# Blueprint *for* Smart Justice

# Idaho

ACLU SMART JUSTICE

# Blueprint *for* Smart Justice
# Idaho



ACLU SMART JUSTICE

COVER PHOTO: SHUTTERSTOCK/MOPICE

# Contents

# 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. This overreliance on the criminal justice system doesn't just affect the people who are incarcerated — 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 and approaches better designed to break the cycle of crime and recidivism and help 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 kind 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, we identified primary drivers of incarceration and 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 Idaho — where the imprisonment rate for Black adults was nearly five times the rate for white adults in 2017[1] — 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.

As in states across the country, Idaho's prison population[2] has experienced explosive growth in recent decades. Between 1980 and 2017, the state's prison population grew more than ninefold.[3] As of June 2018, there were 8,616 people in Idaho prisons.[4] The vast majority of people who enter prisons in the state are admitted after unsuccessful terms of probation or parole. In 2017, Idaho tied with Washington as the states with the largest share of annual admissions[5] to prison for violations of probation or parole conditions. That year, an astounding 71 percent of prison admissions in Idaho were due to supervision violations.[6]

These unsettling truths about Idaho's prison population come in spite of lawmakers' efforts to reverse course by engaging with the Justice Reinvestment Initiative (JRI)[7] and passing a package of reforms in 2014, Senate Bill 1357 (SB 1357). In

particular, the legislation aimed to reduce the number of people sent to prison for community supervision violations.[8] In spite of a modest decrease in Idaho's prison population following the implementation of these reforms, the prison population has since climbed, and the state's prisons were at 100 percent of operational capacity as of December 2017.[9]

In addition to Idaho's prison population, in 2015, there were an estimated 3,467 people under local jurisdiction in county jails in Idaho. Seventy-one percent were awaiting trial and had not been convicted of a crime.[10] Some of Idaho's county jails also house people on behalf of U.S. Immigration and Customs Enforcement (ICE), and a rising number of Idaho residents are being jailed in counties such as Canyon based on their immigration status.[11]

A large segment of people imprisoned in Idaho are serving time for nonviolent offenses. As of June 2018, 58 percent of the state's prison population fit this description. One-third of people were imprisoned for a drug offense, and another 7 percent were imprisoned for an alcohol offense. Further, nearly one in five people in prison were serving time for a property offense.[12] To manage the shortage of beds in Idaho prisons and jails, the Idaho Department of Correction (IDOC) has sent hundreds of people under its jurisdiction to private, out-of-state prisons,[13] such as Eagle Pass Correctional Facility in Texas. People imprisoned in this facility report unsafe conditions and inadequate access to medical care and healthy food.[14]

Incarceration in Idaho disproportionately impacts people of color. In 2017, one in every 24 Black men in Idaho were in prison,[15] and the state had the nation's third-highest Latinx imprisonment rate as of 2014.[16] The imprisonment rate for Native American adults in Idaho in 2017 was nearly four times the rate for white adults; though they constituted just 1 percent of Idaho's state adult population in 2017, Native Americans made up 4 percent of the state's prison population that year.[17]

As of 2017, Idaho had the nation's fourth-highest imprisonment rate among women, at 114 per 100,000 women residents, behind only Oklahoma, Kentucky, and South Dakota.[18] Most women in Idaho prisons in 2018 were under the age of 35, and more than one in ten were women of color.[19]

Mental health and substance use issues are prevalent among Idaho's incarcerated population. In 2019, IDOC reports that approximately 85 percent of people in Idaho prisons face substance abuse challenges.[20] In spite of gains made by the state in terms of investment in community-based behavioral health programming, there remains a gap between funded services and the number of people in need of treatment.[21]

Incarceration in Idaho comes at a high cost to the state. General fund spending on corrections grew by 754 percent between 1985 and 2017, far outpacing spending growth in other areas like education, which grew just 132 percent over the same period.[22]

So, what's the path forward?

