few in number and attainable, and include only those rules for which the agency is prepared to consistently hold supervisees accountable. Relevant conditions are tailored to the individual risks and needs most likely to result in new criminal behavior. Research-based conditions are supported by evidence that compliance with them will change behavior and result in improved public safety or reintegration outcomes.<sup>115</sup>

<sup>111</sup> Mulmat, D., Doroski, E., Howard, L., et al. (2010). *Improving Reentry for Ex-Offenders in San Diego County: SB 618 Third Annual Evaluation Report*, 5 (San Diego: SANDAG), [http://www.sandag.org/uploads/publicationid/publicationid\\_1488\\_11261.pdf](http://www.sandag.org/uploads/publicationid/publicationid_1488_11261.pdf).

<sup>112</sup> Juneja, A. (2017). "A Holistic Framework to Aid Responsible Plea-Bargaining by Prosecutors." *New York University Journal of Law & Liberty*, vol. 11, no. 1, pp. 359–87, at 374–75.

<sup>113</sup> Kaeble, D., "Probation and Parole in the United States," *Bureau of Justice Statistics*, December 21, 2016, <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=5784>.

<sup>114</sup> Carson, E.A. (2015). *Prisoners in 2014* (Washington, DC: Bureau of Justice Statistics), 10 & Table 7, <https://www.bjs.gov/content/pub/pdf/p14.pdf>.

<sup>115</sup> Pew Center on the States (2008). *Putting Public Safety First: 13 Strategies for Successful Supervision and Reentry* (Washington, DC: Pew Charitable Trusts), 2, <http://www.pewtrusts.org/-/media/assets/2008/12/13strategies.pdf>.

*Prosecutors can have a positive impact on recidivism by recommending that conditions of supervision be narrowly tailored to the actual risks defendants pose and their assessed needs.*



Too often, defendants are sentenced to numerous conditions of supervision, including reporting, drug testing, electronic monitoring, curfews, drug and alcohol treatment, and more, which may or may not relate to their offense or their individual situations. These conditions can also be counterproductive, by precluding a person from working or going to school during certain hours if, say, a curfew is imposed, or interfering with the ability to care for children if frequent in-person reporting is required.

Prosecutors can promote public safety and combat recidivism by aiming to reduce conditions that lead to technical violations. As Wendy Still, the Chief Probation Officer in Alameda County, California, told the “Disrupting the Cycle” conference, “We need to tailor supervision to be responsive. Conditions of supervision can make all the difference in success or failure. Sometimes there are far too many conditions for anyone to meet.” Instead, she said the goal should be to “supervise for success” by imposing the least amount of supervision necessary to correct the behavior.

*The goal should be to “supervise for success” by imposing the least amount of supervision necessary to correct the behavior.*

# PART II

## Back-End Reforms: Preparing for Successful Release and Reintegration

### A. Support In-Reach Initiatives Prior to Release

The way in which people are released from prison can impact their successful reentry. If they are on their own, without support to access needed services, they are less likely to be connected to the kinds of interventions that will help them obtain housing, a job, training, or treatment. They can also be left without the sorts of pro-social supports that will work to prevent them from falling back into old behavioral patterns. The path to reentry must be paved while individuals are still serving time in prison or jail, through in-reach that connects them with services and support so they can hit the ground running upon release. Several prosecutors' offices have partnered to create and support in-reach programs that begin addressing reentry before an individual is released, and their initiatives are discussed below.

### Prerelease Reentry Initiatives

#### The Boston Reentry Initiative

The Boston Reentry Initiative (BRI) provided mentorship, case management, and services to individuals between the ages of seventeen to thirty screened by the Boston Police Department and identified as high risk for continuing involvement in violent crime after release. Program selection recommendations were based on factors including gang membership, criminal history, likelihood to recidivate, and an expectation that the individual would return to a high-crime community. Screened individuals were required to attend a BRI panel session within forty-five days of entering prison, where they received information about the program and heard from prosecution, probation, and parole departments about the consequences of rearrest after release. After this mandatory meeting, participation in the program was voluntary. Participants were assigned a case manager and developed a "transitional accountability plan" to coordinate services to an individual's needs, which addressed issues like obtaining drivers' licenses or identification, health insurance, transportation, and interim jobs, as well as drug and behavioral health treatment, education, and permanent housing. "On the day of release, the facility arranged for either a family member or a case manager to meet the individual at the door."<sup>116</sup> Case management continued for up to eighteen months after release. The Suffolk County District Attorney's Office and the U.S. Attorney's Office were both program partners.<sup>117</sup>

The program was successful in reducing recidivism among this high-risk group. A Harvard study of the program found that at twelve months post-release, 36.1 percent of the BRI participants had been arrested for a new crime versus more than 50 percent of a control group.<sup>118</sup> Despite its success, the program was shut down when it lost its funding under the Second Chance Act.<sup>119</sup>

116 National Institute of Justice, "Program Profile: Boston (Massachusetts) Reentry Initiative (BRI)," June 10, 2011, <https://www.crimesolutions.gov/ProgramDetails.aspx?ID=42>.

117 For a detailed description of the program, see *Ibid.*

118 Braga, A., Piehl, A., and Hureau, D. (2009). "Controlling Violent Offenders Released to the Community: An Evaluation of the Boston Reentry Initiative." *Journal of Research in Crime and Delinquency*, vol. 46, no. 4, pp. 411–36.

119 Jonas, M., "Boston reentry initiative hits the skids," *CommonWealth*, May 14, 2017, <https://commonwealthmagazine.org/criminal-justice/boston-reentry-initiative-hits-the-skids/>.

### San Diego's SB 618 Reentry Program's Pre-Release Components

In addition to its focus on presentence risk and needs evaluations, San Diego's SB 618 Reentry Program included prerelease components that eased the transition from incarceration to reentry. Not only did case management continue throughout a person's prison term, the program focused on the "moment of release," recognizing the impact that process can have on individual success: "Experts in reentry have concluded that the 'moment of release' from prison, and specifically the first 72 hours, can be the most critical time for ex-offenders as they transition from a controlled environment to civilian life. Nearly two-thirds (63%) of the [SB 618] treatment group had contact with their CCM [Community Case Manager] within three days of their prison release."<sup>120</sup> To improve this number, program partners—including the San Diego District Attorney's Office—"have spent considerable efforts to obtain accurate prison release date information."<sup>121</sup>

### B. Assist with Expungement of Criminal Records and Other Forms of Relief

Because criminal records lead to a host of collateral consequences that burden individuals long after they've completed their sentences, prosecutors should assist individuals with obtaining an expungement in appropriate cases. Expungement serves to remove the criminal incident from the public record entirely, allowing people to more easily obtain jobs, education, housing, and government benefits, as well as participate in civic life. Laws on who is eligible for expungement, and the processes for obtaining such relief, vary by jurisdiction.<sup>122</sup> Other avenues to minimize the use of criminal records—like the sealing of records or case dismissals—still leave that information on the public record, potentially available to future employers, landlords, the government, or any private agency running a background check. Expungement offers the opportunity to remove the incident from one's public history entirely.

Several prosecutors have taken the lead on assisting people with filing for expungement, or by partnering with the defense bar to create programs that allow expungement on the completion of certain conditions.<sup>123</sup>

*Expungement serves to remove the criminal incident from the public record entirely, allowing people to more easily obtain jobs, education, housing, and government benefits, as well as participate in civic life.*

120 Mulmat, D., Doroski, E., Howard, L., et al., *Improving Reentry for Ex-Offenders in San Diego County*, at 13 (citation omitted).

121 *Ibid.*

122 For a comparison of laws by state, see Collateral Consequences Resource Center, 50-State Comparison: Judicial Expungement, Sealing, and Set-aside, June 2017, <http://ccresourcecenter.org/resources-2/restoration-of-rights/50-state-comparison-judicial-expungement-sealing-and-set-aside/>.

123 See <http://njdc.info/wp-content/uploads/2014/10/Defender-Association-Diversion-Program-Expungement-Project.pdf>, which describes a juvenile diversion and expungement program administered in partnership by the Philadelphia Defenders' Association and the Philadelphia District Attorney's Office.

## Expungement Initiatives

### Broward County, Florida

#### Expungement Workshop

The Broward County State Attorney's Office offers qualified applicants free assistance in preparing applications and gathering the necessary documentation for expungement requests to be filed with the Florida Department of Law Enforcement, and hosted a special walk-in workshop where staffers on-site assisted applicants in person. Broward State Attorney Mike Satz outlined the reasoning behind his office's decision: "Even though a person has been cleared of a criminal allegation, or they have successfully completed a diversion program or probation and paid their debt to society, that person can still be negatively impacted by public use of such information."<sup>124</sup>

### Philadelphia's Pretrial Diversion

#### Expungement Component

Many of the Philadelphia District Attorney's Office's pretrial diversion and other ATI programs (see pages 16 and 20) offer defendants who successfully complete the programs eligibility for record expungement—some by requiring that the defendant request expungement in court and others through automatic expungement. Eligibility for expungement varies among the different programs. Complete details are available [here](#).

While expungement offers the most complete relief from one's criminal history, it is available in only limited cases. This has given rise to another avenue for relief, Certificates of Relief from Disability (CRDs), sometimes called certificates of relief, recovery, achievement, or employability. CRDs offer an intermediate form of relief that does not erase one's criminal record, but does offer evidence to prospective employers and others that one has been rehabilitated following past criminal justice involvement.

Many criminal convictions carry collateral consequences that bar individuals from licensure in certain professions, and many employers and landlords run criminal background checks that may disqualify an individual from consideration for employment or housing. But both stable housing and employment are vital factors in successful reintegration. Because of this, numerous states and the District of Columbia have passed laws allowing individuals to apply for such certificates.<sup>125</sup> The certificate of relief represents "an official assurance to employers...that the ex-offender should no longer be judged for his or her crimes."<sup>126</sup> Such certificates appear to be effective: A study of Ohio's certificate found that those holding certificates received almost three times as many interview invitations or offers of employment as did a control group of people with similar criminal records and qualifications but no certificate.<sup>127</sup>

Obtaining these certificates can be a complex process, as the burden of proof is on the ex-offender to gather evidence to show rehabilitation. Traditionally, assisting people in both learning of the

<sup>124</sup> Trischitta, L., "Broward state attorney's office will help expunge arrest records," *SunSentinel*, October 12, 2015, <http://www.sun-sentinel.com/news/crime/crime-safety-blog/sfl-broward-state-attorney-s-office-to-help-expunge-arrest-records-20151012-story.html>.

<sup>125</sup> For examples of certificates of rehabilitation, see ARIZ. REV. STAT. ANN. §§ 13-904 to -908; CAL. PENAL CODE §§ 4852.01 to .21; 730; ILL. COMP. STAT. ANN. § 5/5-5.5-15 (certificate of relief from disabilities) and id., § 5/5-5.5-25 (certificate of good conduct); N.J. STAT. ANN. §§ 2A:168A-7 to -168A-16; and N.Y. CORRECT. LAW §§ 700-706. For an example of a certificate of qualification for employment, see OHIO REV. CODE ANN. § 2953.25.

<sup>126</sup> Hager, E., "Forgiving vs. Forgetting," March 17, 2015, *The Marshall Project*, <https://www.themarshallproject.org/2015/03/17/forgiving-vs-forgetting#.6O8hGXk3d>.

<sup>127</sup> Leasure, P. and Anderson, T. S. "The Effectiveness of Certificates of Relief as Collateral Consequence Relief Mechanisms: An Experimental Study," *Yale Law & Policy Review* (Fall 2016), [http://ylpr.yale.edu/inter\\_alia/effectiveness-certificates-relief-collateral-consequence-relief-mechanisms-experimental](http://ylpr.yale.edu/inter_alia/effectiveness-certificates-relief-collateral-consequence-relief-mechanisms-experimental).

existence of such relief and completing applications has been the domain of legal aid services and pro bono attorneys.<sup>128</sup> But prosecutors' offices can play a role as well. They can:

- agree not to oppose such applications as part of plea agreements, provided certain conditions are met;
- assist in outreach and education to the justice-involved as part of their reentry efforts to alert them to the availability of such relief and the processes for obtaining it;
- write letters of support in appropriate cases where they have firsthand evidence of an individual's rehabilitation efforts;
- hold workshops or otherwise offer no-cost application assistance;
- perform outreach to employers to explain the purpose and meaning of such certificates to encourage them to hire people with criminal records who have them;<sup>129</sup> and
- in jurisdictions that have no such type of relief,<sup>130</sup> prosecutors can advocate for legislation establishing this form of relief.<sup>131</sup>

<sup>128</sup> See Hager, "Forgiving vs. Forgetting" (2015) ("To be successful requires gathering documents from multiple agencies, letters of support from community members, and proof of sobriety, then arranging all of it into a narrative that demonstrates 'rehabilitation'").

<sup>129</sup> *Id.*, discussing the Wilmington, North Carolina, "Hometown Hires" program of District Attorney Ben David, who regularly meets with hundreds of area employers to encourage the hiring of the formerly justice involved. In David's words, "[A]s a D.A., I feel I should take active steps to stop prosecuting folks who are just trying to get jobs, and these certificates and the other new options, I think, are a way of stopping the endless prosecution of job seekers."

<sup>130</sup> At present there is no federal certificate of relief from disability, though the Honorable Dora Irizzary, United States District Judge for the Eastern District of New York, told the "Disrupting the Cycle" conference she believes there should be. Her former colleague, the Honorable John Gleeson, attempted to fashion such relief judicially when he was a judge in the Eastern District of New York, though he was later overruled. See "Federal Expungement Order Reversed on Appeal," Collateral Consequences Resource Center, August 11, 2016, <http://ccresourcecenter.org/2016/08/11/federal-expungement-order-reversed-on-appeal/>.

<sup>131</sup> See Legal Action Center, "Certificates of Rehabilitation: What You Can Do," [https://lac.org/toolkits/certificates/certificates.htm#What\\_Do](https://lac.org/toolkits/certificates/certificates.htm#What_Do), for links to advocacy materials and model legislation.

## C. Facilitate the Removal of Collateral Consequences of Conviction

Aside from assisting individuals with expungement and CRDs, prosecutors' offices can also offer assistance to remove concrete collateral consequences that flow from a conviction and that hinder a person's ability to reintegrate into the community. There are a number of far-reaching consequences that can interfere with an individual's ability to reintegrate into his or her community and raise the risk that he or she will commit new crimes in the future.

### 1. Help Individuals Obtain Identification and Reinstate Drivers' Licenses

One common collateral consequence of a criminal conviction is the automatic suspension of a person's driver's license, which can occur even for non-driving-related offenses. As of 2016, for example, twelve states and the District of Columbia still enforced laws that set at least six months of license suspension for anyone convicted of a drug offense.<sup>132</sup> Prison Policy Initiative estimates that, as a result, these jurisdictions suspend approximately 191,000 drivers' licenses for drug offenses unrelated to driving.<sup>133</sup>

A valid driver's license is a vital component of successful reentry. Individuals on probation or parole are generally required to get a job, which requires them to transport themselves there. They are also typically required to report regularly as part of their supervision, or to attend treatment or counseling sessions. They likely also have family obligations, medical appointments, and/or school or vocational training to attend. Many come from communities with little or no public transportation. As a result, the lack of a valid driver's license hinders their ability to

*There are a number of far-reaching consequences that can interfere with an individual's ability to reintegrate into their community and raise the risk that he or she will commit new crimes in the future.*

<sup>132</sup> Aiken, J. "Reinstating Common Sense: How driver's license suspensions for drug offenses unrelated to driving are falling out of favor," *Prison Policy Initiative*, December 12, 2016, <https://www.prisonpolicy.org/driving/national.html>.

