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Rehabilitation, Reentry, and Reaffirming Trust

The Department of Justice Strategic
Plan Pursuant to Section 15(f) of
Executive Order 14074



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Introduction

On May 25, 2022, President Biden issued the Executive Order on Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety (E.O. 14074).¹ The Executive Order outlines a vision for comprehensive criminal justice reform, grounded in the understanding that the safety of our communities depends on the fairness of our justice system. To prevent, investigate, and prosecute crimes, law enforcement officers and prosecutors depend on the cooperation and support of the residents they serve. Public trust is an essential underpinning of public safety. As the Executive Order recognizes, “[t]he vast majority of law enforcement officers do these difficult jobs with honor and integrity, and they work diligently to uphold the law and preserve the public’s trust.” At the same time, the Executive Order also recognizes that “numerous aspects of our criminal justice system are still shaped by race and ethnicity” and that “there are places in America today, particularly in Black and Brown communities and other communities of color, where the bonds of trust are frayed or broken.” Ensuring that our criminal justice system is fair and equitable, and that it is rooted in the values of transparency and accountability, is essential to strengthening the bonds of trust in law enforcement that are necessary to safeguard the wellbeing of all communities.

The Executive Order calls for a whole-of-government approach to enhancing trust, rooting out disparities, and advancing the principles of equity and dignity within the criminal justice system. To that end, Section 15 of the Executive Order establishes the Federal Interagency Alternatives and Reentry Committee (Committee).² Chaired by the Assistant to the President for Domestic Policy, the Committee includes the Attorney General and the secretaries of more than a dozen executive agencies, as well as other members of the President’s cabinet and senior Administration officials. The Committee was tasked with developing and submitting to the President an evidence-based strategic plan for advancing the following goals, with a particular focus on reducing racial, ethnic, and other disparities within the criminal justice system:

1. **Safely reducing unnecessary criminal justice interactions**, including by advancing alternatives to arrest and incarceration; supporting effective alternative responses to substance use disorders, mental health needs, the needs of veterans and people with disabilities, vulnerable youth, people who are victims of domestic

violence, sexual assault, or trafficking, and people experiencing homelessness or living in poverty; expanding the availability of diversion and restorative justice programs consistent with public safety; and recommending effective means of addressing minor traffic and other public order infractions to avoid unnecessarily taxing law enforcement resources;

2. **Supporting rehabilitation during incarceration**, such as through educational opportunities, job training, medical and mental health care, trauma-informed care, substance use disorder treatment and recovery support, and continuity of contact with children and other family members; and
3. **Facilitating reentry into society of people with criminal records**, including by providing support to promote success after incarceration; sealing or expunging criminal records, as appropriate; and removing barriers to securing government-issued identification, housing, employment, occupational licenses, education, health insurance and health care, public benefits, access to transportation, and the right to vote.

To complement the plan developed by the full Committee, the Executive Order directs the Attorney General to submit a separate report to the President outlining the Department of Justice's (DOJ) strategy for advancing these goals within the federal criminal justice system.³

This report proposes a Department-wide vision for promoting the Committee's goals both at the federal level and among state and local justice systems. In the following sections, DOJ offers a look at the gaps and opportunities that exist within our own federal justice operations, paired with a commitment to support our state and local partners as they undertake the critical work of transforming justice systems nationwide.

Safely Reducing Criminal Justice System Interactions

The Challenge

The Executive Order calls for a strategy to safely reduce interactions with the criminal justice system. As the Executive Order notes, “Law enforcement officers are often a person’s first point of contact with our criminal justice system.”⁴ Our nation relies upon police officers to undertake the demanding and often-dangerous work of preventing and resolving serious crimes, of upholding the law and safeguarding our communities from violence and harm. At the same time, today’s officers are frequently called upon to address non-criminal social issues, from mental health and substance use disorders to noise complaints and youth behavioral concerns. It is difficult to estimate the incidence of calls-for-service related to social service needs, since jurisdictions across the country employ different methods for collecting, categorizing, and publishing 911 call data.⁵ Nonetheless, law enforcement leaders nationwide have attested to the prevalence of such calls-for-service within their communities.⁶ The countless hours spent responding to these calls are hours that officers cannot devote to the mission-critical work of addressing their community’s most pressing safety concerns.

When law enforcement is called upon to fill the gaps in other social service systems, officers are faced with complex issues – such as crises resulting from mental health and/or substance use-related conditions– that they may not have the tools or resources to resolve effectively. While officers are overwhelmingly committed to addressing these calls-for-service to the best of their ability, the presence of law enforcement can escalate distress for some individuals in crisis, whose needs may demand the specialized skills and expertise of trained clinicians or other health and social service providers.⁷ In the absence of alternative solutions, officers may often respond to these issues through arrest.

While it is difficult to track the volume of arrests that involve individuals with substance use and/or mental health disorders, law enforcement made over 1.5 million arrests for drug-related violations in 2019, nearly 87 percent of which were for possession, rather than sales or distribution, of an illegal substance.⁸ Significant racial disparities exist within these arrests. Twenty-six percent of adults arrested for drug-related violations in 2019 were Black,⁹ while Black Americans only comprised 14 percent of the overall national

population.¹⁰ Similar disparities are evident across other categories of arrest for low-level offenses: Black adults accounted for roughly 30 percent of arrests for disorderly conduct, vagrancy, and curfew and loitering violations.¹¹

The prevalence of arrest in response to social service issues has contributed to the overrepresentation of people with substance use and mental health disorders within jails, where their complex needs often go unmet.¹² Without access to the necessary treatment and recovery support services, such individuals often have repeated contacts with law enforcement officers and may cycle in and out of jail and emergency medical facilities.¹³ Interactions between officers and people with serious mental health disorders result in uses of fatal force.¹⁴

Agenda for Reform

Nationwide, jurisdictions are pioneering innovative models to safely reduce unnecessary justice system interactions. DOJ is committed to seeding, supporting, and strengthening such approaches, with the goal of improving outcomes for civilians and officers alike.

i. Advancing Equity and Comprehensive Reform

The Executive Order calls on the Department to pay “particular attention to reducing racial, ethnic, and other disparities in the Nation’s criminal justice system.” The Department has advanced and will continue to promote several initiatives to this end:

- **Pursuing the Accelerating Justice System Reform Program.** Consistent with this focus, DOJ will pursue the Accelerating Justice System Reform program, a new \$15 billion initiative proposed within President Biden’s Safer America Plan.¹⁵ If funded, the 10-year program would make significant investments in fostering community trust and safety while reducing inequity and unnecessary justice system involvement and alleviating burdens on law enforcement so that officers do not have to address calls-for-service that may not merit police response. Through this initiative, the Department would provide states and localities with the tools to identify drivers of racial disparities and unnecessary justice system involvement, paired with the incentives to implement data-driven strategies that target these adverse outcomes while at the same time strengthening safety and equity for all. Jurisdictions could deploy these critical resources to support a wide range of strategies tailored to meet state and local

needs, including prevention programs, alternatives to incarceration, problem-solving courts, reentry services, pre-trial and community supervision reforms, and cross-system partnerships that enable communities to better serve people with mental health and/or substance use disorders outside of the justice system. Equipped with data-driven insights, state leaders will be better positioned to focus resources on impactful approaches to prevention, diversion, intervention, rehabilitation, and reentry that will more effectively realize the promise of safety and equal justice for all.

- **Addressing the crack-to-powder sentencing disparity in the federal system.**

The Department is also actively advancing equity in enforcement actions at the federal level, including by supporting the elimination of the crack-to-powder sentencing disparity. The Department has testified before Congress in support of the EQUAL Act, S. 79, which would remove that disparity. As the Department has explained, “First, the crack/powder disparity is simply not supported by science, as there are no significant pharmacological differences between the drugs: they are two forms of the same drug, with powder readily convertible into crack cocaine. Second, as documented by the Sentencing Commission, the crack/powder sentencing differential is still responsible for unwarranted racial disparities in sentencing. Third, the higher penalties for crack cocaine offenses are not necessary to achieve (and actually undermine) our law enforcement priorities, as there are other tools more appropriately tailored to that end.”¹⁶

On December 16, 2022, the Attorney General issued new guidance to all federal prosecutors on charging, pleas, and sentencing.¹⁷ Among other things, this guidance instructed prosecutors in crack cocaine cases to take several steps to promote the equivalent treatment of crack and powder cocaine offenses. In particular, in cases where federal prosecutors deem it warranted to charge a mandatory minimum, prosecutors should base charges on the pertinent statutory quantities that apply to powder cocaine offenses. At sentencing, the Attorney General instructed prosecutors to advocate for a sentence consistent with the guidelines for powder cocaine, rather than crack cocaine.

- **Investing in comprehensive research focused on racial and ethnic disparities in the criminal justice system.** To inform efforts to promote equity, DOJ is investing in a comprehensive review of research focused on racial and ethnic disparities in the criminal justice system, with the goal of identifying

interventions with the potential to reduce disparate treatment, as well as those policies and practices that have exacerbated disparities. The analysis, led by a team of DOJ-funded researchers at Arizona State University, will assess disparities across all stages of the justice system, including police decisions to arrest, to stop-and-frisk or stop-and-search, and to use force; pretrial decisions regarding bail, detention, and diversion; prosecutors' charging and plea bargaining decisions; jury selection outcomes, including use of peremptory challenges; judges' sentencing decisions in capital and noncapital cases and probation revocation decisions; juvenile justice outcomes, including intake, detention, adjudication, and placement, as well as decisions to waive or transfer juveniles to adult criminal court; and correctional officials' decisions to grant or revoke parole. The findings will offer critical insights to policymakers and practitioners seeking to target the drivers of racial and ethnic disparities within existing policies and practices, and to implement interventions with the greatest potential for promoting equity in justice system outcomes.¹⁸

- **Enhancing engagement with state and local recipients of federal financial assistance.** The Department is also advancing equity and reform by strengthening its engagement with state and local entities that receive federal financial assistance from DOJ. In June 2022, the Associate Attorney General directed the Department's Civil Rights Division, the Office of Justice Programs (OJP), the Office of Community Oriented Policing Services, and the Office on Violence Against Women (OVW) to take a number of steps to improve the Department's implementation and administrative enforcement of Title VI of the Civil Rights Act of 1964 and the nondiscrimination provisions of the Omnibus Crime Control and Safe Streets Act of 1968.¹⁹

These statutes advance equity and protect people from discrimination on the basis of race, color, national origin, sex, and religion when they engage with state and local entities. Part of this work includes streamlining and strengthening the Department's enforcement efforts by better coordinating the work of the Civil Rights Division and OJP's Office for Civil Rights. Through this partnership, the Department will, among other things, provide state and local entities with training and technical assistance on how to better ensure equal and meaningful access to state and local programs, and when necessary, will initiate administrative enforcement actions with the goal of ensuring the

protection of civil rights through voluntary resolution agreements. In addition, Section 20(a) of the Executive Order mandates that recipients of Federal discretionary grants are incentivized to adopt the policies of the Executive Order.²⁰

- **Engaging a wide range of stakeholders.** Finally, it is critical to engage stakeholders that represent a wide variety of experiences and perspectives – including researchers, practitioners, individuals and communities disparately impacted by the justice system, and victims and survivors of crime – in order to develop a criminal justice reform strategy that meets community needs. To inform the development of the Department’s strategy for advancing the goals of the Executive Order, the Department participated in listening sessions organized for the Alternatives and Reentry Committee. The listening sessions provided opportunities to hear from leaders who have been directly impacted by the justice system, as well as other researchers, practitioners, activists, and policy experts in the fields of public safety and criminal justice.

