

Blueprint for Smart Justice
Connecticut



Blueprint *for* Smart Justice Connecticut

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Executive Summary

Over the past five decades, the United States has dramatically increased its reliance on the criminal justice system as a way to respond to drug addiction, mental illness, poverty, and broken schools. As a result, the United States today incarcerates more people, both in absolute numbers and per capita, than any other nation in the world. Millions of lives have been upended and families torn apart. The mass incarceration crisis has transformed American society, damaged families and communities, and wasted trillions of taxpayer dollars.

We all want to live in safe and healthy communities, and our criminal justice policies should be focused on the most effective approaches to achieving that goal. But the current system has failed us. It's time for the United States to dramatically reduce its reliance on incarceration and invest instead in alternatives to prison, including approaches better designed to break the cycle of crime and recidivism by helping people rebuild their lives.

The ACLU's Campaign for Smart Justice is committed to transforming our nation's criminal justice system and building a new vision of safety and justice. The Campaign is dedicated to cutting the nation's incarcerated population in half and combating racial disparities in the criminal justice system.

To advance these goals, the Campaign partnered with the Urban Institute to conduct a two-year research project to analyze the kinds of changes needed to cut the number of people in prison in each state by half and reduce racial disparities in incarceration. In every state, Urban Institute researchers identified primary drivers of incarceration. They then predicted the impact of reducing prison admissions and length of

stay on state prison populations, state budgets, and the racial disparity of those imprisoned.

The analysis was eye-opening.

In every state, we found that reducing the prison population by itself does little to diminish racial disparities in incarceration, and in some cases would worsen them. In Connecticut—where in 2017, Black people made up 41 percent of the incarcerated population despite only comprising 10 percent of the state's adult population¹—reducing the number of people imprisoned will not on its own reduce racial disparities within the prison system. These findings confirm for the Campaign that urgent work remains for advocates, policymakers, and communities across the nation to focus on efforts like policing and prosecutorial reform that are specific to combating these disparities.

Between 1980 and 2008, Connecticut's incarcerated population² skyrocketed, reaching a peak of 19,413 people.³ After 2008, it began to decline, falling to 13,001 people as of June 1, 2019.⁴ In 2016, there were 22,827 admissions into the state's correctional facilities, nearly 17,000 of which were for pretrial detention, meaning that the person had not been convicted of a crime.⁵ Community supervision violations play a big role in admissions to correctional facilities—in the three-month span between October and December 2018, 36 percent of all non-pretrial admissions were for revocation of community supervision, including people revoked from parole, special parole, and probation.⁶

The rate at which people are granted parole has dropped in recent years: Between 2008 and 2018, the annual number of parole hearings resulting in denial increased by 55 percent, while the overall annual

number of parole hearings decreased by 40 percent.⁷ Harsh sentencing laws are also in effect in Connecticut, requiring mandatory minimums for a wide range of crimes, including some lower-level offenses and even misdemeanors.⁸

Unsurprisingly, mass incarceration in Connecticut has had a particularly severe impact on communities of color. In 2017, the incarceration rate of Black adults in the state was more than nine times that of white adults, while the incarceration rate of Hispanic adults was four times that of white adults.⁹ People with mental health and substance use disorders are also overrepresented in state correctional facilities. As of 2016, 22 percent of the incarcerated population in Connecticut were part of the active mental health caseload.¹⁰

All this incarceration is expensive. In 2017, Connecticut spent \$608 million of its general fund on corrections, and growth in corrections spending since 1985 has far outpaced growth in other areas of spending.¹¹

So, what's the path forward?

Expanding on diversion programs like the Early Screening and Intervention Pilot Program started in 2017 in the Bridgeport and Waterbury courts would be a good start. These programs allow prosecutors and counselors to screen some offenses at early stages of proceedings to see if a defendant could be dealt with outside of prison or jail. Reducing the length of community supervision would also help by making it less likely that a person will be incarcerated again rather than being able to rejoin society. Expanding treatment for mental health and drug dependence, as well as eliminating cash bail for pretrial detainees, would help keep down populations at correctional facilities.

In addition, eliminating mandatory minimums, truth-in-sentencing, life, life without parole, and nearly life sentences would keep people from spending catastrophically long terms incarcerated. Bringing Connecticut's parole system into better shape should also be a key priority, as a 2019 Prison Policy Initiative report awarded the state an "F" in its review of the parole system.¹² Helping people earn time off their sentences for educational, vocational, and

other opportunities would help, as would expanding compassionate release.

For more detailed information about these and other potential reforms, see the below sections on "Reducing Admissions" and "Reducing Time Served." If Connecticut were to adopt the changes we detail in this report, the state could have thousands of fewer people incarcerated by 2025, leading to significant cost savings.

Ultimately, the answer is up to Connecticut's voters, policymakers, communities, and criminal justice advocates as they move forward with the urgent work of ending the state's obsession with mass incarceration.

