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## The Intersection of Reducing Recidivism and Spurring Inclusive Economic Recovery

Scott B. Astrada

Israel X. Nery

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# THE INTERSECTION OF REDUCING RECIDIVISM AND SPURRING INCLUSIVE ECONOMIC RECOVERY

SCOTT B. ASTRADA AND ISRAEL X. NERY<sup>1</sup>

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<sup>1</sup> Scott B. Astrada is a legislative and policy executive based in Washington D.C, and is currently an adjunct Professor of Law at Georgetown University Law Center (BA, University of Wisconsin -Madison, JD/MBA, Marquette University, LLM Georgetown University Law Center); Israel X. Nery, B.S. California State University Monterey Bay; MBA Woodbury University; JD University of Illinois College of Law, is an Economic Justice and International Trade Advocate. Formerly, he was Presidential Management Fellow (PMF) with the U.S. Small Business Administration and the Consumer Financial Protection Bureau.

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## I. INTRODUCTION

Over the past decades, public policy professionals, scholars, and social justice activists have focused on a myriad of challenges facing the criminal justice system. Of these challenges, building successful systems and programs for effective reentry in the community by formerly incarcerated individuals have proven to be one of the most challenging. Numerous studies, and a tremendous amount of data, have driven robust conversations on the national and state level to determine the most effective and feasible methods to reduce recidivism. One discernable change of note is that the federal government has been trending away from imposing harsh mandatory sentencing policies, and States have also taken a leadership role in experimenting with new ways to reduce recidivism.<sup>2</sup> Recidivism is already a problem that the U.S. faces in booming economic times, so there is even more at stake during the economic fallout from the pandemic. Recently, the United States (“U.S.”), already has been releasing over 750,000 offenders from prison each year, prior to the onset of the global pandemic.<sup>3</sup> Unfortunately, as discussed below, research has also shown that a large number of ex-offenders will return to prison within three to five years of their release. The U.S. faces historical and systematic challenges compounded by racial disparities, in terms of the successful reentry of formerly incarcerated individuals, and the pandemic has not only intensified the need to develop successful reentry policies, but has exacerbated underlying current inequities, as hundreds of jails and prisons are releasing thousands of incarcerated individuals to quell the spread of COVID-19. The need for solutions to prevent recidivism, especially in the wake of COVID-19, arises at the intersection of slowed economic growth with a shift in commerce and consumer trends towards e-commerce, with a marked decline in employment opportunities in various service sectors. This article will examine the synergy of building successful and equitable programs and policies to reduce recidivism; addressing the pandemic, and the sudden release of thousands of individuals from prisons and jails, and strengthening job recovery in an economic slowdown. We will examine several states who have made robust efforts to reduce recidivism via education and job training to ex-offenders and develop a roadmap of best practices that have proven effective, while developing policy solutions for federal implementation.

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<sup>2</sup> United States Sentencing Commission report, *The First Step Act of 2018: One Year of Implementation* (Aug. 31, 2020), [https://www.ussc.gov/sites/default/files/pdf/research-and-publications/backgrounders/RG\\_first-step.pdf](https://www.ussc.gov/sites/default/files/pdf/research-and-publications/backgrounders/RG_first-step.pdf).

<sup>3</sup> Patw, *Tools for America’s Job Seekers Challenge, Ex-Offenders-Giving Employers a \$2400 Reason to Hire Them*, DOL JOB TOOL CHALLENGE, [http://dolchallenge.ideascale.com/a/dtd/Ex-Offenders-GivingEmployers-a-\\$2400-reason-to-hire-them./20611-5847](http://dolchallenge.ideascale.com/a/dtd/Ex-Offenders-GivingEmployers-a-$2400-reason-to-hire-them./20611-5847) (last visited Jan. 30, 2020).

## II. PRESENTING THE ISSUE OF RECIDIVISM, AND ECONOMIC INCLUSION ISSUES DURING THE COVID-19 PANDEMIC

### a. *Background on Mass Incarceration and “tough on crime” policy*

The U.S. has had the highest incarceration rate in the world since 2002.<sup>4</sup> According to figures released by the United States Department of Justice ( “DOJ”), the U.S. still has an incarceration rate five to 10 times higher than other industrialized countries.<sup>5</sup> In 2017 it was reported that 2.27 million people were incarcerated in the U.S., which was a 500 percent increase over the last 40 years.<sup>6</sup> The explanation of our daunting prison percentage can in large part be attributed to the political and public campaign of Barry Goldwater, who produced provocative and controversial advertisements exploiting the protests, riots, and crimes going on during the civil rights movement.<sup>7</sup> The political campaign built the foundation for the platform of “getting tough on crime.”<sup>8</sup> During Nixon’s Presidential Campaign in 1968, he won on, among other platforms, the concept of “Law and Order,”<sup>9</sup> which was a derivative policy from Goldwater’s campaign. A result of this was an increase in the popularity of mandatory minimum sentencing policies. For example, one of the policies that evolved from such demands that still remains in place today is the “three strikes” law.<sup>10</sup>

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<sup>4</sup> *U.S. Has World’s Highest Incarceration Rate*, POPULATION REFERENCE BUREAU (Aug. 10, 2012), <https://www.prb.org/us-incarceration/>.

<sup>5</sup> *Correctional Populations in the United States, August 2017-2018*, U.S. DEPARTMENT OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, BUREAU OF JUSTICE STATISTICS (Aug. 2020), <https://www.bjs.gov/content/pub/pdf/cpus1718.pdf>; *see also* Prisoners in 2017, Bureau of Justice Statistics (April 2020), [https://www.bjs.gov/content/pub/pdf/p17\\_sum.pdf](https://www.bjs.gov/content/pub/pdf/p17_sum.pdf); *see also* *United States Still Has Highest Incarceration Rate in the World*, EQUAL JUSTICE INITIATIVE (April 2019), <https://eji.org/news/united-states-still-has-highest-incarceration-rate-world/>.

<sup>6</sup> *Correctional Populations in the United States, August 2017-2018*, U.S. DEPARTMENT OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, BUREAU OF JUSTICE STATISTICS (Aug. 2020), <https://www.bjs.gov/content/pub/pdf/cpus1718.pdf>.

<sup>7</sup> Jeremy D. Mayer, *LBJ Fights the White Backlash: The Racial Politics of the 1964 Presidential Campaign*, PROLOGUE MAGAZINE (Spring 2001), <https://www.archives.gov/publications/prologue/2001/spring/lbj-and-white-backlash-1.html>.

<sup>8</sup> CSPAN Video, *Goldwater Acceptance Speech: Get Tough on Crime*, <https://www.c-span.org/video/?c4559695/user-clip-goldwater-acceptance-speech-tough-crime>.

<sup>9</sup> Terence McArdle, *The ‘law and order’ campaign that won Richard Nixon the White House 50 years ago*, WASH. POST (Nov. 5, 2018), <https://www.washingtonpost.com/history/2018/11/05/law-order-campaign-that-won-richard-nixon-white-house-years-ago/>.

<sup>10</sup> Bryan Stevenson, *Slavery gave America a fear of black people and a taste for violent punishment. Both still define our criminal-justice system*, NY TIMES MAG. (Aug. 14, 2019), <https://www.nytimes.com/interactive/2019/08/14/magazine/prison-industrial-complex-slavery-racism.html>.

This policy agenda also manifested in the “War on Drugs” waged by President Reagan and President Bush, and it contributed to a significant boom in the prison population.<sup>11</sup> Beginning in 1985, there was a significant uptick in juvenile drug arrests, primarily of African American<sup>12</sup> juveniles.<sup>13</sup> Most of these arrests derived from the crack epidemic as arrests associated with underground economy activities provided a locus for violence.<sup>14</sup> In the 1990s, President Clinton signed the Violent Crime Control and Law Enforcement Act, which also kept the mass incarceration trend upward, albeit not at the same rates as in the 1980s.<sup>15</sup> The effects of such high rates of incarceration can be attributed to social problems which include racial inequities, disruption of family life,<sup>16</sup> and the main topic of this law review article—recidivism.

The technical definition of Recidivism refers to the act of repeating undesirable and harmful behavior despite having suffered negative consequences, for example, prison time, for such behavior.<sup>17</sup> The National Institute of Justice (NIJ), which falls under the DOJ, provides us with historical data related to recidivism.<sup>18</sup> In this context, recidivism refers to the ex-offenders’ relapse into criminal behavior after the ex-offender has been released for serving their sanction or sentence from the previous crime.<sup>19</sup> Although there remains much debate about the effectiveness of incarceration in deterring future crime, this consideration is beyond the scope of this article, and instead, we will focus on the prevention of recidivism after release.<sup>20</sup> According to the data from the U.S. Bureau of Justice Statistics (BJS), 67.8 percent of released prisoners were arrested for a

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<sup>11</sup> *A Brief History of Civil Rights in the United States*, GEORGETOWN UNIVERSITY LAW CENTER LIBRARY, <https://guides.ll.georgetown.edu/c.php?g=592919&p=4172706> (last visited Jan. 31, 2020).

<sup>12</sup> For the purposes of this law review article, the terms Black and African American will be used interchangeably

<sup>13</sup> Alfred Blumstein, *Youth Violence, Guns, and the Illicit-Drug Industry*, 86 J. CRIM LAW & CRIMINOLOGY 1, 10–36 (1995).

<sup>14</sup> *Editorial: The 1980s crack epidemic was a fork in the road. America chose racism and prisons over public health*, LOS ANGELES TIMES (June 10, 2020), <https://www.latimes.com/opinion/story/2020-06-10/crack-policing-response-instead-of-health-care>.

<sup>15</sup> Doug Stanglin, *Fact check: 1994 crime bill did not bring mass incarceration of Black Americans*, USA TODAY (Jul 3 2020), <https://www.usatoday.com/story/news/factcheck/2020/07/03/fact-check-1994-crime-bill-didnt-bring-mass-incarceration-black-people/3250210001/>.

<sup>16</sup> Kara Gotsch, *Families and Mass Incarceration*, THE SENTENCING PROJECT (April 24, 2018), <https://www.sentencingproject.org/publications/6148/>.

<sup>17</sup> *Recidivism*, NATIONAL INSTITUTE OF JUSTICE, <https://nij.ojp.gov/topics/corrections/recidivism> (last visited Jan. 31, 2021).

<sup>18</sup> *Id.*

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

<sup>20</sup> DANIEL P. MEARS & JOSHUA C. COCHRAN, PRISONER REENTRY IN THE ERA OF MASS INCARCERATION *passim* (2015).

new crime within three years of being released.<sup>21</sup> Moreover, 76.7 percent of ex-offenders were arrested within five years of being released.<sup>22</sup> The U.S. Sentencing Commission estimated in 2016 that nearly 50 percent of released Federal prisoners would be re-arrested within eight years.<sup>23</sup> Moreover, 32 percent and 25 percent of those will be re-convicted and re-incarcerated.<sup>24</sup> The report stated that the majority of these cases of recidivism would occur in the first 5 years following release.<sup>25</sup> The importance of reducing recidivism impacts a wide berth of stakeholder and public interest and racial equity matters. A reduction in recidivism improves public safety, helps ex-offenders resume family and community responsibilities, and reduces taxpayer expenses on prisons.<sup>26</sup>

*b. Difficulties of Economic Inclusion for Ex-Offenders*

Studies indicate that there is a correlation between employment and recidivism.<sup>27</sup> Ex-offenders who are able to obtain employment within the first six months of their release from jail experience an almost 50 percent *decrease* in recidivism, compared to their counterparts that are not able to obtain employment upon their release.<sup>28</sup> However, research has also shown that individuals with convictions who are released from prison have difficulty finding jobs and reintegrating into their communities.<sup>29</sup> Employment opportunities for ex-offenders are low give the discrimination that takes place when someone discloses their criminal past.<sup>30</sup> Moreover, most

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<sup>21</sup> *Recidivism of Prisoners Released In 30 States In 2005: Patterns From 2005 To 2010 – Update*, BUREAU OF JUSTICE STATISTICS, <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=4986> (last visited Jan. 31, 2021).

<sup>22</sup> *Id.*

<sup>23</sup> *Recidivism Among Federal Offenders: A Comprehensive Overview*, UNITED STATES SENTENCING COMMISSION (Mar. 2016), [https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2016/recidivism\\_overview.pdf](https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2016/recidivism_overview.pdf).

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> Vincent Caruso, *Report: Recidivism to cost Illinois more than \$13B over next 5 years*, ILL. POL’Y (Aug. 3, 2018), <https://www.illinoispolicy.org/report-recidivism-to-cost-illinois-more-than-13b-over-next-5-years/>.

<sup>27</sup> See Anke Ramakers, et al., *Not Just Any Job Will Do: A Study on Employment Characteristics and Recidivism Risks After Release*, INTERNATIONAL JOURNAL OF OFFENDER THERAPY AND COMPARATIVE CRIMINOLOGY (July 2016), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5669259/#:~:text=Both percent20studies percent20found percent20significantly percent20lower percent20recidivism percent20risks percent20among percent20those percent20who percent20were percent20employed.&text=The percent20only percent20significant percent20change percent20was,ex percent20Dprisoners percent20report percent20property percent20crimes>.

<sup>28</sup> P.J. Cook, et al., *An experimental evaluation of a comprehensive employment-oriented prisoner re-entry program*, J QUANT CRIMINOL, 355-382 (2015), <https://psycnet.apa.org/doi/10.1007/s10940-014-9242-5>.

