

CHAPTER

# 2

## Reimagining Pretrial and Sentencing

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The roots of mass incarceration in the United States lie in policies and practices that result in jail for millions of individuals charged with but not convicted of any crime and lengthy jail or prison sentences for those who are convicted. These policies and practices are the results of 50 years of efforts at criminal justice reform in response to the “War on Crime” and the “War on Drugs” that began in the 1970s—intended to improve public safety, curb drug abuse, and address perceived inequities in the justice system, these reforms also had unintended consequences that exacerbated disparities.

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As the United States grapples with yet another iteration of calls for social and racial justice following multiple deaths of Black Americans at the hands of law enforcement, the time is ripe to develop and implement deep structural reforms that will increase fairness and ensure proportionate punishment

without sacrificing public safety. Concurrently, practices implemented to address the public health crisis in the Nation's jails and prisons accompanying the COVID-19 pandemic provide an opportunity to examine whether reducing pretrial detention and prison sentences can be accomplished without negatively affecting public safety.

This chapter briefly discusses the evolution of criminal justice reform efforts focused on pretrial and sentencing policies and practices that resulted in unprecedented rates of incarceration that have only recently begun to abate. This discussion is followed by proposals for policy reforms that should be implemented and recommendations for critical research needed to guide future reform efforts.

## Level Setting

Despite declining somewhat over the past two decades, America's incarceration rate remains the highest in the world.<sup>1</sup> Individuals in the United States may spend months in jail awaiting trial and those convicted are more likely than those in peer nations to receive long carceral sentences. Against the backdrop of renewed calls for racial and social justice in response to deaths of Black people at the hands of police, the COVID-19 pandemic has shone an unforgiving spotlight on America's jails and prisons, where those awaiting trial or serving sentences have experienced disproportionate rates of infection and death due to the spread of the virus. The responses to the pandemic in many jurisdictions have included unprecedented efforts to reduce jail populations and some efforts toward early prison release that provide an opportunity to determine whether reducing pretrial detention or prison sentences can be accomplished without negatively affecting public safety.

The United States has been engaged in efforts to reform pretrial practices and sentencing for more than five decades. The 1966 Bail Reform Act sought to reduce pretrial detention through the offer of payment of money bond in lieu of detention, while rising violent crime rates and an ongoing "drug war" resulted in the 1984 Pretrial Reform Act that once again led to a reliance on preventive pretrial detention. More recently, there has been a renewed push to reduce reliance on financial requirements for pretrial release in response to concerns about the growing numbers of individuals detained and the disparate impact of these detentions on individuals who are poor and people of color. Risk assessment tools that predict failure to appear and new arrests for those released while awaiting trial have been implemented to support release decisionmaking and to provide an alternative to money bail. These tools have also been suggested as a means to reduce disparities in release that may reflect implicit biases and cognitive errors in judgement by those charged with making release decisions quickly with incomplete information. Risk assessment tools continue to garner support despite criticisms that they perpetuate historical biases that exist in the criminal record information used to make the predictions.

Concerns about disparity, discrimination, and unfairness in sentencing led to a sentencing reform movement that began in the mid-1970s and that, over time, revolutionized sentencing. States and the federal system moved from indeterminate sentencing, in which judges imposed minimum and maximum sentences and parole boards determined how long those incarcerated would serve, to structured sentencing policies that constrained the discretion of judges, ensured that sentences were pegged to crime seriousness and to the criminal history of those found guilty, and, in many jurisdictions, eliminated discretionary release on parole.

As the “War on Crime” and the “War on Drugs” escalated during the 1980s in response to increasing rates of violent crime and the drug—primarily crack cocaine—epidemic, reformers also championed changes designed to establish more punitive sentencing standards. These changes included sentencing enhancements for use of a weapon, prior criminal history, and infliction of serious injury; mandatory minimum sentences, particularly for drug and weapons offenses; “three-strikes laws” that mandated long prison sentences for repeat offenders; truth-in-sentencing statutes that required individuals to serve more of their sentences before they were eligible for release; and life without the possibility of parole (LWOP) sentences. Federal support for these efforts included funding under the Violent Crime Control and Law Enforcement Act of 1994 (Pub. L. 103-322) that established the Violent Offender Incarceration and Truth-in-Sentencing (VOI/TIS) Incentive Grant Program, which was designed to assist state efforts to remove violent offenders from the community. Over five years (FY1996 to FY2001) this program provided states with \$3 billion in funding to expand prison and jail capacity and to encourage states to eliminate indeterminate sentencing in favor of “Truth in Sentencing” laws that required individuals to serve at least 85 percent of the imposed sentence.<sup>2</sup>