The State of the Connecticut Prison System

Between 1980 and 2008, Connecticut’s incarcerated population grew nearly fivefold (a 368 percent increase).¹³ After peaking at 19,413 people in 2008, the state’s incarcerated population began to decline.¹⁴ Still, as of June 1, 2019, Connecticut incarcerated 13,001 people across the state.¹⁵ When community supervision is included, the reach of the criminal justice system is even greater: In 2016, Connecticut had more than 2 percent (2,110 per 100,000) of its adult residents under some form of correctional control.¹⁶

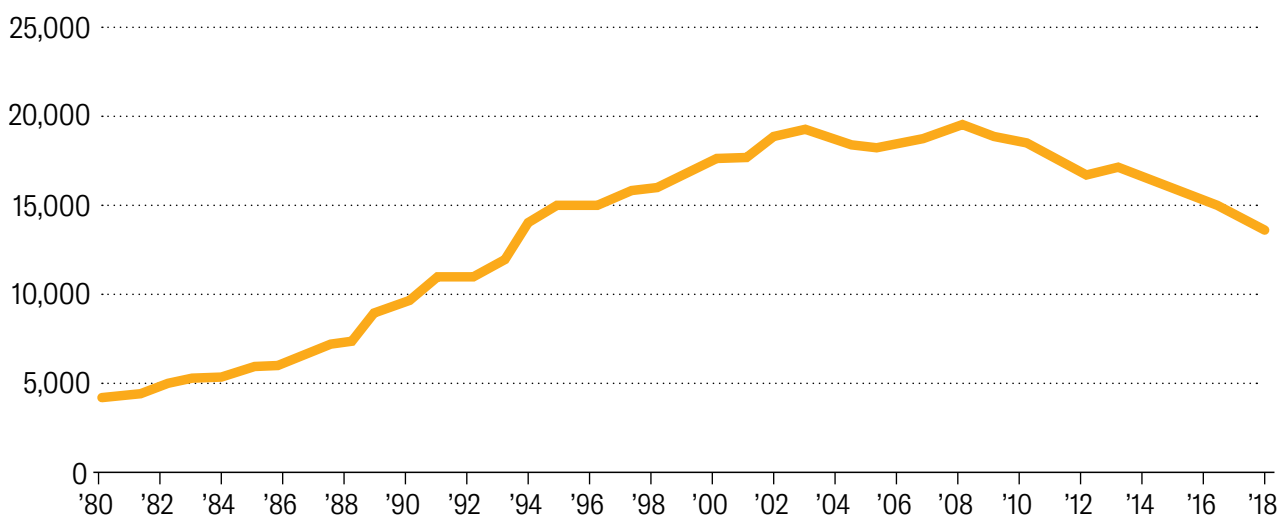
After peaking in 2008, Connecticut’s incarcerated population declined 26 percent by 2017.¹⁷ The Connecticut Office of Policy and Management attributes this decline to a variety of factors, including the decriminalization of marijuana, the use of home

confinement instead of prison for people convicted of driving under the influence, and Raise the Age legislation.¹⁸ Connecticut’s correctional facility population is projected to continue to decrease in the coming years and fall below 10,000 people by mid-2023.¹⁹ Nevertheless, at 290 per 100,000 residents, Connecticut still had the highest imprisonment rate for people sentenced to at least one year among all states in the Northeast region of the United States in 2016.²⁰

What Is Driving People Into Correctional Facilities?

The total number of people admitted annually to Connecticut correctional facilities²¹ decreased by 35

CONNECTICUT INCARCERATED POPULATION



Source: Connecticut Department of Correction, Total Supervised Population Count; Connecticut Criminal Justice Information System, Connecticut Correctional Facility Population Counts, 2019. Population is as of July 1 each year.

AT A GLANCE

CONNECTICUT INCARCERATION

Connecticut's incarcerated population grew by **368 percent** between 1980 and 2008.

There were **13,001 people** incarcerated across Connecticut as of June 1, 2019.

Connecticut's incarcerated population is projected to continue to decrease and fall below **10,000 people** by mid-2023.

of admissions: Over the same time period, 36 percent of all non-pretrial admissions were for revocations of community supervision, including people revoked from parole, special parole, and probation.²³

Additionally, many people who have served time in Connecticut lack sufficient access to treatment options and reentry support and subsequently return to a correctional facility. Although Connecticut's three-year recidivism rate has decreased from 54 percent of people released in 2005, 45 percent of people released from Connecticut correctional facilities in 2014 were convicted of a new crime within three years.²⁴