The state must expand its investment in alternatives to incarceration to help break its overreliance on jails and prisons. Promising programs have already begun in places like Ada County, where, in partnership with the MacArthur Foundation's Safety and Justice Challenge, the county has implemented or is developing various programs to meet the needs of those with behavioral health needs, streamlining case management services, and expanding non-jail options.[23] Expanding treatment options for people with mental health and substance use needs is also paramount. SB 1357 emphasized the need for investing in such programs. The Legislature should continue to expand these investments to ensure that everyone in need of support receives it.

Idaho should reaffirm its commitment to the 2014 Justice Reinvestment Initiative bill by continuing to strengthen community supervision programs in an effort to reduce recidivism rates. This is possible through further investment in and prioritization of the risk-need-responsivity principle, ensuring the level and parameters of supervision are aligned and lead to better public safety and rehabilitation outcomes. To continue to reduce the large number of people entering prison for community supervision violations, the Idaho Legislature should implement a fairer system of graduated sanctions for probation and

parole violations, ensuring responses are far more proportional.

Sentencing reform efforts that will reduce the amount of time people serve in Idaho prisons are critical. Mandatory minimum sentences should be eliminated by the Legislature. Lawmakers should lower the statutory maximum for theft offenses and raise the threshold to trigger a felony from $1,000 to $2,500. Idaho lawmakers should also pass legislation to require the Commission of Pardons and Parole to hold in-person meetings between board members and parole applicants prior to any release decision, requiring objective rationale stated in the record in cases of denial, rejecting decisions that are solely based on the nature of the original offense, and requiring the reports submitted to the governor by the Commission to include demographic information and rationale for grants and denials.

Further, the Legislature must invest in its public defense systems to ensure parity with the funding received by prosecutors, so that Idaho defendants from all counties receive constitutionally sufficient representation.

These are just a few of the ways Idaho can address its overreliance on prisons and jails. Ultimately, the answer is up to Idaho's voters, policymakers, communities, and criminal justice advocates as they move forward with the urgent work of ending Idaho's obsession with mass incarceration.

# The State of the Idaho Prison System

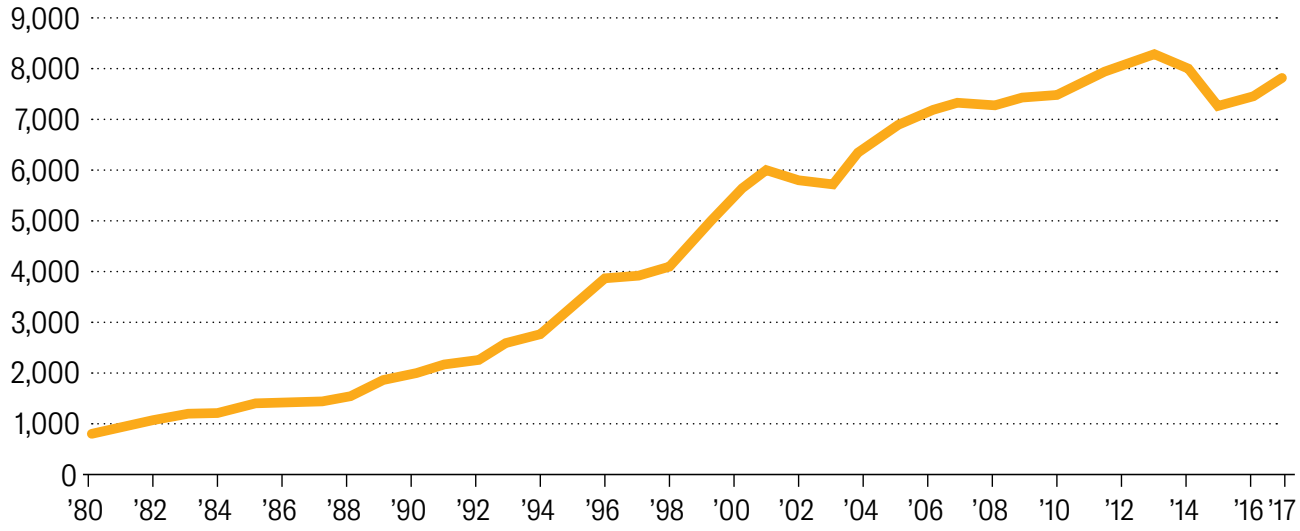
The Idaho prison population grew more than ninefold (849 percent) between 1980 and 2017.[24] As of June 2018, there were 8,616 people in Idaho prisons.[25] Idaho's prison population includes "termers," people sentenced to a full prison term of more than one year; "riders," people under the jurisdiction of the court who are sentenced to a short term of incarceration to receive in-prison programming before the court determines whether to place them on probation or sentence them to a full prison term; and "parole violators," people sent back to prison from parole to await their parole revocation hearing.[26]