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What have been the results of these efforts at reform? More individuals detained pretrial as the numbers of individuals booked into jails increased and as the proportion of those held in jail pending trial increased from 56 percent of the jail population in 2000 to 66 percent in 2018. Prison populations also skyrocketed—from about 200,000 in 1970 to 1.43 million in 2019.<sup>3</sup> Further, sentences became more punitive, with individuals convicted of felonies in state and federal courts facing a greater likelihood of incarceration and longer sentences than they did in the pre-reform era. The number of individuals serving life—and life without the possibility of parole—sentences also increased dramatically; there are now more offenders serving life sentences than the total number of individual who were held in all U.S. prisons in the early 1970s. Worldwide, the United States accounts for more than one-third of all life sentences and eight out of ten LWOP sentences. Moreover, there is persuasive evidence that these punitive changes *did not* produce the predicted decline in crime but *did* exacerbate already alarming racial and ethnic disparities in incarceration.

Pretrial detention and prison incarceration are linked, as those engaged in recent efforts on pretrial reform recognize. Pretrial detention contributes to mass incarceration both directly and indirectly. Pretrial detention results in a greater likelihood that individuals (irrespective of guilt) will plead guilty, a greater likelihood of being sentenced to incarceration, and longer sentences. These impacts are disproportionately borne by people of color—who are more likely to be detained and less likely to be able to afford bond amounts that are often set higher than for similarly situated White defendants.

The consequences of pretrial detention are difficult to reconcile given that many of those detained pretrial are charged with offenses that, were they to be found guilty, would be unlikely to result in incarcerative sentences. Research suggests that pretrial detention is linked to substantially higher recidivism rates post sentencing—suggesting that even if pretrial detention reduces some criminal activity during the pretrial period this is more than offset by much higher recidivism rates after individuals serve their sentences. Further, pretrial detention removes individuals presumed innocent from their families and communities—often resulting in the loss of employment and housing, interrupted treatment, and, in some cases, the loss of child custody. Court imposed fines and fees are passed without making income-based adjustments and failure to pay such fines and fees can result in revocation of one’s driver’s license and further incarceration.

Housing America’s prisoners is expensive—more than \$88 billion in local, state, and federal taxpayer monies were spent on corrections in 2016.<sup>4</sup> Most of those in jail are awaiting trial—so the costs of jail are not to pay for punishment. Instead, pretrial detention is meant to ensure attendance at trial and to protect the public from harm by individuals who have not been convicted of a crime. But, in fact, failure to appear at trial is rare and often due to mundane reasons (e.g., forgetting the trial or hearing date). Similarly, new arrests of those released pretrial are also infrequent with arrests for violent crimes rare.<sup>5</sup>

The costs of jail or prison for sentenced individuals are justified in terms of one or more of the purposes of punishment—retribution, incapacitation, deterrence, and rehabilitation. The first of these (retribution) provides voice to the victims of crime and recognizes society’s need for justice. The remaining three are utilitarian justifications of punishment, each of which is designed to prevent or reduce crime. Incarcerated individuals cannot perpetrate new crimes on society at large (incapacitation) and there is a presumption that punishment will deter those who have been punished and those contemplating similar crimes from future criminal acts (deterrence). Finally, as reflected in the last three decades’ focus on reentry programs, society benefits if prisoners can be rehabilitated, reentering society with the skills and desire to be contributing citizens. These goals are often at odds—lengthy prison sentences may be justified by the seriousness of the crime and may act to incapacitate dangerous individuals or to deter potential offenders, but they also may decrease the odds of rehabilitation and successful reentry into the community. Long prison sentences that cause individuals to lose touch with their families and their communities and that reduce their ability to function in society interfere with rehabilitative goals, particularly as the prison environment itself is toxic to individual agency and the skills needed to function in society.

There is an urgent need to identify a balanced strategy with respect to pretrial justice and sentencing, one that will reduce crime and victimization, ameliorate unwarranted disparities, and reclaim human capital currently lost to incarceration. This strategy should identify the costs incurred across the system and society and ensure that these costs are balanced by the benefits. Further, to ensure that the intent of policy changes is realized and to identify unanticipated consequences, rigorous research should assess the impacts and costs of changes, identifying what is promising.