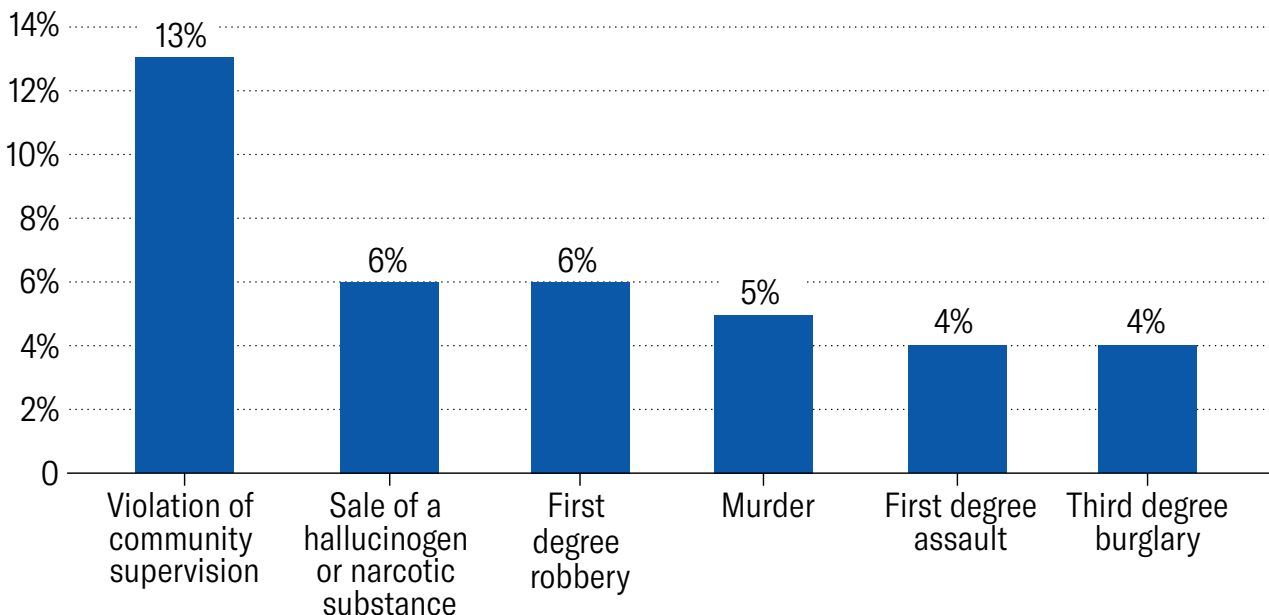
percent between 2006 and 2016; in 2016, there were 22,827 admissions to the state's correctional facilities. Nearly 17,000 – almost three-quarters – of these were pretrial admissions of people who had not been convicted of a crime.²²

In the three-month span between October and December 2018, there were 4,924 admissions to Connecticut correctional facilities, of which three-quarters (76 percent) were people admitted pretrial. Community supervision violations are also a driver

The Current Correctional Facility Population

Because Connecticut has a unified correctional system, the state's correctional facilities hold people who are serving sentences as well as people who are being held pretrial and have not been convicted of a crime. As of June 1, 2019, Connecticut facilities held 13,001 people, 28 percent of whom had not been convicted of a crime. Between 2009 and 2019, while the overall incarcerated

CONNECTICUT INCARCERATED POPULATION BY TOP OFFENSES (2015)



population decreased 31 percent, the number of people incarcerated pretrial decreased by only 13 percent.²⁵

As of 2015, 13 percent of the people in Connecticut’s incarcerated population (including both pretrial and sentenced populations) were incarcerated for a drug offense charge or sentence. Of that population, one-quarter (25 percent) were incarcerated for drug possession.²⁶ However, after the state reduced penalties for drug possession, the number of people incarcerated for drug possession declined; between October 2015 and September 2016, the number of people incarcerated for drug possession-related offenses decreased by 45 percent. In September 2016, there were 283 people imprisoned in Connecticut (both sentenced and pretrial) for drug possession-related charges or sentences.²⁷

Violations of community supervision are also a significant contributor to the incarcerated population: In 2015, one in eight people (13 percent) in Connecticut prisons were incarcerated for a violation of probation or conditional discharge.²⁸

In 2015, the top offense charges or sentences for people incarcerated in Connecticut who were not serving time for violations of supervision were sale of a hallucinogen or narcotic substance (6 percent), first degree robbery (6 percent), murder (5 percent), first degree assault (4 percent), and third degree burglary (4 percent).²⁹

Why Do People Stay in Correctional Facilities for So Long?

As Connecticut’s sentenced population³⁰ has declined, an increasing share are serving longer sentences. The number of people serving shorter prison sentences (less than two years) has fallen more rapidly than the rest of the sentenced population in Connecticut correctional facilities. The number of people serving sentences of less than two years fell by 33 percent between 2011 and 2019, accounting for approximately one-quarter of the sentenced population in 2019.³¹

Between 2008 and 2018, the annual number of parole hearings resulting in denial increased by 55 percent. In 2018, the Board of Pardons and Paroles granted

AT A GLANCE

LENGTH OF INCARCERATION

The number of parole hearings resulting in denial in Connecticut increased by **55 percent** between 2008 and 2018.

The number of people serving sentences of less than two years in Connecticut correctional facilities fell by **33 percent** between 2011 and 2019.

The number of parole hearings held annually in Connecticut decreased by **40 percent** between 2008 and 2018.

parole in just half (50 percent) of all hearings, the lowest parole grant rate in at least a decade. In addition, between 2008 and 2018, the number of parole hearings held annually decreased by 40 percent.³²

Connecticut’s many harsh sentencing laws contribute to lengthy terms of incarceration. The state has laws that mandate minimum sentences of incarceration for a range of crimes, including some lower-level offenses and even some misdemeanors.³³ Additionally, Connecticut’s “persistent offender” law mandates lengthy terms of incarceration for people convicted of subsequent offenses, even for past convictions for lower-level offenses such as criminal trespassing.³⁴ Laws such as these can require incarceration for people who could otherwise be eligible for probation or other alternative programming.

Who Is Incarcerated?