In addition, stakeholder engagement was prioritized by the Reentry Coordination Council (RCC), which the Attorney General convened in October 2021, as mandated by the First Step Act.²¹ The RCC is comprised of DOJ and senior officials from the Department of Housing and Urban Development, the Department of Labor, the Department of Education, the Department of Health and Human Services, the Department of Veterans Affairs, and the Department of Agriculture. This federal interagency collaboration engaged in preliminary steps to collaboratively address barriers to reentry and provided recommendations to reduce those barriers, culminating in a report to Congress in April 2022.²² DOJ led efforts to inform those recommendations through engagement sessions and feedback from a range of reentry experts, including academics, policy analysts, correctional practitioners, jurists, and justice-impacted individuals who had personally experienced barriers to reentry.²³ Moving forward, the Department will continue to explore strategies to promote stakeholder collaboration and feedback, including opportunities for further engagement with victims, survivors and victim service providers, whose perspectives are critical to conversations about public safety and justice reform.

ii. Community-Based Alternatives

The Executive Order directs the Department to provide a strategic plan for “safely reducing unnecessary criminal justice interactions, including by advancing alternatives to arrest and incarceration,” by expanding the availability of “restorative justice programs consistent with public safety,” and by recommending “effective means of addressing minor traffic and other public order infractions to avoid unnecessarily taxing law enforcement resources.”²⁴

In support of these goals, DOJ advances efforts such as:

- **Supporting innovative state and local community-based responses to less serious and low-level offenses, consistent with public safety and to ease the burden on law enforcement.** In 2022, DOJ launched Reimagining Justice, a new OJP grant program designed to empower community stakeholders and residents in areas experiencing an increase in crime to develop and implement their own models for addressing less serious and low-level offenses, as an alternative to traditional law enforcement mechanisms, easing the burden on law enforcement and strengthening public safety.²⁵ Through this program, the Department is investing \$3 million in a data-informed community engagement initiative led by the Newark Public Safety Collaborative, a partnership that brings together community-based organizations, law enforcement and government agencies, and private sector partners across Newark, New Jersey.²⁶ The Newark Public Safety Collective will facilitate data-informed discussions among local leaders and multi-sector partners to develop an actionable agenda for achieving the community’s public safety objectives, with a focus on identifying community-driven solutions to less serious and low-level offenses.²⁷ Moving forward, DOJ will expand investments in community-based alternatives to traditional justice system responses through Reimagining Justice and other appropriate grants, pending funding availability, and consistent with strengthening public safety.
- **Promoting the use of voluntary restorative justice practices.** Consistent with the Executive Order’s direction to expand the availability of restorative justice programming, DOJ supported the launch of the National Center on Restorative Justice (NCORJ), which has developed curricula to educate undergraduate, graduate, and law students and criminal and juvenile justice professionals in

the history, philosophy, and practices of juvenile, criminal, and restorative justice.²⁸ NCORJ is working to translate these resources to support educational opportunities for incarcerated people and those participating in a judicially supervised drug or other treatment court. NCORJ will also advance the use of voluntary restorative justice conferencing models in communities, including the provision of small grants to launch new restorative justice projects, and will support research and evaluation of restorative justice efforts, including assessments of impact on attitudes and recidivism, and the costs associated with expanded restorative justice education for students, professionals, and incarcerated individuals.

iii. Responses to Individuals with Mental Health and/or Substance Use Conditions

The Executive Order directs the Department to provide a strategic plan for “safely reducing unnecessary criminal justice interactions,” to include efforts focused on “advancing alternatives to arrest and incarceration; supporting effective alternative responses to substance use disorders, mental health needs, [and] the needs of...people with disabilities,” and “expanding the availability of diversion and restorative justice programs consistent with public safety.”²⁹

In support of these goals, DOJ will advance strategies that reduce the volume of justice system interactions for individuals experiencing mental health and/or substance use conditions, including:

- **Investing in diversion models.** OJP currently makes grants to support diversion models that connect individuals with behavioral health disorders to community-based resources and alternatives to arrest or incarceration through programs such as the Comprehensive Opioid, Stimulant, and Substance Use Program (COSSUP) and the Justice and Mental Health Collaboration Program (JMHCP) in appropriate cases consistent with public safety.³⁰
- **Supporting innovation and evaluation.** In addition to providing ongoing support for these programs, DOJ will promote innovation, replication, and evaluation of promising and innovative diversion models. DOJ is providing funding for evaluations of models that divert individuals with mental health disorders away from the justice system and toward community-based resources, including 911 dispatch diversion models and co-responder models.³¹

The assessments will focus on translating findings for policymakers and practitioners to offer a road map for other communities seeking to implement diversion strategies within their jurisdiction. DOJ also co-hosted a national conference in October 2021 focused on innovative community responder models, which deploy teams of trained civilian professionals to address calls-for-service related to behavioral health disorders, homelessness, quality-of-life issues, or other low-acuity concerns that should not require a police response.³² The conference featured insights from practitioners in cities that are serving as laboratories for innovation to create pathways for responding appropriately to low-acuity 911 calls, allowing police to focus on more urgent public safety issues and calls for service. Building on these efforts, DOJ will pursue opportunities to expand support for comprehensive continuums of first response and service provision, including community responder models, through investments that will foster innovation, promote knowledge exchange and dissemination, and deepen our understanding of what works in alternatives to traditional police responses.

- **Promoting safe and effective interactions with state and local law enforcement.** As a complement to strategies designed to reduce justice system interactions for individuals with mental health and/or substance use conditions, the Department is advancing efforts to improve the quality and outcomes of these interactions when they do occur. When alternative responses are unavailable or the acuity of the situation warrants police intervention, law enforcement should be prepared to deliver a safe and appropriate response. The Department currently provides funding to state and local law enforcement agencies to support trainings that equip officers with more effective strategies for responding to individuals with disabilities or those experiencing mental health and substance use-related crises.³³ Building on this work, the Department will support the advancement of innovative virtual reality-based de-escalation and crisis intervention trainings for law enforcement officers. Through investments in emerging technology, DOJ will expand opportunities for officers to develop and practice the skills necessary to safely serve individuals in crisis, individuals with mental health and substance use disorders, and individuals with disabilities.

iv. Responses to Individuals Experiencing Homelessness

The Executive Order directs the Department's strategic plan to specifically address "safely reducing unnecessary criminal justice interactions, including by advancing alternatives to arrest and incarceration" for "people experiencing homelessness or living in poverty" and to recommend "effective means of addressing minor traffic and other public order infractions to avoid unnecessarily taxing law enforcement resources."³⁴

DOJ will invest in research on law enforcement responses to homelessness. DOJ-funded research will fill a gap in the knowledgebase around justice system responses to people experiencing homelessness by supporting the development and analysis of an inventory of current policing practices related to homelessness.³⁵ The analysis will contribute to an evaluation framework that may be used to evaluate the effectiveness of responses to those experiencing homelessness.

v. Problem-Solving Courts

In further service of the Executive Order goal to support alternative responses to incarceration, DOJ makes substantial investments in problem-solving courts that divert individuals into judicially supervised community-based programs, designed to address the underlying needs that contributed to participants' justice system involvement. Upon successful completion of the program, participants may be eligible for expungement of their criminal record.

DOJ's ongoing and planned efforts include:

- **Investing in state and local community courts.** DOJ funds the implementation of community courts, a type of problem-solving court that connects individuals charged with less serious and low-level offenses to judicially supervised alternative sanctions and community-based services, such as case management, housing assistance, job training, and other resources tailored to the needs of the individual in appropriate cases consistent with public safety.³⁶ While the structure and focus of community courts vary based on local context, many are designed to serve populations such as veterans, individuals experiencing homelessness, and/or people with a history of substance use or mental health disorders.³⁷

- **Delivering funding and equity-focused resources for state and local treatment courts.** DOJ also makes grants to states and localities to support specialized treatment courts, a type of problem-solving court that diverts people charged with offenses related to substance use disorder into treatment programs.³⁸ The funding promotes access to evidence-based substance use treatment, including medication-assisted treatment (MAT), as well as key recovery support services, including transitional housing and peer support services.³⁹ The Department also provides jurisdictions with resources to support treatment courts that serve families impacted by parental substance use disorders, as well as treatment courts tailored to the needs of youth, including Tribal Healing to Wellness Courts that use culturally-appropriate approaches to address the substance use needs of Tribal youth.⁴⁰ The Department will prioritize efforts to promote equity within treatment courts and mitigate existing racial and ethnic disparities in access to and completion of these programs, and, in doing so, support successful outcomes and prevent and reduce the risk of future criminal justice system interaction, enhancing public safety. The Department is supporting a mixed-methods research study to examine racial disparities in treatment court admittance, with a focus on identifying interventions that will mitigate inequalities.⁴¹ DOJ is also supporting trainings and tools that will equip treatment courts to identify and mitigate drivers of racial and ethnic disparities within their existing policies and procedures.
- **Supporting justice-involved veterans in state and local courts.** In addition, DOJ supports treatment courts that are designed to provide intensive judicial supervision and treatment to address the needs of veterans, and, in doing so, support successful outcomes and prevent and reduce the risk of future criminal justice system interaction, enhancing public safety. DOJ will support a cross-site evaluation of veterans treatment courts to identify best practices, standards, and opportunities to increase the efficacy of these models across the U.S.⁴² The Department also participates in quarterly meetings with the Servicemembers and Veterans Initiative focused on policy and targeted outreach, such as medical-legal partnerships and diversion programs, for underserved populations of veterans.