<sup>29</sup> *Id.*

<sup>30</sup> Les Lovoy, *Life After Prison: Ex-Felons Often Struggle to Find a Job*, WBRM (June 25, 2014), <https://wbhm.org/feature/2014/life-after-prison-ex-felons-often-struggle-to-find-a-job/>.

ex-offenders lack education and have limited work experience.<sup>31</sup> Thus, ex-offenders having very low skill levels combined with the hesitation, if not overt discrimination, by employers in hiring ex-offenders, present one of the central challenges to reducing recidivism.<sup>32</sup> The Pew Center has identified the lack of employment opportunities for ex-offenders as one of the leading causes of recidivism.<sup>33</sup>

These challenges have spurred many initiatives on the state and federal level. For example, President Bush signed the Second Chance Act to provide funding for prisoner reentry programs.<sup>34</sup> During his State of the Union address in 2004 leading up to the signature of the law he stated “America is the land of the second chance and when the gates of the prison open, the path ahead should lead to a better life.”<sup>35</sup> Unfortunately, despite such encouraging rhetoric and legislation, recidivism remains a significant and enduring obstacle.<sup>36</sup> Ex-offenders face high barriers in reincorporating themselves back into society once they have fulfilled their sentence.<sup>37</sup> These persistent barriers include obtaining jobs that pay livable wages (if employment can be secured at all), which would allow them to obtain the financial means and skills to thrive on their own and build a better future.<sup>38</sup> The National Employment Law Project estimates that around 70 million individuals have an arrest history that may show up on a background check whether or not they were convicted.<sup>39</sup> Exacerbating the problem, offenders with the most challenges are

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<sup>31</sup> Stephen Cunningham, *Targeting recidivism of ex-offenders through the use of employment*, THE NEW ZEALAND CORRECTIONS JOURNAL (July 2017), [https://www.corrections.govt.nz/resources/newsletters\\_and\\_brochures/journal/volume\\_5\\_issue\\_1\\_july\\_2017/targeting\\_recidivism\\_of\\_ex-offenders\\_through\\_the\\_use\\_of\\_employment](https://www.corrections.govt.nz/resources/newsletters_and_brochures/journal/volume_5_issue_1_july_2017/targeting_recidivism_of_ex-offenders_through_the_use_of_employment).

<sup>32</sup> Ora Starks, *Employer Attitudes and Beliefs About Hiring Post Incarcerated Offenders in Mississippi*, WALDEN DISSERTATIONS AND DOCTORAL STUDIES (2018), <https://scholarworks.waldenu.edu/cgi/viewcontent.cgi?article=6809&context=dissertations>.

<sup>33</sup> Adam Gelb & Tracy Velázquez, *The Changing State of Recidivism: Fewer People Going Back to Prison*, PEW (Aug. 1, 2018), <https://www.pewtrusts.org/en/research-and-analysis/articles/2018/08/01/the-changing-state-of-recidivism-fewer-people-going-back-to-prison>

<sup>34</sup> *Fact Sheet: President Bush Signs Second Chance Act of 2007*, THE WHITE HOUSE (archived), <https://georgewbush-whitehouse.archives.gov/news/releases/2008/04/20080409-15.html> (last visited Jan. 31, 2021).

<sup>35</sup> Les Lovoy, *Life After Prison: Ex-Felons Often Struggle to Find a Job*, WBRM (June 25, 2014), <https://wbhm.org/feature/2014/life-after-prison-ex-felons-often-struggle-to-find-a-job/>.

<sup>36</sup> Dr. Gary L. Deel, *Rethinking the Purpose of the Criminal Justice System: Reducing Recidivism*, AMERICAN MILITARY UNIVERSITY EDGE (July 2, 2020), <https://inpublicsafety.com/2020/07/rethinking-the-purpose-of-the-criminal-justice-system-reducing-recidivism/>.

<sup>37</sup> Cunningham, *supra* note 31.

<sup>38</sup> *George W. Bush White House Internet Archives*, THE WHITE HOUSE (archived), [https://georgewbush-whitehouse.archives.gov/government/fbc/pdf/prisoner\\_reentry\\_factsheet.pdf](https://georgewbush-whitehouse.archives.gov/government/fbc/pdf/prisoner_reentry_factsheet.pdf) (last visited Jan. 31, 2021).

<sup>39</sup> *Ensuring People with Convictions Have a Fair Chance to Work*, NATIONAL EMPLOYMENT LAW PROJECT, <https://www.nelp.org/campaign/ensuring-fair-chance-to-work/> (last visited Jan. 31, 2021).

disproportionately African American or Hispanic, with little to no education, and impoverished.<sup>40</sup> Additionally, research has shown that another major obstacle for individuals trying to reintegrate into society is the lack of access to sustainable housing that gainful employment would provide.<sup>41</sup> There is significant research that shows that these two factors, reliable housing and regular employment, significantly reduce the possibility of recidivism.<sup>42</sup> Barriers to housing and employment are persistent and common for many ex-offenders as they face discrimination from employers, navigate a job market with a lack of relevant work experience, and suffer from housing insecurity.<sup>43</sup> Furthermore, these barriers are especially problematic for communities of color.<sup>44</sup> Ultimately, for the most previously incarcerated individuals, the lack of access to stable and reliable employment are the regnant barriers to successful reintegration into the community.<sup>45</sup> Ex-offenders of color also face additional difficulties by experiencing increased rates of recidivism when released into communities more likely to be plagued by racial inequality and economic stagnation.<sup>46</sup>

Prior to the onset of COVID, in the midst of record-low unemployment rates, an astonishing 27 percent of formerly incarcerated individuals were without employment.<sup>47</sup> That is higher than the national unemployment rate at the height of the Great Depression in 1933, which

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<sup>40</sup> *Criminal Justice Fact Sheet*, NAACP, <https://www.naacp.org/criminal-justice-fact-sheet/> (last visited Jan. 31, 2021).

<sup>41</sup> PEW CTR. ON THE STATES, *STATE OF RECIDIVISM: THE REVOLVING DOOR OF AMERICA'S PRISONS* 9, 12 (2011), [https://www.pewtrusts.org/~media/legacy/uploadedfiles/wwwpewtrustsorg/reports/sentencing\\_and\\_corrections/StateRecidivismRevolvingDoorAmericaPrisons20pdf.pdf](https://www.pewtrusts.org/~media/legacy/uploadedfiles/wwwpewtrustsorg/reports/sentencing_and_corrections/StateRecidivismRevolvingDoorAmericaPrisons20pdf.pdf); Peggy Bailey, *Helping Ex-Offenders Get Housing and Health Care*, CTR. ON BUDGET & POL'Y PRIORITIES (May 19, 2016), <https://www.cbpp.org/blog/helping-ex-offenders-get-housing-and-health-care>.

<sup>42</sup> For full discussion see Israel X. Nery & Scott B. Astrada, *Taxation and Reducing Recidivism: A Legal Comparative Analysis of Reducing Recidivism in States and a Federal Solution for the Future*, 22 U.D.C. L. Rev. 53, 54 (2020).

<sup>43</sup> *Id.*

<sup>44</sup> Angela Hanks, *Ban the Box and Beyond*, CTR. FOR AM. PROGRESS (July 27, 2017), <https://www.americanprogress.org/issues/economy/reports/2017/07/27/436756/ban-box-beyond/>; see also Jeremy Travis et al., *From Prison to Home: The Dimensions and Consequences of Prisoner Reentry*, URB. INST. JUST. POL'Y CTR. 1, 12 (2001), <https://www.urban.org/sites/default/files/publication/61571/410098-From-Prison-to-Home-The-Dimensions-and-Consequences-of-Prisoner-Reentry.PDF>; Christopher Uggen & Jeremy Staff, *Work as a Turning Point for Criminal Offenders*, 5 CORRECTION MGMT Q. 1, 1-2 (2001).

<sup>45</sup> Kelley B. McNichols, *Reentry Initiatives: A Study of the Federal Workforce Development Program*, 76 FED. PROB. 37, 42 (2012).

<sup>46</sup> Michael D. Reisig et al., *The Effect of Racial Inequality on Black Male Recidivism*, 24:3 JUST. Q. 408, 411 (2007).

<sup>47</sup> Lucius Couloute and Daniel Kopf, *Out of Prison & Out of Work: Unemployment among formerly incarcerated people*, PRISON POL'Y INITIATIVE (July 2018), <https://www.prisonpolicy.org/reports/outofwork.html>.



was about 25 percent.<sup>48</sup> The country's unemployment rate resulted in employers across numerous industries struggling to find qualified and skilled workers in a tightening labor pool.<sup>49</sup> There are numerous theories as to the disconnect between ex-offenders needing employment and employers are looking for employees, such as an overwhelming education gap.<sup>50</sup> Research has also shown, collectively, the United States loses approximately \$78 billion to \$87 billion in annual GDP due to the unemployment or underemployment of people with criminal records.<sup>51</sup> Over the next decade, the skills gap is expected to grow at a very fast rate, with approximately 5 million new job openings that will require specific credentials, many times including bachelor's degrees.<sup>52</sup> One of the major research and policy initiatives to address this was spearheaded by the Council of State Governments (CSG) Justice Center, working in partnership with the U.S. Department of Justice's Bureau of Justice Assistance, the U.S. Department of Labor, the Annie E. Casey Foundation, and stakeholders. They developed the *Integrated Reentry and Employment Strategies (IRES)* white paper. This was a research based framework of evidence-based practices and policies to assist communities reform and improve the manner in which they implement employment focuses reentry services.<sup>53</sup> The three-year IRES pilot project began in 2015 in two sites: Milwaukee County, Wisconsin, and Palm Beach County, Florida. We will be taking a closer look at multiple states in our comparative analysis section.

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<sup>48</sup> Kimberly Amadeo, *Unemployment Rate by Year Since 1929 Compared to Inflation and GDP*, THE BALANCE (Sept. 17, 2020), <https://www.thebalance.com/unemployment-rate-by-year-3305506>.

<sup>49</sup> *Id.*

<sup>50</sup> Leah Bacon, et al., *Laying the Groundwork: How States Can Improve Access to Continued Education for People in the Criminal Justice System*, THE COUNCIL OF STATE GOV'TS JUST. CTR (Feb. 2020), [https://csgjusticecenter.org/wp-content/uploads/2020/02/Laying-the-Groundwork\\_Feb2020.pdf](https://csgjusticecenter.org/wp-content/uploads/2020/02/Laying-the-Groundwork_Feb2020.pdf); see also John Wetzel and Cam Ward, *Employers are looking for workers and people with criminal records are looking for jobs. So where's the disconnect?*, THE COUNCIL OF STATE GOV'TS JUST. CTR (Feb. 28, 2020), <https://csgjusticecenter.org/as-jobs-market-is-struggles-formerly-incarcerated-are-prevented-from-helping/>; Lois M. Davis et al., *Evaluating the Effectiveness of Correctional Education: A Meta-Analysis of Programs That Provide Education to Incarcerated Adults*, RAND CORP. (2013), [https://www.rand.org/pubs/research\\_reports/RR266.html](https://www.rand.org/pubs/research_reports/RR266.html).

<sup>51</sup> Cherrie Bucknor and Alan Barber, *The Price We Pay: Economic Costs of Barriers to Employment for Former Prisoners and People Convicted of Felonies*, CTR FOR ECON. AND POL'Y RSCH (June 2016), <https://cepr.net/images/stories/reports/employment-prisoners-felonies-2016-06.pdf>.

<sup>51</sup> Patrick Oakford et al., *Investing in Futures: Economic and Fiscal Benefits of Postsecondary Education in Prison*, VERA INST. OF JUST. (Jan. 2019), <https://www.vera.org/downloads/publications/investing-in-futures.pdf>.

<sup>52</sup> *Id.*

<sup>53</sup> *Three Years, Two Counties, One Goal: Creating Systemwide Change to Promote Recidivism-Reduction & Employment Readiness*, THE COUNCIL OF STATE GOV'TS JUST. CTR (Nov. 2019), <https://csgjusticecenter.org/wp-content/uploads/2020/02/brief-three-years-two-counties-one-goal.pdf>. See generally *Reentry and Employment*, THE NAT'L REENTRY RES. CTR, <https://nationalreentryresourcecenter.org/reentry-and-employment/> (last visited Nov. 1, 2020).

*c. The Impact of COVID-19*

Americans are struggling to meet the challenges that COVID-19 has caused such as job loss, reduction of hours, furloughs, and wage cuts. The economic repercussions are enormous and extend to housing instability, food insecurity, and rising health care costs. Low and Moderate Income (LMI) consumers are particularly vulnerable, as are communities of color, as they are overrepresented in front line professions and work in the hardest hit industries.<sup>54</sup> As Federal unemployment benefits are set to run out millions of Americans are once again facing the prospect of an economic shock. The day-to-day financial lives of working-class Americans were already precarious before COVID-19's effects were felt. 2019 Federal Reserve research has shown that 40 percent of Americans cannot afford \$400 in case of an emergency.<sup>55</sup> This is especially problematic because the partial shutdown of the US economy in response to COVID-19 had the most devastating impact on vulnerable Americans, who experience lower wages, little savings, and reduced work opportunities.<sup>56</sup> In the labor market, about 50 percent of the 22 million jobs lost during the first quarter of 2020, and into April 2020, have been regained as states opened up and people returned to work.<sup>57</sup> However, overall economic activity still remains below pre-pandemic levels, and the economy still faces many potential headwinds.<sup>58</sup> As the Chairman of the Federal Reserve, Jerome Powell, stated in his testimony before the House Financial Services Committee: "The downturn has not fallen equally on all Americans; those least able to bear the burden have been the most affected. The rise in joblessness has been especially severe for lower-wage workers, for women, and for African-Americans and Hispanics. This reversal of economic fortune has upended many lives and created great uncertainty about the future."<sup>59</sup>

*d. The Case for a Broad and Inclusive Government Response*

As COVID-19 started to spread across the world, and then the United States, at the beginning of 2020, the U.S. economy had recovered to the extent that the total of job losses in the Great Recession had been reversed, and unemployment was at record lows along with wide scale

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<sup>54</sup> See *Coronavirus Aid, Relief, and Economic Security Act, Hearing before Committee on Financial Services, U.S. House of Representatives*, 116th Cong. (2020) (statement of Jerome H. Powell, Chair Board of Governors of the Federal Reserve System).