Black People in Connecticut: Incarceration in Connecticut has a profoundly disparate impact on Black communities. In 2017, the incarceration rate of Black adults in Connecticut (2,156 per 100,000) was more than nine times that of white adults.³⁵ Although they made up just 10 percent of the state’s adult population, Black people made up 41 percent of the incarcerated population in Connecticut in 2017.³⁶

Latinos in Connecticut: In 2017, the incarceration rate of Latino adults in Connecticut (938 per 100,000) was four times that of white adults. Although they made up just 14 percent of the state’s adult population, Latino people made up 26 percent of the incarcerated population in Connecticut in 2017.³⁷

Women in Connecticut: While the number of women in Connecticut correctional facilities has decreased in recent years, it is decreasing at a slower rate than the total population. Between 2011 and 2019, while the overall Connecticut incarcerated population fell by 25 percent, the number of women incarcerated in Connecticut decreased by 11 percent.³⁸

Data suggests that the number of women detained pretrial is decreasing even more gradually: A 2018 study by the Office of Policy and Management’s Criminal Justice Policy and Planning Division found that between 2008 and 2018, the number of women held pretrial decreased by just 4 percent. That study reviewed the records of more than 2,000 women who were admitted to Connecticut’s correctional facilities pretrial in 2017 and found that approximately one-third remained incarcerated pretrial for less than a week.³⁹ These relatively short pretrial detention stays can result in far-reaching consequences such as loss of employment and benefits.⁴⁰

AT A GLANCE

DEMOGRAPHICS

Black people made up just **10 percent** of Connecticut’s adult population in 2017, but 41 percent of the incarcerated population.

In 2018, people over the age of 40 accounted for **36 percent** of Connecticut’s incarcerated population.

In 2017, the incarceration rate of Latino adults in Connecticut was **four times** that of white adults.

AT A GLANCE

MENTAL HEALTH AND SUBSTANCE USE DISORDERS

In 2016, **22 percent** of the incarcerated population was on the active mental health caseload.

87 percent of women held pretrial who were assessed within 14 days of admission in 2017 were found to have some history of issues with mental health.

Older People in Connecticut: The proportion of people incarcerated in Connecticut who are 40 or older has grown in recent years. In 2018, people over the age of 40 accounted for 36 percent of the incarcerated population, compared to 29 percent in 2009.⁴¹ Between 2009 and 2018, the number of people incarcerated in Connecticut who were age 40 or older decreased by 10 percent, while the total incarcerated population decreased by 28 percent.

People With Mental Health and Substance Use Disorders

Mental health needs are prevalent in Connecticut’s incarcerated population. In 2016, approximately one-quarter (22 percent) of the incarcerated population was on the active mental health caseload.⁴² Additionally, according to the Connecticut Department of Correction’s Objective Classification System, the vast majority (88 percent) of people incarcerated have “a substance abuse history that suggests a significant need for some level of substance abuse treatment.”⁴³

Behavioral health needs in Connecticut correctional facilities are widespread among incarcerated women. The aforementioned study of women detained pretrial in Connecticut found that, of the women assessed within 14 days of admission in 2017, the vast majority (87 percent) were found to have some history of issues with mental health, and 66 percent were identified as

AT A GLANCE

BUDGET AT A GLANCE

Connecticut spent **\$608 million** of its general fund on corrections in 2017.

General fund spending on corrections more than **tripled** between 1985 and 2017.

having a substance abuse issue requiring intensive outpatient services or high-level intensive treatment.⁴⁴

Budget Strains

As Connecticut's incarcerated population has risen, so has the cost burden. In 2017, Connecticut spent \$608 million of its general fund on corrections, accounting for more than 3 percent of the state's total general fund spending that year. General fund spending on corrections more than tripled (a 231 percent increase) between 1985 and 2017, far outpacing spending growth in other state spending priorities like education.⁴⁵

Ending Mass Incarceration in Connecticut: A Path Forward

Mass incarceration is a result of many systems failing to support our communities. To end it, we must develop policies that better address inadequacies throughout our education, health care, and economic systems — to name a few. There are many potential policy changes that can help Connecticut end its mass incarceration crisis, but it will be up to the people and policymakers of Connecticut to decide which changes to pursue. To reach a 50 percent reduction, policy reforms will need to reduce the amount of time people serve in prisons and/or reduce the number of people entering jail and prison in the first place.

Reducing Admissions

To end mass incarceration, Connecticut must break its overreliance on jails and prisons as a means to hold people accountable for their crimes. Evidence indicates that prisons seldom offer adequate solutions to wrongful behavior. In fact, imprisonment can be counterproductive — increasing cycles of harm and violence and failing to provide rehabilitation for incarcerated people or adequate accountability to the survivors of crime.⁴⁶ Here are some strategies:

- **Alternatives to incarceration:** The good news is that alternatives exist. Several types of alternative-to-incarceration programs have shown great success in reducing both violent and nonviolent criminal activity. Programs offering support services such as substance use treatment, mental health care, employment, housing, health care, and vocational training — often with a community service requirement — have significantly reduced recidivism rates for participants.⁴⁷ Such diversion programs

have already demonstrated success in parts of Connecticut and should be implemented statewide. The Early Screening and Intervention Pilot Program started in 2017 in the Bridgeport and Waterbury courts, for example, allows prosecutors and counselors to screen some offenses at early stages in proceedings to determine if defendants should instead go into a diversion program.⁴⁸ Early results from the program are encouraging: By November 2018, the program had diverted 1,658 cases with an 89 percent completion rate, an estimated first-year savings of over \$9 million, having saved the court system 54,000 appearances. Due to its success, the program has now been extended to New Haven, New London, Norwich, and Hartford.⁴⁹