- **Implementing the Byrne State Crisis Intervention Program.** Problem-solving courts can also play a crucial role in preventing potential criminal conduct, including violence, by addressing the needs of those most at risk for repeat or escalating offenses. In recognition of the importance of these courts, as well as other forms of early intervention in preventing violent crime, the Bipartisan Safer Communities Act, signed into law in June of 2022, created the Byrne State Crisis Intervention Program to support the implementation of drug, mental health, and veterans courts, as well as Extreme Risk Protection Order programs, behavioral health treatment, and other forms of crisis intervention.⁴³ In February 2023, the Department announced over \$200 million in awards to states and territories in the inaugural round of grants under this program.⁴⁴
- **Advancing federal specialty and diversion courts.** In his December 16, 2022, guidance, the Attorney General reiterated that in determining whether adequate alternatives to federal prosecution are available, prosecutors should consider “whether there exists an adequate non-criminal alternative to prosecution,” including pretrial diversion. The Attorney General specified that “[e]very district should develop an appropriate pretrial diversion policy.” United States Attorneys’ Offices (USAOs) are leading, supporting, and participating in specialty and diversion courts across the country. As of October 2022, the Federal Judicial Center reported that 147 federal problem-solving courts were operating across 64 federal judicial districts.⁴⁵ These courts vary by district in terms of their focus, such as the types of cases and characteristics of defendants, and where they occur in the criminal justice process, such as before charging, after charging, or after pleading guilty. The District of Utah established the first federal mental health court, known as Reentry Independence through Sustainable Efforts (RISE) in 2008, followed by the first federal veterans court focused on those with mental health needs in 2010.⁴⁶

Other examples include the Conviction and Sentence Alternatives (CASA) program of the Central District of California, a post-guilty plea diversion program that provides intensive rehabilitative services to selected defendants who meet a set of admissions criteria.⁴⁷ CASA is a twelve- to twenty-four-month program designed primarily for individuals charged with low-level, nonviolent offenses who have substance use and/or mental health disorders. The program requires participation in treatment, testing, and/or educational

programs as assigned and in bimonthly meetings with a CASA team, consisting of judges, pretrial service officers, public defenders, and prosecutors. Successful completion of the program, which must include at least six months of sobriety, results either in dismissal of all charges or in a noncustodial sentence for more serious offenses. Additionally, the Eastern District of Pennsylvania operates STRIDES (Strategies that Result in Developing Emotional Stability), an alternative court designed to address the needs of individuals diagnosed with severe and persistent mental illness.⁴⁸ The Department is committed to continuing to evaluate the efficacy of specialty and diversion programs and will provide support to districts who want to initiate or expand such programming.

vi. Youth and Family Diversion and Alternatives to Incarceration

DOJ is committed to advancing the goals of the Executive Order within the juvenile justice system. There is a growing consensus among researchers and practitioners alike that youth incarceration is largely ineffective at promoting wellbeing and reducing recidivism among young people.⁴⁹ Incarceration separates young people from family connections and supportive influences at a critical point in their life, which can disrupt adolescent development and hinder transitions into healthy adulthood. For most young people, community-based interventions offer a more effective approach to reducing harmful or illegal behavior and promoting long-term wellbeing.⁵⁰ While the number of detained youth has dropped precipitously over the past two decades, an estimated 25,000 youth were still held in residential facilities on any given day in 2020.⁵¹

To better serve our nation's young people, the Department will engage in efforts such as:

- **Investing in youth by delivering support for states and localities for delinquency prevention, intervention, and youth diversion activities.** The Department makes funding available that may be used for specific delinquency prevention, intervention, and youth diversion activities, including funds dedicated to meeting the needs of girls in the justice system and serving youth impacted by the opioid epidemic and other substance use disorders.⁵² Building on this work, DOJ will be delivering support for states and localities to, when

appropriate, divert youth from incarceration and into effective community services and strategies.⁵³ As part of the initiative, states and localities will engage in a community-driven planning process that leverages the expertise of impacted youth and their families to develop a blueprint for jurisdictions to decide how to reimagine unused or underused juvenile justice facilities into community assets, addressing the economic impact on the surrounding community, and promoting public safety and positive outcomes for young people. Stakeholders may explore opportunities to convert juvenile justice facilities into community resources that foster safety and wellbeing and provide valuable services, such as reentry centers, social service hubs, treatment facilities, affordable housing, public parks, youth recreational centers, or other priorities identified by the community to meet residents' needs consistent with public safety.

- **Funding alternatives to incarceration for parents.** In addition to strategies focused on justice-involved youth, DOJ will leverage resources to support alternatives to incarceration for parents and primary caregivers, when in the interest of public safety and the best interest of the children. Through its grant funding, the Department is investing in judicially-supervised accountability strategies that divert parents and primary caregivers away from the prison system, with the goals of promoting family unification and preventing children from entering the foster care or juvenile justice systems, and enhancing public safety.⁵⁴ DOJ will support states and communities as they develop, implement and/or enhance family-based alternative sentencing programs that provide culturally competent, community-based supports to strengthen the emotional, physical, and social well-being of children and families.⁵⁵

vii. Victims of Human Trafficking and Gender-Based Violence

The Executive Order instructs the Department to advance efforts to meet the needs of “vulnerable youth”, as well as “people who are victims of domestic violence, sexual assault, or trafficking.”⁵⁶ DOJ is committed to supporting victim-centered, trauma-informed, and culturally responsive strategies to end the criminalization of victims of sex trafficking and of labor trafficking victims who may also be victims of other VAWA crimes, and to avoiding punishment for conduct committed by trafficking victims that is a direct and proximate result of being trafficked. The Department will pursue new and ongoing strategies, such as:

- **Leveraging grants to end criminalization of minor victims of sex trafficking.** Federal law makes it clear that minors involved in a commercial sex act are trafficking victims—regardless of whether force, fraud, or coercion is present.⁵⁷ Yet in many U.S. jurisdictions, for a variety of reasons, youth who are victims of sex trafficking are arrested, detained, and confined.⁵⁸ Child labor trafficking victims may also be criminalized due to conduct committed as a result of being trafficked. There are many challenges in addressing these issues, including appropriate responses by law enforcement, disagreement regarding what constitutes “safety” for minor victims of sex trafficking and of labor trafficking, lack of cross agency/multisector collaboration, limited options for services, and a population who may not identify, or be recognized by the system as a “victim” of crime.⁵⁹ To address these myriad issues, the Department launched a grant program designed to end the criminalization of minor victims of sex trafficking by developing, expanding, and strengthening victim service programs, criminal justice, and community-based entities that support victim-centered, trauma-informed, developmentally-appropriate, and culturally relevant responses to this victim population, which will enhance individual and community well-being and public safety outcomes.⁶⁰
- **Expanding access to services for survivors of gender-based violence.** DOJ will also identify opportunities to provide expanded pathways to justice for survivors of domestic violence, sexual assault, dating violence, and stalking. Oftentimes, the criminal justice system does not provide sufficient recourse for all survivors, and many may feel less safe throughout their interactions with law enforcement or prosecution.⁶¹ Further, factors such as distrust in the criminal justice system can create barriers to accessing traditional programs, services,

and legal remedies.⁶² The Department will explore alternatives to incarceration that fill a gap in services designed for survivors of gender-based violence.

OJP, in partnership with the Association of Prosecuting Attorneys, is launching a cohort of prosecutor-led diversion programs tailored to survivors of gender-based violence who are involved as defendants in the justice system.⁶³ These models will divert survivors of gender-based violence away from traditional prosecution in appropriate cases, into victims' services and other supports closely tailored to their needs, with a focus on meeting the needs of women of color. Through this initiative, prosecutors and victim service providers will work to advance racial equity, to break cycles of victimization and justice-system involvement, in order to create more equitable public safety outcomes for all and strengthen safety within communities across the country.

- **Integrating restorative practices into federal grants.** DOJ will also leverage new authorities, provided under the Violence Against Women Act (VAWA) Reauthorization of 2022, to support alternative pathways to justice through grants from OVW.⁶⁴ In Fiscal Year 2022, DOJ received an \$11 million appropriation to create a restorative practices program through OVW.⁶⁵ In preparation, DOJ is examining current restorative practices that could be effectively replicated with the necessary safeguards in place for survivors. DOJ also is convening a series of conversations with experts in the field to assess when restorative practices are appropriate options and how they can be implemented to facilitate opportunities for safe, voluntary dialogue. Their feedback will inform the Department's administration of funds, as well as identify efforts to integrate restorative practice options into other grant programs that can support these approaches. Moreover, the Department anticipates disbursing funds in Fiscal Year 2023 to provide training and technical assistance and conduct research related to restorative practices, provided DOJ receives viable applications.

In the summer of 2022, the Department convened a series of roundtables to explore options in addition to the restorative practices program to achieve safety for individual survivors and communities while securing accountability for individual survivors and communities. Experts and practitioners provided information on interventions and best practices, such as the incorporation of community violence interruption models, abusive partner interventions, and

community responder models, when considering broader approaches to justice and accountability.

OVW will explore the inclusion of community violence interruption practices in other funding streams, as appropriate. In particular, OVW includes community violence interruption initiatives in the Improving Criminal Justice Response Grant Program for Fiscal Years 2022 and 2023 where identified projects are required to be survivor-centered and prioritize survivor safety.⁶⁶ OVW plans to partner with OJP to further efforts around community violence interruption practices and gender-based violence, in addition to exploring ways to collaborate with violence interruption practitioners to incorporate the engagement of men and youth in domestic violence and sexual assault prevention.

viii. Pretrial Detention

In addition to supporting strategies for reducing unnecessary justice system contacts, DOJ will identify opportunities to encourage safe reductions in jail detention for individuals awaiting the resolution of their cases who do not pose a risk of flight or danger to the community. Many individuals who do not pose a risk of flight or danger to the community and are deemed otherwise eligible for pretrial release at the state- and local-levels remain detained based on their inability to pay bail.⁶⁷ Monetary bail policies may disproportionately penalize low-income individuals and perpetuate racial disparities in pretrial detention and other justice system outcomes.⁶⁸ Several studies have found that Black individuals are more likely to receive monetary bail conditions, and have bail amounts set higher, when compared to white individuals charged with similar offenses.⁶⁹ Even short periods of pretrial detention are associated with adverse outcomes for individuals, who may risk losing their jobs, housing, or custody of their children while in jail.⁷⁰ Research has found that pretrial detention may increase a person's likelihood of future justice system involvement relative to similarly-situated defendants who were released while awaiting trial, even when controlling for factors such as demographics, charge type, and criminal history information.⁷¹

In recognition of these concerns, the Department is pursuing actions that include:

- **Investing in research on state and local pretrial reforms.** Jurisdictions are increasingly exploring strategies to reduce reliance on unnecessary pretrial

detention and improve pretrial release and public safety outcomes. To bolster these efforts, DOJ is supporting assessments of statewide pretrial reforms that will yield actionable insights for policymakers to expand pretrial release for individuals who do not pose a risk of flight or danger to the community while strengthening safety and racial equity.⁷²

- **Disseminating guidance on state and local pretrial services.** The Department has provided critical guidance to the field in the area of pretrial services through a series of publications developed by the National Institute of Corrections (NIC), including a recent set of publications that present a new paradigm for the pretrial field and will help advance public safety outcomes.⁷³
- **Supporting innovative state and local pretrial strategies through federal grants.** Additionally, recent grant awards from the Department will support innovative solutions to help people successfully navigate the pretrial release period. These resources will support projects designed to strengthen linkages to voluntary community-based services for people who a judge has released on pretrial supervision, including services provided by peer support specialists with lived experience in the justice system, as well as strategies to increase court appearance rates and to help people work with the court to resolve non-willful missed appearances.⁷⁴ DOJ will also embed an experienced pretrial practitioner as a Visiting Fellow within OJP, who will bring expertise and insights from the field to help shape the Department's ongoing strategy to advancing evidence-based and equitable pretrial practices.⁷⁵
- **Issuing guidance to federal prosecutors on the use of pretrial detention.** Last November, DOJ provided guidance on best practices to federal prosecutors on the use of pretrial detention. In that guidance, prosecutors are directed to exercise reasoned prosecutorial discretion in making decisions about whether to seek detention on an individualized, case-by-case basis, after considering the risk of flight and danger to the community posed by the defendant as well as input from victims who have the right to be reasonably heard at any public proceeding involving release. The Department also recognizes that "a defendant who is unable to obtain counsel is entitled to have counsel appointed to represent the defendant at every stage of the proceeding [including] initial appearance," except where "the defendant waives this right." The Department has updated its Justice Manual to reflect this guidance.⁷⁶

- **Providing federal jail-based competency restoration services.** The federal Bureau of Prisons (BOP) also maintains pretrial detention facilities, in addition to serving its primary responsibility of incarcerating sentenced individuals. Within its pretrial facilities, BOP works to reduce stays in custody, where possible, and ensure such periods are as minimally disruptive to the lives of detained individuals as possible. As part of this effort, BOP began providing competency restoration services within jails in January 2023. This innovative strategy is designed to meet the growing demand for court-ordered competency restoration services. These services are generally provided in state hospitals, where long waitlists can create significant delays for people in need of competency restoration.⁷⁷ As a result, individuals often remain in jail for extended periods while awaiting an available hospital bed.⁷⁸ The implementation of jail-based competency restoration is expected to considerably reduce the wait for these services throughout BOP.