<sup>55</sup> Jeanna Smialek, *Many Adults Would Struggle to Find \$400, the Fed Finds*, N.Y. TIMES (May 23, 2019), <https://www.nytimes.com/2019/05/23/business/economy/fed-400-dollar-survey.html>.

<sup>56</sup> See Likhitha Butchireddygar and Anna Wiederkehr, *The Young Americans Most Vulnerable To COVID-19 Are People Of Color And The Working Class*, FIVETHIRTYEIGHT (Apr. 9, 2020), <https://fivethirtyeight.com/features/the-young-americans-most-vulnerable-to-covid-19-are-people-of-color-and-the-working-class/>; Richard V. Reeves and Jonathan Rothwell, *Class and COVID: How the less affluent face double risks*, BROOKINGS (Mar. 27, 2020), <https://www.brookings.edu/blog/up-front/2020/03/27/class-and-covid-how-the-less-affluent-face-double-risks/>.

<sup>57</sup> Powell, *supra* note 54.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

access to benefits.<sup>60</sup> In fact, many workers were confident that if they lost their jobs, Unemployment Insurance and social safety net programs were able to mitigate the disruption to their day-to-day lives before they sought subsequent employment.<sup>61</sup> The impact of COVID has been detrimental to this recovery, but even more so on those communities that have not shared in the broader economic recovery over the last 10 years. The patchwork of safety net and economic policy programs supporting large portions of African American and Latinx communities is, as it has historically been, far more unstable and unreliable.<sup>62</sup> The aftermath of the Great Society era produced core supports, including housing assistance, job training, Medicaid, and the Food Stamp program (SNAP's predecessor), but so-called "alien restrictions" were added which effectively excluded not just undocumented immigrants, but often their lawfully-present spouses and children—who were predominantly Latinx\*—from vital economic, health, and nutritional supports.<sup>63</sup> The cumulative result of dozens of such policy decisions over the last century—only some of which were explicitly discriminatory based on race or ethnicity—has shaped a fundamentally unequal society, where Hispanic and African Americans at the onset of the pandemic were simultaneously more susceptible to the coronavirus and resulting economic dislocations, but had a far less comprehensive safety net to fall back upon.<sup>64</sup>

Similar to the impact that COVID has had upon Latino populations, there is research shows that African American workers face far more economic and health insecurity from COVID-19 than white workers, based on economic vulnerabilities resulting from a history of racism and discrimination.<sup>65</sup> Despite the literal unprecedented nature of COVID on the World's health and economies, the exacerbation of historic and ongoing social and economic injustices, has disproportionality harmed African Americans. According to research by the Economic Policy Institute:

Persistent racial disparities in health status, access to health care, wealth, employment, wages, housing, income, and poverty all contribute to greater susceptibility to the virus—both economically and physically. Black workers and their families were economically insecure before the pandemic tore through the United States. The pandemic and related job losses have been especially devastating for black households because they have historically suffered from higher unemployment rates, lower wages, lower incomes, and much less savings to fall back on, as well as significantly higher poverty

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<sup>60</sup> *The Latino Community in the Time of Coronavirus: The Case for a Broad and Inclusive Government Response*, UNIDOSUS (Jul. 9, 2020), <http://publications.unidosus.org/handle/123456789/2066>.

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> Elise Gould and Valerie Wilson, *Black workers face two of the most lethal preexisting conditions for coronavirus—racism and economic inequality*, ECON. POL'Y INST. (June 1, 2020), <https://www.epi.org/publication/black-workers-covid/>.

rates than their white counterparts. This prior insecurity has magnified the current economic damage to these workers and their families.<sup>66</sup>

The essential link between the health vulnerabilities and harmful economic policies cannot be understated in understanding the devastating impact of COVID has had upon African Americans.<sup>67</sup>

*e. Reentry, Employment, and COVID*

State and local jails and prisons have instituted initiatives to address the growing danger of the pandemic. Many states have reduced the size of the incarcerated population in a variety of programs with differing criteria. These initiatives were in large part due to the conditions that incarcerated populations face, along with the correctional staff, which pose a heightened danger for COVID transmission. Below is a non-exhaustive list of such measures:<sup>68</sup>

*California.* In April of 2020 California set a statewide emergency bail schedule to reduce bail to \$0 for many misdemeanor and limited low-level felony offenses.<sup>69</sup> As a result the jail population has markedly decreased, and by the end of May 2020, jail populations in Los Angeles County and Sacramento County declined by almost a third.<sup>70</sup> In Orange County, the jail population dropped by almost 45 percent during in the same period,<sup>71</sup> while San Diego, San Mateo, and Stanislaus counties also released hundreds of people held pretrial.<sup>72</sup> And although the

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<sup>66</sup> *Id.*

<sup>67</sup> Stacey Vanek Smith and Greg Rosalsky, *Black Americans Bear The Brunt Of The COVID-19 Pandemic's Economic Impact*, NPR (June 3, 2020), <https://www.npr.org/2020/06/03/868469779/black-americans-bear-the-brunt-of-the-covid-19-pandemics-economic-impact>.

<sup>68</sup> *From Responses to the COVID-19 pandemic*, THE PRISON POL'Y INITIATIVE, <https://www.prisonpolicy.org/virus/virusresponse.html> (last visited Jan. 29, 2021).

<sup>69</sup> Darrell Smith, *Judicial Council of California approves \$0 bail for low-level suspects*, THE SACRAMENTO BEE (April 8, 2020), <https://www.sacbee.com/news/coronavirus/article241817606.html>.

<sup>70</sup> Charlotte Scott, *LA County Jail Population Reduced by 5,000 Since Outbreak*, SPECTRUM NEWS 1 (April 30, 2020), <https://spectrumnews1.com/ca/la-west/inside-the-issues/2020/04/30/l-a--county-jail-population-reduced-by-5-000-since-beginning-of-coronavirus-outbreak>; Jason Pohl, *California jail population plummets during pandemic. Could this lead to long-term change?*, SAN LUIS OBISPO TRIBUNE (May 27, 2020), <https://www.sanluisobispo.com/news/california/article242900061.html#storylink=cpy>.

<sup>71</sup> Scott, *supra* note 70.

<sup>72</sup> Greg Moran, *Hundreds released from jail under new bail rules, but prosecutors object to release of nearly 200 more*, THE SAN DIEGO UNION TRIBUNE (April 15, 2020), <https://www.sandiegouniontribune.com/news/courts/story/2020-04-15/court-and-jail-releases-draft>; Kate Bradshaw, *Hundreds of inmates have been released from San Mateo county jails in recent weeks*, THE ALMANAC (April 16, 2020), <https://almanacnews.com/news/2020/04/16/hundreds-of-inmates-have-been-released-from-san-mateo-county-jails-in-recent-weeks>; Erin Tracy, *COVID-19 concerns will result in release of up to 300 Stanislaus County Jail inmates*, THE MODESTO BEE (April 12, 2020), <https://www.modbee.com/news/coronavirus/article241929456.html>.

California judicial council voted to end this statewide emergency bail schedule in June, 31 counties (collectively housing about 80 percent of California residents) have elected to keep the emergency bail schedule in place until July 2020.<sup>73</sup> The Los Angeles County Sheriff's Department has reduced their jail population by 10 percent in the past month to mitigate the risk of virus transmission in crowded jails. To reduce the jail population by 1,700 people, the Sheriff reports releasing people with less than 30 days left on their sentences and the Department is considering releasing pregnant women and older adults at high risk. (March 24)<sup>74</sup> District attorneys in San Francisco, California have taken steps to release people held pretrial, with limited time left on their sentence, and charged with non-violent offenses. (March 11 and March 16).<sup>75</sup>

*Michigan.* Similar initiatives occurred in Detroit, Michigan when Sentencing judges ordered the release of hundreds of people from Wayne County Jail and 150 people from the Oakland County jail,<sup>76</sup> and the chief judge of the county circuit court signed at least 200 orders for administrative releases since early March.<sup>77</sup>

*North Dakota.* In North Dakota, officials have instituted policies to drastically decrease the jail population, with the Cass County jail population declining by over 30 percent since March, and the Stutsman County Jail population cut by about half.<sup>78</sup>

*Massachusetts.* In April of 2020 the Massachusetts Supreme Judicial Court authorized the release of people held in jails pretrial for “nonviolent” offenses and those held on technical probation and parole violations. Both the Plymouth County and Norfolk County jails have

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<sup>73</sup> Merrill Balassone, *California Counties Keeping COVID-19 Emergency Bail Schedules*, CALIFORNIA COURTS NEWSROOM (July 10, 2020), <https://newsroom.courts.ca.gov/news/california-counties-keeping-covid-19-emergency-bail-schedules>.

<sup>74</sup> Justin Carissimo, *1,700 inmates released from Los Angeles County in response to coronavirus outbreak*, CBS NEWS (Mar. 24, 2020), <https://www.cbsnews.com/news/inmates-released-los-angeles-county-coronavirus-response-2020-03-24/>; Maura Dolan et al., *California releases more jail inmates amid coronavirus crisis*, LA TIMES (Mar. 20, 2020), <https://www.latimes.com/california/story/2020-03-20/california-releases-more-jail-inmates-amid-coronavirus-crisis>.

<sup>75</sup> Darwin Bondgrahm, *San Francisco Officials Push to Reduce Jail Population to Prevent Coronavirus Outbreak*, THE APPEAL (Mar. 11, 2020), <https://theappeal.org/coronavirus-san-francisco-reduce-jail-population/>.

<sup>76</sup> Amber Ainsworth, *Hundreds of inmates released from Metro Detroit county jails amid coronavirus (COVID-19) outbreak*, CLICK-ON DETROIT (April 1, 2020), <https://www.clickondetroit.com/news/local/2020/04/02/hundreds-of-inmates-released-from-metro-detroit-county-jails-amid-coronavirus-covid-19-outbreak/>.

<sup>77</sup> James David Dickson, *Wayne County's challenge: 'Institutionalize' jail reforms forced by COVID crisis*, THE DETROIT NEWS (June 2, 2020), <https://www.detroitnews.com/story/news/local/wayne-county/2020/06/02/wayne-county-challenge-institutionalize-jail-reforms-forced-covid-crisis/5281688002/>.

<sup>78</sup> April Baumgarten, *As North Dakota slashes its prison population amid pandemic, other states lag behind*, INFORUM (May 26, 2020), <https://www.inforum.com/news/crime-and-courts/6503997-As-North-Dakota-slashes-its-prison-population-amid-pandemic-other-states-lag-behind>.

decreased their populations by about 20 percent.<sup>79</sup> Additionally, the Bristol County jail population has declined by 11 percent since April 5<sup>th</sup>, 2020.<sup>80</sup>

*Colorado.* In Colorado Springs, the El Paso County Jail population has declined by about 30 percent from February 2020 to May 2020.<sup>81</sup> From March 1st to April 15th, the average daily number of people in jail in Denver, Colorado, dropped by about 41 percent following the release of people over 60 years old, those who are pregnant or have health conditions, people with low bond amounts, and those with less than 60 days remaining on their sentences. (April 21)<sup>82</sup> Additionally, more than 100 people have been released from Boulder County Jail in Colorado following efforts from the district attorney's office to reduce the jail population based on preexisting medical conditions and utilizing personal recognizance bonds. (April 4)<sup>83</sup> District attorneys in Boulder, Colorado have taken steps to release people held pretrial, with limited time left on their sentence, and charged with non-violent offenses. (March 11 and March 16).<sup>84</sup>

*Florida.* In Miami-Dade County, the jail population has dropped from about 4,000 people pre-pandemic to about 3,200 people.<sup>85</sup> The Duval County, Florida jail population has dropped by about 16 percent over a one month period, after the jail released people who were nearing the end of their misdemeanor sentences.<sup>86</sup> Approximately 300 people have been released from Orange

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<sup>79</sup> Scott Souza, *Plymouth County Jail Population Down 20 Percent Since Court Order*, YAHOO NEWS (May 20, 2020), <https://news.yahoo.com/plymouth-county-jail-population-down-222304678.html>; Jimmy Bentley, *Norfolk County Jail Population Down 27 Percent Since Court Order*, PATCH.COM (May 20, 2020), <https://patch.com/massachusetts/foxborough/norfolk-county-jail-population-down-27-percent-court-order>.

<sup>80</sup> Scott Souza, *Bristol County Jail Population Down 11 Percent Since Ruling*, YAHOO NEWS (May 20, 2020), <https://news.yahoo.com/bristol-county-jail-population-down-224419817.html>.