<sup>133</sup> *Ibid.*

*The inability to pay these amounts can lead to a crushing cycle of debt and other criminal and civil consequences.*

reintegrate. Many continue to drive anyway in order to maintain employment, placing themselves at risk of a technical violation of their probation terms and a new sentence to incarceration.<sup>134</sup>

What can prosecutors do? No one is suggesting that they refrain from prosecuting offenses because of these consequences. However, they can and should recognize the impact of collateral consequences that include license suspension when making charging, plea, and sentencing recommendations. If such a consequence has already attached, they can assist at reentry by connecting individuals with the necessary paperwork and instructions on the process to reinstate their licenses, or legal aid services that can provide such assistance.

Prosecutors can also perform outreach to the local bar association to obtain assistance for formerly incarcerated people. This is what the STAR Program did in the Eastern District of Pennsylvania. Federal judges who administer the STAR Program sought assistance from the Pennsylvania bar, asking attorneys to take on pro bono cases representing STAR Program participants in traffic court to have their licenses reinstated. In making the request, the judges emphasized that many of the participants had difficulty getting their licenses, which in turn made it difficult to find employment, thereby increasing the risk of recidivism.<sup>135</sup>

134 See *id.* See also Ewing, M., “Why Restoring Driving Rights to Former Inmates Matters,” *The Atlantic*, January 22, 2016, <https://www.theatlantic.com/politics/archive/2016/01/why-restoring-driving-rights-to-former-inmates-matters/458859/>.

135 Pennsylvania Bar Association, “Innovative Star Program for Former Prisoners,” <https://www.pabar.org/public/pro-bono/StarProgramFmrPrisoners.pdf>.

## 2. Aid Individuals in Reducing Burdensome Fines and Arrears

Individuals leaving prison often shoulder economic burdens. Some of these burdens stem from their criminal justice involvement, while others follow them into prison and continue to mount while they serve their time. The inability to pay these amounts can lead to a crushing cycle of debt and other criminal and civil consequences. Prosecutors can work to alleviate this barrier to reentry for these types of fines and arrears, which fall into three general categories:

### • Criminal Justice Fines and Fees

Many sentences include associated fines and fees—called criminal justice financial obligations—that are unrelated to an individual’s ability to pay and which significantly impair efforts at reentry. The failure to pay these debts “comes with severe consequences and can lead to revocation of probation, additional warrants, liens, wage garnishment, tax rebate interception, civil judgments, negative credit reports, and accompanying difficulties in obtaining employment, housing, and transportation.”<sup>136</sup> Some states also suspend drivers’ licenses for those who are unable to pay their debt, hampering their ability to work.<sup>137</sup> Ex-offenders are also commonly assessed surcharges for collecting criminal justice debt, with states assessing fees for late payments, failure to pay, or to set up payment plans,<sup>138</sup> causing debts to mount even further beyond reach;

136 Prisoner Reentry Institute, *Pretrial Practice: Rethinking the Front End of the Criminal Justice System* (2016), at 18. See also U.S. Department of Justice. (2014). *Reentry Toolkit for United States Attorneys’ Offices* (Washington, DC: U.S. Dept. of Justice), 13, [https://csgjusticecenter.org/documents/0000/1163/Reentry\\_Council\\_Reentry\\_Toolkit.pdf](https://csgjusticecenter.org/documents/0000/1163/Reentry_Council_Reentry_Toolkit.pdf).

137 Bannon, A., Nagrecha, M. & Diller, R. (2010). *Criminal Justice Debt: A Barrier to Reentry*, 2, <http://www.brennancenter.org/sites/default/files/legacy/Fees%20and%20Fines%20FINAL.pdf>.

138 Council of Economic Advisers. (2015). *Fines, Fees, and Bail: Payments in the Criminal Justice System that Disproportionately Impact the Poor* (Washington, DC: The White House), 4, [https://obamawhitehouse.archives.gov/sites/default/files/page/files/1215\\_cea\\_fine\\_fee\\_bail\\_issue\\_brief.pdf](https://obamawhitehouse.archives.gov/sites/default/files/page/files/1215_cea_fine_fee_bail_issue_brief.pdf).



- **Noncriminal Justice Fines**

Justice involved individuals often also owe other types of fines unrelated to the criminal justice system. Traffic fines, for example, can continue to accrue with interest while people are incarcerated—warrants may even be issued for nonappearance—so that when they reenter they are met with a mounting debt burden they may be unprepared to meet and new outstanding warrants of which they may be unaware, all of which potentially impact their ability to drive and to pay for other basic needs, like food and housing; and

- **Child Support Arrears**

The majority of people in federal and state prisons are parents, many of whom enter prison already bound by child support orders.<sup>139</sup> Historically, penalties for child support arrears did not stop accruing during periods of incarceration, as most states considered incarceration to be a period of voluntary unemployment that did not merit the suspension or modification of the original award. This can add up to a debt load that few who are returning to their communities can hope to meet: incarcerated parents leave prison with, on average, \$20,000 in child support arrears.<sup>140</sup> Final rules issued by the Office of Child Support Enforcement in 2016, however, prohibit states from treating incarceration as voluntary unemployment, and allow for incarcerated noncustodial parents to seek modifications of child support awards while incarcerated.<sup>141</sup>

Incarcerated parents may, however, be unaware of these rights and thus continue to accrue arrears despite their lack of income while incarcerated.<sup>142</sup> Once they get out, it may be too late to restructure that debt, which can create “a legitimate barrier to employment, since as soon as reentering parents get a legitimate job, their pay is garnished at a predetermined rate [which] may leave them destitute and decrease their incentive to work.”<sup>143</sup>

Prosecutors should not only take such fines and fees into account on the front end in the charging, plea bargaining, and sentencing phases—by being aware of the financial consequences of certain dispositions and by assessing an individual’s ability to pay—they should also consider ways their office can help to alleviate such debts on the back end.<sup>144</sup> Some prosecutors, recognizing that financial stability is a factor in reentry success, have taken proactive steps to help those with criminal records to ease their financial obligations upon release.

*Prosecutors should not only take such fines and fees into account on the front end in the charging, plea bargaining, and sentencing phases.*

139 Office of Child Support Enforcement, *Final Rule: Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs*, [https://www.acf.hhs.gov/sites/default/files/programs/css/fem\\_final\\_rule\\_incarceration.pdf](https://www.acf.hhs.gov/sites/default/files/programs/css/fem_final_rule_incarceration.pdf).

140 *Ibid.*

141 Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs, 81 Fed. Reg. 93492 (December 20, 2016), <https://www.gpo.gov/fdsys/pkg/FR-2016-12-20/pdf/2016-29598.pdf>. See also National Conference of State Legislatures, “Child Support and Incarceration,” February 10, 2016, <http://www.ncsl.org/research/human-services/child-support-and-incarceration.aspx#Incarcerated>.

142 For a first-person look at how this debt can accumulate, see Hager, E., “For Men in Prison, Child Support Becomes a Crushing Debt,” *The Marshall Project*, October 18, 2015 (interviewing men who left prison with between \$10,000 and \$110,000 in child support arrears, accrued while earning an average of 20 cents per hour, the median wage in state prisons), <https://www.themarshallproject.org/2015/10/18/for-men-in-prison-child-support-becomes-a-crushing-debt#ex4dScmbG>.

143 Eidelman, V., Hartz, L., and Zhao, H. (2013). *Incarceration and Child Support Obligations: A report to the Recidivism Reduction Committee of the Connecticut Sentencing Commission regarding the consequences of child support debt for incarcerated individuals, children and custodial parents, and the people of Connecticut* (New Haven, CT: The Arthur Liman Public Interest Program, Yale Law School), 9 (discussing remarks of Susan Quinlan, Executive Director of Families in Crisis, a Connecticut-based reentry organization), [http://www.ct.gov/ctsc/lib/ctsc/Liman\\_Paper\\_-\\_Incarceration\\_and\\_Child\\_Support\\_Obligations.pdf](http://www.ct.gov/ctsc/lib/ctsc/Liman_Paper_-_Incarceration_and_Child_Support_Obligations.pdf).

144 Criminal justice fees, an increasingly common method for struggling states and municipalities to find revenue to fund their criminal justice systems, are typically set by statute, and thus prosecutors may have less ability to influence their imposition or to seek relief from them, beyond being aware of the total debt burden such fees are adding to already economically struggling defendants and considering dispositions that include additional fines accordingly.

## Prosecutorial Efforts to Ease Financial Burdens on Reentry

The Southern District of Alabama instituted a volunteer lawyer program in which attorneys write letters to municipal judges asking for a reduction of interest during periods of incarceration or outright dismissal or reduction of fines, to raise awareness with those courts as to how the issue of outstanding fines and fees can impact successful reentry. The office also asked local attorneys to encourage them to provide pro bono services to those who have traffic fines that continue to accrue while incarcerated, and has plans to develop a template for a motion for relief in such circumstances. The office also undertook a study of Alabama's municipal courts, in order to identify and improve certain practices regarding these courts' use of fines and fees.<sup>145</sup> The office also met with both municipal and state court administrators in an effort to coordinate information about the fees amassed by a single person across different systems and agencies, and both agreed to work to develop tracking software for that purpose. Such software could, for example, "flag outstanding traffic violations at the time of arrest and correspondingly notify the court that has the outstanding traffic ticket that the defendant is incarcerated and will be unable to appear," avoiding the issuing of warrants.<sup>146</sup>

**U.S. Attorney's offices in the Eastern District of Pennsylvania, the District of New Jersey, and the Western District of New York** have formed partnerships with bar associations, law schools, and legal aid services to assist formerly incarcerated people with civil legal matters, including reduction, dismissal, or rescheduling of administrative fines and fees, reinstating drivers' licenses, and family court matters. For more details on these U.S. Attorney initiatives, as well as links to further information and resources on the topic, see *Reentry Toolkit for United States Attorneys' Offices* at pages 13-15.

<sup>145</sup> U.S. Attorney's Office, Southern District of Alabama, *Alabama Municipal Courts Observation Project*, <https://www.justice.gov/usao-sdal/page/file/934936/download>.

<sup>146</sup> *Reentry Toolkit for United States Attorneys' Offices* (Washington, DC: U.S. Dept. of Justice), 13-14, [https://csgjusticecenter.org/documents/0000/1163/Reentry\\_Council\\_Reentry\\_Toolkit.pdf](https://csgjusticecenter.org/documents/0000/1163/Reentry_Council_Reentry_Toolkit.pdf) [hereinafter "U.S. Attorney Reentry Toolkit"].

For state-by-state information on how to change a child support order, see the Office of Child Support Enforcement's [online guide](#).

## D. Work with the Community

### 1. Partner with Employers to Connect Those Reentering with Jobs

Unemployment among the formerly incarcerated has been linked with increased rates of recidivism, making connections to education, vocational training, and employment an essential and immediate factor in successful reentry. According to former U.S. Attorney Kenyen Brown:

Statistics compiled by the Administrative Office of the U.S. Courts in Washington D.C., indicate that ex-offender employment is a critical factor in whether recently released federal inmates are successful. Of the 262,000 federal prisoners that were released from federal prison between calendar years 2002-2006, 50% of those who could not secure any employment during the time of their supervised release (generally two to five years) committed a new crime or violated the terms of their release and were sent back to prison. However, an astonishing 93% of those who were able to secure employment during the entirety of their supervised release were able to successfully reintegrate back into society and not return to prison.<sup>147</sup>

As part of the Obama Administration's Smart on Crime initiative, several U.S. Attorneys' Offices spearheaded reentry efforts with twofold goals: (1) to assist those reentering with securing employment; and (2) to educate employers about hiring the formerly incarcerated, as outlined below.

<sup>147</sup> U.S. Attorney's Office for the Southern District of Alabama, "Ex-Offender Job Fair," press release (May 16, 2013), <https://www.justice.gov/usao-sdal/pr/ex-offender-job-fair>.

## Employment and Reentry: Prosecutorial Efforts

### The Southern District of Alabama

The U.S. Attorney's Office for the Southern District of Alabama, under former U.S. Attorney Kenyon Brown, initiated a number of workforce development reentry initiatives. The office holds annual employment workshops, offering mock interviews and résumé writing help. It partners with community colleges to connect people to training opportunities, and recruits employers to hire formerly incarcerated individuals, holding job fairs specifically for this purpose. One company created a special apprentice program for such individuals that included a path to joining a union. Brown also met with the Mobile Chamber of Commerce to discuss potential federal tax credits available to employers who hire formerly incarcerated individuals. His efforts are highlighted in the U.S. Department of Justice's *Reentry Toolkit for United States Attorneys' Offices*.<sup>148</sup>

For information about the office's ex-offender job fair, see the press release [here](#) and news coverage [here](#).

### The District of Columbia

The U.S. Attorney's Office for the District of Columbia held an Employer Reentry Forum that convened government and social services agencies involved in employment and reentry to create a coordinated approach to helping returning individuals find employment.<sup>149</sup>

### The Eastern District of Louisiana

Under former U.S. Attorney Kenneth Polite, the office developed the 30-2+2 program to recruit thirty local businesses who agreed to hire two formerly incarcerated people for two years. The program operates in collaboration with an existing reentry service at the Louisiana State Penitentiary in Angola to select people and provide them with job training, mentorship, and life skills.<sup>150</sup> Employers then monitor the

experience during the two years of employment.<sup>151</sup>

To date, twenty-five businesses have stepped up, including Hyatt, Shell, and Harrah's. One employer is the U.S. Attorney's Office itself, which hired an ex-offender to help coordinate reentry work.<sup>152</sup> See Appendix D for examples of forms used by the U.S. Attorney's Offices for the Southern District of Alabama and the Eastern District of Louisiana.

## 2. Gather, Distribute, and Leverage Local Reentry Resources

In order to best connect returning individuals with the services they need, prosecutors should familiarize themselves with reentry resources, service providers, and quality programming in their jurisdictions. Examples of some concrete steps that any prosecutor's office could take are below.

### Creative Reentry Assistance

**Create a Reentry Map:** A tool to assist people in locating reentry service providers, the *New Day Experience Re-entry Resource Map* (created by the U.S. Attorney's Office for the Southern District of Alabama) is an online interactive map that includes the locations of sixty reentry service providers in Mobile County. The map includes government agencies like the courthouse, driver's license office, and police headquarters; nonprofits like the American Red Cross and Catholic Social Services; educational institutions, treatment centers, volunteer lawyer services, medical resources, housing providers, and more. Marked by icons that describe the type of service offered (e.g., a loaf of bread stands for food assistance), the map also includes bus routes to help people access service providers using public transportation and identifies Wi-Fi hotspots to assist with information gathering. Clicking on an icon brings up a picture of the building, its address and contact information, and a short description of the services it provides. For the full interactive map, click [here](#).