Supporting Rehabilitation During Incarceration

The Challenge

The Executive Order emphasizes the need to “ensure that conditions of confinement are safe and humane” within correctional facilities, and that those facilities are providing incarcerated individuals “with meaningful opportunities for rehabilitation and the tools and support they need to transition successfully back to society.”⁷⁹

Although the accessibility of programming differs across state, local, and federal facilities, expanding access to robust correctional programming, such as correctional education and employment training, is critical to achieving these goals. A DOJ-supported analysis from the RAND Corporation concluded that correctional education significantly improves recidivism and employment outcomes for participants upon return to the community.⁸⁰ Participants in correctional education were 43 percent less likely to return to prison, when compared to their peers who did not access educational programming.⁸¹ The same analysis found that vocational training within prisons increased participants’ likelihood of obtaining employment by 28 percent upon release.⁸²

Yet far too few people are able to participate in quality educational and employment programs while incarcerated. Access to correctional programming posed a particular challenge during the COVID-19 pandemic, when facilities were largely closed to outside visitors, including service providers. Even before the pandemic, however, access to education and workforce development was often limited. An analysis of 2014 survey data from the U.S. Department of Education found significant interest in correctional educational opportunities among people incarcerated in state and federal prisons.⁸³ Yet barriers to participation, such as program waitlists, prevented many incarcerated people from pursuing their educational goals.⁸⁴ While these issues may predominantly affect state and local facilities, federal facilities struggle with hiring credentialed teachers in the post-COVID employment environment. Despite major marketing campaigns, BOP has several ongoing vacancies for special education teachers qualified to assess and treat learning disabilities.

Ensuring access to substance use and mental health treatment services is also critical to strengthening outcomes for incarcerated individuals. For people with opioid use

disorders, who are over-represented in the criminal justice system,⁸⁵ the U.S. Department of Health and Human Services (HHS) has recognized medication-assisted treatment (MAT) as the “gold standard” of care.⁸⁶ HHS defines MAT as “the use of medicines, in combination with counseling and behavioral therapies, to provide a ‘whole-patient’ approach to the treatment of substance use disorders.”⁸⁷ Across multiple studies, researchers have found that the provision of MAT in correctional settings reduces opioid usage among recipients, increases rates of participation and retention in treatment, and reduces overdoses and fatalities upon release.⁸⁸

According to a 2016 survey from the Bureau of Justice Statistics (BJS), the most recent year of data available, nearly half of those in state and federal prisons met the criteria for a substance use disorder in the year prior to admission.⁸⁹ To meet these needs, federal prisons have implemented robust treatment services, including integrated and dual diagnosis substance use programs. Over 70 percent of those who were released from BOP custody in Fiscal Year 2022 participated in substance use treatment during their incarceration. One-quarter of released individuals qualified for and participated in residential substance use treatment, in which participants live in a special unit designed for those with substance use disorders. Meta-analyses of incarceration-based therapeutic communities, a type of residential treatment, have found that such programs are associated with reductions in rates of recidivism.⁹⁰

Data shows a significant need for mental health services in correctional facilities as well. In a 2016 survey from BJS, roughly 43 percent of those in state prisons and 23 percent of those in federal prisons reported a history of mental health disorders.⁹¹ In correctional settings, treatments and interventions that incorporate elements of cognitive behavioral therapy—an approach that focuses on interrupting negative thought patterns and building healthy coping and problems-solving skills—have yielded promising results.⁹² Evidence finds that cognitive behavioral therapy, which BOP has adopted as its treatment model, improves outcomes and reduces recidivism among youth and adults facing a wide range of needs, including individuals experiencing substance use and mental health disorders, as well those who are at highest risk of engaging in violence.⁹³

Cognitive behavioral therapy can also help individuals process trauma, a critical need among incarcerated populations. Decades of research documents the high prevalence of lifetime traumatic experiences and Post Traumatic Stress Disorder (PTSD) among incarcerated people, many of whom have been victimized by crime or violence themselves.⁹⁴ Victimization is particularly prevalent among justice-involved women. In a

study of women in jails, 86 percent of respondents reported experiencing sexual violence during their lifetime, while 77 percent had experienced intimate partner violence.⁹⁵ Similar needs are evident among youth in the juvenile justice system, an estimated 90 percent of whom have a history of serious trauma during childhood.⁹⁶

All too often, people experience further trauma and victimization while incarcerated. In a 2018 survey from BJS, roughly seven percent of youth in juvenile justice facilities reported sexual victimization within the last year.⁹⁷ Within adult correctional facilities, LGBTQI+ populations experience disproportionately high rates of sexual victimization.⁹⁸ Sexual victimization is most prevalent among transgender individuals: BJS data found that roughly 40 percent of transgender adults in state or federal prisons had experienced sexual victimization, compared to four percent of the prison population as a whole.⁹⁹

Research also suggests that certain types of programming, including employment programs and cognitive behavioral therapy, can promote safer correctional environments by decreasing the likelihood of violence or misconduct among participants.¹⁰⁰ Fostering connections between incarcerated people and their loved ones can also promote safer correctional environments. People who received visits from family and friends while incarcerated demonstrated lower rates of misconduct prior to release, as well as lower rates of recidivism upon return to the community.¹⁰¹ This finding aligns with a body of research demonstrating the positive impact of familial and social connections on reentry outcomes.¹⁰² Prison-based initiatives aimed at fostering these pro-social ties – such as parenting classes, family-friendly visiting spaces, and easy access to phone calls and mail – can help those who are incarcerated build and maintain the critical supportive relationships in their lives.

Agenda for Reform

DOJ is committed to bridging the gaps in opportunity for those incarcerated within BOP facilities, and to supporting our state and local correctional partners as they undertake the critical work of promoting rehabilitation in prisons and jails nationwide.

i. Evidence-Based Assessments and Interventions

The science of corrections has rapidly expanded in recent decades to include a robust body of literature on what works for incarcerated persons. Among these research-supported approaches are the ongoing assessment of risk and needs with an end goal

of building skills and reducing both in-prison misconduct and post-release recidivism. BOP uses two tools, PATTERN and SPARC, to assess risk and need, and re-assessments are conducted at least twice yearly over the course of the sentence.¹⁰³ The results of these assessments are used to target intervention services across criminogenic and critical reentry need areas. Each need area maps onto one or interventions of varying dosage which are prioritized across the lifespan of the sentence. There are nearly 90 structured intervention programs such as literacy, career technical education, and mental health treatment described later in this report.

ii. Educational and Employment Opportunities

The Executive Order calls on the Department to propose a strategic plan for “supporting rehabilitation during incarceration, such as through educational opportunities [and] job training,” among other interventions.¹⁰⁴ The Department’s new and existing efforts in alignment with this goal include:

- **Expanding access to Pell Grants for incarcerated students.** DOJ will support the implementation of recent changes in federal law that have unlocked new opportunities for post-secondary correctional education. In December 2020, the FAFSA Simplification Act repealed a provision of the Violent Crime Control and Law Enforcement Act of 1994 that barred incarcerated students from receiving Pell Grants to pay for post-secondary education.¹⁰⁵ The statutory change will take effect in July 2023, at which point an estimated 463,000 incarcerated people will be eligible for a Pell Grant to support participation in qualifying post-secondary education programs.¹⁰⁶

In preparation for Pell reinstatement, DOJ is supporting training and technical assistance to help scale up post-secondary educational opportunities in prisons across the country. The Department will support the provision of ongoing training and technical assistance for correctional and educational institutions to meet the demand for high-quality and equitable college programming. BOP is also expanding access to Pell Grants within federal correctional facilities to help incarcerated students earn college credits and/or a college degree. Pell Grants are currently available through a pilot program to seven sites within BOP, where 300 incarcerated students are enrolled in college courses with two additional sites beginning implementation.

- **Promoting state and local correctional education and employment programs through federal grants.** Through Second Chance Act grants, DOJ supports state- and local-level correctional education services that help incarcerated students obtain high school or high school equivalent degrees, as well as programs that facilitate vocational training and other certifications.¹⁰⁷
- **Delivering a range of career and technical education opportunities within federal prisons.** BOP currently offers approximately 200 career technical education programs, ranging from low dosage certification programs to highly intensive apprenticeships commensurate with community standards. BOP has partnered with the Department of Labor to certify apprenticeships at the national level, making them portable across state lines. BOP also addresses soft skills through resume preparation, and participation in both mock and real job fairs. Further, BOP is in the process of launching a new initiative to place career counselors in its education departments to provide vocational interest testing and support placement in career training programs most likely to lead to successful outcomes.
- **Enhancing support through federal vocational rehabilitation services.** Using funds from the First Step Act, BOP is creating a screening survey to determine which individuals in custody need vocational rehabilitation services. Specifically, the tool will help identify individuals who require more support than traditional career technical education programs provide. Alongside this assessment instrument, the agency is working with a contracted expert to build a vocational curriculum inclusive of those with persons in need of greater support and wraparound services.
- **Expanding career pathways for federally incarcerated women.** BOP is also increasing access to career training programs for women in custody, such as Industrial Technology Maintenance, Non-Profit Organization Leadership, and Heating, Ventilation and Air Conditioning. BOP is also piloting a doula training program in select facilities that will help women develop the job skills necessary to join the doula workforce upon release.

iii. Treatment and Other Rehabilitative Services in BOP Facilities

Per the Executive Order, the Department's strategic plan for "supporting rehabilitation during incarceration" should include a focus on "medical and mental health care, trauma-informed care, [and] substance use disorder treatment and recovery support."¹⁰⁸ DOJ is committed to promoting access to quality physical and behavioral health care services within correctional facilities nationwide through efforts such as:

- **Delivering mental health treatment.** As one of the country's largest employers of doctoral-level psychologists, BOP delivers a robust menu of cognitive behavioral therapy interventions. BOP provides evidence-based mental health treatment at all federal correctional facilities and is expanding capacity in residential mental health programs, including secure mental health programs to ensure individuals with the greatest need have access to services. These programs also reduce the placement of individuals with mental health disorders in restrictive housing and promote their continued movement toward less restrictive environments in preparation for reentry.
- **Expanding access to MAT.** DOJ is working to expand access to MAT for incarcerated individuals with opioid substance use disorders. The Department supports the implementation or expansion of MAT programs along with other evidence-based treatment and recovery support services in state and local correctional facilities through grants such as the Residential Substance Abuse Treatment (RSAT) Program, Second Chance Act grants, and the Comprehensive Opioid, Stimulant, and Substance Use Program (COSSUP).¹⁰⁹ Within federal correctional facilities, BOP has long offered a wide range of drug treatment services overseen by its team of nearly 700 psychologists. Annually, about 17,000 individuals participate in intensive drug treatment services through BOP's cognitive behavioral Residential Drug Abuse Program (RDAP) and an additional 20,000 participate in less intensive drug treatment services.