<sup>81</sup> Daliah Singer, *In Colorado Prisons and Jails, a Piecemeal Approach to the Threat of Coronavirus*, THE COLO. TRUST (Mar. 30, 2020), <https://www.coloradotrust.org/content/story/colorado-prisons-and-jails-piecemeal-approach-threat-coronavirus>.

<sup>82</sup> David Sachs, *Denver's jail population is drastically shrinking, but that alone can't stop deputies and inmates from getting coronavirus*, DENVERITE (April 20, 2020), <https://denverite.com/2020/04/20/denvers-jail-population-is-dramatically-shrinking-but-inmates-and-deputies-are-far-from-immune-to-coronavirus/>.

<sup>83</sup> Daliah Singer, *In Colorado prisons and jails, a piecemeal approach to the threat of corona virus*, COLORADO SUN (April 4, 2020), <https://coloradosun.com/2020/04/04/colorado-prisons-jails-coronavirus-covid-criminal-justice/>.

<sup>84</sup> Elise Schmelzer, *Denver, Boulder law enforcement arresting fewer people to avoid introducing coronavirus to jails*, THE DENVER POST (May 7, 2020), <https://www.denverpost.com/2020/03/16/colorado-coronavirus-jails-arrests/>.

<sup>85</sup> David Ovalle & Douglas Hanks, *Nearly 500 Miami jail inmates, a staggering 41 percent tested, have caught the coronavirus*, MIAMI HERALD (May 19, 2020), <https://www.miamiherald.com/news/local/crime/article242842156.html>.

<sup>86</sup> Zachery Lashway, *Duval County Jail population down nearly 16 percent; no reported cases of COVID-19, Sheriff says*, NEWS4 JACKSONVILLE (April 28, 2020), <https://www.news4jax.com/news/local/2020/04/28/jso-duval-county-jail-population-down-nearly-16-no-reported-cases-of-covid-19/>.

County Jail in Florida in response to the pandemic. Those released were held pretrial.<sup>87</sup> In Hillsborough County, Florida, over 160 people were released following authorization via administrative order for people accused of ordinance violations, misdemeanors, traffic offenses, and third-degree felonies. (March 19)<sup>88</sup>

*Ohio.* In March 2020, Ohio courts in Cuyahoga County and Hamilton County began to issue court orders and conduct special hearings to increase the number of people released from local jails.<sup>89</sup> Since then, the Cuyahoga County jail has released about 900 people, reducing its population by more than 30 percent.<sup>90</sup> As of April 14th, the Franklin County Jail population in Ohio has decreased by more than 30 percent over the course of 30 days, in part, by releasing people held pretrial for “non-violent misdemeanors,” people over the age of 60, and people held for technical violations of probation and parole. (April 17)<sup>91</sup>

*Virginia.* In Virginia Northwestern Regional Adult Detention Center in Virginia reduced the jail population by about 20 percent from the daily average of the past 5 years.<sup>92</sup>

*Maryland.* In Charles County, Maryland, people have been released from jail following recent bail hearings and people serving short weekend sentences, and the jail is now reportedly “at less than 30 percent capacity.”<sup>93</sup>

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<sup>87</sup> Robert Guaderrama, *Hundreds of inmates released from Orange County Jail amid COVID-19*, FOX NEWS (April 23, 2020), <https://www.fox35orlando.com/news/hundreds-of-inmates-released-from-orange-county-jail-amid-covid-19>.

<sup>88</sup> Robert Guaderrama, *164 'low level, nonviolent' offenders being released from Hillsborough County jails*, ABC NEWS (Mar. 19, 2020), <https://www.abcactionnews.com/news/region-hillsborough/164-low-level-nonviolent-offenders-being-released-from-hillsborough-county-jails>.

<sup>89</sup> Kevin Freeman, *Cuyahoga County jail releasing some inmates early to help minimize potential coronavirus outbreak*, FOX NEWS (Mar. 14, 2020), <https://fox8.com/news/coronavirus/cuyahoga-county-jail-releasing-some-inmates-early-to-help-minimize-potential-coronavirus-outbreak/>; Kevin Grasha, *Order to authorize Hamilton County sheriff to release low-risk, nonviolent jail inmates*, CINCINNATI.COM (Mar. 16, 2020), <https://www.cincinnati.com/story/news/crime/crime-and-courts/2020/03/16/coronavirus-hamilton-county-sheriff-release-low-risk-inmates/5062700002/>.

<sup>90</sup> Daniel McGraw, *Emptier jails could stay that way*, VALLEY JOURNAL (May 13, 2020), <http://www.valleyjournal.net/Article/23213/Emptier-jails-could-stay-that-way>.

<sup>91</sup> Andy Downing, *Confronting the coronavirus threat in Ohio's correctional system*, COLUMBUS ALIVE (April 17, 2020), <https://www.columbusalive.com/news/20200417/confronting-coronavirus-threat-in-ohios-correctional-system>.

<sup>92</sup> Evan Goodenow, *Most inmates released early due to pandemic remain free*, THE WINCHESTER STAR (April 30, 2020), [https://www.winchesterstar.com/coronavirus/most-inmates-released-early-due-to-pandemic-remain-free/article\\_2d6fd207-e6ff-5a4f-a960-dc4c0732af47.html](https://www.winchesterstar.com/coronavirus/most-inmates-released-early-due-to-pandemic-remain-free/article_2d6fd207-e6ff-5a4f-a960-dc4c0732af47.html).

<sup>93</sup> Morgan Dunlop, *Some Charles County detainees released*, SOUTHERN MARYLAND NEWS (April 29, 2020), [https://www.somdnews.com/emergency\\_notice/some-charles-county-detainees-released/article\\_8bf65b91-a62f-589e-a69d-851e74acf12d.html](https://www.somdnews.com/emergency_notice/some-charles-county-detainees-released/article_8bf65b91-a62f-589e-a69d-851e74acf12d.html).

*Oregon.* In Washington County, Oregon, early releases of people held for “low-level” offenses have reportedly helped drop the jail population by “half. In April 2020.”<sup>94</sup> Multnomah County Jail in Oregon has reduced their jail population by about 30 percent in the past month by reducing arrests and increasing early and pretrial releases. (April 14)<sup>95</sup>

*Arizona.* Maricopa County, Arizona, reduced the jail population since the beginning of the COVID-19 pandemic from an average of 7,500 to 5,306 people on April 24th (almost a 30 percent reduction). In April 2020.<sup>96</sup>

*Pennsylvania.* In Philadelphia, Pennsylvania, the local jail population has dropped by 17 percent since the beginning of April, following special court hearings to release hundreds of people held for low-level charges, cash-bail, and “nonviolent” charges. (April 2020).<sup>97</sup> Over the past month, some jails in Pennsylvania — including Bucks County and Northumberland County — have reduced the jail population by 30 percent via increased releases. (April 16).<sup>98</sup> In Allegheny County, PA, 545 people held in the county jail were approved for release by the courts and physically discharged from custody. (March 27)<sup>99</sup>

*Minnesota.* Over the course of a month, the jail population in Hennepin County, Minnesota, dropped by 44 percent following collaborative efforts to increase jail releases. (April 22).<sup>100</sup>

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<sup>94</sup> KATU Staff, *Washington Co. Jail releases inmates to meet social distancing guidelines*, KCBY (April 28, 2020), <https://kcby.com/news/local/washington-co-jail-releases-inmates-to-meet-social-distancing-guidelines>.

<sup>95</sup> Maxine Bernstein, *Multnomah County’s adult jail population has dropped about 30 percent due to fewer arrests, early releases*, THE OREGONIAN (April 14, 2020), <https://www.oregonlive.com/coronavirus/2020/04/multnomah-countys-adult-jail-population-has-dropped-about-30-percent-due-to-fewer-arrests-early-releases.html>.

<sup>96</sup> *Maricopa County Attorney’s Office releases charging data during COVID-19*, AZFAMILY.COM (April 27, 2020), [https://www.azfamily.com/news/continuing\\_coverage/coronavirus\\_coverage/maricopa-county-attorneys-office-releases-charging-data-during-covid-19/article\\_088d69b6-88f3-11ea-b2e7-9fb8bf2b0957.html](https://www.azfamily.com/news/continuing_coverage/coronavirus_coverage/maricopa-county-attorneys-office-releases-charging-data-during-covid-19/article_088d69b6-88f3-11ea-b2e7-9fb8bf2b0957.html).

<sup>97</sup> Juliana Feliciano Reyes, *Philly jail workers want judges to release more inmates because of coronavirus*, THE PHILADELPHIA INQUIRER (April 22, 2020), [https://www.inquirer.com/jobs/labor/coronavirus-philadelphia-prisons-reduce-jail-population-unions-20200422.html?fbclid=IwAR1RAxDOvINtbPraJZYtUm-849k8EKdE\\_vcInz4g7h09qvPAqrGY5FADWFg](https://www.inquirer.com/jobs/labor/coronavirus-philadelphia-prisons-reduce-jail-population-unions-20200422.html?fbclid=IwAR1RAxDOvINtbPraJZYtUm-849k8EKdE_vcInz4g7h09qvPAqrGY5FADWFg).

<sup>98</sup> *To manage spread of COVID-19, Bucks County reduces prison population by about 30 percent*, BUCKS LOCAL NEWS (April 16, 2020), [https://www.buckslocalnews.com/news/to-manage-spread-of-covid-19-bucks-county-reduces-prison-population-by-about-30-percent/article\\_0b4bbaea-7fe8-11ea-a1aa-3bc5c5d2afb8.html](https://www.buckslocalnews.com/news/to-manage-spread-of-covid-19-bucks-county-reduces-prison-population-by-about-30-percent/article_0b4bbaea-7fe8-11ea-a1aa-3bc5c5d2afb8.html); Justin Strawser, *Jail population reduced to cut exposure to COVID-19*, THE DAILY ITEM (April 16, 2020), [https://www.dailyitem.com/news/local\\_news/jail-population-reduced-to-cut-exposure-to-covid-19/article\\_bb7af4ef-5868-5765-ad9c-a4b119291241.html](https://www.dailyitem.com/news/local_news/jail-population-reduced-to-cut-exposure-to-covid-19/article_bb7af4ef-5868-5765-ad9c-a4b119291241.html).

<sup>99</sup> *912 inmates released from Allegheny County Jail due to coronavirus concerns*, PITTSBURG ACTION NEWS (April 13, 2020), <https://www.wtae.com/article/inmates-released-from-allegheeny-county-jail-due-to-coronavirus-concerns/31953103>

<sup>100</sup> Analise Pruni, *Hennepin County jail population cut by 44 percent in light of COVID-19*, MINNESOTA SPOKESMAN-RECORDER (April 22, 2020), <https://spokesman-recorder.com/2020/04/22/hennepin-county-jail-population-cut-by-44-in-light-of-covid-19/>.



*Texas.* Approximately 1,000 people were released from the jails in Dallas County, Texas to help reduce the risk of transmission. (April 16)<sup>101</sup> In Travis County, Texas, judges have begun to release more people from local jails on personal bonds (about 50 percent more often than usual), focusing on preventing people with health issues who are charged with non-violent offenses from going into the jail system. (March 16)<sup>102</sup>

*Washington DC.* From March 18th to April 15th, the Washington, D.C. jail population has decreased by about 21.8 percent. (April 15)<sup>103</sup>

*Maine.* In Cumberland County, Maine, the sheriff reports that the jail population has decreased by 25 percent since January, due in large part to the release of people who were held for “low level, nonviolent crimes” with less than 90 days left on their sentences. (April 15)<sup>104</sup>

*Alabama.* In Alabama, Mobile Metro Jail’s population decreased from 1,580 to 1,100 in four weeks. The people who were released were charged with nonviolent offenses, over 55 years old, or had preexisting medical conditions that made them particularly vulnerable to COVID-19. (April 10)<sup>105</sup>

*West Virginia.* Over the course of the month of March, West Virginia jails have reduced their overall population by over 600 people. (April 1)<sup>106</sup>

*Louisiana.* In New Orleans, Louisiana, the District Court judges have issued orders calling for the immediate release of people held in the New Orleans jail awaiting trial for misdemeanors,

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<sup>101</sup> Ashley Paredez, *Officials release 1,000 inmates to ease crowding, slow spread of COVID-19 at Dallas County jail*, FOX NEWS (April 15, 2020), <https://www.fox4news.com/news/officials-release-1000-inmates-to-ease-crowding-slow-spread-of-covid-19-at-dallas-county-jail>

<sup>102</sup> Ryan Autullo, *Travis County judges releasing inmates to limit coronavirus spread*, STATESMAN (Mar. 16, 2020), <https://www.statesman.com/news/20200316/travis-county-judges-releasing-inmates-to-limit-coronavirus-spread?fbclid=IwAR3VKawwn3bwSLSO9jXBxXNRuaWd1DRLsCBFc-ZkPN1INWW8xnzLPvZYNO4>.

<sup>103</sup> *Inmate populations decrease at D.C. jail amid coronavirus fears*, WASH. POST (April 15, 2020), [https://www.washingtonpost.com/context/inmate-populations-decrease-at-d-c-jail-amid-coronavirus-fears/711e28b0-de38-4889-b957-a2057001ac33/?itid=lk\\_inline\\_manual\\_36](https://www.washingtonpost.com/context/inmate-populations-decrease-at-d-c-jail-amid-coronavirus-fears/711e28b0-de38-4889-b957-a2057001ac33/?itid=lk_inline_manual_36).