Criminal justice reform is complicated. In the United States, justice responsibilities are spread across the legislative, executive, and judicial branches of local, state, and federal governments. As a result, the costs and benefits of various justice functions are seldom obvious to those making decisions. Further, the costs often accrue to one branch and level of government while the benefits accrue to another—for example, if the local government implements and pays for a program that diverts individuals with mental illness from jail to treatment, thus reducing future criminal activity, the local police and jail may incur fewer future justice system costs but the greatest savings may accrue to the state government that won't have to prosecute and incarcerate or supervise these individuals in the future. A judicial decision to detain an individual pretrial or to sentence an individual to years in prison (or on probation) imposes costs that are not borne by the judicial branch. As a result, there is often little incentive to change policies and practices. In addition, laws and decisions are often made to address retributive or incapacitation goals—perhaps with a nod to deterrence—without consideration that less punitive—and less costly—interventions might provide better, long-term societal outcomes. Finally, the justice system is often the system of last resort to address the needs of individuals with mental illness and substance use disorders, who often do not have the education and job skills to be successful in the 21<sup>st</sup> century. Rethinking how society can better address societal disadvantage may relieve the burdens on the justice system and result in better outcomes.

Our recommendations for achieving these goals include the following:

- **Short-Term Reforms**

- Cost-benefit Analyses of Pretrial and Sentencing Practices
- Set Fines and Fees on Ability to Pay
- Hold Prosecutors Accountable for Filing and Plea-Bargaining Decisions
- Reconsider Probation and Parole Practices that Contribute to Mass Incarceration

- **Medium-Term Reforms**

- Inter-Agency Approaches to Reducing Justice System Intervention
- Long-Term Reforms
- Establish a Presumption of Pretrial Release
- Revise Sentencing Statutes to Ensure Proportionality

## Short-Term Reforms

### Cost-Benefit Analyses of Pretrial and Sentencing Practices

Immediate changes could be made to reveal the costs across decision points within justice systems to those making decisions, with a goal of ensuring that the incurred costs are equal to the benefits. For pretrial decisions, this means stakeholders would have the information to understand that pretrial detention is not “free,” but instead comes with justice system costs and with collateral costs to the detained, their families, and their communities. If the average cost of a night in jail is \$50 or higher<sup>6</sup> and given the collateral costs of pretrial detention, how many nights in jail awaiting trial would be justifiable for someone who is charged with a minor crime that would never result in a sentence of incarceration? Does society benefit if an individual spends many nights in jail because they are unable to post \$200 to cover a \$2000 bond while they are awaiting trial on minor charges or because they were unable to pay fees and fines from a previous case?

Justice systems should consider monetary and extra-monetary costs alongside the usual considerations of judicial officers as to whether someone will miss court or be arrested for a new crime as well as the costs of these very different events. Missing court is likely less costly than incorrectly detaining many people to avoid the potential for missed court appearances—particularly if inexpensive court reminder systems can more cheaply reduce failures to appear. Many jails reduced their pretrial detained populations significantly as the COVID-19 pandemic began and there is little evidence of effects on crime. This may provide a reset in some communities as they consider that what changed was not the risk posed by the detained individuals but the decision to release, as well as reconsideration of the initial decisions to arrest (rather than cite) and book into jail. To this end, jurisdictions need to move away from reliance on financial conditions for release. Few people are denied bail, but most people detained pretrial are there because they are unable to pay bail—a system that advantages the well-off who have the resources to cover bail at the expense of the poor. If bail cannot be eliminated for most charges, policymakers should revisit the use of private bail bond agencies so that individuals who are released only by securing the services of a bail agency do not end up forgoing the ten percent they pay to cover their bail—an expense they incur even if they appear and meet all pretrial conditions.

### Setting Fines and Fees Based on Ability to Pay

Another reform that could be accomplished in the short-term is setting fines and fees based on ability to pay.<sup>7</sup> Just as bail differentially disadvantages the poor over the more well-off individual, so do fixed fine and fee schedules that charge the indigent the same as the millionaire. Fixed fines and fees can trap those with limited means in a cycle of fines, fees, jail for failure to pay, more fines, etc. Fine schedules could be developed that set fines based on multiples of the individual’s daily wage (perhaps setting the minimum at the minimum wage for those intermittently employed—for example, \$58 representing eight hours of wage at \$7.25). Similarly, fees could be adjusted to reflect ability to pay. Neither of these

should preclude the ability of judges to waive fees and fines for those unlikely to ever be able to make the payments. In clear cases of indigence, courts should have the authority to waive all fines, fees, and surcharges.”<sup>8</sup>