The agency is currently providing MAT to over 2,500 people in its custody, paired with individualized psychosocial services to support their recovery and reentry. The number of participants has more than doubled in secure settings and more than tripled in community settings in the past year. BOP has worked expeditiously to increase capacity for MAT provision and has added significantly to its psychological treatment complement by hiring more than 40 staff to

support mental health treatment for individuals with opioid use disorders. Further, BOP is partnering with DOJ's Drug Enforcement Administration (DEA) and HHS's Substance Abuse and Mental Health Services Administration (SAMHSA) to integrate certified Opioid Treatment Programs (OTPs) into BOP facilities. BOP is currently implementing a "hub and spoke" model, centered around seven hub facilities that will provide logistical and clinical support to the remaining institutions.¹¹⁰ Through this model, both hubs and spokes are able to provide access to MAT for incarcerated persons.

- **Supporting transgender individuals in custodial settings.** BOP has developed specialized programming, including a support group, for incarcerated transgender individuals with specialized modules on sexual safety and reentry. This specialized program is voluntary and those who participate and are eligible will be able to earn time credits, as prescribed by the First Step Act. In addition, BOP is supporting transgender individuals through its Transgender Executive Council, a multidisciplinary decision-making body led by the agency's Women and Special Populations Branch. Individuals in BOP custody may request that BOP provide various accommodations including clothing, cosmetics, salutation/pronoun changes, as well as medication and surgical interventions.

iv. COVID Mitigation

DOJ is committed to safeguarding against COVID-19 in prisons and jails nationwide. People who live and work in correctional facilities face significantly elevated risk of exposure to COVID-19, due to high population density and rates of turnover, poor ventilation, and other environmental conditions conducive to viral transmission.¹¹¹ Many incarcerated individuals are vulnerable to severe complications from COVID-19, given the high prevalence of chronic health conditions and the growing share of older adults within correctional populations.¹¹² Strategies to address these risks include:

- **Helping states, localities, and territories combat COVID-19 in correctional settings.** The Department is partnering with the HHS's Center for Disease Control and Prevention (CDC) to support the detection and mitigation of COVID-19 in correctional institutions nationwide. With funding made available through the American Rescue Plan Act of 2021, CDC is investing \$700 million in state, local, and territorial health departments to implement responses to

COVID-19 in jails, prisons, and other confinement facilities.¹¹³ DOJ will provide training and technical assistance to support grantees in maximizing the impact of these funds, which can be used to conduct testing and contact tracing, develop and implement preparedness procedures, expand video conferencing technology for family or attorney visits and other purposes, deliver telehealth services and virtual programming, as well as other strategies for addressing the myriad impacts of COVID-19.¹¹⁴ As appropriate, DOJ will also offer training and technical assistance to support safe reductions in correctional populations as a tool for mitigating the spread of COVID-19.

- **Supporting effective emergency responses in state and local juvenile justice facilities.** DOJ will release a revised version of its guidance document, *Emergency Planning for Juvenile Justice Residential Facilities*, to incorporate lessons learned from the COVID-19 pandemic and other recent emergencies and natural disasters.¹¹⁵ Along with this guide, DOJ provides grant funding to juvenile facilities that seek to implement emergency planning activities that better enable them to respond to and recover from these incidents.¹¹⁶
- **Promoting safety and wellbeing within BOP facilities.** BOP has worked closely with the CDC to implement a COVID mitigation strategy that is based on CDC guidance. Screening protocols were quickly put in place for both staff and persons in custody. As the pandemic and understanding of COVID evolved, BOP has worked to resume programming as quickly as possible, while maintaining the appropriate protocols indicated by the CDC. BOP continues to collaborate with the CDC and has adopted an operational matrix that modifies each facility's procedures based on indicators of COVID transmission risk, helping to limit disruptions to visiting and programming while promoting safety and wellbeing within its institutions. When some disruption becomes necessary based on COVID transmission risk, innovative ways to engage in programming and reduced disruption periods means that those in BOP custody are able to continue their FSA programming despite modified operations. BOP has promoted vaccination for both staff and those in custody, with over 330,000 doses of vaccine administered to date. BOP also maintains a great deal of COVID information on its public website, promoting transparency.¹¹⁷

v. Trauma and Victimization

The Executive Order directs the Department to address the provision of trauma-informed care within its strategy for supporting rehabilitation during incarceration.¹¹⁸ DOJ will develop and expand avenues to support incarcerated individuals who have experienced trauma and victimization through efforts such as:

- **Addressing trauma within BOP facilities.** As part of the intake process for federal correctional facilities, BOP assesses each individual for a history of trauma and recommends service provision for those with a potential need for support. To meet the demand for services, BOP has increased the availability of trauma programming for men ten-fold in the last five years. BOP has made trauma treatment available to all women with an identified need and offers integrated residential programming for women that includes treatment for trauma, mental health treatment, substance use disorder treatment and vocational training. Additionally, BOP has committed to adding training for institution staff who may interact with incarcerated victims of human trafficking on applying a victim-centered, trauma-informed, and culturally-responsive approach, consistent with the DOJ National Strategy to Combat Human Trafficking Action Item II.6.¹¹⁹ BOP will assess the feasibility of expanding the training to apply to victims of other forms of gender-based violence (GBV), including sexual assault, domestic violence, interpersonal violence, and stalking.
- **Reducing barriers to reporting sexual abuse within all correctional facilities.** DOJ is also pursuing avenues to reduce barriers to incident reporting and victims' services for individuals who experience sexual abuse while incarcerated. The Department issued a planning grant in Fiscal Year 2021 for a National Service Line for Incarcerated Survivors of Sexual Abuse, with separate, competitive funding for the implementation phase expected in Fiscal Year 2024, subject to the availability of appropriations.¹²⁰ This initiative is intended to help ensure that survivors have access to quality support services and a mechanism for reporting sexual abuse and harassment in detention. The grant recipient, Urban Institute, completed a literature review and will next be conducting interviews and focus groups with incarcerated individuals, correctional staff, and Prison Rape Elimination Act (PREA) auditors. The ultimate product from the planning grant will be a blueprint for the possible

service line.

In addition, in November 2022, DOJ produced a report on the Department's response to sexual misconduct by employees of BOP.¹²¹ The report, the result of a July 2022 directive from the Deputy Attorney General, provides over 50 recommendations to improve mechanisms and procedures for victim reporting, ensure victims do not experience penalties for reporting, enhance reporting options for third parties, and prioritize investigations and prosecutions of BOP employees who commit sexual misconduct, including seeking sentences that reflect the egregiousness of the conduct.

- **Implementing PREA.** DOJ continues to carry out its statutory and regulatory requirements that are defined in the PREA statute (see 34 U.S.C. § 30301 *et seq.*), two amendments to this statute (see Pub. L. No. 114-324 and Pub. L. No. 115-274), and the PREA standards (see 28 C.F.R. Part 115). The purpose of these requirements is to support efforts in confinement facilities (including jails and prisons, juvenile confinement facilities, community confinement facilities, and police lockups) across the nation to prevent, detect, and respond to sexual abuse and sexual harassment of persons who are incarcerated. As discussed in the Report of the Attorney General Pursuant to Section 16(b)(i) of Executive Order 14074, BOP's National and Regional PREA Coordinators and institution PREA Compliance Managers oversee BOP's implementation of the law, regulations, and BOP policy.¹²² BOP also provides annual training to all staff on PREA generally and to specialized staff on topics specific to their PREA responsibilities.¹²³ And BOP regularly collects and reports detailed data about sexual victimization of incarcerated individuals to BJS as required by PREA. BOP submitted its most recent PREA report to BJS, for calendar year 2021, on June 30, 2022.¹²⁴
- **Expanding supports for young survivors of sexual abuse in the justice system.** DOJ is prioritizing resources to address sexual victimization among justice-involved young people by standing up a program focused on expanding service provision to survivors of sexual abuse in the juvenile justice system.¹²⁵ These new investments are designed to facilitate partnerships between youth detention facilities and community-based providers to deliver sexual abuse survivor services that are rooted in racial equity and are relevant to youth of color, LGBTQI+ youth, and youth with disabilities.

vi. Incarcerated Parents and Pregnant People

The Executive Order charges DOJ with addressing “continuity of contact with children and other family members” as a component of its strategic plan for promoting rehabilitation during incarceration.¹²⁶

As an initial matter, DOJ is committed to fostering bonds between incarcerated parents and their children, and it has implemented numerous initiatives to further this goal, including:

- **Providing parenting workshops and child-friendly environments in BOP facilities.** Every BOP institution offers the Bureau’s standardized parenting program, which operates in two phases.¹²⁷ First, participants enroll in a parenting workshop that covers basics and best practices on topics such as appropriate discipline and developmental milestones. Next, individuals choose between various specialty groups, such as parenting a child with a disability. BOP also offers a children’s area in every visiting room, where children and parents can interact in ways that support the developmental needs of children (e.g., play with toys, sit on the floor). Additionally, BOP is training staff to interact appropriately with minor visitors and ensuring pregnant and post-partum people are not placed in restraints.¹²⁸
- **Supporting family engagement at the state- and local- levels.** The Department is also committed to facilitating positive family engagement opportunities in state and local correctional facilities. To that end, the Department provides funding for facilities to create child-friendly visiting spaces, offer transportation assistance to facilities for in-person family visits, expand access to video visitation, implement parenting classes and programs, and other activities designed to strengthen family relationships.¹²⁹ The Department also supported the development of a set of model practices in July 2019 for correctional administrators to remove barriers to family connections and support relationships between incarcerated parents and their children.¹³⁰ The Department has made grants to several prisons and jails to promote the integration of these model practices into the day-to-day operations and cultures of correctional facilities, and will support the documentation of innovative and promising practices accomplished under these grants in order to inform similar efforts across the nation.¹³¹

BOP makes paramount its responsibility for the safety, care, and services provided to prenatal and postpartum women within BOP custody and their infant children. BOP has instituted a number of longstanding practices to assist women who are pregnant upon their arrival into custody. First, the agency's national policy clearly defines staff responsibilities for educating women about their reproductive rights and options with regards to childbirth, adoption, and family placement, in its national policy.¹³² The policy also establishes requirements regarding child-friendly areas and provision of nursing options, which are now standard across facilities. Additionally, the agency provides detailed written guides to women to assist in obtaining information about pregnancy.

Beyond those policies and written materials, BOP offers eligible pregnant women the opportunity to participate in one of two programs where mothers reside with their infants. The Mothers and Infants Together (MINT) is a community-based program operating in five Residential Reentry Centers across the country, and the Residential Parenting Program (RPP) is offered through an agreement with the Washington State Department of Corrections that allows mothers to reside in a designated unit with their babies.¹³³ In these programs, pregnant women receive prenatal care, prepare for delivery, and bond with their infant after giving birth. BOP will build upon these programs through efforts such as:

- **Disseminating resources to state correctional facilities.** BOP has developed a resource tool on how to launch residential programs for pregnant people, which may be shared with other correctional agencies so they can learn from BOP's work to expand their own programming. This resource tool will be made public to be used as a model for state prison systems, alongside relevant BOP Program Statements.
- **Expanding BOP residential programs.** BOP is expanding care for people who give birth while incarcerated, including through full implementation of the First Step Act of 2018 and the 2022 reauthorization of the Violence Against Women Act. As part of these ongoing efforts, the agency is seeking to expand its programming by pursuing an additional Intergovernmental Agreement (IGA) with a Department of Corrections prison nursery program. The IGA would provide an additional RPP-type program in another geographic region of the United States for prenatal and incarcerated women in BOP custody. Eligible participants could participate in programming and be housed near their

families.