For crimes involving violence, restorative justice programs — which are designed to hold responsible people accountable and support those who were harmed — can be particularly promising. When they are rigorous and well-implemented, these processes have not only been demonstrated to reduce recidivism for defendants,⁵⁰ they have also been shown to decrease symptoms of posttraumatic stress in victims of crime.⁵¹ Common Justice, a restorative justice program in Brooklyn, NY, responds to violence by focusing on its underlying causes, building practical strategies to hold people accountable for harm, break cycles of violence, and secure safety, healing, and justice for survivors and their communities. With survivors and people responsible for their harm working together, they recognize the harm done and develop appropriate responses to

people accountable — reaching an agreement that addresses the questions, impacts, needs, and obligations each person has.⁵² Program staff monitor adherence to the agreement and supervise completion of an extensive 12–15-month violence intervention program; people who successfully complete the agreement commitments do not face jail or prison sentences. Survivors of violence overwhelmingly prefer this process over the normal criminal legal system process — about 90 percent of those approached by Common Justice to participate as an alternative to trial and incarceration agree.⁵³

Prosecutors and judges who embrace these solutions can fulfill their responsibilities to the public safety and to supporting crime survivors in their healing — and can often generate far better results than imprisonment can deliver. Other successful models include those that divert people to treatment and support services before arrest and prosecutor-led programs that divert people before they are charged. Lawmakers can explore such interventions at multiple phases in the system, whether through decriminalization or alternatives to arrest, charges, or incarceration — particularly for offenses and misdemeanors.

- **Improve community supervision:** Community supervision is intended to be an alternative to incarceration, a mechanism for early release, and an opportunity to lower recidivism through effective reentry practices. Yet, many probation and parole practices perpetuate mass incarceration. Probation and parole offices must prioritize the risk-need-responsivity principle, ensuring the level and parameters of supervision are aligned and lead to better public safety and rehabilitation outcomes. The Connecticut General Assembly should ensure probation is used as a prison alternative, rather than a place courts send people who should instead remain in their communities without supervision. Moreover, extended periods of supervision with unnecessarily burdensome

conditions can interfere with a person’s ability to successfully re-enter society, increasing their risk of reincarceration. To ensure more appropriate timing and successful completion of supervision, the General Assembly should reduce initial supervision lengths at sentencing to a maximum of three years, provide opportunities for early discharge, remove blanket conditions, and require any condition imposed by a judge have an articulable nexus to a risk or need of that particular individual, specifically limiting the use of GPS monitoring for those under probation and parole supervision.

- **Reduce probation and parole revocations:** Too often, people revoked from supervision are sent to prison for technical violations, not for the commission of new crimes. For example, missing curfew or lack of employment could result in incarceration. Racial disparities are stark in revocation decision-making; one study found that Black probationers were revoked at significantly higher rates than white or Latinx probationers.⁵⁴ The Connecticut General Assembly has taken positive steps in curtailing this trend with the passage of Senate Bill 880 in 2019, establishing a pilot public defender program to provide representation to people at parole revocation hearings and more transparency in hearing decisions.⁵⁵ But more reform is necessary. The General Assembly should implement a system of graduated sanctions for proportional responses to probation and parole violations, prohibit incarceration in cases of technical violations, and provide oversight over decisions to revoke supervision.

Moreover, parole revocations for technical violations are often due to physical or mental disabilities. Parole and probation officers are required to provide reasonable accommodations so that parolees and probationers with disabilities have an equal opportunity to comply with the requirements of parole. Proper training

of parole officers and greater awareness of, and advocacy for, these requirements could reduce the number of technical violations significantly.

- **Expand treatment – mental health:** As one of the first states to expand Medicaid, the Connecticut government has signaled how seriously it takes ensuring that people can access sufficient care for their needs.⁵⁶ The General Assembly should extend this principle and invest in community-based mental health services and mandate connecting people and those services when needed rather than charging them with crimes. Effective diversion programs coordinate with community services that provide a wide range of substantial, quality wraparound treatments and support for people with disabilities to access housing, employment, and intensive, individualized supports in the community. After an initial investment in community supports, diversion programs have the potential of saving jurisdictions large amounts of money.⁵⁷
- **Expand treatment – addiction:** Substance use disorders are often underlying drivers of a substantial number of crimes, including and especially more serious offenses like burglaries, robberies, and assaults. Connecticut’s Heroin/Opioid Prevention and Education (H.O.P.E.) Initiative allows officers to help people get treatment for substance use rather than bringing them into custody.⁵⁸ The program’s demonstrated success has resulted in its expansion to Southington and Berlin. The program should be further expanded across the state, but it should remove access limitations in terms of kinds of drugs and kinds of charges. The initiative should treat the full spectrum of controlled substance drugs (including heroin or opioids) and offer treatment to those found distributing drugs. Continuing to address substance use through treatment rather than incarceration can more effectively reduce crime in Connecticut.⁵⁹
- **Support decriminalization:** Despite efforts to reduce incarceration through legislative reform,

the Connecticut General Assembly continues to introduce bills to criminalize behavior that previously would not have led to incarceration. The General Assembly needs to move away from a culture of criminalization, stop expanding the criminal code, and invest further in alternatives to incarceration. Moreover, the General Assembly should modernize the criminal code overall, removing outdated statutes that criminalize behavior the criminal legal system should not respond to, like addiction, mental illness, truancy, and a lack of fee and fine payment, amongst others.