### **Hold Prosecutors Accountable for Filing and Plea-Bargaining Decisions**

Policy changes that constrained judicial discretion at sentencing have concomitantly led to increased prosecutorial discretion at charging and plea bargaining. Prosecutors decide whether to file charges that trigger mandatory minimum sentences, life without parole sentences, or habitual offender provisions; whether to dismiss these charges during plea bargaining; and whether to file (and later dismiss) collateral charges that lead to punitive sentence enhancements. An immediate effort needs to be made to hold prosecutors accountable by requiring that they file charges only for offenses for which there is proof beyond a reasonable doubt and a reasonable likelihood of conviction at trial, and by mandating that plea negotiations be in writing and on the record. Prosecutors also should consider establishing sentencing review units that would identify, evaluate, and rectify sentences deemed excessive and disproportionate.

### **Reconsider Probation and Parole Practices that Contribute to Mass Incarceration**

Jurisdictions should reconsider probation and parole policies and practices that contribute to mass incarceration. In many jurisdictions, a large proportion of those admitted to jail or prison are individuals who violated the conditions of probation or parole. To rectify this, the conditions imposed on individuals placed on probation or parole should be reasonable (and not designed to set them up for failure), judges should use graduated sanctions in responding to probation/parole violations, and probation or parole should be revoked, and a jail or prison sentence imposed, only for repeated or egregious technical violations or for serious new crimes.

## **Medium-Term Reforms**

### **Inter-Agency Approaches to Reducing Justice System Intervention**

There should be investment in ongoing performance measurement—across the decision points—so that stakeholders can begin to understand the aggregate impacts of individual decisions. The law at its core is about the individual—the individual victim, the individual defendant, and the individual case. But the decisions that are made individually add up to crowded jails and prisons. These performance measurement systems are not necessarily complex—for example, dashboards to track variation in judicial sentencing or to monitor who is being held in jail provide insight into the overall consequences of the dispensation of justice.

Developing and monitoring these process metrics are simply good business practices. Just as a well-run restaurant knows exactly how many ingredients are needed and how long it takes to process each part of an order, a local justice system should know the details of who is in their jail and why. Prosecutors should know how their offices and individual prosecutors manage caseloads and outcomes. Judges should know how their sentencing stacks up with their peers.

Mid-term improvements require more sophisticated inter-agency approaches by law enforcement, prosecutors, and the courts.<sup>9</sup> These agencies have wide discretion to institute diversion programs, problem-solving courts, and other alternatives to incarceration, and they should collaborate with social service agencies and with public health and educational professionals to address underlying issues, such as behavioral health, substance abuse, or homelessness, that lead to local justice system intervention. Such inter-agency approaches to developing programs reflect that the complex needs of individuals caught in the justice system are the responsibility of society more broadly and not of a justice system poorly equipped and financed to address lifetimes of cumulative disadvantage. These programs need to be adequately funded and designed to provide positive pathways forward. One misunderstanding that accompanied the many early reentry programs was the assumption that the programs and services needed to address the needs and deficits of returning prisoners already existed in communities and only needed to be harnessed through planning and case management. Evaluations of some of the largest federally funded reentry grant programs have repeatedly shown that few individuals releasing from prison access services to address their needs—as services are not available or competing demands such as finding and keeping employment or lack of transportation preclude engagement. Emerging support for the hypothesis that desisting from criminal behavior may have different roots than simply addressing deficits correlated with offending like substance use also suggests that these programs should divert to a positive lifestyle through demonstrations and support for alternative identities.<sup>10</sup>

## Long-Term Reforms

### Establish a Presumption of Pretrial Release

Mass incarceration is the result of several decades of policy decisions, and unwinding mass incarceration will require a long-term approach designed to slow the flow of individuals into jails and prisons and to reduce the lengths of sentences they are serving. Pretrial detention is an important component of mass incarceration; something to consider is restricting the crimes for which individuals are booked into jail and establishing a presumption for release for all but the most serious offenses and the individuals who pose the most serious flight risks.