<sup>104</sup> Phil Hirschorn, *Maine prisons and jails increase safety precautions, decrease population during coronavirus outbreak*, WMTW (April 15, 2020), <https://www.wmtw.com/article/maine-prisons-and-jails-increase-safety-precautions-decrease-population-during-coronavirus-outbreak/32147891>.

<sup>105</sup> Christopher Harress, *Amid COVID-19 pandemic, Mobile Metro Jail releases a third of inmates*, AL.COM (April 10, 2020), <https://www.al.com/news/2020/04/amid-covid-19-pandemic-mobile-metro-jail-releases-a-third-of-inmates.html>.

<sup>106</sup> Leslie Rubin, *W.Va. taking steps to reduce inmate population amid COVID-19 pandemic*, ABC NEWS (April 1, 2020), <https://wchstv.com/news/coronavirus/wva-taking-steps-to-reduce-inmate-population-amid-covid-19-pandemic>.

arrested for failure to appear at probation status hearing, detained in contempt of court, or detained for failing a drug test while on bond. (March 26)<sup>107</sup>

*New Jersey.* Chief Justice Stuart Rabner signed an order calling for the temporary release of 1,000 people from jails (almost a tenth of the entire state's county jail population) across the state of New Jersey who are serving county jail sentences for probation violations, municipal court convictions, "low-level indictable crimes," and "disorderly persons offenses." (March 23)<sup>108</sup>

This non-exhaustive list presents a limited picture of initiatives taken by various state, initiatives that are by no means concluding anytime soon, to release individuals early in response to the pandemic. The world that these individuals find themselves thrown into is plagued by a historical and global pandemic, in addition to the ongoing and systemic barriers discussed above when it comes to recidivism. In the midst of these tremendous challenges, there are intersections of policy tools that can synergistically provide multi-stakeholder solutions. As economic headwinds increase in uncertainty and impact, there is a need for policy makers to ensure that these former inmates are able to reintegrate into society, and remain in the community, while contributing to the recovering economy. The policies discussed below are highlighted in the proceeding section, and serve as the foundation of policy strategies that can be repurposed, combined and federally funded, in order to address inequality, buttress the economic recovery, and provide sustainable long term solutions to systemic barriers for reentry.

*f. The central role of education and employment in promoting successful reentry*

The fact that many formerly incarcerated people attempt to reenter into their communities with the odds stacked against them is evident by looking at the statistics even with a cursory review. This is the case especially considering the requisite educational attainment, and the need for academic credentials, to enter the job market. More than two-thirds of incarcerated people hold some type of high school credential, but only 6 percent hold a postsecondary degree,<sup>109</sup> and most have limited workforce experience and marketable skills.<sup>110</sup> The skills and credential gap is layered onto a documented reluctance of employers to hire people with a criminal record, and long standing practices of discriminating. Furthermore, these challenges are in addition to broader economic barriers to employment such as acquiring affordable housing, reliable transportation, and non-employer sponsored health coverage. As a result, over 40 percent of people reentering into their

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<sup>107</sup> *Orleans Criminal Court judges order release of certain inmates amid coronavirus crisis*, WDSU (Mar. 26, 2020), <https://www.wdsu.com/article/orleans-criminal-court-judges-order-release-of-certain-inmates-amid-coronavirus-crisis/31943462>.

<sup>108</sup> Kathleen Hopkins, *Coronavirus in NJ: Up to 1,000 inmates to be released from jails*, ASBURY PARK PRESS (Mar. 23, 2020), <https://www.app.com/story/news/2020/03/23/nj-coronavirus-up-1-000-inmates-released-jails/2897439001/>.

<sup>109</sup> Bobby Rampey et. al, National Center for Education Statistics, U.S. Dep't of Edu., *Highlights from the U.S. PIAAC Survey of Incarcerated Adults: Their Skills, Work Experience, Education, and Training* (2014), available at <http://nces.ed.gov/pubsearch>.

<sup>110</sup> Federal Bureau of Prisons Education Program Assessment: Final Report (2016), available at <https://www.justice.gov/archives/dag/page/file/914026/download>, 72; Rampey, *supra* note 109, at 30.

community are rearrested within their first year of their release,<sup>111</sup> and the unemployment rate among formerly incarcerated people is over 27 percent higher than the U.S. unemployment rate during the Great Depression.<sup>112</sup> Recently, federal, state, and local governments are shifting policy priorities, with an increasing amount of research demonstrating the need for comprehensive and multifaceted support and resources that promote successful reentry. One of the core tenants of this strategy is focusing on and investing in postsecondary education.<sup>113</sup> The substantial and robust statistical evidence supporting the benefits of postsecondary education for incarcerated people seeking to reenter their communities has led to bipartisan support for increased federal investments in career and technical education (CTE) and postsecondary programming. This includes the introduction of the *Restoring Education and Learning Act (REAL Act)*, legislation that would reinstate Pell Grant funding eligibility for students while incarcerated, learning in prison.<sup>114</sup> In parallel, national nonprofits and institutions of higher education are increasingly developing collaborative partnerships at the local level to expand postsecondary education opportunities, vocational training, and comprehensive reentry support services for formerly incarcerated people.

Unfortunately, the policy landscape is less promising at the state level. The scope of the role of state prisons cannot be overstated, as they house approximately 87 percent of all incarcerated individuals,<sup>115</sup> and spending over \$40 billion annually<sup>116</sup> on administration and operations. Many advocates have identified that state policies have historically intensified the barriers that incarcerated people face when attempting to obtain academic training and credentials to leverage in their employment search when seeking to reenter their community. Across all 50 states, there are about 14,000 legal provisions that limit and/or restrict occupational licensing for individuals with criminal records, including over 5,000 provisions that impose mandatory bans on specific licenses based on certain criminal convictions.<sup>117</sup> In addition to these bans, many states have imposed additional barriers to workforce participation through educational opportunities, such as requirements to disclose criminal history on university and employment applications and restrictions on housing support and eligibility for government contracts and services.<sup>118</sup>

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<sup>111</sup> Mariel Alper, Ph.D. et. al, Bureau of Justice Statistics, *2018 Update on Prisoner Recidivism: A 9-Year Follow-up Period (2005-2014)* (May 2018), available at <https://www.bjs.gov/content/pub/pdf/18upr9yfup0514.pdf>.

<sup>112</sup> Lucius Couloute and Daniel Kopf, *Out of Prison & Out of Work: Unemployment among formerly incarcerated people*, PRISON POL'Y INITIATIVE (July 2018), <https://www.prisonpolicy.org/reports/outofwork.html>.

<sup>113</sup> Bacon, *supra* note 50.

<sup>114</sup> REAL Act, H.R. 2168, 116th Cong. (2019).

<sup>115</sup> Wendy Sawyer and Peter Wagner, *Mass Incarceration: The Whole Pie*, PRISON POL'Y INITIATIVE (2019), <https://www.prisonpolicy.org/reports/pie2019.html>.

<sup>116</sup> *Prison spending in 2015*, VERA INST. OF JUST., <https://www.vera.org/publications/price-of-prisons-2015-state-spending-trends/price-of-prisons-2015-state-spending-trends-prison-spending> (last visited Dec. 2, 2019).

<sup>117</sup> Bacon, *supra* note 50, at 1–2.

<sup>118</sup> Lucius Couloute and Daniel Kopf, *Out of Prison & Out of Work: Unemployment among formerly incarcerated people*, PRISON POL'Y INITIATIVE (July 2018), <https://www.prisonpolicy.org/reports/outofwork.html>.

The Council of State Governments (CSG) Justice Center conducted a 50-state policy and practice survey on access to postsecondary education for people who are incarcerated.<sup>119</sup> The study “sought to assess whether states have the fundamental statutory, administrative, and funding building blocks in place to provide these individuals with high-quality postsecondary education programs and services while incarcerated and when they return to the community.”<sup>120</sup> The report identified four categorical resources necessary to provide postsecondary education to people who are incarcerated in facilities and after their release and reentry: (1) use of available funding, (2) a continuum of postsecondary programming, (3) elimination of participation restrictions, and (4) incentives and supports to encourage participation and completion.<sup>121</sup>

#### i. Funding

The report unsurprisingly identified funding as a key resource, defined as “uses key federal and state funding streams to support postsecondary education for people while incarcerated and after release.”<sup>122</sup> The specific funding sources considered were (1) funds from the Carl D. Perkins Career and Technical Education Act (Perkins IV), (2) Workforce Innovation and Opportunity Act (WIOA), or (3) has a Second Chance Act Pell pilot site to provide postsecondary education to adults in state correctional facilities.<sup>123</sup> In addition the report determined whether or not a state did not restrict the use of state financial aid for formerly incarcerated people, or those with criminal records. The report determined that even though funding was a key resource, “[...] only 17 states are tapping into any one of the key federal funding streams available to all states [...] to support postsecondary education for people while incarcerated and after release into the community, while also fully allowing currently and formerly incarcerated people to access state financial aid funding.”<sup>124</sup>

#### ii. Offerings

The report defines offerings as “access to a full range of postsecondary education programs aligned with local labor market trends and employer needs.”<sup>125</sup> The report particularly focused on CTE training, associate degrees, and bachelor’s degrees. The report also determined whether or not the state had identified, based on research and data, local labor market trends, employer feedback, or program outcome data in their determination for types of education and programming offered within correctional facilities.<sup>126</sup> This is particularly significant given that over the next

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<sup>119</sup> Bacon, *supra* note 50.

<sup>120</sup> *Id.*

<sup>121</sup> *Id.* at 3.

<sup>122</sup> *Id.* at 3–4.

<sup>123</sup> *Id.* at 3.

<sup>124</sup> *Id.* at 5.

<sup>125</sup> *Id.* at 7.

<sup>126</sup> *Id.* at 3.

decade, the gap in skilled labor is likely to increase, with approximately five million projected job openings requiring applicants to have occupational licenses and/or at least a bachelor's degree.<sup>127</sup> The report elevates this intersection of labor market needs and promoting reentry in its finding that: "provision[s] of high-quality postsecondary education for incarcerated individuals offers states a key opportunity to not only adopt a research-based recidivism-reduction strategy, but to tap into the underutilized potential of this population to fulfill local labor market needs."<sup>128</sup> The report concludes that, "many states are not making sufficient efforts to intentionally develop their postsecondary offerings with the explicit goal of positioning people with a criminal record to find viable, sustainable employment in the community while simultaneously helping to meet the workforce and skill development needs of local employers. *Less than half of all states use local labor market trends or employer feedback as their main basis for determining their postsecondary offerings, while just as many states primarily base their offerings on less substantive considerations, such as staff and funding availability.*"<sup>129</sup>

### iii. Lack of Restrictions

The report also analyzed the extent in which states eliminated statutory and/or administrative restrictions that limit access to postsecondary education for individuals who are incarcerated.<sup>130</sup> The report found that "[m]ore than three-quarters of states impose statutory and/or administrative restrictions that limit access to postsecondary education for individuals who are currently and formerly incarcerated."<sup>131</sup> Furthermore, "only 10 states provide postsecondary educational opportunities that are fully accessible to all incarcerated individuals[and] [f]ive states restrict access to postsecondary education for incarcerated individuals through state statutes, while the majority of states impose these restrictions through state correctional agency administrative policy and regulations."<sup>132</sup> It is well documented that such restrictions increase the likelihood of recidivism.<sup>133</sup> The report especially focused on statutory and administrative restrictions, as they are often based on custody level, sentence length, and the nature of their offense or conviction:

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<sup>127</sup> Patrick Oakford, et. al., *Investing in Futures: Economic and Fiscal Benefits of Postsecondary Education in Prison*, VERA INST. OF JUST. (Jan. 2019), <https://www.vera.org/downloads/publications/investing-in-futures.pdf>; Authors' analysis of U.S. Bureau of Labor Statistics, "Employment Projections 2016–2026," updated Jan. 30, 2018, <https://perma.cc/ZB6U-9ZWN>.

<sup>128</sup> Bacon, *supra* note 50, at 7.

<sup>129</sup> *Id.* at 8.

<sup>130</sup> *Id.* at 7.

<sup>131</sup> *Id.*

<sup>132</sup> *Id.* at 9

<sup>133</sup> *Id.*

- 16 states restrict participation based on an individual's **custody level**; people incarcerated in the highest security levels are often barred from participating in postsecondary education activities.<sup>134</sup>
- 25 states impose restrictions based on the length of an individual's **sentence**. For example, some states restrict postsecondary participation for people serving life sentences.<sup>135</sup>
- 11 states restrict participation based on an individual's **offense or conviction**, such as sexual or violent offenses.<sup>136</sup>

#### *iv. Incentives and Supports*

The report also analyzed whether or not states provided incentives, as well as identifiable services and supports, to promote postsecondary participation and help incarcerated people transition to a crime-free, productive life in the community.<sup>137</sup> The report found that “only one-quarter of states offer incentives, as well as tangible services and supports, to promote postsecondary participation and help incarcerated people transition to a crime-free, productive life in the community.”<sup>138</sup> The report stresses that state support is not only defined as lifting restrictions on postsecondary access but “to proactively encourage and support individuals to take advantage of these beneficial services.”<sup>139</sup> The report points to research has shown that state correctional facilities that offer incarcerated people consistent, definable incentives, such as designated housing, work release requirements, and earned time credits, in exchange for participating in postsecondary education encourages higher enrollment and program completion.<sup>140</sup> However, the report finds that only 14 states provide such incentives, services and supports to individuals while incarcerated.<sup>141</sup> The report findings show that no state currently has all four of the fundamental

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<sup>134</sup> Bacon, *supra* note 50, at 9–10.