In an effort to avoid projected growth in the prison population and avert the construction of new prisons, Idaho lawmakers passed Senate Bill 1357 in 2014 through JRI. Among other things, this package of reforms aimed to reduce the high rate of people sent to prison for violations of community supervision.[27] Although Idaho's prison population fell 6 percent between January 2015 and May 2016 following implementation of SB 1357, it has since climbed and has now surpassed the pre-reform population.[28] As of December 2017, Idaho's prisons were at 100 percent of operational capacity.[29] IDOC has signaled that if these trends continue, it may be necessary to construct a new prison to address the overcrowding crisis.[30]

## What Is Driving People Into Prison?

Even after the passage of reforms aimed at reducing the number of people revoked to prison from community supervision, the vast majority of people who enter Idaho prisons are admitted after unsuccessful terms of probation or parole. In 2017, Idaho tied with

## IDAHO PRISON POPULATION



AT A GLANCE

## IDAHO PRISONS

As of December 2017, Idaho's prisons were operating at **100 percent** capacity.

There were **8,616 people** in Idaho prisons as of June 2018.

The Idaho prison population grew **more than ninefold** between 1980 and 2017.

Washington as the states with the largest share of annual admissions to prison for violations of probation or parole conditions, with a staggering 71 percent of prison admissions that year resulting from supervision violations.[31] In February 2019, IDOC reported that most (77 percent) of the monthly admissions to a full prison term were for people who had either failed the rider program, had their probation revoked, or had violated parole.[32]

Although SB 1357 created graduated responses and diversion options for parole violations to prevent people on parole from being immediately returned to prison, a recent analysis found that these solutions are only delaying returns to prison, not preventing them.[33]

IDOC has since proposed opening 'community connection centers' to house people who violate the conditions of probation or parole, potentially adding hundreds of beds to Idaho's prison system.[34]

## The Current Prison and Jail Population

As of June 2018, most people in Idaho prisons (58 percent) were serving time for a nonviolent offense. One-third of the people in prison (33 percent) were imprisoned for a drug offense, and another 7 percent were imprisoned for an alcohol offense. Nearly one in five people in prison (18 percent) were serving time for a property offense.[35]

As of June 2018, 76 percent of people in Idaho prisons were serving full prison terms, while nearly one-quarter (24 percent) of the prison population was incarcerated on a "rider" or "parole violator" status.[36]

Idaho's prisons are full of people who were sentenced to prison terms after violating the conditions of their probation or parole. IDOC reported in 2019 that more than half (52 percent) of people serving a prison term had originally been sentenced to a rider or probation term but had their prison sentence imposed due to subsequent violations.[37]

Driven by the shortage of bed space in Idaho's prisons and jails, IDOC has sent hundreds of people under its jurisdiction to private, out-of-state prisons.[38] Most are held at the Eagle Pass Correctional Facility in Texas, where they reportedly face unsafe conditions and a lack of access to healthy food and medical care.[39]

As of June 2018, 547 people were serving time in county jails while under the jurisdiction of IDOC.[40] In 2015, there were also an estimated 3,467 people under local jurisdiction in county jails in Idaho. Most (71 percent) were awaiting trial and had not been convicted of a crime.[41] Some Idaho jails also detain people on behalf of ICE. Recent news reports indicate, for example, that a rising number of Idaho residents are being detained

AT A GLANCE

## IDAHO JAIL AND PRISON POPULATION

**71 percent** of Idaho state prison admissions in 2017 were due to violations of probation or parole conditions.

As of June 2018, **58 percent** of people in Idaho prisons were serving time for a nonviolent offense.