- **Eliminate cash bail:** Connecticut should seek to eliminate all forms of pretrial detention, which pulls people into the legal system, separating them from their families and loved ones and subjecting them to lengthy periods of incarceration based on the mere accusation of a crime. As a first step, the Connecticut General Assembly can ensure people are not held pretrial merely because they cannot afford the price of their freedom by eliminating its use of cash bail. Far too often, people who cannot afford their bail will end up in jail for weeks or months as they wait for their day in court. When this happens, the criminal legal system leaves them with a difficult choice: Take a plea deal or fight the case from behind bars. While detained pretrial, research shows many people face significant collateral damage, such as job loss or interrupted education.⁶⁰ After even a short stay in jail, taking a plea deal sounds less burdensome than losing everything, which is likely why evidence shows that pretrial detention significantly increases a defendant’s risk of conviction.⁶¹ The current cash bail system harms people of color in particular. Research shows that people of color are detained at higher rates across the country when unable to meet bail, and that courts set significantly higher bail amounts for them.⁶² In order to significantly reduce pretrial detention and combat racial disparities, the Connecticut General Assembly should eliminate cash bail and limit pretrial

detention to the rare case where a person poses a serious, clear threat to another person.

- **Prosecutorial reform:** Prosecutors are powerful actors in the criminal legal system with the ability to wield the power of the state against an individual to deprive that person of life, liberty, and property. The Criminal Justice Commission, which appoints, reappoints, and removes state attorneys, should be granted and encouraged to use broad authority in reviewing and assessing prosecutorial decisions overall. It should also operate a statewide Conviction Integrity Unit to ensure that appropriate decisions are made and directly address any misconduct. Further, prosecutors' appointed terms of office should be shortened from eight years to four, and should be subject to mid-year reviews conducted by the Criminal Justice Commission, analyzing clear, concrete metrics of performance. The General Assembly should codify the chosen performance metrics to include the percent of defendants diverted from the system, those detained pretrial, and those sentenced to non-incarceration. Finally, the Connecticut General Assembly should eliminate the rotation system that judges, public defenders, and prosecutors currently use. Currently, judges and public defenders rotate from court to court periodically while prosecutors remain in the same one, giving the impression that the prosecutor is the stable authority figure in that courtroom. This inflated and superficial authority can be eliminated by removing the rotation system from the Connecticut courts altogether.
- **Implement non-incarceration sentences:** The General Assembly can limit the circumstances in which a judge is required to impose a prison sentence instead of non-incarceration responses, such as community supervision. Judges must have a variety of options at their disposal besides imprisonment, allowing them to require treatment, mental health care, restorative justice, or other evidence-based alternatives to incarceration.

These programs should be available to the court in all or most cases, regardless of the severity of the offense or someone's prior criminal history. The court, not the General Assembly, should be in a position to decide whether such an option is appropriate in individual cases.

- **Anti-discrimination law reform:** Connecticut will be safer, stronger, and fairer if people who are returning home after incarceration have the resources they need to support themselves and their families. Yet, people living with a criminal record in Connecticut face more than 600 legal and policy barriers to being full members of society. The Connecticut General Assembly should prohibit discrimination against people on the basis of their criminal record in areas like employment, housing, public education and accommodations, insurance, credit transactions, and public programs and services. Preventing discrimination against people living with a criminal record allows people a fair shot at getting their lives back on track after release.⁶³ In 2019, the General Assembly passed House Bill 6921, establishing the Council on the Collateral Consequences of a Criminal Record, tasking it with studying discrimination faced by people who are living with a criminal record in Connecticut and making recommendations to reduce or eliminate discrimination based on a person's record of arrest or conviction.⁶⁴ The General Assembly should take these recommendations seriously and act swiftly to expand the scope of Connecticut's anti-discrimination laws to include safeguards for those with a criminal record.
- **Increase institutional efficiency:** Connecticut's incarcerated population has hit its lowest level in 25 years.⁶⁵ It is time to remove prison beds and close facilities that are no longer necessary in the state to match the declining population trend with safeguards in place (such as greater reliance on diversion programs and other alternative-to-incarceration options) to ensure that no Connecticut residents will serve sentences outside the state. Removal

of beds and facilities will ensure they are not filled unnecessarily simply because they are unoccupied and available.

Reducing Time Served

Reducing the amount of time people serve, even by just a few months, can lead to thousands fewer people in Connecticut's prisons. Here's how:

- **Sentencing reform – general:** The General Assembly can amend and modernize Connecticut's criminal code to reclassify offenses to more appropriate levels and reduce sentencing ranges across the board, aiming to reduce each imprisonment range by 25 percent. Further, the General Assembly should ensure that all sentence reforms apply retroactively to ensure that those currently serving unduly burdensome sentences are able to get similar relief.
- **Sentencing reform – enhancements and lengthy sentences:** The General Assembly can limit the circumstances and severity of Connecticut's prior felony sentencing laws, in which the presence of even a single prior felony can both substantially increase the sentencing range and delay initial parole eligibility. It should also eliminate laws that increase prison time to exorbitant stays, such as mandatory minimums, truth-in-sentencing, life, life without parole, and nearly-life sentences.
- **Parole reform:** Improving parole and release policies and practices to ensure that eligible people are paroled more quickly is another key way to reduce the amount of time people spend in prison. Based in part on its ability to deny someone parole without a hearing, lack of transparency in the process, and lack of a meaningful appeals process, a 2019 Prison Policy Initiative report that ranked states based on their parole release practices awarded an "F" to Connecticut, the lowest possible grade.⁶⁶ The General Assembly should:
 - Create presumptive release policies triggered by the number of years served, so applicants would be released at their release eligibility dates unless the parole board objects, in consultation with corrections agencies and having reviewed the individual's record while incarcerated;
 - Ensure petitioners for release who are denied are able to reapply immediately for reconsideration;
 - Limit the parole board's ability to use the nature/severity of the crime to deny parole to otherwise deserving applicants, and require documentation of the board's rationale for parole grants or denials be placed in the record;
 - Expand release eligibility for all offenses;
 - Set a fair, holistic criteria for release decision-making; and
 - Increase transparency and fairness in release hearings and decisions.
- **Earned time/earned credit reform:** Connecticut should expand the availability of earned credits against a prison sentence through participation in educational, vocational, and other opportunities. Currently, a significant number of carve-outs prevent incarcerated people from participating in earned time programs, and the General Assembly has shown an interest in limiting participation further, even eliminating earned time credit programs such as the Risk Reduction Earned Credit program altogether.⁶⁷ The General Assembly must reverse this trend by protecting and further investing in earned time credit programs while ensuring participation for everyone.
- **Compassionate release:** The Connecticut General Assembly should expand access to and use of compassionate release from prison. The state's prison population is rapidly aging, and keeping aging and seriously injured or ill

people incarcerated significantly taxes prison resources. Studies have shown that incarcerating an older (50 and above) person costs double what it costs to incarcerate a younger person.⁶⁸ What is more, keeping older people behind bars does not serve the goal of incapacitation, particularly as studies have clearly shown that as people age, their propensity to commit crime significantly declines.⁶⁹ There is also clear evidence showing that older people have much lower rates of recidivism than their younger counterparts.⁷⁰ The Connecticut General Assembly should ensure eligibility for compassionate release is available for all people over the age of 50 who have served at least 10 years, regardless of severity of illness.

Reducing Racial Disparities

Reducing the number of people who are imprisoned in Connecticut will not on its own significantly reduce racial disparities in the prison system.

People of color (especially Black, Latinx, and Native American people) are at a higher risk of becoming involved in the justice system, including living under heightened police surveillance and being at higher risk for arrest. This imbalance cannot be accounted for by disparate involvement in illegal activity, and it grows at each stage in the justice system, beginning with initial law enforcement contact and increasing at subsequent stages, such as pretrial detention, conviction, sentencing, and post-release opportunity.⁷¹ Focusing on only one of the factors that drives racial disparity does not address issues across the whole system.

By addressing socioeconomic issues such as poverty, addiction, mental health, and school discipline through the criminal system, Connecticut is placing law enforcement at odds with the communities they are assigned to protect and worsening the risks faced by troubled youths. This drives racial disparities in both charging decisions and sentence lengths. Racial disparity is so ingrained in the system that it cannot be mitigated by solely reducing the scale of mass incarceration.

Shrinking the prison population across the board will likely result in lowering imprisonment rates for all racial and ethnic populations, but it will not address comparative disproportionality across populations. For example, focusing on reductions to prison admissions and length of stay in prison is critically important, but those reforms do not address the policies and practices among police, prosecutors, and judges that contribute greatly to the racial disparities that plague the prison system.

Connecticut, for example, is often heralded as one of the most successful examples of reversing mass incarceration, passing justice reforms that led to a 26 percent decline in the state prison population between 2008 and 2017.⁷² However, the state did not target racial disparities in incarceration and, in 2014, Black people in Connecticut were still more than nine times as likely to be imprisoned as white people – the fifth highest disparity of any state in the nation.⁷³

Ending mass incarceration is critical to eliminating racial disparities, but insufficient without companion efforts that take aim at other drivers of racial inequities outside of the criminal justice system. Reductions in disparate imprisonment rates require implementing explicit racial justice strategies.

“Merely reducing sentence lengths, by itself, does not disturb the basic architecture of the New Jim Crow. So long as large numbers of African Americans continue to be arrested and labeled drug criminals, they will continue to be relegated to a permanent second-class status upon their release, no matter how much (or how little) time they spend behind bars. The system of mass incarceration is based on the prison label, not prison time.”⁸³

— From *The New Jim Crow*, Michelle Alexander

Some examples include:

- Ending overpolicing in communities of color, including investigating and examine traffic stop data for disparate impacts in communities of color
- Removing police officers' charging authority and transferring this authority to prosecutors, evaluating their decisions to identify and eliminate bias and prevent overcharging
- Evaluating prosecutors' plea bargaining practices to identify and eliminate bias
- Investing in diversion and alternatives to detention in communities of color
- Reducing the use of pretrial detention and eliminating wealth-based incarceration
- Ending sentencing enhancements based on location (e.g., drug-free school zones)
- Reducing exposure to reincarceration due to revocations from supervision
- Requiring racial impact statements before any new criminal law or regulation is passed and requiring legislation proactively rectify any potential disparities that may result from new laws or rules
- Eliminating discriminatory gang sentencing enhancements that disproportionately target people of color
- Addressing any potential racial bias in risk assessment instruments used to assist decision-making in the criminal justice system
- Encouraging judges to use their power to dismiss cases that originate with school officials or on school grounds, when the matter may be adequately addressed through school disciplinary or regulatory process to avoid incarcerating children during their most formative years
- Eliminating fines and fees, which effectively criminalize poverty