<sup>135</sup> *Id.*

<sup>136</sup> *Id.*

<sup>137</sup> *Id.* at 11

<sup>138</sup> *Id.*

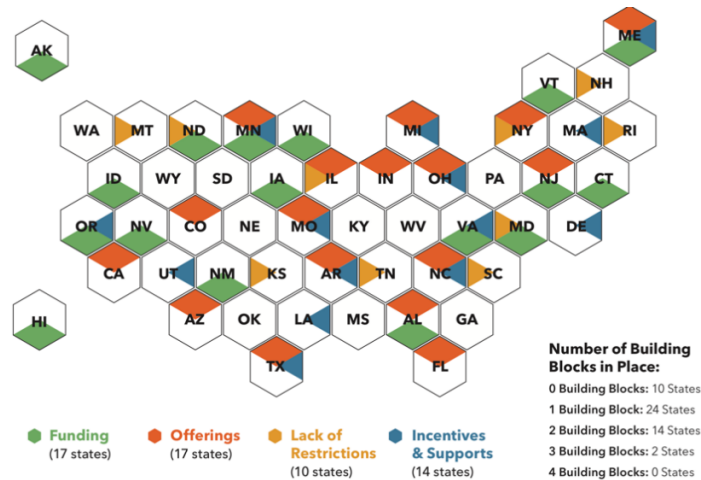
<sup>139</sup> *Id.*

<sup>140</sup> The North Carolina Pathways Program found that inconsistency and nonfulfillment of incentives created more of a distraction and burden for individuals in the correctional programming and caused unnecessary tension between students and reentry staff. The study recommends that the incentives are tangible before recruitment of students. Lois M. Davis and Michelle C. Tolbert, *Evaluation of North Carolina's Pathways from Prison to Postsecondary Education Program*, RAND CORP. (2019), [https://www.rand.org/pubs/research\\_reports/RR2957.html](https://www.rand.org/pubs/research_reports/RR2957.html).

<sup>141</sup> Bacon, *supra* note 50, at 11. (“States can encourage incarcerated individuals to enroll in postsecondary education programming and complete their course of study in three key ways: (1) providing incentives in correctional facilities, (2) establishing parole criteria and conditions that account for postsecondary education participation and progress, and (3) ensuring that parole and correctional agencies provide information, services, and supports in the community. Forty states do offer at least one incentive to promote postsecondary education participation for individuals while incarcerated, but the majority of states are not taking advantage of the full array of potential low-

building blocks in place. Furthermore, while policy makers are increasingly recognizing the importance of providing resources for incarcerated people for educational and employment success, “less than half of states meet the criteria for each one of the building blocks (funding—17 states, offering—17 states, lack of restrictions—10 states, incentives and supports—14 states).”<sup>142</sup>

Figure 1: States Meeting the Criteria for Each of the Four Building Blocks<sup>143</sup>



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### III. STATE COMPARATIVE ANALYSIS

#### a. State Analysis: Idaho

The State of Idaho today has a prison population of around 8,664, one of the lowest of the country.<sup>145</sup> In 2013, its incarceration rate was the 11th highest in the country. What is particularly shocking is that it also had the seventh lowest crime rate in the nation.<sup>146</sup> In 2013, a total of 18,705 individuals were monitored and the recidivism rate was 35 percent.<sup>147</sup> Between the year 2008 and

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cost methods for increasing the number of people committed to improving their workforce skills and employability.”)

<sup>142</sup> *Id.*

<sup>143</sup> *Id.*

<sup>144</sup> *Id.* at 4.

<sup>145</sup> Paul Stageberg and Bonnie Wilson, *Recidivism Among Iowa Probationers*, THE IOWA DIVISION OF CRIMINAL AND JUVENILE JUSTICE PLANNING (July 2005), [https://humanrights.iowa.gov/sites/default/files/media/CJJP\\_Recidivism\\_Among\\_Iowa\\_Probationers.pdf](https://humanrights.iowa.gov/sites/default/files/media/CJJP_Recidivism_Among_Iowa_Probationers.pdf).

<sup>146</sup> *Id.*

<sup>147</sup> *Id.*

2014, Idaho's prison population increased by 10 percent.<sup>148</sup> It was projected to keep increasing to rise by 16 percent by 2019, which would cost the state \$288 million.<sup>149</sup> In response to this trend Idaho's legislature, in order to avoid the associated costs and reduce recidivism passed SB1357 which provided, among other things, funding for job training programs.<sup>150</sup> The Idaho Correctional Industries spearheaded a task of training prisoners to successfully re-enter society via employment training and obtainment.<sup>151</sup> It created an apprenticeship program that was first initiated in July 2015.<sup>152</sup> This inmate program assisted prisoners who signed up to develop skills in industry jobs, such as, among others, carpenter, graphics design, maintenance work, plasma cutting, truck driver, and welding.<sup>153</sup> Internal stats show that those who participated in this program had a higher probability of staying out of prison after being released.<sup>154</sup> The latest recidivism rate is 26.3 percent for a prisoner staying in the training program for at least one year.<sup>155</sup> The Idaho Department of Corrections has its own set of programs meant to put prisoners in jobs where they can build the skills necessary to obtain jobs in demand for Idaho.<sup>156</sup> In addition, the Idaho Department of Corrections has "Community Work Centers."<sup>157</sup> These centers are utilized by prisoners as they near their release date.<sup>158</sup> They can be housed in the centers as they search for employment opportunities.<sup>159</sup> The idea is to release the prisoner to the community and ensure it maintains the job they have attained while completing their remaining prison term.<sup>160</sup> Program success such as those carried out by the Idaho Correctional Industries has unequivocally benefitted the state of Idaho. In December 2015, it was determined that as a result of reducing recidivism, the state of Idaho, housed 880 fewer prisoners which represented a 3 percent decrease in prison population

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<sup>148</sup> *Prison Recidivism FY2016*, IOWA DEPARTMENT OF CORRECTIONS, <https://doc.iowa.gov/data/prison-recidivism-fy2016> (last visited Dec. 9, 2020).

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

<sup>150</sup> *Idaho Enacts Justice Reinvestment*, THE COUNCIL OF STATE GOV'TS (April 21, 2014), <https://csgjusticecenter.org/2014/04/21/idaho-enacts-justice-reinvestment/>.

<sup>151</sup> Frequently Asked Questions, IDAHO CORRECTIONS INDUSTRIES, <https://ci.idaho.gov/about/frequently-asked-questions/> (last visited Dec. 1, 2020).

<sup>152</sup> *Id.*

<sup>153</sup> *Id.*

<sup>154</sup> *Id.*

<sup>155</sup> *Id.*

<sup>156</sup> *Homepage*, IDAHO DEPARTMENT OF CORRECTIONS, [https://www.idoc.idaho.gov/content/prisons/offenders\\_at\\_work](https://www.idoc.idaho.gov/content/prisons/offenders_at_work) (last visited Dec. 1, 2020).

<sup>157</sup> *Id.*

<sup>158</sup> *Id.*

<sup>159</sup> *Id.*

<sup>160</sup> *Id.*



between July 2014 and December 2015. Moreover, Idaho saved \$14 million because of this reduction.

*b. State Analysis: California*

From 2017-2019, the state of California has had a steady prison population hovering around 115,000 inmates.<sup>161</sup> It is second only to Texas when it comes to overall prison population under state and federal jurisdiction.<sup>162</sup> Per the State of California Department of Corrections and Rehabilitation latest report, the three-year conviction rate for those release during fiscal year 2014-2015 was 46.5 percent.<sup>163</sup> Almost half of those re-convicted were from felony convictions.<sup>164</sup> In light of COVID-19, the State of California has reducing its prison population.<sup>165</sup> The prison population in 2020 dropped under 100,000 prisoners for the first time in three decades.<sup>166</sup>

California, similar to other states, faced overpopulated prisons for more than a decade. Then California Governor Arnold Schwarzenegger went as far as to declare a prison overpopulation crisis.<sup>167</sup> In 2007, the California legislature responded to the prison overpopulation crisis with the Public Safety and Offender Rehabilitation Services Act of 2007. The core of the law was to build a “Prison-to-Employment” plan.<sup>168</sup> Its “New Start” program adopted best

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<sup>161</sup> Heather Harris et. al, *California's Prison Population*, PUBLIC POL'Y INST. OF CALIFORNIA (July 2019), [https://www.ppic.org/publication/californias-prison-population/#:~:text=Since percent202017 percent2C percent20California percentE2 percent80 percent99s percent20institutional percent20prison percent20population percent20has percent20hovered,35 percent20state-owned percent20facilities percent20individually percent20operate percent20beyond percent20that percent20capacity.](https://www.ppic.org/publication/californias-prison-population/#:~:text=Since percent202017 percent2C percent20California percentE2 percent80 percent99s percent20institutional percent20prison percent20population percent20has percent20hovered,35 percent20state-owned percent20facilities percent20individually percent20operate percent20beyond percent20that percent20capacity.;); see E. Ann Carson, *Prisoners in 2019*, U.S. DEPARTMENT OF JUSTICE OFFICE OF JUSTICE PROGRAMS BUREAU OF JUSTICE STATISTICS (Oct. 2020), <https://www.bjs.gov/content/pub/pdf/p19.pdf>.

<sup>162</sup> Carson, *supra* note 161.

<sup>163</sup> *Recidivism Report for Offenders Released From the California Department of Corrections and Rehabilitation in Fiscal Year 2014-15*, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION (Jan. 2020), <https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2020/01/Recidivism-Report-for-Offenders-Released-in-Fiscal-Year-2014-15.pdf>; see also Supplemental Report of the 2018-19 Budget Package Annual Performance Measures, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION (Feb. 2020), [https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2020/02/CDCR-\\_Fiscal\\_Year\\_2018-2019\\_Annual\\_Performance\\_Measures\\_Report.pdf](https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2020/02/CDCR-_Fiscal_Year_2018-2019_Annual_Performance_Measures_Report.pdf).

<sup>164</sup> *Id.*

<sup>165</sup> Anna Bauman, *California prison population drops below 100,000 for first time in 30 years*, SAN FRANCISCO CHRONICLE (July 30, 2020), <https://www.sfchronicle.com/crime/article/California-prison-population-drops-below-100-000-15448043.php>.

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

<sup>167</sup> *State Prison Crowding Emergency Declared*, LOS ANGELES TIMES (Oct 5, 2006), <https://www.latimes.com/archives/la-xpm-2006-oct-05-me-prison5-story.html>.

<sup>168</sup> Prison-to-Employment Program FAQ, CALIFORNIA NEW START, [http://aglow-prisonministry.org/wp-content/uploads/2016/07/Fact\\_Sheet\\_California\\_New\\_Start1.pdf](http://aglow-prisonministry.org/wp-content/uploads/2016/07/Fact_Sheet_California_New_Start1.pdf) (last visited Dec. 1, 2020).

practices from other states, including Texas.<sup>169</sup> As California has implemented the law, it created a robust program to modify, discontinue, or establish new vocational training and work opportunities within the prison population to ensure that there are matches for future job availabilities upon release.

California has one of the more expansive job-training programs for prisoners that were currently incarcerated. An example was then Attorney General Kamala Harris's launch of the Back on Track- Los Angeles pilot program. This program was in partnership with the Los Angeles County Sheriff's Department, and provided among other services, vocational training to those incarcerated.<sup>170</sup> Incarcerated individuals are appointed vocational counselors who work in concert with government agencies to provide them with services needed, including employment training. In conjunction with the SHIELDS's Jericho Vocational Services Center (JVSC), this program provides vocational educational support to ensure that the prisoner upon release, is able to be certified to work in certain trades.<sup>171</sup> This program has helped 373 former prisoners obtain employment upon release.<sup>172</sup>

These "Prison-to-Employment" plans have contributed to reducing recidivism in California.<sup>173</sup> Another example of a success story was an in-person college program operation out of San Quentin State Prison in California.<sup>174</sup> It has been able to provide multiple associates, vocational and bachelor's degrees to prisoners wishing to pursue educational attainment.<sup>175</sup> The program has been collecting data for over 11 years.<sup>176</sup> Its three-year recidivism rate for both new offenses and parole violations among the program's graduates is at 17 percent. Moreover, no graduate from this program has returned to prison for committing a violent crime.<sup>177</sup>

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<sup>169</sup> *Id.*

<sup>170</sup> Press Release, *Attorney General Kamala D. Harris Endorses Legislation to Reduce Recidivism*, CALIFORNIA DEPARTMENT OF JUSTICE (June 21, 2016), <https://oag.ca.gov/new-press-categories/recidivism-reduction-reentry>.

<sup>171</sup> *Homepage*, SHIELDS FOR FAMILIES, <https://www.shieldsforfamilies.org/back-on-track/> (last visited Dec. 1, 2020).

<sup>172</sup> *Id.*

<sup>173</sup> The National Employment Law Project estimates that up to eight million Californians have a prior record of criminal contact on file with the state. Madeline Neighly et al., *A Healthy Balance: Expanding Health Care Job Opportunities for Californians with a Criminal Record While Ensuring Patient Safety and Security*, NAT'L EMPLOYMENT LAW PROJECT (May 2014), <http://www.nelp.org/page/-/SCLP/2014/HealthyBalance-Full-Report.pdf?nocdn=1>.