**33 percent** of people in Idaho state prisons were imprisoned for a drug offense as of June 2018.

in Canyon County Jail based on their immigration status.[42]

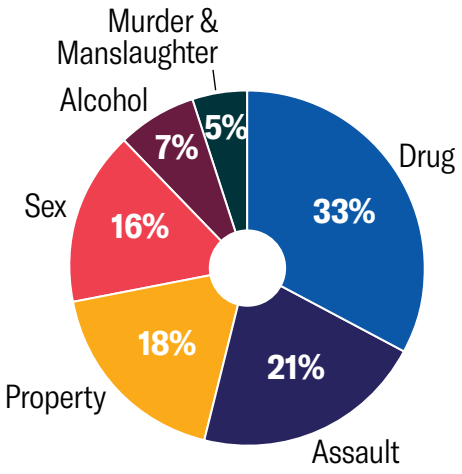
## Why Do People Stay in Prison for So Long?

Under Idaho's Unified Sentencing Act of 1986, people sentenced to prison in Idaho may be given a "unified" sentence, which includes both a fixed minimum term and an indeterminate maximum term at the judge's discretion.[43] Idaho is one of only a few states that require people to serve the entirety of their minimum sentence without the opportunity to earn time off of the sentence for participation in programs and treatments that are shown to improve reentry outcomes.[44]

Idaho's criminal code also includes harsh sentencing enhancements that lengthen prison sentences for people with prior felony convictions. Under the state's "persistent violator" statute, anyone convicted of a third felony must be sentenced to a minimum of five years in prison, up to a maximum sentence of life imprisonment.[45] Idaho also imposes mandatory minimum sentences for people convicted of certain drug offenses, including at least one year in prison and a $5,000 fine for possession of between one and five pounds of marijuana.[46] As of 2019, the Idaho Legislature has failed to revise these excessive drug penalties despite repeated attempts at reform.[47]

Idaho's JRI reforms aimed to increase the "timely release" of people in prison for nonviolent drug and property crimes by ensuring that a greater share would be released at or prior to serving 150 percent of their minimum fixed sentence.[48] Due in part to increased quality and efficiency of in-prison programming, the share of people convicted of these nonviolent offenses released before serving 150 percent of their minimum sentence rose from 62 to 74 percent between 2014 and 2017.[49] However, some people serving time for nonviolent drug and property offenses continue to be held in prison well past parole eligibility — often because they arrive in prison with credit for time already served in county jail or on a rider term, and thus are already eligible for parole or become eligible within the first six months of arrival in prison.[50]

## IDAHO PRISON POPULATION BY OFFENSE TYPE (2018)




## Who Is Imprisoned?

**Female Idahoans:** As of 2017, Idaho had the nation's fourth-highest imprisonment rate among women, at 114 per 100,000 women residents, behind only Oklahoma, Kentucky, and South Dakota.[51] As of the most recent available data, women accounted for 14 percent of people in prison in Idaho (in 2018) and 24 percent of people in jail (in 2015).[52] In 2018, nearly one in 10 women (9 percent) in Idaho prisons were Latina, and an additional 2 percent were Black. Most women (54 percent) in prison were under the age of 35 — and 12 percent were between the ages of 18 and 24.[53]

**Black Idahoans:** As of 2014, Idaho had the nation's fifth-highest Black imprisonment rate.[54] In 2017, the imprisonment rate for Black adults in Idaho was nearly five times the rate for white adults. Though less than 1 percent of Idaho's state adult population in 2017 was Black, 3 percent of Idaho's prison population that year was Black. In 2017, one in every 24 Black men in Idaho were in prison.[55]

**Latinx Idahoans:** As of 2014, Idaho had the nation's third-highest Latinx imprisonment rate.[56] In 2017, the imprisonment rate for Latinx adults was nearly twice the rate for white adults. Though they constituted 11 percent of the state adult population in 2017, Latinx people made up 15 percent of Idaho's prison population that year.[57]

AT A GLANCE

## DEMOGRAPHICS

The imprisonment rate for Native American adults in Idaho was nearly **four times** that of white adults in 2017.