<sup>148</sup> U.S. Attorney Reentry Toolkit, at 11–12. This publication also includes a listing of programs that give incentives to employers who hire people who have been incarcerated. *Id.* at 12.

<sup>149</sup> *Id.* at 12.

<sup>150</sup> Hutchison, C., "Inside the Programs Breaking the Prison Cycle—By Employing Former Inmates," *Fast Company*, May 3, 2016, <https://www.fastcompany.com/3059185/inside-the-programs-breaking-the-prison-cycle-by-employing-former-inmates>.

<sup>151</sup> Lipinski, J., "U.S. Attorney Kenneth Polite urges business community to work with ex-offenders," *The Times-Picayune*, December 4, 2013, [http://www.nola.com/business/index.ssf/2013/12/us\\_attorney\\_kenneth\\_polite\\_urg.html](http://www.nola.com/business/index.ssf/2013/12/us_attorney_kenneth_polite_urg.html).

<sup>152</sup> DeBerry, J., "U.S. Attorney Kenneth Polite plans to hire ex-offender," *The Times-Picayune*, May 31, 2015, [http://www.nola.com/crime/index.ssf/2015/05/us\\_attorney\\_kenneth\\_polite\\_pla.html](http://www.nola.com/crime/index.ssf/2015/05/us_attorney_kenneth_polite_pla.html).

*Reentry courts grew out of an effort to extend the influence of the court over the reentry process.*

**Arrange for Pickup from Incarceration:** The USAO for the Southern District of Alabama also connected with volunteers from faith-based organizations to assist newly released individuals both at the crucial “moment of release” as well as in the days and weeks immediately following reentry. Volunteers pick up people from prison, drive them to halfway houses or home, provide bus passes to ease transportation issues, and take them to job interviews. In addition to providing transportation assistance, these volunteers have offered mock job interview skills training and run a mentorship program to provide much needed prosocial support.<sup>153</sup>

**Connect with Victim Services:** As Glenn Martin noted at the “Disrupting the Cycle” conference, many people who have committed crimes are themselves victims. Sam Schaeffer of the Center for Employment Opportunities stated: “Victims are also offenders and vice versa.”<sup>154</sup> Statistics support the importance of helping ex-offenders who themselves may be suffering from victimization: the majority of people in state or federal prison are age thirty nine or younger<sup>155</sup> and are minorities.<sup>156</sup> These prison demographics are the same groups that have elevated risks for becoming a victim.<sup>157</sup> There are victim resources that can assist formerly incarcerated and incarcerated individuals with treating underlying mental health or emotional issues. Coordinating with victim services is also a low-cost initiative,

as prosecutors’ offices already have relationships with many of the agencies that offer such assistance.<sup>158</sup>

### 3. Visit and Participate in Reentry Courts

Once a court issues a sentence, it typically has little involvement with defendants’ lives. Reentry courts grew out of an effort to extend the influence of the court over the reentry process both for individuals on community supervision after release from incarceration, as well as for those sentenced to community supervision who might be struggling to comply with its conditions. Reentry courts are modeled after drug courts, with a judge or magistrate presiding in open court in publicly recorded proceedings, but in a non-adversarial setting, where the court’s main interest is in tracking an individual’s progress, providing support and guidance, and applying graduated sanctions and incentives to encourage successful completion of probation. The judge takes the lead, but is part of a team of criminal justice system actors who take on slightly different roles in this more relaxed setting, and can include prosecutors, defense counsel, members of law enforcement, treatment providers, representatives from probation or parole, and other community service providers. Successful completion of the program, typically lasting 12 months, results in a graduation ceremony presided over by the judge that can include family and friends and, in some cases, reductions in the length of supervision.<sup>159</sup> Because of the ongoing monitoring of individual performance, the goal of reentry courts is to reduce the number of revocation proceedings and the incidence of recidivism, as well as to facilitate rehabilitation and reentry.<sup>160</sup>

153 The Anti-Recidivism Coalition’s Ride Home Program also offers similar services. See Mooallem, J., “You Just Got Out of Prison. Now What?” *The New York Times Magazine*, July 16, 2015, [https://www.nytimes.com/2015/07/19/magazine/you-just-got-out-of-prison-now-what.html?\\_r=2](https://www.nytimes.com/2015/07/19/magazine/you-just-got-out-of-prison-now-what.html?_r=2).

154 See also Chisholm, J., et al., “Five Voices on Reforming the Front End of Justice: Where the Prosecutor Thinks Court is the Last Resort,” *The Marshall Project*, July 17, 2016 (“Many people charged with violent crimes are shaped by their environments: exposure to violence and instability in education, nutrition, housing, social supports, or employment. Many have themselves been victims of crime.”), <https://www.themarshallproject.org/2016/07/17/five-voices-on-reforming-the-front-end-of-justice#.60qv3n3nru>.

155 Carson, E. A. (2014.) “Prisoners in 2013.” *Bureau of Justice Statistics*, 8, <https://www.bjs.gov/content/pub/pdf/p13.pdf>.

156 Hispanics and African Americans composed 59 percent of the total incarcerated population according to the 2010 census. See “Breaking Down Mass Incarceration in the 2010 Census: State-by-State Incarceration Rates by Race/Ethnicity,” Prison Policy Initiative, May 28, 2014, <https://www.prisonpolicy.org/reports/rates.html>.

157 Truman, J. (2016.) “Criminal Victimization, 2015.” *Bureau of Justice Statistics*, table 7, <https://www.bjs.gov/content/pub/pdf/cv15.pdf>.

158 Treating trauma can and should begin while behind bars. In the words of Adam Foss, “We can have all of the jobs and all the community support...but if people aren’t healing from their own victimization and their own trauma while they’re inside, then can come out and lose a job in a month and reoffend.”

159 For a history of drug courts and how that model was transferred to reentry courts, see Fetsco, D. (2013). “Reentry Courts: An Emerging Use of Judicial Resources in the Struggle to Reduce the Recidivism of Released Offenders.” *Wyoming Law Review*, vol. 13, no. 2, pp. 591–613, <http://repository.uwyo.edu/cgi/viewcontent.cgi?article=1057&context=wlr>.

160 See United States District Court for the District of Rhode Island. *H.O.P.E., A Reentry Court* (January 6, 2016), 1, <http://www.rid.uscourts.gov/menu/generalinformation/hopecourt/HOPECourt.pdf>.

There are good reasons to include the judiciary in the reentry process: “[J]udges command the public’s confidence [and] carry out their business in open courtrooms, not closed offices, so the public, former prisoners, family members, and others can benefit from the open articulation of the reasons for a government decision.”<sup>161</sup> In discussing the advantages of reentry courts over traditional supervision, Jeremy Travis, then National Institute of Justice Director under Attorney General Janet Reno, emphasized the continuing judicial involvement in the lives of the people they sentence: “[T]he judges that oversee reentry could be the same as those who impose sentences, keeping track of a prisoner’s progress on meeting the goals of a reentry plan, and possibly granting early release to a prisoner who has made significant progress.”<sup>162</sup>

## Reentry Court Examples

### Eastern District of Pennsylvania’s STAR Program

The Eastern District of Pennsylvania created the Supervision to Aid Reentry (STAR) court in 2007, which has been touted by former Attorney General Eric Holder as a national model for other districts.<sup>163</sup> The STAR court is a post-sentence, federal reentry court for Philadelphia residents on supervised release. The STAR court focuses on individuals with a significant risk of recidivism and history of violent crime. Every two weeks, up to forty participants appear as a group before a federal magistrate judge to report on their progress. This is a collaborative process involving representatives from the U.S. Attorney’s Office, the Federal Public Defender’s Office, the Probation Office, and a Department of Justice reentry coordinator. These representatives meet for about ninety minutes before each STAR court session to

discuss individual participants and propose plans to help them succeed. The STAR program is also dynamic: participants attend together in a group and are required to individually discuss their accomplishments and obstacles they face during the reentry process. This discussion is used to develop goals for each participant to achieve before the next court session. For participants who are not complying with the goals of the program or who are violating the terms of their release, graduated sanctions are imposed and then explained to the entire group. The use of swift and graduated sanctions has been extremely successful and was driven by evidence-based practices. The STAR court team strives for consistency and predictability to ensure that the group sees all participants being treated fairly.

The STAR program has steadily grown since its inception and, as recently as 2014, expanded its network to assist participants with the following:

- **Affordable Housing.** A national pilot program was launched to address the issue of affordable housing for ex-offenders, in conjunction with the Philadelphia Housing Authority (PHA).
- **Traffic Court.** Partnering with law students, the traffic court representation program grew in size. This initiative aims to reduce traffic fines and license suspensions that can post a significant obstacle to ex-offenders trying to find and maintain employment and rebuild family networks. The initiative includes a number of law schools and law firms.
- **Family Court.** As with traffic court, the family court initiative partners with law students to assist ex-offenders in handling family matters involving custody and child support, as these matters can also impede successful reentry.
- **Expungements.** Partnering with the Philadelphia Lawyers for Social Equity, the STAR program was able to expunge more than 153 criminal records for STAR participants.
- **Employment Initiatives.** The program partners with employers in both the public and private sectors to train and employ STAR participants. The PHA hired four graduates to full-time, salaried jobs, and the Neighborhood Film Co. employed and trained two graduates in film production. Another graduate was hired to head Operation Ceasefire, a DOJ gun violence reduction program.

<sup>161</sup> National Research Council. *Parole, Desistance from Crime, and Community Integration*. The National Academies Press, 2008, 65 (discussing Jeremy Travis’s book *But They All Come Back: Facing the Challenges of Prisoner Reentry*, Urban Institute Press, 2005), <https://cdpsdocs.state.co.us/ccjj/Resources/Ref/NCR2007.pdf>.

<sup>162</sup> Travis, J. *But They All Come Back*, at 351.

<sup>163</sup> Memorandum from L. Felipe Restrepo, U.S. District Judge, and Timothy R. Rice, U.S. Magistrate Judge, to Petrese B. Tucker, Chief Judge, U.S. District Court (E.D. Pa.), July 7, 2014, [http://www.uscc.gov/sites/default/files/pdf/training/annual-national-training-seminar/2014/memo\\_star.pdf](http://www.uscc.gov/sites/default/files/pdf/training/annual-national-training-seminar/2014/memo_star.pdf).



- **Pro Bono Outreach.** The STAR program has partnered with the Philadelphia Bar Association and local law schools to connect program participants with pro bono attorneys on a number of different civil issues ranging from estate disputes to copyright law.
- **Behavioral and Cognitive Programs.** The Probation Office has targeted “criminal thinking patterns,” one of the central predictors of recidivism, by launching “Thinking for a Change,” a cognitive behavioral therapy program. The program targets ex-offender behavior and includes topics such as active listening, cognitive self-change, and recognizing risk.

The STAR program has been successful across a number of metrics. Only 11 percent of STAR program graduates and 18 percent of STAR program participants (nongraduates) have had supervision revoked. Revocation proceedings in the Eastern District of Pennsylvania also dropped by 19 percent. When STAR program participants are compared to similar ex-offenders who did not participate, the results are impressive: program participation dropped the odds of supervision revocation by 82 percent.

#### **District of Rhode Island's H.O.P.E. Reentry Court**

Rhode Island's reentry court, called “Helping Offenders Prepare for reEntry (H.O.P.E.)” follows the drug court model and uses a team approach to offender rehabilitation and supervision. Led by the presiding judge with the aid of an Assistant Public Defender, an Assistant U.S. Attorney, and the Probation Office, participants are supervised in regular—though more informal—open court sessions, where the judge can review and respond to their progress. The program's goals are to “reduce the number of revocation proceedings before district judges, improve participants' compliance with conditions of supervision, facilitate rehabilitation, and decrease recidivism.”<sup>164</sup> The one-year program thus adds judicial support and oversight, together with incentives and sanctions, to traditional probation office supervision, allowing for early intervention before violations occur. Successful completion can result in up to a one-year reduction in the term of supervision. Placement on

the H.O.P.E. court track begins at disposition, with high-risk individuals identified and placements made with the approval of the sentencing judge. Services include case plans, highly structured supervision, wraparound mental health and substance abuse treatment, education and job training programs, and coordination with community-based resources. The prosecutor, with other team members, plays an integral role: “The entire team (judge, probation officer, prosecutor, and federal public defender) will provide positive reinforcement and accountability in a non-adversarial manner that protects participants' rights.”<sup>165</sup> The AUSA “will actively participate in all team meetings and attend all Court sessions, and may comment on the participant's progress.... During team meetings, the AUSA will participate in the determination of appropriate rewards and sanctions for an individual, whether to admit an individual to the program and whether to terminate a participant from the program.”<sup>166</sup> However, to protect an individual's rights, if there is a revocation proceeding or new criminal charges are filed, the AUSA does not participate in those matters. For more information about the program, see *H.O.P.E., a Reentry Court*.

#### **Philadelphia's Mental Health Court**

Philadelphia's Mental Health Court offers a model for defendants who are serving a county sentence or are on probation for a nonviolent felony and have been diagnosed with a serious mental illness. The court identifies participants who accept a higher level of supervision in exchange for placement in treatment facilities outside the Philadelphia prison system. The program combines individualized probation supervision with intensive wraparound treatment, regular court progress updates, and graduated sanctions and incentives to achieve compliance. Sanctions can include time spent observing criminal proceedings (“jury box observations”), essay writing assignments, and increased court appearances or probation visits, on up to removal from the program. Incentives include less frequent court dates, gift cards, recognition of achievement, ceremonies, and early termination from the program. For more information about

<sup>165</sup> *Id.* at 3.

<sup>166</sup> *Id.* at 5.

<sup>164</sup> See *H.O.P.E., A Reentry Court*, at 1.



Philadelphia’s Mental Health Court, see the District’s [Pre-Trial Diversion Programs](#) manual.

For descriptions about and contact information for federal reentry courts in United States District Courts, including programs targeting substance abusers, high-risk individuals, gang members, those with mental health issues, and veterans, see the [Reentry Toolkit for United States Attorneys’ Offices](#) at pages 18–22.

For a reentry court guide and toolkit to establish programs in your jurisdiction, see the Center for Court Innovation’s [Reentry Court Tool Kit](#).

# PART III

## Priming Prosecutors' Offices for Front- and Back-End Reforms

In order to achieve the front-end and back-end reforms that have been discussed, prosecutors need to start by changing office policies and practices. Not all changes are costly—often, it takes setting the “tone at the top” to demonstrate the office’s commitment to reentry as an important aspect of public safety. The reforms discussed in Part III can all be incorporated as efforts to reshape the culture of the prosecutor’s office.