<sup>174</sup> *Id.*

<sup>175</sup> *Id.*

<sup>176</sup> *Id.*

<sup>177</sup> *Id.*

*c. State Analysis: Texas*

The state of Texas as of 2019 has 163,628 prisoners under federal or state jurisdiction, which is the highest in the nation.<sup>178</sup> Despite the statistic, Texas has significantly reduced its prison population compared to a decade ago. The moment for its reforms reducing its prison was in 2007. Amidst, a prison-bed shortfall and incarceration rates increasing, Texas legislators had to act to curb prison growth and reduce prison costs. Through legislative efforts, the state of Texas initiated a \$241 million investment in programs that had researched based evidence of reducing recidivism, which included job-training programs. Legislative committee hearings brought forward prosecutors and judges testifying that offenders released often returned to prison for lack of effective alternatives once released into society. Texas initiated this investment with the hopes of reducing its problem of high rates of recidivism. The initiative focused on multiple aspects, which included job training programs.

A study that influenced the investment made by the Texas legislature was one conducted over a period of eight years on recidivism. This study found that of 883 people who received college degree in Texas prisons as part of workforce training programs, had lower rates of recidivism.<sup>179</sup> For example, of those 883 who had acquired only an associate's degree and had been released, only 27.2 percent of former prisoners returned back.<sup>180</sup> Moreover, of those 883 who had acquired a bachelor's degree, only 7.8 percent of those released returned back to prison.<sup>181</sup> Of the 883 prisoners who did not participate in this workforce educational programming, of those released, 43 percent returned back to prison.<sup>182</sup>

In 2005, there were approximately 21,000 parolees in Texas, 11,000 of them returned to prison within three years. A decade later, which the investment initiative in place, 28,000 prisoners were released, and only 4,500 returned to prison. What makes this statistic more impressive is that the general population increased, and the number of prisons decreased. Further measures were taken to enhance the program, reduce the prison population, and reduce recidivism. Judges in 2011 were allowed to give "good time" credits to probationers if they earned a degree. This has helped develop an educational foundation from where prisoners are able to then prepare for a job search in their field of study or trade upon being released. The success of this program is highlighted by the fact that Texas closed six prisons, did not build new ones, and saved approximately \$33 million in taxpayer money on operating costs in running potential new prisons. Programs such as the Strength Through Restoration, Independency, Vision, and Empowerment (STRIVE), are helping

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<sup>178</sup> Carson, *supra* note 161.

<sup>179</sup> Daniel Karpowitz & Max Kenner, *Education as Crime Prevention: The Case for Reinstating Pell Grant Eligibility for the Incarcerated*, BARD PRISON INITIATIVE, [https://www.prisonpolicy.org/scans/crime\\_report.pdf](https://www.prisonpolicy.org/scans/crime_report.pdf) (last visited Jan. 29, 2021).

<sup>180</sup> *Id.*

<sup>181</sup> *Id.*

<sup>182</sup> *Id.*

prisoners leave prison with jobs already waiting for them.<sup>183</sup> Moreover, there are trade programs available in prison that are ensuring that once prisoners are released, they are set up for success.<sup>184</sup> Prisoners now have a array to be certified and educated in before their release, which includes areas like automotive technology, electronics, welding, computer technology, among others.<sup>185</sup> Although, Texas still retains the infamous statistic of being home to the biggest prison population, its future looks bright as year-by-year it makes leaps towards reducing recidivism.

*d. State Analysis: New York*

In New York, a thorough analysis of Erie County can serve as case study to glean insights about the policies and priorities that are being implemented to reduce recidivism and support individuals attempting to reenter their communities. Erie County has a history of implementing programs to support ex-offenders and people in the criminal justice system. In 2005, the county established the State's first reentry task force, funded by the state's Division of Criminal Justice Services (DCJS) and support from the Department of Corrections and Community Supervision (DOCCS). In 2014, the county's Department of Probation and Department of Mental Health collaborated and developed a process to determine the appropriate resources needed by people who have mental illnesses, and then evaluate the resources available to them, and then determine systemic and service level. Additionally, in 2016, the Greater Buffalo Racial Equity Roundtable partnered with Erie County to request technical assistance from the Council of State Governments (CSG) Justice Center with financial backing from the U.S. Department of Justice's Bureau of Justice Assistance to assess the services and resources that were available to the county's reentry population. This assessment was intended to assist local stakeholders and leaders in the development of a coordinated strategy to improve the quality and efficacy of reentry services to people returning to Erie County after incarceration. On October 27, 2017, the CSG Justice Center presented its final findings and recommendations to the Greater Buffalo Racial Equity Roundtable (RER) Reentry Coalition in an open discussion of their findings. A summary of the core challenges the report identified is below:

- Ineffective countywide coordination of reentry across domains, providers, and reentry populations limits the impact of services on the reentry population.<sup>186</sup>

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<sup>183</sup> Jolie McCullough, *New Texas prison program aims to help women leave the system with jobs waiting for them*, THE TEXAS TRIBUNE (Sept. 25, 2019), <https://www.texastribune.org/2019/09/25/texas-prison-program-help-women-reenter-society-jobs-waiting-them/>.

<sup>184</sup> Wes Rapaport, *New program in Texas prison gives inmates tools to succeed in society*, NBC (Aug. 23, 2019), <https://www.mtctrains.com/corrections/new-program-in-texas-prison-gives-inmates-tools-to-succeed-in-society/>.

<sup>185</sup> See example of Form, Texas Department of Criminal Justice Rehabilitation Programs Division / Post-Secondary Correctional Education Academic/Vocational Interest Form, [https://www.tdcj.texas.gov/documents/rpd/Academic\\_Vocational\\_Interest\\_Form\\_Male.pdf](https://www.tdcj.texas.gov/documents/rpd/Academic_Vocational_Interest_Form_Male.pdf); see also [https://www.tdcj.texas.gov/documents/rpd/Academic\\_Vocational\\_Interest\\_Form\\_Female.pdf](https://www.tdcj.texas.gov/documents/rpd/Academic_Vocational_Interest_Form_Female.pdf).

<sup>186</sup> *Strengthening Reentry Services and Resources in Erie County*, NY, THE COUNCIL OF STATE GOV'TS JUST. CTR. at 2 (Jan. 22, 2019), <https://csgjusticecenter.org/wp-content/uploads/2020/02/Assessing-Reentry-Service-and-Resource-in-Erie-County-NY-Report-1.22.19.pdf>.

- The county's multiple reentry populations (federal, state, and local) do not have the same access to reentry services because the services they receive are based on correctional status rather than on which services would be most effective to reduce an individual's likelihood of recidivating.<sup>187</sup>
- Reentry services are not consistently of high quality or evidence based.<sup>188</sup>
- People are not electing to participate in the pre- and post-release programs that exist because there are few incentives to do so, the programs are not promoted well in the facilities, and they are often not of high quality.<sup>189</sup>

Despite being 1 of only 4 states in the country to have a decade low crime rate in 2016, Erie County had seen a 20-percent increase in the number of people whose parole was revoked between 2014 and 2016.<sup>190</sup> In 2016, a large majority (81 percent) of people in jail in Erie County had previously been tangled in the jail system, and, in addition, one in five people booked into an Erie County jail are likely to return to jail four or more times within three years.<sup>191</sup> One of the main barriers to successful reentry in Erie County, according to the report, was the fact that the agencies supervising reentry were operating independently of each other with various funding, service providers, and mission objectives and measurements.<sup>192</sup> This results in not only inconsistent services and programs for reentry populations, but creates programmatic redundancy and inefficiency. This is a crucial focal point, because although the agencies do not provide direct post-release services, they facilitate in-reach services, develop case plans, and make referrals to community-based service providers, so they have a significant influence on the services people receive.<sup>193</sup>

Another main barrier to successful reentry, is that federal reentry populations do not receive many services proven by evidence based success data, even though there are post-release programs for those who participate in the Federal Reentry Court, or are on probation.<sup>194</sup> However, a number of programs open to the federal reentry population are not all reentry-specific. For example, in Erie County, people are primarily referred to the Buffalo Employment and Training Center

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<sup>187</sup> *Id.*

<sup>188</sup> *Id.*

<sup>189</sup> *Id.*

<sup>190</sup> *Crime in the United States by State, 2016*, FEDERAL BUREAU OF INVESTIGATIONS, <https://ucr.fbi.gov/crime-in-the-u.s/2016/crime-in-the-u.s.-2016/topic-pages/tables/table-3>. (NY state crime rate) (last visited Dec. 22, 2020); *Parolee/Probationer Arrests: Percent of Total Arrests Within County 2007-2017*, NEW YORK STATE DIVISION OF CRIMINAL JUST. SERVICES, <http://www.criminaljustice.ny.gov/crimnet/ojsa/parolee-and-probationer-arrest.pdf>, 20 (Erie County recidivism rates) (last visited Dec. 22, 2020).

<sup>191</sup> *Strengthening Reentry Services and Resources in Erie County*, NY, THE COUNCIL OF STATE GOV'TS JUST. CTR. at 4 (Jan. 22, 2019), <https://csgjusticecenter.org/wp-content/uploads/2020/02/Assessing-Reentry-Service-and-Resource-in-Erie-County-NY-Report-1.22.19.pdf>.

<sup>192</sup> *Id.* at 5.

<sup>193</sup> *Id.* at 5.

<sup>194</sup> *Id.* at 6.

(BETC), a workforce training provider administering programming in the county.<sup>195</sup> The Federal Reentry Court in Erie County works with U.S. Probation to incentivize people under supervision to participate in the court (through a reduction in their supervision requirements and through court-provided letters of support, which can be used to help obtain employment or housing), which reduces recidivism for the federal reentry population entering the county. Unfortunately, while the reentry court is most often targeted toward people who are at a high risk of reoffending, it serves relatively few individuals.<sup>196</sup> A counterintuitive trend emerges from Erie county given that the state reentry population returning to Erie County has greater access to quality services than the other reentry populations, yet it is still hampered by poor countywide coordination of these services.<sup>197</sup>

*Workforce Training Providers.* There are several workforce training providers located in Erie County that administer employment-related services, however, of the total amount only a few providers offer services specifically to the reentry population. Even fewer properly track population outcomes and adhere to evidence-based standards for outcome measurement.<sup>198</sup> Unfortunately, for the federal reentry population, the more successful workforce training providers, such as the Center for Employment Opportunity, are mostly restricted to serving only the state reentry population.<sup>199</sup> People among the federal reentry population who are maxing out, or are coming through the federal reentry court or U.S. Probation, are sent for employment services that are “mainly a soft-skills (e.g., resume development or Services interviewing techniques) and serves the general public, rather than focusing on the reentry population. As is the case for the federal reentry population, the county reentry population lacks workforce training opportunities due to a lack of funding and partnerships with local service providers.”<sup>200</sup> Generally, people in the local reentry population have few opportunities for workforce development, housing, cognitive-behavioral therapy, and education services in both the pre- and post-release stages of their reentry.<sup>201</sup> One successful example, though, is the partnerships established between the Buffalo Public School District and the Alden Public School District. Both providers promote and provide adult basic education services within these facilities, and once a person has acquired a GED or its equivalent, they may enroll in college-level courses offered at Erie Community College, which

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<sup>195</sup> *Id.* at 6.

<sup>196</sup> *Id.* at 6.

<sup>197</sup> *Id.* at 7.

<sup>198</sup> *Id.* at 13.

<sup>199</sup> *Id.* at 8.

<sup>200</sup> *Id.* at 10.

<sup>201</sup> *Id.* at 10 (“Some important reasons for this discrepancy include: (1) participation in reentry programming is not mandatory; (2) few providers offer pre-release services; (3) the local reentry population typically has shorter stays in the facility and therefore insufficient time to participate in or complete programming; and (4) there is currently no reentry liaison to coordinate programming among the ECCF, ECHC, and existing reentry service providers.”).

also provides assistance in enrolling as a full-time student upon release.<sup>202</sup> Generally, the lack of funding, strong incentives to participate in programming, and overall coordination between service providers and corrections give very few incentives to local providers to create in-house programming. While programs such as Narcotics Anonymous and Alcoholics Anonymous are offered in the local facilities, providers that offer programming such as employment services or cognitive-behavioral therapy are not providing pre-release services for local reentry populations.<sup>203</sup> This results in a lack of access to employment, affordable housing, or health care for Erie County's local reentry population. One central measurement challenge is that even though multiple providers reported that their contracts were based on performance, the metrics provided to funders were often limited (i.e., meeting a certain number of recruits per month and meeting enrollment milestones), and not actually on the outcomes of the people receiving the services. Even though the Erie County Department of Mental Health reports that their contracts require meeting certain outcomes, only a few providers reported even tracking the requisite outcomes of program participants. This created a dynamic where providers seemingly received contracts based on relationships with funders, rather than program outcomes and successes. Instead of quality of care or successful outcomes associated with their programming.<sup>204</sup>

*e. State Analysis: Florida*

The Florida Department of Corrections defines recidivism as “a return to prison, as the result of either a new conviction or a violation of post-prison supervision, within three years of their prison release date.”<sup>205</sup> In Florida, the three-year recidivism rate has decreased from 30.5 percent in 2007 to 24.5 percent in 2014.<sup>206</sup>

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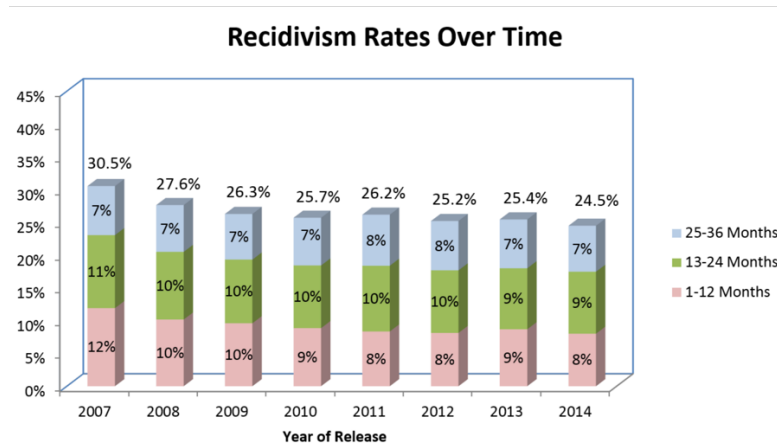
<sup>202</sup> *Id.* at 10.