- **Supporting continuous BOP improvement based on participant feedback.** In April 2022, BOP began surveying all participants in its residential programs for pregnant people, as well as women leaving prenatal and post-partum periods, to understand their personal experiences being pregnant in custody. These surveys are conducted as semi-structured in-person or telephonic interviews. BOP will continue to explore opportunities to improve and expand these programs based on the results, including by working with external partners to explore ways to assess outcomes for mothers and infants participating in these programs.

vii. Jail-Specific Resources

DOJ will develop resources tailored to advancing the Executive Order's rehabilitative goals within the unique context of jail facilities, including:

- **Launching the Jails and Justice Support Center.** In 2019, DOJ convened a Jails Support and Technical Assistance Workgroup to assist state and local law enforcement agencies that operate jails in complying with constitutional standards for corrections. Building on this work, the National Institute of Corrections (NIC) and OJP are launching the Jails and Justice Support Center, a national training and technical assistance hub to guide jail administrators in establishing safe and humane environments that effectively serve residents, visitors, and staff.¹³⁴ The Center will deploy a cadre of subject matter experts to define constitutionally sound standards of practice and core competencies for jail facilities that draw on lessons from DOJ consent decrees, BJS jail mortality data, and other relevant research. The Center will then work directly with jails nationwide to conduct individualized assessments and deliver actionable recommendations for aligning existing practices, protocols, and training with constitutional standards and best practices for jail administration.
- **Promoting effective responses to substance use disorders within jails.** One of the areas of focus for the Jails and Justice Support Center will include resources for jails to increase access to evidence-based substance use treatment and recovery services, including MAT. Jails face unique challenges in this area and, therefore, need specific guidance and support in meeting the needs of

individuals who are actively using substances and/or have substance use disorder. As such, NIC and OJP collaborated on a brief describing the scope of the challenges facing jail administrators related to substance use withdrawal and the high potential for it to lead to deaths. The document provides an overview of constitutional rights and key legislation regarding substance use withdrawal and outlines steps for creating a comprehensive response for individuals with substance use disorders in a jail setting.¹³⁵ In addition, DOJ is working with an expert committee of medical and criminal justice professionals, including addiction specialists, correctional health care providers, and jail administrators, to develop guidelines to support the effective management of substance withdrawal in local jails.

- **Expanding access to civil legal services.** ATJ, BOP, and NIC are collaborating to launch an innovative pilot program to provide civil legal services to incarcerated individuals in select BOP women’s facilities. Incarcerated individuals are a particularly vulnerable population when it comes to unmet civil legal needs. The prompt resolution of pending civil legal issues – such as debt collection, access to benefits or child custody matters – can help support successful reentry and promote public safety. The Civil Legal Services Pilot Program will seek to meet this need. The pilot program was launched after BOP, NIC and ATJ administered a voluntary survey to incarcerated individuals to assess civil legal needs. More than 50,000 adults in custody responded, and the overwhelming majority of the respondents stated that they would benefit from civil legal services. This pilot program will start to offer those services on a limited scale – on particular issues in certain facilities – with the purpose of evaluating the feasibility and utility of expanding those services across all BOP facilities.¹³⁶
- **Reducing barriers for eligible voters.** DOJ will also continue to encourage opportunities for civic participation within jails for individuals who are eligible to vote. Most people held in jails are eligible to vote, since jails are largely comprised of people awaiting trial or those serving misdemeanor sentences that do not preclude voting.¹³⁷ Yet few people are able to exercise their right to cast a ballot while in jail. Common barriers to the ballot box include misinformation about eligibility, lack of access to necessary paperwork and other materials, and delays in jail mail systems, among other barriers.¹³⁸

To help address these issues, the Department will collaborate with its training and technical assistance providers to develop and disseminate resources that combat misinformation on voter eligibility, explain state-specific voter rights for incarcerated persons, and promote strategies for improving access for those eligible to vote. Additionally, in May 2022, DOJ released a guide to state voting rules that apply after criminal convictions.¹³⁹ BOP has also worked to provide individuals in its custody with state-specific information about their voting rights while incarcerated and upon release. The Bureau has shared this information through emails and a resource library; additionally, infographics have been distributed throughout BOP facilities to make the information more accessible. Moreover, BOP has provided education and assistance to incarcerated individuals who are from jurisdictions that allow them to exercise their right to vote.¹⁴⁰

viii. Operational and Cultural Change

In service of the Executive Order's charge to support rehabilitation during incarceration, DOJ will leverage its resources to promote data-driven decision-making and foster cultural change within correctional facilities at the state and local levels. Through OJP, DOJ will build capacity among correctional agencies to leverage data to allocate resources more efficiently, reduce over-crowding and prevent safety incidents, increase access to and quality of correctional programming, and identify and mitigate racially disparate outcomes.¹⁴¹ Other planned and ongoing activities include:

- **Identifying training opportunities to promote transformational change.** The Department has granted a fellowship to an experienced researcher who will develop actionable recommendations for transforming correctional environments, physical spaces, and staff culture, with a focus on adapting to the challenges associated with COVID-19.¹⁴² The fellow will work to identify gaps and opportunities within training resources offered by OJP to support correctional leaders in creating positive climates for those who live and work within their facilities.
- **Funding research on rehabilitative correctional models.** OJP is also investing in a study that examines a new vision for correctional facilities that reorients every aspect of incarceration around rehabilitation. Researchers at the

University of Chicago are evaluating such a model at the Kewanee Life Skills Re-entry Center (LSRC), an Illinois facility that prioritizes humane treatment of residents and intensive investments in educational programming and physical and mental healthcare. The study will assess the impact of correctional models that prioritize rehabilitation, offering insights to policymakers nationwide seeking to strengthen outcomes for individuals returning from incarceration.¹⁴³

- **Reducing the use of restrictive housing in BOP facilities.** At the federal level, significant operational change is currently being driven by efforts to reduce the use of restrictive housing in prisons, as discussed in the Report of the Attorney General Pursuant to Section 16(b)(i) of Executive Order 14074.¹⁴⁴ BOP convened a task force of senior agency officials to develop strategies to reduce the pipeline into restrictive housing while simultaneously expediting removal of individuals already in these settings. Implementation of these recommendations is ongoing and includes expanding drug treatment services and increasing the number of safe alternative housing areas with access to prosocial activities and evidence-based programs.

BOP has convened a new working group of senior level officials to continue innovations in this space. Additionally, BOP is collaborating with OJP to develop a large-scale assessment plan for the agency's use of restrictive housing. OJP is also funding intensive training and technical assistance to help state correctional agencies adopt reforms designed to reduce the use of restrictive housing and will support the development of resources that document implementation to inform similar efforts across the country.

Facilitating Reentry for People with Criminal Records

The Challenge

The Executive Order calls for a strategy for facilitating successful reentry and lowering barriers to opportunity for people with criminal records, underscoring that such efforts are “essential to reducing recidivism and reducing crime.”¹⁴⁵ As the Executive Order notes, “individuals involved in the criminal justice system face many barriers in transitioning back into society,” including obtaining stable housing, well-paying employment, quality healthcare, public benefits, and other critical resources.¹⁴⁶ Without access to the building blocks of a stable life, the likelihood of successful reentry is compromised.

The challenges associated with reentry impact a broad swath of the American population. In 2020, nearly 550,000 people returned to the community from state and federal prisons, while millions more cycled through local jails.¹⁴⁷ In total, an estimated 70 million to 100 million Americans have a criminal record.¹⁴⁸ Even low-level, non-violent criminal records, including those that did not result in incarceration, can present steep and persistent barriers to opportunity. The National Inventory of Collateral Consequences of Conviction (NICCC), a database supported by OJP, estimates that there are more than 44,000 collateral consequences that impose legal and regulatory restrictions on individuals with criminal records.¹⁴⁹ Long after a person’s sentence is complete, they face a complex web of state and federal sanctions or obstacles that can limit eligibility for public benefits, employment, housing, college admission and student financial assistance, voting, and other essential societal functions.¹⁵⁰

More than 70 percent of collateral consequences are related to employment.¹⁵¹ Many of these restrictions limit eligibility for professional or occupational licenses, which are now a pre-requisite for 1 in 4 American workers.¹⁵² As a result, qualified workers may be shut out of an estimated 800 occupations that require licensure in one or more states, on the basis of their criminal record.¹⁵³ Beyond these formal restrictions, employer bias can also introduce roadblocks for jobseekers with criminal records. Researchers have found that a criminal record significantly decreases the likelihood that a job applicant will receive a callback or an employment offer, particularly among Black jobseekers, who were

disproportionately penalized by employers.¹⁵⁴

Taken together, the official and informal barriers to the workforce contribute to staggering rates of unemployment among people with criminal records. In an analysis of Bureau of Justice Statistics data, the Prison Policy Initiative found that unemployment rates among formerly incarcerated people were nearly five times higher than the national average.¹⁵⁵ Those who do secure employment often receive wages that leave them well below the poverty line. Formerly incarcerated employees reported median earnings of only \$10,090 during the first full year after release from prison, according to an analysis from the Brookings Institution.¹⁵⁶ These statistics, however, mask significant racial and gender-based disparities. For women of color in particular, the barriers to reentry can be severe. Unemployment rates exceed 40% among formerly incarcerated Black women, more than double the rate of formerly incarcerated white men.¹⁵⁷ Under-employment is also disproportionately common among women of color with a history of incarceration. Among those formerly incarcerated individuals who reported employment, roughly 33 percent of Black women and 30 percent of Hispanic women held a part-time or occasional job, compared to 14 percent of white men.¹⁵⁸ Because both unemployment and poverty are associated with higher rates of recidivism, programs that help bridge the gap to stable and well-paid careers may help promote reentry success.