In 2017, **1 in 24** Black men in Idaho were in prison.

As of 2017, Idaho had the **fourth-highest** rate of women's imprisonment in the U.S.

**Native American Idahoans:** In 2017, the imprisonment rate for Native American adults in Idaho was nearly four times the rate for white adults. Though they constituted just 1 percent of Idaho's state adult population in 2017, Native Americans made up 4 percent of the state's prison population that year. In 2017, one in every 29 Native American men in Idaho were in prison.[58]

**Older Idahoans:** Though generally considered to pose a negligible risk to public safety,[59] people age 55 or older accounted for one in every 10 people (11 percent) in Idaho prisons as of June 2018.[60]

## People with Mental Health and Substance Use Disorders

As of 2019, IDOC reports that approximately 85 percent of people in Idaho prisons face substance abuse challenges.[61] Despite increased investment in community-based behavioral health programming following Idaho's JRI reforms, a significant gap remains between funded services and the number of people in need of treatment.[62] A recent analysis found that thousands of people on community supervision in 2018 did not receive the mental health or substance abuse treatment they needed due to a lack of state funding.[63] Given that some people remain in prison past their parole eligibility due to delays in completing their required programming, further reform is needed to improve in-prison program delivery and develop a network of treatment programs outside the prison system that could allow more people to complete their required programming in the community instead of in prison.[64]

AT A GLANCE

## BUDGET AT A GLANCE

In 2017, Idaho spent **$252 million** of its general fund on corrections.

Idaho's general fund corrections spending grew **754 percent** between 1985 and 2017.

## Budget Strains

As Idaho's prison population has risen, so has the cost burden of incarceration. Idaho spent $252 million of its general fund on corrections in 2017, accounting for 8 percent of the state's general fund expenditures that year. General fund spending on corrections grew by 754 percent between 1985 and 2017, far outpacing spending growth in other areas like education, which grew just 132 percent over the same period.[65]

# Ending Mass Incarceration in Idaho: 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 Idaho end its mass incarceration crisis, but it will be up to the people and policymakers of Idaho 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, Idaho 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.[66] Here are some strategies:

- **Alternatives to incarceration:** The good news is that alternatives exist. In fact, Ada County is piloting the development of new alternatives in partnership with the MacArthur Foundation's Safety and Justice Challenge, establishing various programs aimed at reducing the jail population by 15–19 percent between 2017 and 2019. Plans include developing programs for those with behavioral health needs, streamlining case management services, and expanding non-jail options.[67] For example, the Ada County Sheriff's Community Service Program allows participants to complete their sentence in the community, rather than keeping them behind bars and disrupting their employment and familial relationships.[68] Such 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.[69] 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,[70] they have also been shown to decrease symptoms of posttraumatic stress in victims of crime.[71] Prosecutors and judges who embrace these solutions can fulfill their responsibilities to the public safety and to supporting victims 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.