<sup>203</sup> *Id.* at 11.

<sup>204</sup> *Id.*

<sup>205</sup> *Florida Prison Recidivism Report: Releases from 2010 to 2017*, FLORIDA DEPARTMENT OF CORRECTIONS (July 2019), <http://www.dc.state.fl.us/pub/recidivism/RecidivismReport2019.pdf>.

<sup>206</sup> *Id.* at 2.

Figure 2: Recidivism Rates in FL<sup>207</sup>

In the context of the report, the factors influencing recidivism rates vary across age groups, racial & ethnic groups, and gender.<sup>208</sup> This makes it clear that in order to devote resources in the most efficient way it is essential to identify the factors that contribute to the successes and failures of released inmates. This study found that the factors influencing Florida's recidivism rate are for the most part consistent with existing research.<sup>209</sup> A 2011 report from the Pew Center on the States found that overall recidivism rate for releases in 2004 from the states that participated was 43.3 percent.<sup>210</sup> Additionally, a 2014 report from the Bureau of Justice Statistics of 23 states reported an overall three-year recidivism rate of nearly 50 percent for 2005 releases.<sup>211</sup>

<sup>207</sup> *Id.*

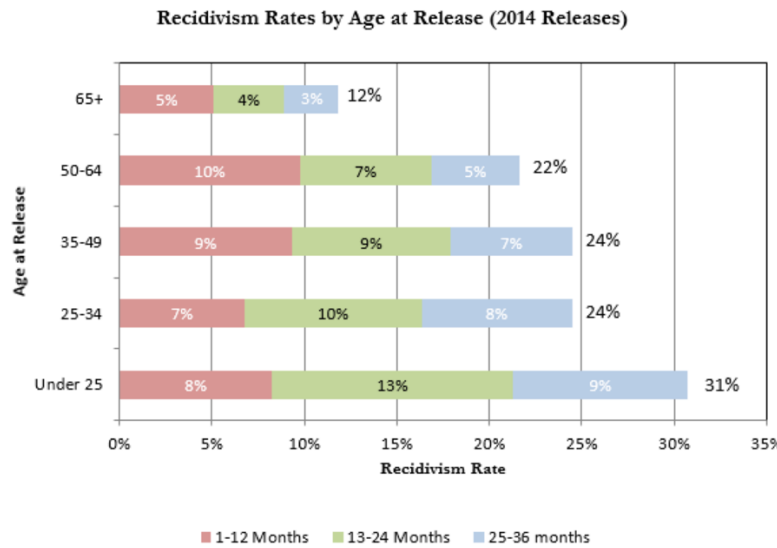
<sup>208</sup> *Id.* at 4.

<sup>209</sup> *Id.*

<sup>210</sup> PEW CTR. ON THE STATES, STATE OF RECIDIVISM: THE REVOLVING DOOR OF AMERICA'S PRISONS 9, 12 (2011), [https://www.pewtrusts.org/~media/legacy/uploadedfiles/wwwpewtrustsorg/reports/sentencing\\_and\\_corrections/StateRecidivismRevolvingDoorAmericaPrisons20pdf.pdf](https://www.pewtrusts.org/~media/legacy/uploadedfiles/wwwpewtrustsorg/reports/sentencing_and_corrections/StateRecidivismRevolvingDoorAmericaPrisons20pdf.pdf).

<sup>211</sup> Matthew R. Durose et al., *Recidivism of Prisoners Released in 30 States in 2005: Patterns from 2005 to 2010*, U.S. DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE STATISTICS (Apr. 24, 2014), <https://intranet.americansforthearts.org/sites/default/files/recidivism0510.pdf>.



Figure 3: Recidivism Rates by Age<sup>212</sup>

Since 2011, the State of Florida’s Department of Juvenile Justice (DJJ) has been utilizing a program to help decrease the number of youths repeatedly running afoul of the law.<sup>213</sup> Since 2011, the department has participated in the Juvenile Justice System Improvement Project, a national initiative that utilizes research based evidence to assist in helping reform state systems.<sup>214</sup> As part of this initiative, the department adopted the Standardized Program Evaluation Protocol (SPEP) to evaluate how well state service providers and programs align with the needs of interventions that have proved effective at reducing recidivism.<sup>215</sup> Over time, the assessment results have helped administrators better match young people to relevant programs, ensuring they get the services they need most. The process has program implementation.<sup>216</sup> SPEP is a research-driven rating system that assesses interventions based on four program characteristics that research shows are strongly associated with reducing recidivism: the type of service provided, the quality of the service, the duration and contact hours of the service, and the percentage of youth served

<sup>212</sup> *Florida Prison Recidivism Report: Releases from 2010 to 2017*, FLORIDA DEPARTMENT OF CORRECTIONS at 11 (July 2019), <http://www.dc.state.fl.us/pub/recidivism/RecidivismReport2019.pdf>.

<sup>213</sup> Sara Dube & Mariel McLeod, *Florida Uses Research on Delinquency Interventions to Reduce Youth Recidivism*, PEW RESEARCH CTR (Aug. 13, 2018), <https://www.pewtrusts.org/en/research-and-analysis/articles/2018/08/13/florida-uses-research-on-delinquency-interventions-to-reduce-youth-recidivism>.

<sup>214</sup> *Juvenile Justice System Improvement Project (JJSIP)*, FLORIDA DEPARTMENT OF JUVENILE JUSTICE, [http://www.djj.state.fl.us/research/latest-initiatives/juvenile-justice-system-improvement-project-\(jjsip\)](http://www.djj.state.fl.us/research/latest-initiatives/juvenile-justice-system-improvement-project-(jjsip)) (last visited Jan. 29, 2021).

<sup>215</sup> *The Standardized Program Evaluation Protocol (“SPEP™”)*, PEABODY RESEARCH INST., <https://my.vanderbilt.edu/spep/spep-information/> (last visited Jan. 31, 2021).

<sup>216</sup> Sara Dube & Mariel McLeod, *Florida Uses Research on Delinquency Interventions to Reduce Youth Recidivism*, PEW RESEARCH CTR (Aug. 13, 2018), <https://www.pewtrusts.org/en/research-and-analysis/articles/2018/08/13/florida-uses-research-on-delinquency-interventions-to-reduce-youth-recidivism>.

that have a moderate, moderate-to-high, or high risk of reoffending.<sup>217</sup> The state publishes SPEP results in annual reports that provide information on program performance as well as recommendations for improvement.<sup>218</sup> If SPEP results show that a program is not being implemented properly, the department will offer technical assistance and send staff to help improve services.<sup>219</sup> If the program does not improve, DJJ will re-evaluate whether to continue funding it, ensuring youth receive the right amount of service, known as the proper dosage, is crucial to improving outcomes and decreasing recidivism.<sup>220</sup>

#### IV. POLICY RECOMMENDATIONS

Policy makers often resort to “silver bullet” ideas that appear attractive in theory but do not address the complexity of systemic issues in our society.<sup>221</sup> Recidivism is no different. Our forthcoming recommendations should not be taken as a cure all silver bullet to reduce recidivism. Rather, it should be incorporated as part of a comprehensive set of policies intended to rehabilitate ex-offenders. The endgame of the compressive set of policies should be to ensure that once ex-offenders are released back to society, they will be able to successfully reintegrate into their communities, and not become another case of recidivism. The following are best practices identified to reduce recidivism on a national scale. Even though states themselves might provide a beacon of hope in reducing recidivism, that can only benefit the state prison population. A national framework will help those in federal prison, particularly those negatively affected by the “drug war,” which disproportionately targeted Brown and Black communities.<sup>222</sup>

##### *a. Incorporate Access to Education in Prisons*

Educational attainment in the state of Texas has proved to be a successful part of their recipe in their efforts to reduce recidivism. By allowing current prisoners to obtain an education to develop a trade, it has empowered former prisoners and participants of this program to reincorporate back into society with employment. California’s most infamous prison, San Quentin, has successfully incorporated an educational program to reduce recidivism. Ex-offenders reentering communities each year that do not have an education are hindered by their lack of education, marketable skills, and their criminal record. An old study conducted by the Federal

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<sup>217</sup> *Id.*

<sup>218</sup> *SPEP Reports for Residential Programs*, FLORIDA DEPARTMENT OF JUVENILE JUSTICE, [http://www.djj.state.fl.us/research/latest-initiatives/juvenile-justice-system-improvement-project-\(jjsip\)/standardized-program-evaluation-protocol-\(spep\)/residential-spep-reports1](http://www.djj.state.fl.us/research/latest-initiatives/juvenile-justice-system-improvement-project-(jjsip)/standardized-program-evaluation-protocol-(spep)/residential-spep-reports1) (last visited Jan 30, 2021).

<sup>219</sup> *Id.*

<sup>220</sup> *Id.*

<sup>221</sup> *Policies to Prevent Crime: Neighborhood, Family, and Employment Strategies*, 494 THE ANNALS OF THE AMERICAN ACADEMY OF POLITICAL AND SOCIAL SCIENCE 199–128 (Nov. 1987).

<sup>222</sup> John Hudak, *Marijuana’s racist history shows the need for comprehensive drug reform*, BROOKINGS INSTITUTE (June 23, 2020), <https://www.brookings.edu/blog/how-we-rise/2020/06/23/marijuanas-racist-history-shows-the-need-for-comprehensive-drug-reform/>.

Bureau of Prisons did indicate that educating offenders was one of the most effective ways to prevent the prisoner to commit another crime once released back into society.<sup>223</sup> Education, whether for a bachelor's degree, or for a trade, has the potential to reduce recidivism and should be incorporated as part of a national framework.

*b. Incorporate Employment Pipeline Opportunities/Apprenticeships*

States like Idaho and Florida have successfully incorporated “work centers” to ensure that soon to be released prisoners, can obtain work experience to help them prepare for their transition back into society. By incorporation apprenticeships and work-release programs, prisoners get to work during the day, which allows them to gather experience with the hopes of being able to market their experience for future employment. By connecting the education and training the prisoner is receiving while behind bars, and connecting that to an apprenticeship, it ensures that the prisoner will remain invested in becoming part of the labor market upon their release. The U.S. Department of Labor does currently issue grants to state prisons that partake in apprenticeship efforts. It is time to incorporate the best practices from state prisons and incorporate that into the federal level as well.

*c. Monitor and Evaluate Results*

One of the biggest issues encountered throughout this analysis, was the consistent measures used to evaluate the effectiveness of programs used. Other states that weren't highlighted in this article had similar programs as the ones highlighted in this journal article. The reason for their lack of inclusion in this journal article was their lack of public data on the monitoring and evaluation of their programs. Without data and being able to discuss quantifiable results, one cannot determine whether a state has successfully implemented a program in their efforts to reduce recidivism. Similarly, a national scale, there should be heavy emphasis on the data collected from prisoners who partake in education and job training programs. This will ensure that we have statistics that can give us an indication of what type of programs at the national level, will prove to be most effective. It is a fiduciary duty to ensure taxpayer funds are used in an effective way to promote public policy goals, and reducing recidivism is no different.

## V. CONCLUSION

People who leave prison and have paid their debt to society deserve a second chance to be a positive contributing member of society. Reducing recidivism is our country's best interest. If we provide a framework where someone paying their debt to society can reintegrate back seamlessly, then we will see a reduction in recidivism. States with a substantial prison population have started to move away from just building prisons to implementing programs to help rehabilitate the offender. It is time that the best practices from states that have been successful at reducing recidivism have their framework implemented at the national level. A reduction in recidivism will be able to allow us to use funds otherwise used for prisons and use them for other

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<sup>223</sup> *Preliminary Report on Recidivism Among Federal Prison Releasees in 1987*, FEDERAL BUREAU OF PRISONS (Aug. 4, 1994), [https://www.bop.gov/resources/research\\_projects/published\\_reports/recidivism/oreprrecid87.pdf](https://www.bop.gov/resources/research_projects/published_reports/recidivism/oreprrecid87.pdf) (demonstrating that education and recidivism are substantially inversely related).

public policy goals intended to further the greater good. The infatuation with the concept of “law and order” negates the fact that the goal of reducing crime and recidivism can be a joint congruent objective. It is time to focus on how we can make an ex-offender not be judged by their mistakes in the past, but their willingness to better themselves and be a positive contributing member of society moving forward.