*Not all changes are costly—often, it takes setting the “tone at the top” to demonstrate the office’s commitment to reentry as an important aspect of public safety.*

### A. Make Anti-Recidivism and Reentry Initiatives an Office Priority

An essentially cost-free reform that prosecutors can implement is to explicitly redefine the office’s mission. For instance, the U.S. Department of Justice’s Smart on Crime initiative expressly states that one of its goals is “[t]o bolster prevention and reentry efforts to deter crime and reduce recidivism.”<sup>167</sup> Though directed at federal prosecutors, the goals and action steps outlined in this initiative allow any prosecutor’s office to realign resources, staffing, and practices to promote this broader focus on recidivism and reentry. The department’s Smart on Crime initiative recognizes that:

[W]hile the aggressive enforcement of federal criminal statutes remains necessary, we cannot prosecute our way to becoming a safer nation. To be effective, federal efforts must also focus on prevention and reentry.... This pattern of incarceration is disruptive to families, expensive to the taxpayer, and may not serve the goal of reducing recidivism. We must marshal resources, and use evidence-based strategies, to curb the disturbing rates of recidivism by those reentering our communities.<sup>168</sup>

State and local prosecutors’ offices can adopt similar priorities that focus on the following goals:

- prioritizing prosecutions that focus on the most serious cases;
- pursuing diversion options and/or alternatives to incarceration for low-level, nonviolent crimes; and
- establishing reentry initiatives to lower the risk of rearrest and recidivism, as well as the public’s risk of revictimization.

Another change that prosecutors can make is to designate a recidivism and reentry coordinator in their office who will oversee and be involved in these initiatives.<sup>169</sup> Assigning this coordinating role to a senior line prosecutor, moreover, sends a signal to other line prosecutors that reentry and recidivism are important office priorities.

### B. Emphasize Recidivism and Reentry in the Hiring and Recruitment Processes

Building a prosecutor’s office that supports reentry efforts begins with staff recruitment and hiring. Those in charge of hiring can focus interview questions on potential candidates’ knowledge of, and commitment to, reducing recidivism and supporting reentry efforts to ensure that candidates are a good fit with office culture. Candidates can be asked broad questions about their view and understanding of a prosecutor’s role in the criminal justice system, as well as more specific ones about how they would exercise discretion when making initial screening decisions regarding potential criminal cases.

Candidates can also be assessed on their knowledge of the criminogenic risks of incarceration,<sup>170</sup> both at the pretrial phase and at sentencing, to ensure that they understand the broader role that imprisonment plays in recidivism and public safety. Candidates should also understand the importance of risk assessments at the pretrial release stage. In the interview, office priorities on the back end should also be made clear: that the prosecutor’s role doesn’t

167 U.S. Department of Justice. (2013). *Smart on Crime: Reforming the Criminal Justice System for the 21st Century* (Washington, DC: U.S. Dept. of Justice), 1, <https://www.justice.gov/sites/default/files/ag/legacy/2013/08/12/smart-on-crime.pdf>.

168 *Ibid.*

169 See U.S. Attorney Reentry Toolkit, at 2.

170 For the criminogenic risks of incarceration, see Shames and Subramanian, “Doing the Right Thing” (2014), at 12.

end with a sentence to incarceration and that prosecutors are expected to be involved in reentry initiatives for those returning to their communities.

A thorough screening that includes questions that make the office's commitment clear, as well as the use of hypothetical situations that allow the interviewer to assess the candidate's commitment to the prosecutors' expanded role, will allow the district attorney's office to assemble a staff that supports innovative efforts to maximize public safety through reentry initiatives.

### **C. Train Staff on Best Practices in Reducing Recidivism**

For current line prosecutors, additional training can be done in order to communicate a shift in office priorities that embrace anti-recidivism and reentry initiatives. Prosecutors can use this report as part of their training materials that cover all aspects of line attorneys' roles. Staff should be made aware of the most recent research on the criminogenic effects of pretrial incarceration and the benefits of using validated risk assessment tools at the pretrial release stage and when making recommendations for the setting of bail. Staff training should also encompass community resources, so line prosecutors can become familiar with diversion and alternative to incarceration programs in their area, as well as local reentry service providers, so as to inform their decisions about interventions in individual cases.

### **D. Reward Staff for Reentry Efforts and Recidivism Reduction**

Prosecutors have another powerful tool for promoting change in office culture: providing incentives to staff involved in reentry and recidivism reduction efforts. Offices can promote a shift in culture by valuing contributions beyond traditional metrics of convictions and/or trial victories. Offices can and should review their raise and promotion policies to determine whether the metrics used support a broad view of the prosecutor's role in crime reduction and public safety. Merit policies should reward line prosecutors who, through their work, demonstrate a broad commitment to public safety. This means recognizing line attorneys' work

to keep people out of the system when appropriate, and measuring the number of people who successfully complete diversion or ATI programs. Finally, prosecutors should also assess qualitatively staff efforts to support reentry, including pro bono work with reentry courts, visits to prisons, engagement in community prosecution strategies, and collaboration with reentry service providers.

### **E. Publicize Reentry and Recidivism Reduction Reforms**

While internal policy changes go a long way toward changing office culture, external messaging alerts other stakeholders—including the public and the defense bar—to office priorities and its focus on public safety, crime prevention, and reentry support. Prosecutors must be willing to promote these reforms to the media and the general public, both through public statements and information on their websites. In particular, website information should include information on:

- the relationship between recidivism and public safety;
- the importance of reentry to the prosecutorial function;
- the office's initiatives in support of reentry;
- links to outside resources for further information; and
- contact information for staff specializing in reentry issues.

The U.S. Attorney's Office for the Southern District of Alabama provides one example of an office that has broad messaging on its website about its approach to reentry and the reentry initiatives it has spearheaded. See Appendix B for a list of offices that spoke at the Roundtable and Symposium regarding office training, as well as other resources on reentry.

*Staff should be made aware of the most recent research on the criminogenic effects of pretrial incarceration and the benefits of using validated risk assessment tools.*

# PART IV

## The Prosecutor as Thought Leader

As public figures and respected members of the criminal justice community, prosecutors have a platform to publicize and emphasize the importance of reentry initiatives as a key part of criminal justice reform. This section covers four roles the prosecutor can play in performing such outreach: as thought leader, as educator, as convener, and as advocate.

### A. Vocalize an Expanded Vision of the Prosecutor's Role in Reentry

Prosecutors are community leaders with the power to set office initiatives. To this end, they can, through both external messaging and internal policies, vocalize office support for an expanded vision of the prosecutor's role in reentry. The office leader can change the narrative about the prosecutor's role—away from a superficial “tough on crime” approach and toward an evidence-based model of crime prevention and recidivism reduction that recognizes that periods of incarceration can themselves be criminogenic, and that failure to support the justice involved as they reenter society can lead to new crime, rearrests, and reincarceration. Instead of “tough on crime” rhetoric that is not supported by facts, prosecutors can emphasize *results* on crime.

One example of such messaging comes from King County Prosecuting Attorney Dan Satterberg, who released “The Top Ten List: Transforming Criminal Justice into Community Justice,” which outlines his office's commitment to “look at their roles more broadly and not presume that our point of engagement in promoting justice begins with an arrest or the filing of charges.”<sup>171</sup> Prosecutors, he says, can “push the criminal justice system along this path by implementing changes within their own offices, and also by advocating for broader changes

in our local communities and state legislatures.”<sup>172</sup> His ten suggestions for action provide a powerful statement from the prosecutor's perspective that his office views its role broadly to seek public safety not just through convictions and incarceration, but through early intervention, prevention, and social supports.<sup>173</sup>

Manhattan District Attorney Cyrus Vance Jr. emphasized his office's dedication to reentry by speaking, less than two months after taking office, to the Harlem Parole Reentry Court's graduating class. In an interview with the Center for Court Innovation, he vocalized his view of the prosecutor's role in reentry: “I mean the job of a prosecutor, ultimately...is about reducing crime and public safety. And that's our responsibility, and when we are successful with people in reentry programs, that obviously has a direct impact on reducing recidivism. So, to the degree to which our office can support those efforts, we reduce crime.”<sup>174</sup>

Similarly, former U.S. Attorney Kenneth Polite became the first person in that office to visit Louisiana's infamous Angola prison as well as the local juvenile detention center. Visiting prisons tangibly manifests a prosecutor's commitment to the people the office has prosecuted, letting them know they will not be forgotten upon release because the office is committed to learning about the conditions of incarceration, as well as their successful reentry.

Efforts like these not only make clear to the public what the office's priorities are, they permeate office culture, and ensure that line prosecutors will consider reentry in all phases of the criminal justice process.

<sup>172</sup> *Ibid.*

<sup>173</sup> *Ibid.*

<sup>174</sup> “Community Prosecution: Manhattan's New District Attorney Supports Reentry Initiatives” Cyrus Vance, Jr. interview with Robert V. Wolf, *Center for Court Innovation*, February 23, 2010, podcast transcript available at <http://www.courtinnovation.org/research/manhattans-new-district-attorney-supports-reentry-initiatives-0?url=research%2F5%2Fall&mode=5&type=all&page=5>.

<sup>171</sup> Dan Satterberg, King County Prosecuting Attorney, “The Top Ten List—Transforming Criminal Justice into Community Justice,” attached as Appendix E.

*The office leader can change the narrative about the prosecutor's role—away from a superficial “tough on crime” approach and toward an evidence-based model of crime prevention and recidivism reduction.*

## B. Educate Other Criminal Justice Actors About the Realities of the Reentry Process

Often, policymakers and other actors in the criminal justice system are unaware of the complex processes that people who are reentering society must face upon their return. In an effort to help other stakeholders better understand the challenges that formerly incarcerated people must overcome when they reenter the community, as part of its Project H.O.P.E. Reentry initiative the U.S. Attorney's Office for the Southern District of Alabama held a Reentry Simulation event in 2016 for public officials, including judges and other reentry stakeholders. Participants assumed new identities as people recently released from prison as part of the simulation, with information about personal factors that applied to them during the process. Those undergoing the simulation were required "to meet the strict life requirements that actual returning ex-offenders have to meet or risk going back to jail"<sup>175</sup>—and the simulation includes a mock jail. The goal of the reentry simulation is to provide those who impact the lives of reentering individuals with a firsthand look at the unnecessary barriers and obstacles that can impede successful reentry. As Mobile Mayor Sandy Stimpson stated, "You never truly know the challenges others face in life until you walk in their shoes."<sup>176</sup>

To set up the simulation, the office established booths representing all the places someone reentering might need to visit in order to check off required conditions of supervision, including a career center, church, counseling/treatment provider, the courthouse, a medical clinic, an employer, an ID station, a plasma donation center (where participants could donate twice per week to earn \$25/visit), the probation office, a "quick loan and pawn shop," agencies overseeing rent, utilities, and transportation, social services, and a bank. Each participant was issued a name and given a packet of information about their case history and the reentry tasks they

needed to accomplish in a certain amount of time. Their employment status was noted, as well as any savings they had on hand.

For example, in one "Life Scenario," "James" served twenty years in prison, received a GED, and had only a social security card for identification. He lived in a halfway house and had \$100 in savings from his time in prison. His expenses for treatment, probation, and personal items were itemized and he was given a check-off sheet for his court-ordered appointments and his required career center reporting to seek full-time employment. General instructions required James to purchase transportation tickets for \$1 for each booth visited and sufficient personal items and food on an extremely limited budget, as well as to submit to drug testing, attend weekly counseling sessions and AA meetings, and report to probation once each week. The simulation covered the first four weeks after reentry. Roving police officers reviewed participants' life cards to make sure they had checked in at all required places and, if not, they risked being taken to jail.

The simulation had an impact on its participants, many of whom were unfamiliar with the difficulties facing those reentering—from lack of transportation and funds to the burdens of meeting conditions of supervision that required multiple appointments with a variety of services and agencies. According to former U.S. Attorney Kenyen Brown, the simulation is one of the greatest tools he has found to change minds. "This is such an effective tool that we've seen federal judges say, 'gosh, I don't think I could make it under these circumstances.' We've had people in the community from the DMV, faith-based community, city council members all participate in the reentry simulation. We've put everybody we could through this simulation and it has really changed minds. People walk away from it saying 'even when I'm trying to do well, I can't. And I understand now and I'm willing to help. What can I do to help the returning individual?'"

*"We've put everybody we could through this simulation and it has really changed minds. People walk away from it saying 'even when I'm trying to do well, I can't. And I understand now and I'm willing to help. What can I do to help the returning individual?'"*

<sup>175</sup> U.S. Attorney's Office for the Southern District of Alabama, "Reentry Simulation Set for Mobile and State House," press release (February 26, 2016), <https://www.justice.gov/usao-sdal/pr/reentry-simulation-set-mobile-and-state-house>.

<sup>176</sup> *Ibid.*

## The Project H.O.P.E. Reentry Simulation

For details on the Project H.O.P.E. Reentry Simulation, including packets and instructions for creating a similar simulation in your jurisdiction, visit the Southern District of Alabama's [Project H.O.P.E. Reentry Initiative](#) page.

To download start-up materials for the project, [click here](#).

For news coverage of the event, [click here](#).

## C. Use the Prosecutor's Power as Convener to Bring Reentry Partners Together

*As convener, the prosecutor's office has the opportunity to bring disparate actors to the same table to learn about the importance of reentry to crime reduction strategies, to share data and information, and to collaborate on solutions.*

The prosecutor is uniquely situated as a member of the criminal justice system with the influence to unite disparate partners to discuss broad issues related to reentry and recidivism. Using this power as convener, prosecutors' offices can ensure that reentry issues stay at the forefront of conversations about criminal justice reform by holding symposia, organizing conferences and summits, and spearheading reentry task forces. For too long, the many system actors whose work touches the lives of those impacted by the criminal justice system have worked in silos, and this lack of shared information, as well as competition for scarce resources, has led to a lack of coordination in efforts to serve this population. As convener, the prosecutor's office has the opportunity to bring disparate actors to the same table to learn about the importance of reentry to crime reduction strategies, to share data and information, and to collaborate on solutions.

Stakeholders to include in such efforts include:

- the judiciary;
- pretrial services;
- probation and corrections officials;
- defense counsel;
- prosecutors at other levels of governments;
- state-, city-, and county-level agencies involved in health and human services, housing, education, workforce development, transportation, and other issues affecting reentry;
- elected officials and community leaders;

- representatives from nonprofit reentry service providers;
- victims' advocates;
- public policy specialists;
- academics; and
- formerly incarcerated individuals.

Only by sitting together at the same table can stakeholders name the challenges and opportunities surrounding reentry, set shared goals and priorities, and form the true partnerships needed to meet them.

Such convenings can lead to long-term partnerships and solutions. A 2006 three-day reentry summit sponsored by the U.S. Attorney for the Middle District of Florida, for example, "was the launch pad for the groundbreaking, institutional reentry reforms that have taken place in the district since that time," including the reconfiguring of certain correctional facilities in the district into transitional institutions, where those serving time would move prerelease to begin preparing for the reentry process.<sup>177</sup> Two faith-based organizations that participated in the original summit partnered to work on reentry housing and employment needs. Area sheriffs worked with other agencies to create "portals of entry" "where released individuals could get access to government services, transportation assistance, and a wide variety of community services and treatment providers."<sup>178</sup>

## The Prosecutor as Convener

In response to the Department of Justice's focus on reentry, several U.S. Attorneys' offices led initiatives to hold reentry summits and form reentry networks and coalitions. See the [Reentry Toolkit for United States Attorneys' Offices](#) at pages 7–9 for ideas your office can implement.

For a step-by-step guide to starting a reentry initiative, visiting the Justice Center of the Council of State Governments "[Starting a Reentry Initiative](#)" web page.

<sup>177</sup> U.S. Attorney Reentry Toolkit, at 9.