- **Expand treatment for mental health and addiction:** Mental health diversion is an effective way to redirect people with disabilities out of the criminal legal system and into supportive community treatment. Diversion programs have been shown to be effective for people charged with both nonviolent and violent offenses.[72] When implemented effectively, diversion reduces arrests, encourages voluntary treatment in the community, and saves money.[73] Effective diversion programs coordinate with community services that provide a wide range of substantial, quality wraparound treatment and support for people with disabilities to access housing, employment, and intensive, individualized support in the community. After an initial investment in community supports, diversion programs have the potential to save jurisdictions large amounts of money.[74] Additionally, substance use disorders are often underlying drivers of a substantial number of crimes, including and especially more serious offenses like burglaries, robberies, and assaults. Therefore, addressing substance use through treatment rather than incarceration can more effectively reduce crime.[75]

  Idaho's expansion of Medicaid in 2019[76] can help ensure that Idahoans have greater access to mental health and substance use treatment while under community supervision and after their separation from the criminal justice system. Idaho must now turn toward successful implementation and remove any barriers preventing people from receiving the services they need, including removing the requirements added to the Medicaid expansion bill that mandate recipients to prove they're working, volunteering, or enrolled in training or education programs at least 20 hours a week in order to continue receiving necessary health care coverage.[77]

  In 2014, Idaho passed SB 1357, placing emphasis on treatment and investing in mental health and substance use programs.[78] The Legislature should — in the spirit of the 2014 bill's intent — further invest in treatment programs to ensure that everyone in need of support receives it.

- **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 state probation and parole practices perpetuate mass incarceration. Idaho passed a Justice Reinvestment Initiative bill in 2014, seeking to shut the revolving door of recidivism by improving community supervision programs across the state. The state increased training and funding for case officers, created a Limited Supervision Unit for people who were deemed likely to succeed with less supervision, and required reviews every 6 months to determine if someone should receive an early discharge. Unfortunately, these changes have not been enough to improve recidivism rates, which have increased since 2012.[79] Idaho must reaffirm its commitment to the goals it set out with the 2014 Justice Reinvestment Initiative and work to strengthen community supervision programs by further investing in and prioritizing the risk-need-responsivity principle, ensuring the level and parameters of supervision are aligned and lead to better public safety and rehabilitation outcomes.

- **Reduce probation and parole revocations:** Too often, people revoked from supervision are sent to prison for technical violations, not for committing new crimes. In 2014, Idaho's Justice Reinvestment Initiative bill sought to reduce parole and probation revocations by limiting confinement lengths in response to violations. Unfortunately, these changes only reduced the number of revocations for one year, after which they increased again.[80] In 2017, Idaho led the country in its annual share of this population — a staggering 71 percent of prison admissions that year were due to supervision violations.[81] Further reform is necessary to reverse course. The Idaho

Legislature should implement a fairer system of graduated sanctions for probation and parole violations, ensuring responses are far more proportional. Incarceration should be prohibited in cases of all technical violations. Further, appointed counsel should be provided at revocation hearings.

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 significantly reduce the number of technical violations.

- **Support decriminalization:** The Idaho Legislature consistently introduces bills to criminalize behavior that previously would not have led to incarceration. The Legislature needs to move away from a culture of criminalization, stop expanding the criminal code, and look at alternatives to incarceration. One good place to start: The Legislature should decriminalize marijuana possession, especially since Idaho is the only state in the country that does not provide access to medical cannabis in any capacity.[82] Decriminalization efforts like this are a winning commitment both for the community as well as the ballot box.

- **Eliminate cash bail:** Idaho can significantly reduce its rates of pretrial detention by eliminating its use of cash bail through a constitutional amendment. Far too often, people who cannot afford bail will end up in jail for weeks, months, or, in some cases, years as they wait for their day in court. When this happens, the criminal justice 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.[83] 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.[84] 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.[85] In order to significantly reduce pretrial detention and combat racial disparities, the Idaho Legislature should eliminate cash bail, limiting pretrial detention to the rare case where a person poses a serious, clear threat to another person and allowing others to be released on their own recognizance or limited supervision in their own communities while awaiting trial.

- **Prosecutorial reform:** Prosecutors are the most powerful actors in the criminal justice system, with the ability to wield the power of the state against an individual to deprive that person of life, liberty, and property. Their initial charging decisions have a major impact on every aspect of a person's experience with the system and determine how long they will be involved with the system. They decide, virtually unilaterally, whether an individual is diverted from the criminal system, thereby avoiding the collateral consequences of a criminal record. They resolve most convictions through plea bargains wherein they primarily decide how the charges are settled. Prosecutors also make influential recommendations regarding bail and sentences. The Legislature should mandate that prosecutors collect data on these decisions and publish their data and related policies so they are available to the communities that they serve. Moreover, there should be some mechanism for the state and counties to review and assess those decisions to ensure that they are made appropriately.