Without a steady and sufficient income, formerly incarcerated people may struggle to secure and maintain housing, which can undermine reentry success. Multiple studies have found that homelessness or housing insecurity are associated with higher rates of recidivism, while the provision of housing assistance reduces the likelihood of re-arrest or re-incarceration, particularly when coupled with supportive services.¹⁵⁹ Yet people with criminal records face more than 1,300 collateral consequences related to housing, which may limit eligibility for subsidized housing, result in the denial of property rental or sale, or trigger eviction.¹⁶⁰

Background checks, which an estimated 4 in 5 landlords use to screen rental applicants, can also pose a barrier for individuals with criminal records.¹⁶¹ Guidance from the Department of Housing and Urban Development clarifies that the overbroad use of criminal records in housing decisions may constitute a violation of the Fair Housing Act.¹⁶² Yet researchers have found that landlords are substantially less likely to rent to any applicant with a criminal record, exacerbating housing insecurity among those with justice system involvement.¹⁶³ Formerly incarcerated people are nearly 10 times more likely to experience homelessness than the general public.¹⁶⁴ Analyses reveal significant

racial and ethnic disparities in housing outcomes among the formerly incarcerated population, with Black and Brown people experiencing higher rates of housing insecurity than their white counterparts. Black women, in particular, faced an elevated risk of homelessness. After returning from incarceration, Black women were more than 3.5 times more likely than white men to live in a homeless shelter.¹⁶⁵

Access to healthcare pre- and post-release also plays a critical role in facilitating success for formerly incarcerated individuals, who report disproportionately high rates of chronic and infectious disease, as well as mental health and substance use disorders.¹⁶⁶ Continuity of care can prove lifesaving during reentry, a period when people are at substantially elevated risk of death.¹⁶⁷ During the first two weeks following release, mortality rates among formerly incarcerated people are more than 12 times higher than among the general public.¹⁶⁸ Improving access to healthcare can also strengthen employment and housing outcomes, while reducing the risk of further justice system involvement.¹⁶⁹ Researchers have found that expanded access to Medicaid is associated with an 11.5 percent reduction in re-incarceration within the first year of release.¹⁷⁰

Onerous conditions of community supervision can also create significant barriers for the justice-involved population. Individuals on probation or parole are often subject to a range of requirements – such as frequent appointments with supervision officers, curfews, electronic monitoring, regular drug testing, and payment of fines and fees – which can interfere with their ability to hold down a full-time job, and can contribute to financial instability.¹⁷¹ Failure to comply with these requirements often results in custodial sanctions or revocation of supervision and re-incarceration.¹⁷² These technical violations of probation or parole account for 25 percent of all state prison admissions, costing states \$2.8 billion in correctional costs each year.¹⁷³ Reforms designed to promote appropriate and individualized supervision conditions that are differentiated based on risks and needs, limit lengthy terms of supervision, and introduce non-custodial sanctions may reduce rates of re-incarceration and promote reentry success.¹⁷⁴

DOJ is committed to reducing and removing barriers to success for individuals with criminal records to facilitate successful transitions from state, local, and federal correctional institutions into the community. As previously discussed, the Attorney General led the RCC, a federal interagency collaboration to address barriers to reentry. The collaboration resulted in an April 2022 report to Congress that highlighted the work of federal agencies and grantees, including innovative strategies to improve the ability of their programs and services to assist justice-impacted individuals.¹⁷⁵ Many of these

strategies were creative solutions developed as a direct response to increased barriers experienced due to the COVID-19 pandemic. The report also proposed recommendations and considerations for actions that both RCC member agencies and Congress could take to further facilitate successful reintegration, with a particular focus on needs related to housing, food security, health care, education, and employment. Interagency collaboration, like the RCC, offers an opportunity to break down silos between agencies, and is crucial to reducing barriers to successful reentry. The Department will continue to collaborate with state, local, and federal partners, drawing on expertise and missions across many sectors of society, to identify effective solutions to promote successful reentry.

Agenda for Reform

DOJ is committed to facilitating successful reentry and lowering barriers to opportunity for people with criminal records, with the goal of ensuring that every person leaving the criminal justice system has opportunity to thrive.

i. Federal Reentry Services

The Executive Order directs the Department to propose a strategic plan for “facilitating reentry into society of people with criminal records, including by providing support to promote success after incarceration; sealing or expunging criminal records, as appropriate; and removing barriers to securing government-issued identification, housing, employment, occupational licenses, education, health insurance and health care, public benefits, access to transportation, and the right to vote.”¹⁷⁶

BOP’s goal is to equip individuals with the tools to succeed upon return to the community from incarceration. To that end, BOP is committed to:

- **Supporting reentry preparation from the outset of incarceration.** BOP employs a large variety of Evidence Based Recidivism Reduction Programs and Productive Activities for people in custody to support their successful reentry.¹⁷⁷ The process of assessing the individual needs of people in custody and directing them toward appropriate programs begins on the first day of their sentences. BOP Reentry Programming includes mental health and rehabilitation programs, education and vocational programs, faith-based

programs, parent and family programs, and health and wellness programs—many of which are gender responsive, trauma informed, and/or specific to the needs of special populations. Program planning is largely directed by case managers, who encourage participation in appropriate programs that meet the needs of the individual throughout the course of an individual’s sentence. Additionally, BOP supports initiatives focused on reducing stigma upon release, such as a pilot supervision program that replaces bulky ankle monitoring bracelets with smart phone technology to monitor individuals on home confinement.

- **Engaging volunteers to assist in reentry skills-building.** Building on these efforts, BOP has engaged in a marketing strategy and developed a virtual platform to identify volunteers who will assist people in custody to develop critical reentry skills.¹⁷⁸ In the first week of the platform’s talent pool submission process, BOP received more volunteer applications than it received in the previous seven months, demonstrating the promise of this strategy. This targeted marketing strategy is also expected to generate highly qualified volunteers with skills that match the specific needs of BOP institutions. The next phase of this project will implement a volunteer management feature to centralize data collection and reporting on volunteering within BOP. Although volunteers work with people in BOP facilities, an expected outcome of this approach is the development of prosocial skills and peers that will reduce unnecessary future criminal justice interactions for these individuals once they release.
- **Reducing barriers to government-issued identification.** Consistent with the Executive Order’s directive, BOP is also taking steps to address “barriers to securing government-issued identification.”¹⁷⁹ People often leave incarceration without a state-issued identification, a common pre-requisite to housing, employment, and other basic societal functions.¹⁸⁰ Yet obtaining a state-issued ID often requires paying a fee and presenting documentation, such as a birth certificate or Social Security Card, which formerly incarcerated people may lack.¹⁸¹ To address these barriers, BOP has consulted with the Transportation Security Administration and U.S. Immigration and Customs Enforcement to develop a Release Identification Card that formerly incarcerated individuals could use for domestic air travel and to obtain a state-issued ID upon return to

the community. BOP is also consulting with the Department of Homeland Security to develop a Release Folder containing all official documents providing reliable information necessary to obtain a REAL ID compliant identification from the state licensing agency where the formerly incarcerated person intends to reside.

BOP is currently conducting outreach to state governments to invite partnerships that would allow individuals to exchange Release Identification Cards for state-issued IDs and is collaborating with the Government Printing Office on the design and production of these IDs. In addition, BOP is working with the Social Security Administration to extend the timeframe during which incarcerated individuals can request their Social Security Cards from six months prior to release to one year. The additional time will help facilitate federally incarcerated individuals securing their Social Security Card upon release.

ii. State, Local, and Tribal Reentry Services

DOJ is advancing efforts to facilitate the successful reentry into society of individuals returning from state and local correctional facilities, such as:

- **Investing in correctional and reentry programs nationwide.** Each year, DOJ makes significant investments in programming tailored to the needs of currently and formerly incarcerated individuals at the state, local, and Tribal levels. In 2022 alone, OJP invested nearly \$100 million in a wide range of correctional and reentry initiatives that provide substance use treatment and recovery support services, educational and employment opportunities, permanent supportive housing, and other systemic enhancements and services that support adults and youth during incarceration or detention and upon return to their communities.¹⁸² In support of this work, OJP has welcomed two Second Chance Fellows whose professional expertise and lived experience in the justice system will help inform the Department's efforts to promote reentry success.¹⁸³
- **Supporting community-based and culturally-specific services.** In upcoming fiscal years, the Department will take steps to promote equitable access to reentry-related grants made available by OJP. Where applicable, OJP will clarify

within grant solicitations that community-based and culturally specific organizations are eligible and encouraged to apply and will engage in active outreach to such organizations. OJP will provide community-based organizations with tailored resources and tips for partnering with correctional agencies on reentry grants, to include strategies for leveraging organizational expertise in meeting the needs of underserved and historically marginalized and underserved communities. As part of applicable OJP reentry grant programs, the Department will also encourage strategies that expand access to culturally- and gender-responsive services within correctional facilities and upon reentry.

- **Strengthening coordination with state reentry leaders.** The Department will enhance coordination with state reentry coordinators, with the goal of promoting effective reentry practices across jurisdictions. DOJ has recently launched a State Reentry Coordinators College (SRCC), a peer-learning opportunity for state leaders to explore innovative approaches for promoting reentry success in the wake of COVID-19. Through the SRCC, DOJ will support knowledge development and dissemination focused on expanding access to housing, healthcare, economic and educational opportunity, and other social supports that are integral to the reentry process.

iii. Access to Healthcare

The Executive Order directs the Department to address barriers to health insurance and health care within its plan for facilitating reentry for individuals with criminal records.

In support of this goal, the Department is committed to new and existing efforts, such as:

- **Promoting continuity of care for individuals returning from federal incarceration to the community.** BOP is promoting continuity of care for individuals returning from incarceration to the community. For example, as an individual prepares for release, mental health records are provided to BOP's Community Treatment Services staff, who ensure commensurate care to that provided by BOP is available during the transitional time when that person is in a Residential Reentry Center. These same staff monitor treatment progress

and quality and authorize enhanced services in the case of a mental health emergency.

- **Encouraging uptake and implementation of Medicaid demonstration waivers.**

DOJ will also support states and localities in leveraging new and existing opportunities through the Department of Health and Human Services (HHS) to promote increased access to healthcare pre- and post-release, including through Medicaid. Pursuant to section 1905(a) of the Social Security Act eligible individuals may still be enrolled in Medicaid while incarcerated, but healthcare services for incarcerated individuals are not reimbursable by Medicaid, with some exceptions.¹⁸⁴ This federal provision is known as the “Medicaid inmate exclusion.”¹⁸⁵ The disruption in Medicaid coverage for eligible individuals as they move through the justice system and back into the community can lead to breaks in continuity of care, putting individuals at elevated risk of recidivism, morbidity, and mortality.¹⁸⁶

The SUPPORT Act of 2018 took a step toward addressing these barriers by requiring HHS’s Centers for Medicare and Medicaid Services (CMS) to provide opportunities for states to design demonstration projects to improve care transitions for certain individuals nearing release from incarceration.¹⁸⁷

Generally, CMS may approve such Medicaid demonstration projects through the authority given to the Secretary of HHS by Section 1115 of the Social Security Act, which allow states the flexibility to pilot and evaluate state-specific policy approaches to better serve Medicaid-eligible populations that typically are not allowed under Medicaid.¹⁸⁸ The demonstration projects addressed under the SUPPORT Act would allow states, with approval from CMS, to pilot coverage of certain benefits and services for certain Medicaid-eligible individuals prior to release from incarceration.