<sup>178</sup> *Ibid.*



#### **D. Advocate for Evidence-Based Reentry Policies and Legislation That Reduce Crime, Improve Outcomes, and Maximize Public Safety**

As elected officials and leaders in the criminal justice system, prosecutors have the opportunity to use their influence as advocates for criminal justice reform issues at all governmental levels. Evidence-based policies and practices, as we have seen in many sections of this report, work to improve public safety in the long run by changing the trajectory for many justice-involved people upon reentry. Prosecutors can write, speak, and offer legislative testimony about the following issues in order to foment real change in the lives of the people they prosecute and in the communities they will eventually return to, making America's cities and towns safer, more vibrant places to live.

# Putting It All Together: One Office's Comprehensive Approach to Reentry

Under the leadership of former U.S. Attorney Kenyen Brown, the U.S. Attorney's Office for the Southern District of Alabama's comprehensive Project H.O.P.E. (Helping Offenders Pursue Excellence) Re-Entry Initiative offers a model for other prosecutors' offices to follow.

The office's wide-ranging initiative prioritizes long-term public safety through innovative reentry and anti-recidivism measures at the front and back end of the criminal justice process, as well as through outreach and education to stakeholders and the general public. Project H.O.P.E.'s mission "is to address the needs of re-entering ex-offenders in order to make their transition back into mainstream society a success" by, in part, assisting them with housing, educational, and employment needs. Emphasizing the need to support reentry in order to reduce recidivism and its societal and taxpayer costs, the office notes:

Just in the Southern District of Alabama alone, in the federal system, between the years of 2008-2010, 328 ex-offenders were revoked for violating the terms of their supervised release and sent back to prison. The cost to the American taxpayer to incarcerate those 328 ex-offenders over a three year period amounted to \$9.2 million annually. If these same 328 ex-offenders had been successful on supervised release it would have only cost the American taxpayer roughly \$1.3 million. Project H.O.P.E. is a restorative initiative with the aim of giving ex-offenders a chance to become good citizens while simultaneously affording the greater community with the opportunity to enjoy safer neighborhoods in which to live and a lesser tax burden.

*Some of the resources offered by the office include:*

**Employer Incentive Programs** incentivize employers to hire ex-offenders, greatly increasing their chances to successfully reintegrate back into society and avoid returning to prison. Resources include a Letter from the U.S. Attorney to Employers (see Appendix D4) touting the benefits of hiring those with criminal histories, as well as information on [no-cost fidelity bonding](#), [tax credits](#), and [other incentives](#) available to employers that do so.

**Resources for Ex-Offenders** include a number of links, handbooks, and guides to help ease their way through

the many steps they must navigate on the way to successful reentry. There's an [Employment Information Handbook for Ex-Offenders](#), a Local Area Quick Reference Guide (see Appendix D2), a guide to Voting Rights Restoration (see Appendix D6), and materials on résumé writing and job readiness (see Appendix D3). Local reentry resources are compiled in an [interactive online map and guide](#) that includes transportation routes and Wi-Fi hotspots. For more information on the reentry guide, see page 40.

The **Reentry Simulation** game starter packet includes all the materials necessary for any prosecutor's office to conduct a reentry simulation game to give criminal justice stakeholders and members of the public a firsthand experience of the obstacles ex-offenders must overcome to successfully reintegrate into their communities. The packet includes a step-by-step guide to setting up the simulation, booth instructions, life scenarios for participants, facilitator information, money and transportation ticket templates, and an evaluation sheet. For more information about the office's reentry simulation, see pages 51 and 52.

*In addition to the materials on its Project H.O.P.E. website, the office has implemented numerous other best practices to foster successful reentry and reduce recidivism, including:*

Creating a volunteer lawyers' program to help ex-offenders seeking relief from augmented traffic fines and child support arrears due to incarceration

Coordinating with court administrators to prevent warrants being issued for nonappearance on traffic matters during periods of incarceration

Sponsoring an ex-offender job fair in conjunction with the area Chamber of Commerce. For more information on the job fair, see page 40 and Appendix D4

Starting a mentorship program with community volunteers to provide support and encouragement by talking several times each month with those who are reentering

Inviting reentry stakeholders to sit on a reentry council

Creating a resource guide for the faith-based community to take into prisons to share with incarcerated individuals

Holding job workshops that include training on soft skills, interview techniques, and résumé writing

Partnering with faith-based organizations to provide counseling, services, transportation assistance, job application preparation, and mentorship for ex-offenders

# Appendixes

## APPENDIX A

### Key Statistics on Incarceration and Recidivism

One in three adults has a criminal record<sup>1</sup>

Nearly 700 out of every 100,000 Americans are incarcerated<sup>2</sup>

Two million people are incarcerated in the United States on any given day<sup>3</sup>

Eleven million people cycle through America's jails each year<sup>4</sup>

Ninety-five percent of those incarcerated eventually leave correctional facilities and return to their communities<sup>5</sup>

Two-thirds of people in state prisons are rearrested within a year of release, and about half are re-incarcerated<sup>6</sup>

When held for only two to three days, low-risk defendants are nearly 40 percent more likely to commit new crimes than similarly situated defendants who are held no more than twenty-four hours<sup>7</sup>

When held for eight to fourteen days, low-risk defendants are 51 percent more likely to commit a new crime within two years after case disposition than similarly situated defendants who are held no more than twenty-four hours<sup>8</sup>

As the length of time an individual is detained pretrial increases, so does their likelihood of recidivism at both twelve and twenty-four months<sup>9</sup>

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1 "Americans with Criminal Records," Half in Ten and The Sentencing Project, <http://www.sentencingproject.org/wp-content/uploads/2015/11/Americans-with-Criminal-Records-Poverty-and-Opportunity-Profile.pdf>. See also Friedman, M., "Just Facts: As Many Americans Have Criminal Records as College Diplomas," Brennan Center for Justice, November 17, 2015, <https://www.brennancenter.org/blog/just-facts-many-americans-have-criminal-records-college-diplomas>.

2 "World Prison Brief data: United States of America" *World Prison Brief* (prison population rate in U.S. as of 2015 was 666 per 100,000), <http://www.prisonstudies.org/country/united-states-america>.

3 Wagner, P. and Rabuy, B., "Mass Incarceration: The Whole Pie 2017," March 14, 2017, *Prison Policy Initiative*, <https://www.prisonpolicy.org/reports/pie2017.html>.

4 Minton, T. and Zeng, Z. (2015). *Jail Inmates at Midyear 2014* (Washington, DC: Bureau of Justice Statistics), <https://www.bjs.gov/content/pub/pdf/jim14.pdf>.

5 Hughes, T. and Wilson, D., "Reentry Trends in the United States: Inmates returning to the community after serving time in prison," <https://www.bjs.gov/content/reentry/reentry.cfm>. See also James, N. (2015). Offender Reentry: Correctional Statistics, Reintegration into the Community, and Recidivism (Washington, DC: Congressional Research Service), 4, <https://fas.org/sgp/crs/misc/RL34287.pdf>.

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6 Durose, M., Cooper, A., and Snyder, H., "Recidivism of Prisoners Released in 30 States in 2005: Patterns from 2005 to 2010—Update," April 22, 2014, *Bureau of Justice Statistics* (among individuals released from state prisons in 30 states in 2005, about two-thirds of those released were arrested for a new crime within three years, and three-quarters were arrested within five years), <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=4986>. In the federal system, an eight-year study found that nearly half of those released were rearrested for a new crime or violation of supervision conditions and, of those, almost one-third were reconvicted, with one-quarter re-incarcerated. U.S. Sentencing Commission. (2016). *Recidivism Among Federal Offenders: A Comprehensive Overview* (Washington, DC: U.S. Sentencing Commission), 5, [http://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2016/recidivism\\_overview.pdf](http://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2016/recidivism_overview.pdf).

7 Lowenkamp, C., VanNostrand, M., and Holsinger, A. (2013). *The Hidden Costs of Pretrial Detention* (New York, NY: Laura and John Arnold Foundation, [http://www.arnoldfoundation.org/wp-content/uploads/2014/02/LJAF\\_Report\\_hidden-costs\\_FNL.pdf](http://www.arnoldfoundation.org/wp-content/uploads/2014/02/LJAF_Report_hidden-costs_FNL.pdf).

8 *Ibid.*

9 *Ibid.*



Many defendants cannot make even low amounts of bail, resulting in pretrial detention due solely to economic hardship<sup>10</sup>

On any given day in the United States, 487,000 unconvicted people are held in the nation's prisons, representing 21.5 percent of the total prison population<sup>11</sup>

Two-thirds of county jail populations are pretrial, and the majority of this pretrial population is low risk<sup>12</sup>

Imposition of cash bail causes a 12 percent rise in the likelihood of conviction, and a 6 to 9 percent rise in recidivism<sup>13</sup>

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<sup>10</sup> See, e.g., Pinto, N., "The Bail Trap," *The New York Times Magazine*, August 13, 2015 (in New York City, only one in ten defendants is able to pay bail at arraignment; even when bail is set at \$500 or less, only 15 percent can pay it), <https://www.nytimes.com/2015/08/16/magazine/the-bail-trap.html>; and Laisne, M., Wool, J. and Henrichson, C. (2017). *Past Due: Examining the Costs and Consequences of Charging for Justice in New Orleans* (New York, NY: Vera Institute of Justice), 7–8 (in New Orleans study, one-third of all felony defendants were held for the duration of their cases because they could not post bail, and one-fifth of municipal court defendants—where more minor offenses are heard—were similarly held), [https://storage.googleapis.com/vera-web-assets/downloads/Publications/past-due-costs-consequences-charging-for-justice-new-orleans/legacy\\_downloads/past-due-costs-consequences-charging-for-justice-new-orleans.pdf](https://storage.googleapis.com/vera-web-assets/downloads/Publications/past-due-costs-consequences-charging-for-justice-new-orleans/legacy_downloads/past-due-costs-consequences-charging-for-justice-new-orleans.pdf).

<sup>11</sup> Aborn, R. and Cannon, A. (2013). "Prisons: In Jail, But Not Sentenced," *Americas Quarterly*, table 1, <http://www.americas-quarterly.org/aborn-prisons>.

<sup>12</sup> Ortiz, N. (2015). *County Jails at a Crossroads* (Washington, DC: National Association of Counties), 5–6, [http://www.naco.org/sites/default/files/documents/Final%20paper\\_County%20Jails%20at%20a%20Crossroads\\_8.10.15.pdf](http://www.naco.org/sites/default/files/documents/Final%20paper_County%20Jails%20at%20a%20Crossroads_8.10.15.pdf).

<sup>13</sup> Gupta, A., Hansman, C., and Frenchman, E. (2016). *The Heavy Costs of High Bail: Evidence from Judge Randomization*. Columbia Law and Economics Working Paper No. 531, <http://www.columbia.edu/~cjh2182/GuptaHansmanFrenchman.pdf>.

## **APPENDIX B**

### **Sampling of Organizations with Reentry Resources**

Office of the District Attorney,  
City of Philadelphia  
Three South Penn Square  
Philadelphia, Pennsylvania 19107-3499  
(215) 686-8000  
<https://phillyda.wordpress.com/>

San Diego County  
District Attorney's Office  
Hall of Justice  
330 West Broadway  
San Diego, California 92101  
(619) 531-4040  
<http://www.sdcda.org/office/sb618/index.html>

United States Attorney's Office,  
Northern District of Alabama  
1801 4th Avenue North  
Birmingham, Alabama 35203  
(205) 244-2001  
<https://www.justice.gov/usao-ndal/reentry>

United States Attorney's Office,  
Southern District of Alabama  
63 South Royal Street, Suite 600  
Mobile, Alabama 36602  
(251) 441-5845  
<https://www.justice.gov/usao-sdal/programs/ex-offender-re-entry-initiative>

United States Attorney's Office,  
Eastern District of Louisiana  
650 Poydras Street, Suite 1600  
New Orleans, Louisiana 70130  
(504) 680-3000  
<https://www.justice.gov/usao-edla/programs>

#### Other Resources:

The Center on the Administration of  
Criminal Law, NYU School of Law  
139 MacDougal Street, Room 307  
New York, New York 10012  
<http://www.law.nyu.edu/centers/adminofcriminallaw>

Laura and John Arnold Foundation  
2800 Post Oak Boulevard, Suite 225  
Houston, Texas 77056-8809  
(713) 554-1349  
<http://www.arnoldfoundation.org/initiative/criminal-justice/crime-prevention/public-safety-assessment/>

The Center for Court Innovation  
520 8th Avenue, 18th Floor  
New York, New York 10018  
(646) 386-3100  
<http://www.courtinnovation.org/research/reentry-court-tool-kit>

The Council of State Governments  
Justice Center  
22 Cortlandt Street, Floor 22  
New York, New York 10007  
(212) 482-2320  
<https://csgjusticecenter.org/nrrc>

The Association of Prosecuting Attorneys  
11 DuPont Circle NW, Suite 240  
Washington, DC 20036  
(202) 861-2480  
<http://www.apainc.org/programs/>

## **APPENDIX C**

### **Sample Case Intake Screening Tool**

Experienced prosecutors should review criminal complaints or should supervise newer prosecutors during case screening process

Supervisors should review criminal complaints with an eye toward charging only what can be proved, and charging what is appropriate given the facts and circumstances

Supervisors should consult office policies regarding diversion programs, information obtained during the pretrial risk assessment phase, and always consider whether a given individual is an appropriate candidate for pretrial diversion

### **Key Questions to Ask**

What is the nature of the offense?

Has the offense been prioritized for diversion?

Does the offense involve violence?

What are the surrounding circumstances of the offense?

What is the defendant's individual background and history?

Is there a likelihood that addiction or mental health issues contributed to the defendant's criminal conduct?

What support services exist that could help treat the defendant's underlying addiction or mental health issues?

What information does the Pretrial Risk Assessment tool (if any) show?

Does the defendant meet any eligibility criteria for existing pretrial or posttrial diversion programs?

## **APPENDIX D**

### **Reentry Initiative Materials: Southern District of Alabama and Eastern District of Louisiana**

Materials in this Appendix:

D1. A Guide to Building Your Résumé

D2. Ex-Offender Local Area Quick  
Reference Guide

D3. Job Readiness Quick  
Reference Guide

D4. Letter from U.S. Attorney to  
Employers re: Ex-Offender  
Job Fair Recruitment

D5. Project HOPE Reentry Council  
Subcommittee Responsibilities

D6. Voting Rights Restoration  
Guidance Memorandum and Form

**RESUME TEMPLATES  
AND  
DEFINITIONS  
EX-OFFENDER  
JOB READINESS WORKSHOP**

**BISHOP STATE COMMUNITY COLLEGE  
CENTRAL CAMPUS  
WEDNESDAY  
APRIL 11, 2012**

- 1. Chronological Resume Template**
- 2. Functional Resume Template**
- 3. Combination Resume Template**
- 4. Action Verbs**



## **Functional Resume**

A functional resume organizes your work experience by job function rather than by chronological order. This type of resume emphasizes your skills, abilities and areas of expertise rather than your career history. For instance, a functional resume could be divided into headings as Supervisory Experience, Accounting Experience, Direct Services Experience or Technology Experience. The Career History or Work Experience is listed after the skill categories to show the progression of your career and work history. Please note that some employers find this type of resume confusing as it is difficult to determine where the applicant has performed certain tasks as information from all positions tends to be listed under a designated category and are from the applicant's entire work history.