## Revise Sentencing Statutes to Ensure Proportionality

In the long run, the criminal codes that govern the imposition of punishment in municipal, state, and federal justice systems in the United States need to be reformed to ensure that punishment is commensurate with the seriousness of the crime. This will entail ratcheting downward the sentencing ranges associated with various combinations of offense seriousness and criminal history, enhancing eligibility for probation, reducing sentence enhancements for aggravating circumstances, and increasing sentence discounts for mitigating circumstances. In addition, mandatory minimum sentencing statutes and two- and three-strikes laws should be repealed or, if that proves politically unpalatable, dramatically scaled back to ensure that the punishment fits the crime. Jurisdictions also should revise truth-in-sentencing and life sentencing statutes by reducing the amount of time offenders must serve before being eligible for release and should eliminate life without the possibility of parole sentences for all but the most heinous crimes.

## Recommendations for Future Research

Justice requires identifying and confirming more effective and cost-efficient ways of securing appropriate outcomes for society, for victims, and for those charged with and convicted of crimes. Reforms should be surrounded with rigorous research and ongoing performance measurement. Basic research is needed to better understand the relationships between policy alternatives and outcomes, and evaluation is needed to ensure that reforms lead to better outcomes, to identify unintended negative consequences, and to embark on a path of continuous improvement of the justice system.

Researchers studying pretrial systems need to assess the impact of current practices and potential reforms on the crime rate, sentencing punitiveness, mass incarceration, and unwarranted disparity in pretrial detention. First, there needs to be more research on cumulative disadvantage to understand how disparities at earlier stages of the process (i.e., pretrial detention) accumulate across the life course of a criminal case to produce harsher treatment of certain categories of offenders. Second, research on the pretrial process needs to address and answer the following questions:

- Do financial conditions increase court attendance and decrease crime rates compared to release on recognizance (ROR) or non-financial conditions?
- Does the amount of bail affect outcomes?
- How consequential are pretrial decisions in future decisions about conviction and sentencing? And on future criminal behavior?
- What are the factors associated with failure to appear? Is there a relationship between the seriousness of the charged offense or the severity of the prior record and failure to appear?

- How does defense counsel at first appearance affect detention decisions and case outcomes?
- What are the effects of pretrial conditions and supervision practices on failure to appear and new criminal activity?
- How dangerous are pretrial releasees? What is the nature of criminal activity during pretrial release?
- What considerations and conditions need to attend release decisions for special categories of offenders that may pose special risks to victims (e.g., domestic violence cases) or to justice (e.g., defendants that pose special concerns with respect to witness intimidation)?

Sentencing researchers should examine decisions to sentence offenders to life—and especially to life without the possibility of parole; these consequential decisions have not been subjected to the type of empirical scrutiny directed at other sentencing outcomes and thus little is known about the existence of or extent of unwarranted disparities in the application of these punitive punishments. Research is needed to assess the impact of different types of punishment on recidivism rates—that is, to determine whether more punitive sentences lead to higher or lower recidivism rates and whether this relationship varies depending upon the offense of conviction. We know that those sentenced in the United States are more likely to be incarcerated, and for longer terms, than similar individuals in peer countries. What is not known is whether these harsher punishments produce any positive “added value” for society at large.

Research is needed to produce better estimates of the “costs of punishment” across the justice system and society. These estimates should include the explicit costs to local, state, and federal jurisdictions, but also the implicit costs to individuals, their families, and their communities. These efforts should be accompanied by new work to update estimates of the cost of crimes—both the cost to the criminal justice system but also the costs to victims. These sets of studies will provide the foundations for balancing the costs of crime with the costs of punishment.

And, finally, evaluation research should study the process, outcomes, impacts, and costs and benefits of pretrial and sentencing reforms. This research should help to identify what works and what does not work, including identifying unexpected consequences of reform. This research should clearly identify the goals of the reform and then assess how well those goals are met. For example, if changes in detention decisionmaking are intended to reduce racial disparity, a rigorous evaluation should assess the extent to which decisionmaking changes, whether those changes are commensurate with what was envisioned, had an impact on disparity.

## Conclusion

Pretrial release and sentencing policies and practices are a root cause of mass incarceration in the United States. Moreover, these inflexible and punitive policies have disparate effects on the poor and people of color, are not cost effective, and often result in punishment that is disproportionate to the seriousness of the crime. We have outlined a series of short- medium- and long-term reforms designed to slow the flow of people into our nation's jails and prisons, reduce the number of persons now incarcerated and the lengths of sentences they are serving, and ameliorate unwarranted disparities and unfairness. We also have articulated a series of issues for future research; answers to the questions we pose will be critical to understanding the cost, benefits, and effectiveness of pretrial and sentencing reforms.