- **Ensure adequate public defense:** The Sixth Amendment of the U.S. Constitution guarantees the right to defense counsel for all. The

Supreme Court recognized the importance of ensuring this right to adequate defense counsel for all persons, regardless of financial resources, more than 50 years ago.[86] Yet, today, insufficient public defense systems are found all across the nation. Public defense systems are not only failing defendants but the attorneys charged with representing them. Impossible caseloads and a lack of sufficient time and resources to adequately represent clients in court are a common state of affairs in public defense offices across the country.[87] Meanwhile, prosecutors' offices have a disproportionate amount of resources in comparison to defense offices.[88] Greater access to funding, information, and other resources — such as benefits, technology, facilities, legal research, support staff, paralegals, investigators, and access to forensic services and experts — give prosecutors an advantage over public defenders. Investment in public defense offices is necessary to create a more equitable system. Neglect of such an important role in the criminal justice system has a significant impact, as public defense counsel is appointed in nearly 80 percent of criminal cases nationally.[89] Wrongful convictions and incarceration, unnecessarily harsh sentences, coerced guilty pleas, and needless and prolonged pretrial detention are all the consequences of an underfunded defense system. Well-funded holistic public defense has proven effective at reducing sentence lengths. For example, the Bronx Defenders, a public defense group that has sufficient funding to use a holistic defense model, has found that this approach has led to a 24 percent reduction in their clients' sentences.[90] The Legislature should invest in public defense offices to ensure equity with prosecutors, ensuring parity of workload, salaries, and other important resources to provide Idaho defendants from all counties with constitutionally sufficient representation.

- **Allow and expand non-incarceration sentences:** The Legislature can also limit the circumstances in which a judge is required to impose a prison sentence instead of community supervision, especially for drug offenses and in situations when the mandatory prison sentence is triggered by a prior felony. 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 Legislature, should be in a position to decide whether such an option is appropriate in individual cases.

- **Fair chance employment:** Approximately 21 percent of Idahoans have a previous criminal conviction.[91] Ninety-five percent of people in state prisons will re-enter their community and need to establish meaningful employment in order to build stability and have a successful long-term reentry.[92] Ensuring fair chance employment protects people who are formerly incarcerated from being subjected to blanket exclusions by employers, delaying criminal history inquiries until later in the hiring process. This legislative effort can help ensure access to employment and thus stability for those

> "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."[119]
>
> — From *The New Jim Crow*, Michelle Alexander

reentering their community, lowering recidivism rates.

## Reducing Time Served

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

- **Sentencing reform — general:** The Legislature can amend Idaho's criminal code to reduce sentencing ranges, including and especially for drug offenses, burglary and other property offenses, robbery, public order offenses, and assault. Lawmakers should also eliminate mandatory minimums sentences. Judges should have the ability to take the facts and circumstances of each individual into account during sentencing, rather than relying on a one-size-fits-all approach. Idaho lawmakers should also lower the statutory maximum for theft offenses and raise the threshold to trigger a felony from $1,000 to $2,500. The definition of grand theft under current law means a person who has stolen an iPhone faces up to 14 years in prison at sentencing, while the same offense is a misdemeanor in Utah or Montana. A felony conviction subjects people to a lifetime of barriers to employment, education, housing, and other basic needs.[93] The potential consequences of such a conviction should be proportional to the offense committed. The 37 states that have increased their felony threshold for property offenses have found no overall impact on property or larceny crime rates. In fact, these states have seen the same average decrease in crime as those states that have not changed the laws.[94]

- **Sentencing reform — enhancements:** The Legislature can also eliminate Idaho's prior felony sentencing law, under which any person with three felony convictions — regardless of severity — will be considered a "persistent violator" and therefore face a minimum of five years in prison and can be sentenced to life under the same statute.[95]