**Chronological Resume** - A chronological resume is the most common type of resume. It lists your work experience in reverse chronological order. Your most recent work experience is listed first, then the one prior to that and so on. Sample Chronological Resume attached.

**Your Name**

Your Street Address

City, State, Zip Code

Telephone number----Email address

**Objective:**

List your job objective (name of job applying for)

**Education:**

**University Name**, City, State

Type Degree (state your degree name)

Date you graduated

**Experience:**

**Job Title**

**Company name**,

City, State

Job Description

Dates of Employment

2000-2007

**Job Title**

**Company name**,

City, State

Job Description

Dates of Employment

1999-2000

**Job Title**

**Company name**,

City, State

Job Description

Dates of Employment

1998-1999

**Activities:**

List activities

**Honors/Awards:**

List honors and awards, publications, etc.

**Your Name**

Your Street Address

City, State, Zip Code

Telephone number

Email address

***Objective:***

List your job objective (name of job applying for)

***Summary of Qualifications:***

Summarize your qualifications from each of your past jobs. List those which best fit with the job target

first. Use action Keywords to add energy and strength to your statements.

Quantify your accomplishments whenever possible.

***Employment History:***

**Job Title**

Company name

City, State

Dates of Employment

2000-2007

**Job Title**

Company name

City, State

Dates of Employment

1999-2000

**Job Title**

Company name

City, State

Dates of Employment

1998-1999

***Education:***

**University Name** City, State

Type Degree (state your degree name)

Date

***Activities:***

List activities

***Honors/Awards:***

List honors and awards, publications, etc.

## FULL NAME

Street Address  
City and Province/State, Postal/Zip Code

Phone number  
email address

## CAREER FOCUS

### PROFILE

In 1 paragraph (4 to 6 lines), write a profile of yourself here. You may include number of years in the business, highly regarded degrees or certifications, and a few comments about your strengths and particular areas of expertise. Specific skills include:

- Related Keyword / Skill
- Related Keyword / Skill
- Related Keyword / Skill
- Related Keyword / Skill
- Related Keyword / Skill
- Related Keyword / Skill
- Related Keyword / Skill
- Related Keyword / Skill
- Related Keyword / Skill

### EDUCATION

Degree, Diploma, Certificate and/or Major, Educational Institution	City and Province/State	Date
Degree, Diploma, Certificate and/or Major, Educational Institution	City and Province/State	Date
Degree, Diploma, Certificate and/or Major, Educational Institution	City and Province/State	Date
Degree, Diploma, Certificate and/or Major, Educational Institution	City and Province/State	Date

### COMPUTER SKILLS

- Detail/ist skill(s)
- Detail/ist skill(s)
- Detail/ist skill(s)
- Detail/ist skill(s)
- Detail/ist skill(s)
- Detail/ist skill(s)
- Detail/ist skill(s)
- Detail/ist skill(s)
- Detail/ist skill(s)

### TECHNICAL SKILLS AND KNOWLEDGE

- Detail/ist skill(s)
- Detail/ist skill(s)
- Detail/ist skill(s)
- Detail/ist skill(s)
- Detail/ist skill(s)
- Detail/ist skill(s)
- Detail/ist skill(s)
- Detail/ist skill(s)
- Detail/ist skill(s)

### EMPLOYMENT HISTORY

Employer, City and Province/State	Dates of Work
Employer, City and Province/State	Dates of Work
Employer, City and Province/State	Dates of Work
Employer, City and Province/State	Dates of Work



## **Combination Resume**

As the name implies a combination resume format combines the functional and chronological resume formats. A combination resume format may allow you to be very specific when applying for positions. In a combination resume, work, education and other activities are listed in reverse chronological order, but within each work experience the information is listed in categories. An applicant who has had a position with varied responsibilities can list the tasks by category rather than a long list of non-related tasks and responsibilities. Group your tasks and create categories to help your accomplishments stand out.

Free Combination Resume <http://www.resumes-cover-letters-jobs.com>

**Your Name**

Your Street Address  
City, State, Zip Code  
Telephone number  
Email address

***Objective:***

List your job objective (name of job applying for)

***Related Experience:***

Summarize your qualifications from each of your jobs. List those which best fit with the job first. Use action Keywords to your statements. Be excited about it.

***Employment:***

Job Title  
Company name, City, State  
Dates of Employment 2000-2007

Job Title  
Company name, City, State  
Dates of Employment 1999-2000

Job Title  
Company name, City, State  
Dates of Employment 1998-1999

***Education:***

University Name, City, State  
Type of degree (state your degree name)  
Date

***Activities/Professional Associations:***

List all activities or other items

***Honors/Awards:***

List honors and awards, publications, etc.

**BOSTON COLLEGE CAREER CENTER ~ ACTION VERBS**  
*Adapted, enlarged list inspired by Employment Development Department of Palo Alto, CA*

Management skills	Communication skills	Clerical or detailed skills
administered analyzed assigned attained chaired contracted consolidated coordinated delegated developed directed evaluated executed improved increased organized oversaw planned prioritized produced recommended reviewed scheduled strengthened supervised	addressed arbitrated arranged authored corresponded developed directed drafted edited enlisted formulated influenced interpreted lectured mediated moderated motivated negotiated persuaded promoted publicized reconciled recruited spoke translated wrote	approved arranged catalogued classified collected compiled dispatched executed generated implemented inspected monitored operated organized prepared organized prepared processed purchased recorded retrieved screened specified systematized tabulated validated
Research skills	Technical skills	Teaching skills
clarified collected critiqued diagnosed evaluated examined extracted identified inspected interpreted interviewed investigated organized reviewed summarized surveyed systematized	assembled built calculated computed designed devised engineered fabricated maintained operated overhauled programmed remodeled repair solved trained upgraded	adapted advised clarified coached communicated coordinated developed enabled encouraged evaluated explained facilitated guided informed initiated instructed persuaded set goals stimulated
Financial skills	Creative skills	Helping skills
administered allocated analyzed appraised audited balanced budgeted calculated computed developed forecasted managed marketed planned projected researched	acted conceptualized created designed developed directed established fashioned founded illustrated instituted integrated introduced invented originated performed planned revitalized shaped	assessed assisted clarified coached counseled demonstrated diagnosed educated expedited facilitated familiarized guided referred rehabilitated represented

## RESUME OVERVIEW

RESUME SECTION	WHAT TO INCLUDE
<b>HEADING</b>	Tell the employer where they can reach you. Typically at the top center of the page type your full name, your complete mailing address with zip code, and your telephone number with area code.
<b>JOB OBJECTIVE(OPTIONAL)</b>	If you don't choose an object, the employers probably won't choose you. In one short sentence tell the kind of work you are seeking. If you have no experience, state that you are: "Seeking an entry-level position in...."
<b>EDUCATION</b>	Show that you are capable of learning. Include apprentice training, on-the-job training, special workshops, seminars, military training, high school, vocational schools, college, etc. Start with your most recent school or program. On one line give the date of completion, the degree or certificate awarded, the school's name and the city-state address. (you may list a few of the courses you took which would interest an employer)
<b>SKILLS AND ABILITIES</b>	Give the first skill needed for the job. Directly under that skill, list the ways in which you have used it (limit to only one line per skill).
<b>WORK EXPERIENCE</b>	If you have never worked a day in your life, skip this section. If you do have some experience – full-time, part-time, casual civic, volunteer, or charitable, put it in your resume. Beginning with the most recent employer. In one line, give the date you left that job ("Present", if still employed), your job title, the name of the company, and the company's city-state address. Directly under this line, list your greatest accomplishments (turn duties into accomplishments but don't get carried overboard).
<b>MILITARY SERVICE</b>	If you have never served in the Armed Forces, skip this section. Under the Military Service, give your date of separation, your highest rank and rate, and your branch of service. On the next lines, enter your security clearance, special assignments, special talents, and decorations. List your technical training and on-the-job training under "Education." List your job duties under "Work Experience" and phrase them as accomplishments.
<b>PERSONAL</b>	You don't have to explain your age, sex, race, military status, family size, or handicap to anyone. That's the law. You don't even have to include this section in your resume. However, you might want to tell about some of your special talents, skills, interests, accomplishments, or experiences.
<b>REFERENCES</b>	Do not list any references on your resume. As space filler, you may say, "References Available Upon Request." You should only list references on a job application. Make sure you have the person's explicit permission to do so.



# Quick Reference Guide Local Area Designed for the Returning Ex Offender

*Together We Can Move Forward*

**Information in this catalog is provided by a partnership  
of the following agencies:**

**The United States Attorney's Office, Southern District**

**Kenyen Brown, U.S. Attorney**

**The City of Mobile**

**Samuel L. Jones, Mayor**

**The City of Mobile Weed and Seed,**

**Donna Hawkins Mitchell, Director**



**“Ex-offenders, it’s like Ben Franklin said, ‘The Constitution only guarantees the right to pursue happiness, you have to catch it yourself.’ The power to make a positive new beginning rests in your hands, head and heart. Take advantage of the tremendous resources available to you and make every effort to grab hold of the American dream.”**

Kenyen Brown, U.S. Attorney  
Southern District



**“As you journey back to the mainstream community, you can expect changes that did not exist in your neighborhood and society in the past.**

**Technology has been a transformative change in this decade demanding a higher level of skills and training for all workers. It is our sincerest desire to see you conquer the changes with a committed spirit and a zest that will enhance the fiber of your life and this community.**

**It is through these changes that I, along with the city’s Weed and Seed Program and U. S. Attorney Kenyen Brown, that I am pleased to provide you with this comprehensive guide that will hopefully aid in your reentry journey.**

**Please know that I extend my warmest wishes for success as you start your journey, and feel free to utilize the services of the agencies that have programs designed to help you.”**

Sam Jones , Mayor  
City of Mobile



## FREQUENTLY ASKED QUESTIONS

### Where do I begin the employment search progress?

Workforce Development Center Alabama Career Center,  
Mobile Personnel Board, Mobile Weed and Seed

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### Where can I go for help with substance abuse or to avoid relapse?

Drug Education Council, Serenity Care, Wings of Life,  
Mission of Hope, The Bridge

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### How can I find affordable housing? Temporary and permanent?

Mobile and Prichard Housing Board, Homeless Coalition,  
Salvation Army, Waterfront Mission, Elijah House, Catholic  
Social Services, Mobile Community Action

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### Where can I find health Care/prescription if I am uninsured?

### Where can I find health Care/prescriptions if I am uninsured?

Mobile Health Department, Victory Health Care /Dentist,  
Mobile AIDS Services/South AL. Cares, H E Savage  
Center, Mobile Mental Health, Alta Pointe, Mobile  
Community Action

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**How do I check on child support issues and services for the non-custodial parent?**

DHR,/Child Support Division

---

**Where can I use free internet connected computers to help with my transition? Also where can I find help in using the computer?**

Public Library, Mobile Weed and Seed, Mobile Works

---

**Where can I find free or subsidized legal help and tax help?**

Legal Aid of Alabama, Mobile Community Action

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**Where can I get my drivers license or I.D. card?**

Driver License Commission Office

---

**Where can I apply for a copy of my Birth Certificate?**

Public Health Department

---

**Where can I find a church to attend?**

Mobile Helpline

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**Where can I find clothes free to help me begin my career search and new life?**

Serenity Care, United Way of Southwest Alabama

---

**Where can I become bonded, and find help with other job related issues?**

Alabama Career Center

---

**Where can I take my GED test and enroll for free classes to help me to pass the GED test?**

Mobile Weed and Seed, Boys and Girls Club, YMCA, Bishop State Community College

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**Where can I find emergency food assistance?**

DHR/Supplemental Nutrition Assistance Program, Fish & Loaves Central Presbyterian Church, Mobile Community Action

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## SERVICE PROVIDERS DIRECTORY

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**Airport Blvd. Church**

6301 Airport Blvd.  
Mobile, AL 36608  
(251) 342-3280

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**AltaPointe Health Systems**

1110 Montlimar Dr.  
Mobile, AL 36609  
(251) 450-2211 (Access-to-Care)  
(251) 473-4423 (Main Number)  
Fax (251) 666-7537  
[www.altapointe.org](http://www.altapointe.org)

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**American Red Cross, Alabama Gulf Coast**

35 N Sage Ave.  
Mobile, AL 36607  
(251) 438-2571 Fax (251) 436-7902

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**Bishop State Community College**

414 Stanton Rd.  
Mobile, AL 36617  
(251) 662-5400

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**The Bridge**

1874 Pleasant Ave.  
Mobile, AL 36617  
(251) 546-6324

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**Boys & Girls Club of South Alabama**

712 Rice St.  
Mobile, AL 36617  
(251) 432-1235 Fax (251) 432-1231  
[www.bgcsouthal.org](http://www.bgcsouthal.org)

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**Catholic Social Services**

555 Dauphin St.  
Mobile, AL 36602  
(251) 434-1550 x (251) 434-1549  
(251) 434-1500 fx (251) 434-1509 Service Center

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**DHR/Supplemental Nutrition Assistance Program**

1075 S Bessemer Ave.  
Mobile, AL 36610  
(251) 405-4000  
(251) 457-1232

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**DHR/Child Support Division**

501 Bel Air Blvd.  
Mobile, AL 36606  
(251) 450-1700

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**Driver License Commission Office**

3400 Demetropolis Rd.  
Mobile, AL 36693  
4555 Saint Stephens Rd.  
Eight Mile, AL 36613  
(251) 660-2330  
[www.dps.state.al.us](http://www.dps.state.al.us)

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**Drug Education Council**

3000 Television Ave.  
Mobile, Alabama 33606  
(251) 478-7855 Fax (251) 478-865  
[www.drugeducation.org](http://www.drugeducation.org)

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**Elijah House 401-Victory Health Partners**

3750 Professional Pkwy.  
Mobile, AL 36609  
(251) 460-0999 Fax (251) 460-0919  
[www.victoryhealth.org](http://www.victoryhealth.org)

**Fish & Loaves Central Presbyterian Church**

15 N Joachim St.  
Mobile, AL 36602  
(251) 432-7227

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**Franklin Primary Health Center**

1303 Dr Martin L King Jr. Ave.  
Mobile, AL 36603  
(251) 434-8177 Fax (251) 434-818

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**H E Savage Center**

553 Dauphin St.  
Mobile, AL 36602  
(251) 694-1801

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**Helpline**

(251) 431-5111

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**Homeless Coalition Housing First**

2900 Old Shell Rd.  
Mobile, AL 36607  
(251) 450-3345 Fax (251) 450-3348  
[www.housingfirst-al.org](http://www.housingfirst-al.org)

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**Legal Services Alabama**

107 St. Francis St. , Ste. 2104  
Mobile, Alabama 36602  
(251) 433-6560



**Lifelines Family Counseling Center**

705 Oak Circle Drive East  
Mobile, Alabama 36609  
(251) 602-0909 Fax (251) 660-2831  
[www.lifelinesmobile.org](http://www.lifelinesmobile.org)

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**Mission of Hope**

14970 Mission Rd.  
Mobile, AL 36608  
(251) 649-0830

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**Mobile Bar Association Volunteer**

Lawyers Program  
107 Saint Francis St.  
Mobile, AL 36602  
(251) 438-1102  
[www.vlpmobile.org](http://www.vlpmobile.org)

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**Mobile Community Action**

461 Donald St.  
Mobile, AL 36617  
(251) 457-5700 Fax (251) 457-5721  
[www.mcamobile.org](http://www.mcamobile.org)

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**Mobile Personnel Board**

1809 Government St.  
Mobile, AL 36606  
(251) 470-7727

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**Mobile/Prichard Housing Board**

2002 Ball Ave.  
Mobile, AL 36610  
(251) 434-2200 / (251) 456-3324

**Mobile Weed & Seed**

2318-B St. Stephens Rd.