To maximize awareness and impact of this opportunity, the Department will work with federal partners and stakeholders in the field to increase uptake and successful implementation of Medicaid 1115 demonstration waivers and other related opportunities to improve health coverage and continuity of care for justice-involved individuals pre- and post-release. The Department will seek to support training and technical assistance at the state and local level to implement official guidance, and to be responsive to CMS directives on design and implementation of 1115 demonstrations and other Medicaid state plan

options that will benefit continuity of care and transitions for individuals nearing release.

iv. Record Clearing and Expungement

The Executive Order calls on the Department to propose a plan for “facilitating reentry into society of people with criminal records, including by providing support to promote success after incarceration” that includes “sealing or expunging criminal records, as appropriate.”¹⁸⁹

In support of this goal, DOJ will advance efforts to expand access to record sealing and expungement for eligible individuals where it can do so consistent with governing law. Evidence suggests that record clearance can have fast-acting and significant impact on a person’s life. In a study of expungement policies in Michigan, researchers found that a person’s average quarterly wages rose by approximately 23 percent within the first year of expungement.¹⁹⁰ The same study found that over a five-year period, only 4 percent of expungement recipients were convicted of another crime – a rate lower than the average for all Michigan adults, by some measures.¹⁹¹ Yet only a small fraction of eligible individuals obtains record clearance, due in part to the complex application process that may come with hundreds of dollars in legal and administrative fees.¹⁹²

These barriers disproportionately impact low-income individuals across both the adult and juvenile justice systems. Despite a common misconception that juvenile records are automatically cleared at age 18, young people must typically navigate an onerous petition process that prevents many from obtaining a clean slate as they transition into adulthood.¹⁹³ A statewide analysis from the Illinois Juvenile Justice Commission found that only 3 in every 1,000 juvenile arrests are later expunged.¹⁹⁴

To address these challenges, the Department has requested \$15 million in the Fiscal Year 2024 President’s Budget for a grant program that will help young people expunge, seal, or vacate their juvenile records. If funded, the program will help eliminate barriers to successful reentry and improve long-term outcomes for youth by integrating juvenile record expungement, expunction, and/or sealing services into the existing state, local, and tribal courts and juvenile defense service delivery systems. The Department has also clarified that jurisdictions may leverage federal funds under two grants, the Byrne Justice Assistance Grant and the National Criminal History

Improvement Program, to support efforts to seal and expunge criminal history information in accordance with state laws and policies.¹⁹⁵

v. Community Supervision

DOJ is also investing in strategies designed to promote success among individuals on probation or parole, including:

- **Improving state and local supervision outcomes through federal grants.** The Department is leveraging Second Chance Act funding to help state agencies to implement data-driven strategies for improving outcomes for people returning to and supervised in their communities.¹⁹⁶ The Department will pair site-based investments with tailored training and technical assistance designed to help state correctional and supervision agencies deploy data to drive policy change, address racial and ethnic disparities, and create accountability for meeting the needs of the reentry and supervision populations and reduce recidivism. DOJ will also support the implementation and evaluation of community supervision models designed to reduce revocations for technical violations, as part of a new partnership with the University of North Carolina – Charlotte. Through this initiative, three probation and parole agencies will pilot a strategy for transforming organizational culture and operations, with the goal of shifting from a focus on catching violations to an approach centered on facilitating success.¹⁹⁷
- **Launching the Community Supervision Resource Center.** DOJ is additionally standing up a Community Supervision Resource Center (CSRC) to provide information and assistance to state, local, and tribal entities responsible for adult probation, parole, and pretrial supervision.¹⁹⁸ The CSRC will translate knowledge into actionable guidance for the field to strengthen supervision outcomes, with a focus on advancing racial equity and centering the experiences of individuals and communities impacted by the criminal justice system.

vi. Fines and Fees

The Department will prioritize addressing the impact of fines and fees imposed by state, local, and juvenile courts on individuals, in support of the Executive Order's

charge to develop a strategy to facilitate reentry. Unlawful and unjust imposition of fines and fees can create barriers to successful reentry and exacerbate economic and racial disparities in justice system outcomes. Fines are financial penalties that might be imposed as part of a person's sentence, while fees are itemized monetary charges related to specific functions of the justice system and may be unrelated to a conviction or punishment. Individuals accused of or determined guilty of a range of offenses may incur fees for participating in court-mandated activities, such as drug tests or electronic monitoring, and are charged fees for community supervision or room-and-board costs for periods of incarceration.¹⁹⁹

Failure to pay fines and fees can result in serious sanctions, including driver's license suspension, revocation of community supervision, or ineligibility for criminal record clearance.²⁰⁰ Yet state and local courts often impose and enforce these financial obligations without accounting for an individual's ability to pay, creating a substantial and disproportionate burden for low-income individuals.²⁰¹ At the same time, studies have suggested that fines and fees can be ineffective at raising government revenue, as governments must devote significant resources to collecting and enforcing court debts. A study of fines and fees in New Mexico and Texas found that counties spent an average of 41 cents of every dollar recovered on court and jail costs associated with these debts.²⁰² One county lost money on collection of fines and fees, spending \$1.17 for every dollar recouped.²⁰³

In recognition of these challenges, the Department is supporting actions such as:

- **Issuing a Dear Colleague Letter regarding the imposition and enforcement of fines and fees.** DOJ issued a Dear Colleague Letter for state and local courts and juvenile justice agencies regarding the imposition of fines and fees for adults and youth. In many cases, unaffordable fines and fees undermine rehabilitation and successful reentry and increase recidivism for adults and minors. The letter addresses common court-imposed fines and fees practices, and cautions against those practices that may be unlawful, unfairly penalize individuals who are unable to pay or otherwise have a discriminatory effect. DOJ will follow up on this letter by building a best practices guide, highlighting innovative work by states and court leaders in this area.²⁰⁴
- **Filing statements of interest in federal court against unlawful fines and fees.** Consistent with the Department's longstanding commitment to enforcing

application of constitutional protections against unlawful fines and fees, the Department will, in appropriate cases, file statements of interest along the lines of the one filed challenging an unconstitutional enforcement of municipal fines and fees and seizures of vehicles in the town of Brookside, Alabama.²⁰⁵ The complaint alleges that by 2020, half of the town's \$1.2 million revenue was coming entirely from fines, fees, and forfeitures, and that money was being used to fuel the town's revenue. This created an unlawful conflict of interest, since the police, prosecutors, and courts enforcing the fines, fees, and forfeitures were also funded by them. The Department's statement of interest notes the Department's interest "in protecting constitutional rights and enforcing federal laws regarding the imposition and enforcement of unlawful fines and fees," as well as "addressing practices that punish people for their poverty, in violation of their constitutional rights" and "ensuring equal access to justice." The Department concludes that that the Court should allow the Fourteenth Amendment claims against the Town of Brookside to proceed.²⁰⁶

- **Supporting state- and local-level efforts to rethink the use of fines and fees.** Moving forward, the Department will initiate new investments in training and technical assistance for jurisdictions interested in examining and reforming fines and fees policies and practices. DOJ will provide resources to help jurisdictions understand and remedy the disproportionate effects of financial penalties on low-income communities and communities of color, limit punitive sanctions for non-payment that contribute to cycles of poverty and justice system involvement, and identify opportunities to reduce the imposition of unjust fines and fees and refocus government resources on strategies with a greater return on public safety and justice.

vii. Raising Awareness of Reentry Barriers

DOJ will work to build understanding among policymakers and service providers of the barriers and obstacles that individuals must navigate upon returning to the community from incarceration and help problem-solve solutions to those barriers. Through an interactive experience known as a reentry simulation, DOJ will create opportunities for participants to gain invaluable insights into challenges and experiences that individuals encounter post incarceration. During the simulation, each participant assumes the identity of a formerly incarcerated individual and receives details of the participant's

criminal background, and current living and job situation. The simulation is broken into several short segments, intended to represent a one-week period during the first month of post-incarceration life. Participants must navigate the simulation to complete specific weekly tasks, such as obtaining identification, paying rent, or checking in with the probation office. Participants reflect on their successes and failures and engage in guided discussions with facilitators on specific barriers to reentry including housing insecurity, inability to access healthcare, food insecurity, barriers to education and employment, and other collateral consequences stemming from their convictions. The discussions also provide a vital opportunity to hear from individuals who have experienced reentering the community from carceral settings, in an attempt to anchor the simulated experience with lived experiences and perspectives.

DOJ has been involved in coordinating or participating in reentry simulations and will continue to actively engage in this work. For example, ATJ facilitated the reentry simulation with senior-level officials from the federal agencies that comprise the RCC. ATJ will continue to promote opportunities to reduce barriers to reentry, including through reentry simulations, in coordination and engagement with the Executive Office for United States Attorneys (EOUSA), USAOs, and local reentry stakeholders. ATJ, EOUSA, and USAOs will also collaborate on training and technical assistance needs and ways to enhance local solutions to barriers to successful reentry.

viii. Federal Court-Based Reentry Models

Evidenced-based and evidence-informed court programs can be effective approaches to facilitating successful reentry into society, particularly for individuals who have been deemed high risk for recidivating. To improve successful outcomes, the Department will continue to analyze existing research on effective program elements and will develop a coordinated strategy to increase knowledge about these programs. DOJ, with assistance from USAOs, will also examine active federal court programs that focus on reentry, including an assessment of local successes and challenges.

The Department will engage in discussions to identify training and technical assistance needs and strategies for appropriately and effectively engaging district court judges, federal probation offices, federal defenders, and other important stakeholders involved in developing and implementing these types of programs. Further, the Department, in consultation with USAOs, will build out options for training and increase awareness about those opportunities across federal judicial districts.

Conclusion

This report outlines a Department-wide vision for advancing the goals of the Alternatives and Reentry Committee: to safely reduce justice system interactions, support rehabilitation during incarceration, and facilitate reentry into society of people with criminal records. The ongoing initiatives and new commitments featured in this report provide a roadmap for addressing the Committee’s critical mission, with a focus on reducing racial, ethnic, and other disparities within the justice system. In the months and years to come, the Department will operationalize and build upon this strategic plan to ensure that justice systems nationwide embody the principles of equality, dignity, and justice for all.

¹ Exec. Order No. 14074, 87 Fed. Reg. 32945.

² *Id.* at 32957, 32958 (Sec. 15).

³ *Id.* at 32958 (Sec. 15(f)).

⁴ *Id.* at 32945 (Sec. 1).

⁵ See, S. Rebecca Neusteter, et al., *The 911 Call Processing System: A Review of the Literature as it Relates to Policing*, Vera Inst., <https://www.vera.org/downloads/publications/911-call-processing-system-review-of-policing-literature.pdf>.

⁶ See, e.g., Lexipol, *Law Enforcement Response to People in Crisis* (May 2019), <https://www.lexipol.com/resources/blog/nationwide-survey-shows-scope-of-law-enforcement-contact-with-mentally-ill-individuals/>; Allyson Gatens, *Law Enforcement Response to Mental Health Crisis Incidents: A Survey of Illinois Police and Sheriff's Departments*, Illinois Criminal Justice Info. Authority, (Dec. 2018), <https://icjia.illinois.gov/researchhub/articles/law-enforcement-response-to-mental-health-crisis-incidents-a-survey-of-illinois-police-and-sheriff-s-departments>; Ashley Abramson, *Building mental*

health into emergency responses, *Am. Psychol. Ass'n*, (July 2021),
<https://www.apa.org/monitor/2021/07/emergency-responses>.

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- ²⁰² Matthew Menendez, et al., *supra* note 200.
- ²⁰³ *Id.*
- ²⁰⁴ See U.S. Dep’t of Justice, *Dear Colleague Letter* (April 2023), <https://www.justice.gov/opa/press-release/file/1580546/download>.
- ²⁰⁵ Statement of Interest of the United States, *Brittany Coleman, et al., v. the Town of Brookside, Alabama, et al.*, Case No. 2:22-cv-00423-RDP (N.D. Alabama Jul. 26, 2022), ECF 56, <https://www.justice.gov/crt/case-document/file/1522606/download>.
- ²⁰⁶ *Id.*