### RECOMMENDED READING

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Clear, Todd R. 2008. "The Effects of High Imprisonment Rates on Communities." *Crime and Justice*. 37: 97–132.

Gottschalk, Marie. 2015. *Caught: The Prison State and the Lockdown of American Politics*. Princeton: Princeton University Press.

Mauer, Marc, and Ashley Nellis. 2018. *The Meaning of Life: The Case for Abolishing Life Sentences*. New York: The New Press.

National Research Council. 2014. *The Growth of Incarceration in the United States: Exploring Causes and Consequences*. Washington, DC: The National Academies Press.

Pfaff, John F. 2017. *Locked In: The True Causes of Mass Incarceration—and How to Achieve Real Reform*. New York: Basic Books.

Tonry, Michael. 2014. "Remodeling American -Sentencing: A Ten-Step Blueprint for Moving Past Mass Incarceration." *Criminology & Public Policy* 13: 503–533.

## Chapter 2 Endnotes

- 1 At year-end 2019, there were 1.43 million persons incarcerated in state and federal prisons, and the U.S. incarceration rate was 539 per 100,000 individuals 18 and older. (Carson, E.A. October 2020. *Prisoners in 2019*. U.S. Department of Justice, Bureau of Justice Statistics. NCJ 255115). County and city jails held 738,400 prisoners, mid-year 2018 (Zeng, Z. March 2020. *Jail Inmates in 2018*. U.S. Department of Justice, Bureau of Justice Statistics. NCJ 253044).
- 2 Bureau of Justice Assistance, U.S. Department of Justice. (February 2012). *Report to Congress Violent Offender Incarceration and Truth-In-Sentencing Incentive Formula Grant Program*. <https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/voitis-final-report.pdf>.
- 3 In 1970, the incarceration rate in the U.S. was about 100 individuals per 100,000 population—consistent with what had been observed throughout the 20th Century. The U.S. prison population increased every year from 1975 to 2008, when 1.61 million individuals were in U.S. prisons (a rate of 506 per 100,000). Although the number of persons incarcerated has since declined, in 2019 there were still 1.43 million persons incarcerated in state and federal prisons (a rate of 419 per 100,000). Local jail populations saw similar increases—from 256,615 in 1985 (108 individuals per 100,000 population) to 738,400 in 2018 (226 per 100,000 population). The number of persons on probation also increased, from 923,000 in 1976 to 3.54 million in 2018, suggesting that the increase in incarceration was not driven by diverting individuals from probation to prison. See Minton, T. and Golinelli, D. (2014). *Jail inmates at midyear 2013-Statistical tables*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. NCJ 245350; Zeng, Z. (2020). *Jail inmates in 2018*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. NCJ 253044; and Kaeble, D. and Alper, M. (2020). *Probation and parole in the United States, 2017-2018*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. NCJ 252072.
- 4 Hyland, S. Justice Expenditure and Employment Extracts 2016, Preliminary. NCJ 254126. <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=6728>.
- 5 Violent offending is rare compared to property and public order crimes (Morgan, R. and Truman, J. (2020). *Criminal Victimization*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. NCJ 255113. Judicial officers express particular concern about releasing those arrested for domestic violence fearing a repeat or escalation of the behavior that led to the arrest.
- 6 The \$50 estimate is on the lower end of estimates of average daily jail costs, with many daily jail rates ranging between \$150 and \$200. In New York City, the Independent Budget Office estimated jail costs at nearly \$460 per day, suggesting that it costs taxpayers \$168,000 per year to jail one person (New York City Independent Budget Office, 2013).
- 7 Schierenbeck, A. (2018). The constitutionality of income-based fines. *The University of Chicago Law Review* 85, 8, 1869–1925.
- 8 See p. 278 of Shannon, S., Huebner, B. M, Harris, A., Martin, K., Patillo, M., Pettit, B., et al. (2020). The Broad Scope and Variation of Monetary Sanctions: Evidence From Eight States. *UCLA Criminal Justice Law Review*, 4(1). Retrieved from <https://escholarship.org/uc/item/64t2w833> or Alexes' work more generally).
- 9 State and local Criminal Justice Coordinating Committees (CJCCs) offer on potential model for inter-agency approaches. There are various configurations for CJCCs which are locally focused but offer lessons that can translate well to other jurisdictions. (See, for example, <https://nicic.gov/criminal-justice-coordinating-committees>).
- 10 For example, the Prison Cells to Ph.D. or Prison to Professional program <https://www.fromprisoncellstophd.org/>.