Mobile, AL 36617

(251) 208-1936 fax (251) 452-8732

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**Mobile Works**

515 Springhill Plaza Ct.

Mobile, AL 36608

(251) 432-0909

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**Public Library , Mobile**

601 Stanton Rd.

Mobile, AL 36617

(251) 208-7860/ (251) 438-7075

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**Public Health Department , Mobile Co.**

251 N Bayou St.

Mobile, AL 36603

(251) 690-8150

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**The Salvation Army**

1023 Dauphin St.

Mobile, AL 36604

(251) 438-1625 Fax (251) 438-1378

[www.salvationarmymobile.org](http://www.salvationarmymobile.org)

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**Serenity Care**

1951 Dawes Rd.

Mobile, AL 36695

(251) 635-1942 Fax (251) 639-9561

**South Alabama CARES**

2054 Dauphin St.  
Mobile, AL 36606  
(251) 471-5277 Fax 4(251) 71-5294  
[www.southalabamacares.org](http://www.southalabamacares.org)

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**United Way of Southwest Alabama**

218 Saint Francis St.  
Mobile, AL 36602  
(251) 433-3624

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**Waterfront Mission**

3404 Moffett Rd.  
Mobile, AL 36607  
(251) 433-1847

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**Wings of Life**

800 Saint Louis St.  
Mobile, AL 36602  
(251) 432-5245

---

**Workforce Development AL Career Center**

605 Bel Air Blvd.  
Mobile, AL 36606  
(251) 461-4146

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**YMCA**

101 N Water St.  
Mobile, AL 36602  
(251) 438-1163

**This Quick Reference Guide is a  
project of the  
City of Mobile  
Crichton/Toulminville  
Weed and Seed's  
Prevention, Intervention and  
Treatment Sub-Committee**

**The City of Mobile  
Weed and Seed**

2318— B St. Stephens Road  
Mobile, AL 36617

Phone: 251-452-8179  
Fax: 251-452-8732

**Quick  
Reference Guide  
Education and Training Referral  
Project H.O.P.E.**

**HELPING OFFENDERS  
PURSUE EXCELLENCE**

**Information in this catalog is provided by a  
partnership**

**Of the following agencies:**

**The United States Attorney's Office,  
Southern District**

**Kenyen Brown, U.S. Attorney  
Bishop State Community College**

Revised March 2014

## Career Planning Guide for Ex-offender Job Seekers

### I. Assess Yourself:

- a. Survey – Know Your Skills – what you can do
- b. Soft Skills (attendance, punctuality, avoid conflicts) Match Your Skills to Occupations

### II. Job Search – begin your job search at the following sites:

- a. Alabama Career Center – (251) 461-4146
- b. Mobile Works – (251) 461-4146
- c. AIDT – (251) 432-3336
- d. Second Chance Staffing – (251) 341-5655

### III. Gather Documents

1. Resume
2. State of Alabama ID Card (non-driver's license or license)
3. Social Security Card
4. Create Cheat Sheet (previous work experience, references, dates)
5. Names and addresses of previous employers
6. Names of Schools attended
7. Dates Attended

### IV. Apply Weekly

1. Get a small notebook and take notes of contacts
2. Minimum 3 positions weekly
3. Keep record of all applications submitted
4. Keep records – dates- who you spoke with
5. Computers available at Alabama Career Center and Mobile Public Library

### Two Steps Candidates should take to Begin their Job Search:

1. **Research** the industry you wish to work in (determine requirements for the job you want, educational requirements, experience requirements, etc.)
  - o Seek employment in areas where you are less likely to receive resistance (federal contracts, contact with children, certain health services occupations, and employment with firms providing security services, handling of cash/expensive merchandise).
  - o Develop Networking opportunities before you get out (church, probation officer, etc.)
  - o Enroll in Intermediary Agency Programs (Career Center, Ready-to-Work Training Programs).

Revised March 2014



## **2. Be Prepared:**

- |                                     |            |
|-------------------------------------|------------|
| • Attitude                          | 40 percent |
| • Image and Appearance              | 25 percent |
| • Communication (verbal/non verbal) | 25 percent |
| • Job Qualifications                | 10 percent |

### **Attitude**

1. Be Confident and enthusiastic
2. Have Knowledge of and interest in the employer
3. Concentrate on being credible
4. Be motivated and on time (arrive 15 minutes early)

### **Image and Appearance**

#### **Dress for Your Industry (conservative)**

1. Cover Tattoos
2. Keep Jewelry to a minimum
3. Wear a Belt; no sagging pants
4. Do not wear shirts that identify your personal views (church, political, sports)
5. Wear crisp, ironed, clean clothes (no wrinkled, baggy clothing)
6. No athletic wear such as sweats, t-shirts, sneakers; house slippers
7. No Excessive cologne/perfume or after-shave
8. Facial grooming (shaved, etc.); Know industry requirements
9. Hair, (combed, neat, clean)
10. Avoid excessive piercings
11. No night club wear (low-cut, sheer tops); no pajamas;

### **Communication**

1. Practice before you begin the process
2. State your legal name and position you're applying for
3. Emphasize a positive attitude

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4. Make Eye Contact
5. Good Posture (relaxed, open, and confident)
6. Don't Fidget
7. Pleasant Facial Expression
8. Firm handshake
9. Be honest about your background, be brief, and move on.
10. Turn phone **OFF** during interview process

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## Local Educational and Training Providers

### **Two-Year Community Colleges:**

Alabama Aviation Center of Mobile

[www.escc.edu](http://www.escc.edu)

(251) 438-2816

Bishop State Community College

[www.bishop.edu](http://www.bishop.edu)

(251) 405-7000

Enterprise State Community College-Alabama Aviation Center at Mobile

[www.escc.edu](http://www.escc.edu)

(251) 438-2816

Faulkner State Community College

[www.faulknerstate.edu](http://www.faulknerstate.edu)

(251) 580-2102

### **Four-Year Colleges and University**

Public (state) institutions:

University of South Alabama

[www.southalabama.edu](http://www.southalabama.edu)

(251) 445-9421

Private institutions:

Faulkner University

[www.faulkner.edu/admissions/mobile/](http://www.faulkner.edu/admissions/mobile/)

251-380-9090

Springhill College

[www.shc.edu](http://www.shc.edu)

(251) 380-4000

University of Mobile

[www.umobile.edu](http://www.umobile.edu)

(251) 442-2250

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### **Adult Basic Education (GED):**

Bishop State Community College (Carver Campus)  
(251) 662-5370

- The assessment test is FREE.
- Picture ID. 17 year olds need a notarized Student Exit Interview from last high school. "Forms are available in the Adult Education Office or at the local high school.
- You will need to be there between 6:00 am – 6:30 am. Report to Room 2 in the Business Office Education Building on the [Carver Campus](#) Location (414 Stanton St., Mobile, Alabama 36617).
- Sign the clipboard in Room 2 and remain seated. Signs will be posted to direct you to the Room 2. Testing will begin at 7:30 am. **(The number of students assessed will be based on current Adult Education enrollment – usually no more than 15 students per day).**
- The days for the testing are on Mondays and Thursdays. The test will take 3-4 hours (procedures is the same on both days).

Goodwill Easter Seals (Y.E.S.) – ages: 16-21  
(251) 375-9144 Ext. 205  
\*Literacy Program (tutoring for reading)

Dearborn YMCA (serving out of school youth ages 16-21)  
(251) 432-4768

### **Vocational Training and Job Search Providers:**

Alabama Career Center  
515 Springhill Plaza Court  
Mobile, Alabama 36608  
(251) 461-4146

The Alabama Career Center not only offers employment services, but also offers training programs through Mobile Works, adult basic education, vocational rehabilitation services through the Alabama Department of Rehabilitation Services and seasonal worker transition services offered through Telamon Corporation.

Mobile Works  
515 Springhill Plaza Court  
Mobile, Alabama 36608  
(251) 461-4146

\*WIA- may provide funding for education and job training (must meet eligibility requirements)

AIDT  
[www.aidt.edu](http://www.aidt.edu)  
1854 9th St, Mobile, AL 36615  
(251) 432-3336

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AIDT assists a variety of employers throughout the state by identifying a qualified applicant pool through recruitment, screening and training services. We recruit potential employees through advertisements and announcements, assessing applicants through application screening and assisting employers with applicant interviews. Applicants who successfully complete AIDT job-specific training are recommended for employment with the company for whom our services are provided.

#### AIDT/Austal Maritime Training

<http://www.aidt.edu/2011/01/24/maritime-training-classes-and-apprenticeship-programs-underway/>

#### Bishop State Ready-to-Work Training Program

351 N Broad Street  
Mobile, AL 36603  
(251) 405-7085

The Ready-to-Work (RTW) training program is available FREE OF CHARGE to all individuals that are unemployed and want to gain entry level skills or those individuals that are underemployed and want to gain additional skills for advancement.

Registration and orientation for the RTW program will be held [each Monday at 9:00 a.m.](#) (Room 209) in the Business Technology Center on the main campus of Bishop State Community College.

#### Benefits:

- Enrollment in AIDT Training Programs
- Alabama Certified Worker Certification
- Career Ready Certificate
- Meet "job ready" qualifications or area businesses

#### Other Vocational Service Providers:

##### Blue Cliff Career College

<http://www.blue.edu/>  
(251) 473-2220

##### Cardiac & Vascular Institute of Ultrasound, Inc.

[www.ultrasound.edu](http://www.ultrasound.edu)  
(251) 433-1600

##### Fortis College

[www.fortis.edu/](http://www.fortis.edu/)  
(251) 344-1203

##### Remington College

[www.remingtoncollege.edu/mobile-alabama-colleges-campus](http://www.remingtoncollege.edu/mobile-alabama-colleges-campus)  
(251) 202-4896

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Saads Health Care  
[www.saadhealthcare.com](http://www.saadhealthcare.com)  
(251) 343-9600

Virginia College – Mobile  
[www.vc.edu/campus/mobile-alabama-college.cfm](http://www.vc.edu/campus/mobile-alabama-college.cfm)  
(251) 343-7227

DESI Career Training Center (serving out-of-school youth ages 16-21)  
[www.dearbornymca.org](http://www.dearbornymca.org)  
(251) 432-4768

Goodwill Easter Seals (Y.E.S.) – ages: 16-21  
[www.gesgc.org](http://www.gesgc.org)  
(251) 375-9144 Ext. 205

## Applying for Financial Aid for Post-Secondary Education

### FAFSA How Do I Apply for Aid?

You may choose any of these three methods to file a Free Application for Federal Student Aid (FAFSA):

- [Login](#) to apply online (Recommended) or
- Complete a PDF FAFSA (Note: PDF FAFSAs must be mailed for processing) or
- Request a paper FAFSA by calling us at 1-800-4-FED-AID (1-800-433-3243) or 319-337-5665. If you are hearing impaired, contact the TTY line at 1-800-730-8913.

### What Documents Do I need to Complete my FAFSA Application?

You will need records of income earned in the year prior to when you will start school. **You may also need records of your parents' income information if you are a dependent student.**

- Your Social Security Card. It is important that you enter your Social Security Number correctly!
- Your Driver's License (if any)
- Your most recent W-2 forms and other records of money earned
- Your (and if married, your spouse's) most recent Federal Income Tax Return (IRS 1040, 1040A, 1040 EZ)
- Foreign Tax Return or

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- Tax Return for Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, the Marshall Islands, the Federal States of Micronesia, or Palau
- Your Parents most recent Federal Income Tax Return (if you are a dependent student)
- Your most recent untaxed income records
- Your current bank statements
- Your current business and investment mortgage information, business and farm records, stock bond and other investment records
- Your alien registration or permanent resident card (if you are not a U.S. citizen)

To organize your information, you can print and complete a *FAFSA on the Web* Worksheet before you begin entering your information online. However, you are not required to do so. *FAFSA on the Web* will guide you through the questions that you must answer, and you can save your application and return to it later if you don't have the information you need to answer any of the questions.

**Keep these records! You may need them again. Do not mail your records to Federal Student Aid.**

## Am I Eligible for Financial Aid?

**In order to receive federal student aid there are requirements.**

The following is a list of **some** of the requirements:

- You must be a United States citizen or eligible noncitizen of the United States *with* a valid Social Security Number (SSN).
- You must have a high school diploma or a General Education Development (GED) certificate, or have completed homeschooling. If you don't, you may still be eligible for federal student aid if you were enrolled previously enrolled in a college or career school. Go to <http://studentaid.ed.gov/eligibility/basic-criteria> for additional information.
- You must enroll in an eligible program as a regular student seeking a degree or certificate.
- You must be making satisfactory academic progress.
- If you are a male between the ages of 18 and 25, you must register or already be registered with Selective Service. You must also register if you are not currently on active duty in the U.S. Armed Forces. If you are a citizen of the Federated States of Micronesia, the Republic of the Marshall Islands or the Republic of Palau you are exempt from registering (see [www.sss.gov](http://www.sss.gov) for more information).
- If you were convicted for the possession or sale of illegal drugs for an offense that occurred while you were receiving federal student aid (such as grants, loans, or work-study), you must complete the Student Aid Eligibility Worksheet to determine if you are *eligible for aid* or *partially eligible for aid*.
- You must not owe a refund on a federal grant or be in default on a federal education loan.
- You must have financial need (except for unsubsidized Stafford loans).

**Other requirements may apply. Contact the financial aid office at your college for more information.**

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## U.S. Department of Justice

United States Attorney  
Southern District of Alabama

Riverview Plaza  
63 So. Royal Street, Suite 600  
Mobile, Alabama 36602

Phone: 251/441-5845  
Fax: 251/441-5051

Dear Employer,

There are documented community and business benefits when businesses hire ex-offenders. I am looking for your help with my initiative to assist ex-offenders (felons) obtain employment. The name of my initiative is Project H.O.P.E. - Helping Offenders Pursue Excellence.

Given the stigma of being convicted felons, ex-offenders typically face substantial obstacles in finding gainful employment even when they possess the necessary skill set to qualify for a position. In order to overcome some of the obstacles there are several Federal programs that provide **financial incentives to the employers** of ex-offenders, as well as provide educational assistance to individual ex-offenders in the hopes of making them more attractive to potential employers. Sydney Raine, President of Mobile Works, is an excellent point of contact for you to discuss any of the great programs listed below. Mr. Raine can be reached at 251-432-0909 ext. 148. If you have any additional questions about my ex-offender re-entry initiative please don't hesitate to call my office at 251-441-5845 and ask for Eric Day or myself.