- Shifting funding from law enforcement and corrections to community organizations, job creation, schools, drug and mental health treatment, and other social service providers

Reducing Disability Disparities

The rates of people with disabilities in the U.S. criminal system are two to six times that of the general population.⁷⁴ In particular, people with psychiatric disabilities are dramatically overrepresented in jails and prisons across the country.⁷⁵

- People showing signs of mental illness are twice as likely to be arrested as people without mental illness for the same behavior.⁷⁶
- People with mental illness are sentenced to prison terms that are, on average, 12 percent longer than other people in prison.⁷⁷
- People with mental illness stay in prison longer because they frequently face disciplinary action from conduct that arises due to their illness – such as attempted suicide – and they seldom qualify for early release because they are not able to participate in rehabilitative programming, such as educational or vocational classes.⁷⁸

Furthermore, sentencing reforms appear to leave people in prison with psychiatric disabilities behind. In recent years in California, for example, the prison population has decreased by more than 25 percent following a court order, but the number of people with a serious mental disorder has increased by 150 percent – an increase in both the rate and the absolute number of incarcerated people with psychiatric disabilities.⁷⁹

Screening tools to evaluate psychiatric disabilities vary by state and jurisdiction, but the most reliable data indicates that more than half of jail populations and close to half of prison populations have mental health disabilities.⁸⁰ The fact that people with mental health disabilities are arrested more frequently, stay incarcerated longer, and return to prisons faster is not due to any inherent criminality related to psychiatric disabilities. It arises in part because of the lack of accessible and appropriate mental health treatment

in the community; in part because of a perception of dangerousness by police, prosecutors and judges; and in part because prison staff and probation officers fail to recognize and accommodate disability.

Many people of color in jails and prisons are also people with disabilities, and efforts to reduce racial disparities must go hand in hand with efforts to reduce disability disparities.⁸¹ Not surprisingly, many of the strategies to reduce disability disparities are similar to approaches that reduce racial disparities. Some examples include:

- Investing in pre-arrest diversion:
 - Creating behavioral health centers, run by state departments of health, as alternatives to jails, or emergency rooms for people experiencing mental health crises or addiction issues.
 - Training dispatchers and police to divert people with mental health issues who commit low-level nuisance crimes to these behavioral health centers. Jurisdictions

TAKING THE LEAD

State lawmakers: They decide which offenses to criminalize, what penalties to include, how long sentences can be, and when to take away discretion from judges. They can change criminal laws to remove prison as an option when better alternatives exist, and they can also fund the creation of new alternatives, including diversion programs that provide supported housing, treatment, and vocational training. And they can decide to sufficiently fund mental health and substance use treatment so it is available for people who need it before they encounter the criminal legal system.

Police: They are generally the first point of contact with the criminal justice system. The practices that police employ in communities can shape the public's view of and trust in that system. Police can decide whether or not to arrest people and how much force to use during encounters with the public. Police in Connecticut also make the decisions on what charges to bring after an arrest. They have tremendous power in Connecticut. Police departments can also participate in diversion programs, which enable officers to divert people into community-based intervention programs rather than into the criminal justice system.

Prosecutors: They make decisions on when to prosecute an arrest, whether to keep charges against people, and which plea deals to offer and accept. They can decide to divert people to treatment programs (for example, drug or mental health programs) rather than send them to prison. And they can decide not to seek enhancements that greatly increase the length of sentences.

Criminal Justice Commission: The Criminal Justice Commission can ensure fair state's attorneys are appointed into their powerful positions, remove those abusing that power, and provide broad accountability and oversight over prosecutorial decisions and misconduct.

Judges: They often have discretion over pretrial conditions imposed on defendants, which can make a difference. For example, individuals who are jailed while awaiting trial are more likely to plead guilty and accept longer prison sentences than people who are not held in jail pretrial. Judges can also have discretion in sentencing and should consider alternatives to incarceration when possible.

Parole boards: They decide when to allow people to leave prison. If the parole board is trained to consider and accommodate disability issues, they may recognize and release more people who have disciplinary issues in their records that are due to a lack of accommodations for their disabilities.

that have followed this approach have significantly reduced their jail populations.⁸²

- Ending arrest and incarceration for low-level public order charges, such as being drunk in public, urinating in public, loitering, trespassing, vandalism, and sleeping on the street. If needed, refer people who commit these crimes to behavioral health centers.
- Requiring prosecutors to offer diversion for people with mental health and substance use disabilities who are charged with low-level crimes
- Evaluating prosecutors' charging and plea-bargaining practices to identify and eliminate disability bias
- Requiring prosecutors' offices be transparent in their hiring practices, and plea deals
- Investing in diversion programs and alternatives to detention designed for people with disabilities, including programs that provide supportive housing, Assertive Community Treatment, wraparound services, and mental health supports
- Reducing the use of pretrial detention while increasing reminders of court dates and other supports to ensure compliance with pretrial requirements
- Reducing reincarceration due to parole or probation revocations through intensive case management, disability-competent training for officers on alternatives to incarceration and reasonable modifications to requirements of supervision, and no return to incarceration for first and second technical violations
- Addressing bias against mental disabilities in risk assessment instruments used to assist decision-making in the criminal justice system
- Shifting funding away from law enforcement and corrections into supportive housing, intensive case management, schools, drug and mental health treatment, community organizations, job creation, and other social service providers

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