Some of the programs that will help employers with their bottom line are the following:

1. Fidelity Bonding program from the Department of Labor- <http://www.bonds4jobs.com/>, whereby an employer of an ex-offender can receive six months of free bonding up to the amount of \$5,000 per hire. These bonds have been purchased through the Mobile Weed & Seed Program, which is a Department of Justice Program administered through the City of Mobile.
2. Work Opportunity Tax Credit, <http://www.doleta.gov/business/incentives/opptax/>, whereby a business that hires an ex-offender within one year of their release would be eligible for a \$2,500 tax credit for each one hired.
3. On-the-job-training (OJT) 50% wage subsidy while the new hire is in training- available to employers through the Department of Labor can be found at [http://www.mobile-works.org/pro\\_ojt.php](http://www.mobile-works.org/pro_ojt.php).
4. Individual Training Account, (ITA) [http://www.mobile-works.org/pro\\_its.php](http://www.mobile-works.org/pro_its.php), training scholarship funds to equip themselves for employment.

In close, I hope that you and your business will partner with me in this very important initiative and offer ex-offenders employment and a renewed opportunity to achieve the American dream. With your help we can improve the quality of life for all of the citizens in our community.

Sincerely,

*Kenyen R. Brown*

Kenyen R. Brown  
United States Attorney  
Southern District of Alabama

## **Project HOPE Reentry Council Subcommittee Responsibilities**

### **1. Drug Treatment and Health Services**

Examine drug counseling, mental health counseling and exposure to traumatic experiences counseling resources as they exist both within and outside of penal institutions and propose ways to make those services more affordable, accessible and effective in both contexts. Additionally, identify factors of incarceration that unnecessarily contribute to the break-down of the family structure and make proposals to reasonably remove those factors both inside penal institutions and in the community.

### **2. Education**

Identify impediments to offenders obtaining their GED/vocational training while incarcerated or upon their return to the community and propose solutions on how to remove those barriers and increase access to educational opportunities and job readiness.

### **3. Housing & Transportation**

Identify impediments to quality transitional or permanent housing opportunities for ex-offenders and provide solutions on how to increase the affordability and accessibility of such resources in order to reduce homelessness and hunger. Similarly, identify local impediments to affordable public and private transportation and provide solutions that can be implemented in order to increase ex-offender mobility to and from educational opportunities, work and other necessary life activities.

### **4. Employment & Workforce Development**

Identify impediments to ex-offender employment within our local community and propose ways to increase ex-offender employment while simultaneously maintaining public safety and promoting business development in our region. Recommended topics of emphasis include liaising with the Alabama Career Center and Mobile Works, employer recruitment to hire ex-offenders, identifying and publicizing business and community incentives to hiring ex-offenders, banning the box, the provision of workplace clothing, soft skill training for ex-offenders, ex-offender employment workshops and job fairs.

### **5. Prison In Reach**

Identify impediments to faith based and community service provider access to penal institutions in our region and what services are most effective in reducing recidivism prior to release as persons prepare to transition back into the community. Recommended topics of emphasis include how to strengthen faith based collaboration in prison ministry, developing a 90 day pre-release plan for ex-offenders and how to continue relationship building with ex-offenders after release.

### **6. Documentation and Restoration**

Identify institutional and structural barriers in our courts or public policy that unnecessarily hinder ex-offenders from being successful upon release (i.e. the augmentation of outstanding traffic fines or a municipality's blanket ban on hiring ex-offenders). Identify impediments ex-offenders have in obtaining the restoration of their personal identifying documents (i.e. social security card, driver's license, birth certificate, etc.) and propose solutions to remove those impediments on the

local and State level. Identify impediments to the reasonable restoration of voting rights and propose solutions to remove those impediments.

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## MEMORANDUM ON REINSTATEMENT OF VOTING RIGHTS OF EX-OFFENDERS UNDER ALABAMA LAW\*

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In *Chapman v. Gooden* the Alabama Supreme Court discusses voting reinstatement for ex-offenders. *Chapman v. Gooden*, 974 So. 2d 972 (Ala. 2007). While voting rights are automatically suspended for the duration of an offender's sentence, under Alabama law all felony offenders do not lose their voting rights upon conviction. Only ex-offenders who were convicted of felonies "involving moral turpitude" will be required to apply for reinstatement of their voting rights upon release. However, all other ex-offenders' voting rights will be automatically reinstated following release.

Alabama law does not outline specific crimes that disqualify an individual from automatically regaining voting rights without applying for reinstatement. However, the *Chapman* case includes an Attorney General's order that addresses a few crimes that the Alabama Supreme Court has determined to be crimes "involving moral turpitude." Amongst those crimes are rape, murder, burglary, robbery, and income tax evasion. Further, the case discusses crimes that, by Alabama law, will preclude a person from having his or her voting rights reinstated. The Alabama code reads:

A person who has lost his or her right to vote by reason of conviction in a state or federal court for any of the following will not be eligible to apply for a Certificate of Eligibility to Register to Vote under this section: Impeachment, murder, rape in any degree, sodomy in any degree, sexual abuse in any degree, incest, sexual torture, enticing a child to enter a vehicle for immoral purposes, soliciting a child by computer, production of obscene matter involving a minor, production of obscene matter, parents or guardians permitting

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\*This document was created for general informational purposes only.

children to engage in obscene matter, possession of obscene matter, possession with intent to distribute child pornography, or treason.

Ala.Code § 15-22-36.1(g) (Supp.2004).

*Chapman* also discusses crimes that the Alabama Supreme Court has determined do not involve moral turpitude and will not require reinstatement of voting rights upon release.

Amongst those crimes are assault, driving under the influence, and possession of marijuana.

Accordingly, unless an ex-offender has been convicted of one of the crimes listed in the statute or another crime involving moral turpitude then an ex-offender should be able to vote immediately upon release.

Ex-offenders with additional questions should contact their local probation or parole offices or the State Board of Pardons and Paroles at (334) 242-8730.

To: State Board of Pardons and Paroles  
In Re: Request for Restoration of Voter Registration Rights  
Date: \_\_\_\_\_

This is to request that the Alabama Board of Pardons and Paroles reinstate my right to register to vote as a citizen of Alabama which was lost due to disqualifying conviction(s) in one or more of the following courts:

- A District Court of the State of Alabama
- A Circuit Court of the State of Alabama
- A state court of a state other than Alabama
- A Federal District Court

(PLEASE PRINT CLEARLY)

My Name is: \_\_\_\_\_ Race: \_\_\_\_\_ Sex: \_\_\_\_\_

Birth Date: \_\_\_\_\_ Social Security Number: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State & Zip Code \_\_\_\_\_

Residence/ home address (if different than mailing address):

\_\_\_\_\_  
Home Phone #: \_\_\_\_\_ Work Phone #: \_\_\_\_\_

County and state where my conviction(s) occurred:

Year of Conviction:

Court Type:  
(Circle one)

\_\_\_\_\_

\_\_\_\_\_

State / Federal

\_\_\_\_\_

\_\_\_\_\_

State / Federal

\_\_\_\_\_

\_\_\_\_\_

State / Federal

(You may attach an additional page if needed)

\_\_\_\_\_  
Signature of Applicant

(Notice: This letter must be signed by the person who is requesting that his/her own voter registration rights be restored)

ACT 2003 - 415, PASSED BY THE ALABAMA LEGISLATURE IN SEPTEMBER 2003, ALLOWS FOR MOST PERSON WHO HAVE LOST THEIR RIGHTS TO VOTE DUE TO CONVICTIONS IN STATE OR FEDERAL COURTS TO APPLY TO THE ALABAMA BOARD OF PARDONS AND PAROLES FOR A CERTIFICATE OF ELIGIBILITY TO REGISTER TO VOTE.

PERSONS WHO HAVE SUCCESSFULLY COMPLETED THEIR SENTENCES AND HAVE PAID ALL COURT OR BOARD ORDERED OBLIGATIONS MAY CONTACT THEIR LOCAL PROBATION OR PAROLE OFFICES OR THE BOARD'S CENTRAL OFFICE AT (334) 242-8730 TO INITIATE THE PROCESS. CERTIFICATES SHALL BE PROCESSED WITHIN 45 DAYS OF REQUEST.

PERSONS WITH CONVICTIONS FOR IMPEACHMENT, TREASON, MURDER, OR SEX OFFENSES, ALONG WITH THOSE WHO HAVE FELONY CHARGES PENDING, ARE EXCLUDED FROM APPLICATION.

**APPENDIX E**  
**The Top Ten List—**  
**Transforming Criminal Justice**  
**into Community Justice**

## KING COUNTY PROSECUTING ATTORNEY'S OFFICE



DANIEL T. SATTERBERG  
PROSECUTING ATTORNEY

JUSTICE  
COMPASSION  
PROFESSIONALISM  
INTEGRITY  
LEADERSHIP

### **The Top Ten List – Transforming Criminal Justice into Community Justice**

By Dan Satterberg, King County Prosecuting Attorney

After witnessing mass incarceration up close for decades, Prosecuting Attorneys are increasingly aware of what communities have also come to understand: current incarceration practices are unnecessary, costly, and unjust. Too often, Prosecuting Attorneys have played a role in creating – or at a minimum not seeking to change -- this *status quo*. But incarceration rates can be slowed, and even reversed, by intentional acts of Prosecuting Attorneys working in conjunction with the communities they serve.

To move beyond this era is imperative not only because of the fiscal costs, but because of the erosion of trust within the communities most impacted by crime. Racial disproportionality within the justice system contravenes the prosecutor's duty to promote the interests of justice. It also creates a pervasive belief that the laws are not equally applied, and is a real threat to the legitimacy of authority necessary for the rule of law.

As prosecutors and leaders of prosecutive offices, we need to do all we can to promote a new era of "Community Justice" where prosecutorial power is shared with the communities we serve. Criminal justice leaders must look at their roles more broadly and not presume that our point of engagement in promoting justice begins with an arrest or the filing of charges. We know what interventions can help immunize people from ever having contact with the criminal justice system in the first place, and we know how to keep people from coming back after they have paid their debt to society. It's not rocket science, it is social science, which makes it much harder. Nevertheless, based on our experiences in Seattle and a growing number of other cities, our path toward change is clear.

Prosecutors can push the criminal justice system along this path by implementing changes within their own offices, and also by advocating for broader changes in our local communities and state legislatures. The following ten areas of focus are far from exhaustive, but they are things that all prosecutors can start doing immediately to reduce incarceration and address racial inequalities. They are reflective of the core values that can and should guide our actions on a daily basis – justice, compassion, integrity and leadership in promoting the administration of a fair and equitable criminal justice system and in seeking to bring about healthy and safe communities.

1. Prosecutors must reengage with their communities and the people they serve, especially our youth. We need to work with our community and our schools to help ensure that we graduate more students from high school and high school dropouts make up 75% of prison inmates. Some exposure to college reduces the chance of arrest and imprisonment

OFFICE OF THE PROSECUTING ATTORNEY • KING COUNTY COURTHOUSE W400  
516 THIRD AVENUE • SEATTLE, WASHINGTON 98104  
Tel: (206) 477-1200 • Fax: (206) 296-9013 • [www.kingcounty.gov/prosecutor](http://www.kingcounty.gov/prosecutor)



for all people to single digits or less. Programs to re-engage youth in school are the best crime prevention investments we can make, and Prosecuting Attorneys can support these programs through direct partnerships and by being a vocal advocate in the community for dedicating resources to these efforts.

2. Prosecutors should work with our schools, law enforcement and adopt policies that avoid criminalizing adolescent misbehavior. Working together, we need to shut down the school-to-prison pipeline by changing our punitive approach to school discipline. Instead of expelling disruptive students to the streets, Prosecuting Attorneys should advocate for investments in school staff to work with troubled students, or transferring the student to a remedial community college program. When cases do land on our doorstep that are reflective of youthful misbehavior, we need to make clear that our offices will not serve as an entry point for young people into the downward spiral of the justice system.
3. Build alternatives to jail for non-violent mentally ill people. People arrested for symptomatic behavior should be taken to short term crisis centers, where mental health professionals can work to stabilize the person and reduce the factors that can lead to frequent criminal justice encounters. Prosecutors should decline to prosecute cases that indicate the need for mental health treatment, not a criminal justice response.
4. Let public health officials design interventions to help people with serious drug addictions and co-occurring disorders. Use Law Enforcement Assisted Diversion (“LEAD”) interventions as jail alternatives for addicted and vulnerable people once they are arrested, and design outreach efforts to engage frequent utilizers of the jail and emergency room and reduce the frequency of those contacts.
5. In order to intentionally reduce racial disproportionality in the criminal justice system, use data to look closely at whether any practices in law enforcement or the Prosecuting Attorney’s office are compounding racial disparities. In addition, divert appropriate cases that disproportionately involve people of color and people in poverty from the courthouse to community-based solutions, including expanding restorative justice processes. There are numerous off-ramps that should be considered to address this problem without negatively impacting safety. For example, diversion to a community-based response and/or declining to file might be appropriate in the following categories of cases:
  - Juvenile misdemeanors
  - Juvenile intra-familial domestic violence
  - First gun possession
  - DWLS based on failure to pay civil infraction
  - Drug possession (if filed, should never be a felony)
6. Review all claims of innocence and initiate petitions for clemency for older cases where incarceration is no longer a public safety imperative. Engage in sentence review of geriatric inmates. Attention to matters of justice builds community trust and helps reinforce the understanding and recognition by prosecutors – both individually and

collectively – that their role is to do justice and that excessive punishments do not further those interests.

7. Provide priority access to civil legal aid for domestic violence and sexual assault victim/survivors and protection order petitioners, and show up at the legislature to support resources for these providers. Civil legal advocates level the playing field in abusive relationships, reduce recidivism and accelerate victim recovery.
8. Prisons should provide every opportunity for improvement for inmates, and we should expect people to be better, not worse when they are released. Trauma-informed services and vocational and educational opportunities should be standard features of jails and prisons. Prosecuting Attorneys should not presume that their role ends at the time of case disposition. Prosecuting Attorneys should join defenders and other advocates in refusing to tolerate abusive or inhumane conditions of confinement. More broadly, Prosecuting Attorneys have an obligation to reduce the number of people we send to jail and prison, so that scarce resources can be utilized appropriately. Recidivism rates should be the performance measurement for the DOC and the community.
9. We need to expand support for people returning to our communities from prison. We must change the way we think and talk about reentry support so that we no longer stigmatize the formerly incarcerated and increase the chances they will return to prison. Like all of us, people in transition from prison to society need housing, employment, support and hope. Small investments of public money toward their successful reintegration will pay off by having safer communities and less pressure to build more prisons. Prosecuting Attorneys should promote expungements, ban the box efforts and other endeavors to minimize the collateral consequences that inhibit successful community reentry.
10. “Community Justice” means sharing power with the communities we serve, and inviting creative partnerships to hold people accountable in ways that need not always involve incarceration. Society’s most complex problems come to our doorstep, but the solutions are not always found in a courtroom or a jail cell. Community-based non-profit providers can produce better outcomes for public safety in many cases. Many are just waiting for an invitation from the prosecutor to help.







**Center on the Administration of Criminal Law**

139 MacDougal Street, Room 307

New York, New York 10012

[prosecutioncenter@nyu.edu](mailto:prosecutioncenter@nyu.edu)

[www.prosecutioncenter.org](http://www.prosecutioncenter.org)