- **Parole reform:** In addition, improving parole 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. In 2014, Idaho implemented various parole reforms that have resulted in fewer people being held past their parole eligibility dates and an increase in timely release for people convicted of nonviolent offenses.[96] Even so, a 2019 report from the Prison Policy Institute graded Idaho's Commission on Pardons and Parole an F parole system.[97] The Idaho Legislature should prioritize passing additional bold reforms to vastly improve the parole system. First, state lawmakers should pass legislation that ensures presumptive parole for certain offenses. This would require the parole board to justify denying a person's release when he or she is eligible for parole. Increasing parole opportunities allows more people to reintegrate into society, saving taxpayer dollars every year. Research shows presumptive parole reduces recidivism after release while promoting safety inside of correctional facilities.[98] Lawmakers should also pass laws that require the Commission on Pardons and Parole to hold in-person meetings between board members and the applicant prior to any release decision, require objective rationale stated in the record in cases of denial with mandatory annual reviews, reject decisions that are solely based on the nature of the original offense, and require the reports submitted by the Commission to the governor to include demographic information and rationale for grants and denials.

- **Earned time/earned credit reform:** The Idaho Legislature should also expand the availability of earned credits against a prison sentence through participation in educational, vocational, and other opportunities. These opportunities are important incentives for engagement in rehabilitative activities that prepare people for successful reentry, and are key to reducing the long terms people spend behind bars. Idaho is one of three states that provide virtually no mechanism for people

who are incarcerated to earn time off their sentence for good behavior.[99] Idaho lawmakers and IDOC officials should work together to establish significant opportunities for people to earn time off their prison sentence, as well as exploring opportunities for early discharge from community supervision.

- **Compassionate release:** Currently, Idaho has one of the nation's most restrictive compassionate release programs for incarcerated people who are terminally ill — only about 20 inmates who are in end-of-life situations are released annually, largely to nursing facilities rather than their homes[100] — and its Medical Parole program excludes the elderly.[101] The Idaho Legislature should expand access to compassionate release from prison to people over the age of 50 and people who are seriously injured or ill beyond merely end-of-life circumstances. Keeping these populations 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.[102] 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.[103] There is also clear evidence showing that older persons have much lower rates of recidivism than their younger counterparts.[104]
- **Clemency:** The power of clemency — the opportunity to pardon a person convicted of a crime or shorten their sentence through commutation — allows the governor to correct extreme and unjust sentences, scaling them back to more appropriate levels.[105] The governor should establish a process to regularly review cases and determine whether they deserve to have their sentences commuted or pardoned, prioritizing applications from people serving sentences that current sentencing laws would lower, people also applying for elderly and compassionate release, and people who have already served long sentences.

## Reducing Racial Disparities

Reducing the number of people who are imprisoned in Idaho 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.[106] Focusing on only one of the factors that drives racial disparity does not address issues across the whole system.

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 lower 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 to the racial disparities that plague the prison system.

New Jersey, 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 1999 and 2012.[107] However, the state did not target racial disparities in incarceration and, in 2014, Black people in New Jersey were still more than 12 times as likely to be imprisoned as white people — the highest disparity of any state in the nation.[108]

Ending mass incarceration is critical to eliminating racial disparities, but it is 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.

Some examples include:

- Ending overpolicing in communities of color
- Evaluating prosecutors' charging and plea bargaining practices to identify and eliminate bias
- Investing in diversion/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 to proactively rectify any potential disparities that may result from new laws or rules
- Eliminating discriminatory gang sentencing enhancements that disproportionately target people of color
- Abolishing the death penalty. Numerous studies illustrate racial disparities are rampant throughout the capital sentencing process.[109]
- 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 rate of people with disabilities in the U.S. criminal system is two to six times that of the general population.[110] In particular, people with psychiatric disabilities are dramatically overrepresented in jails and prisons across the country.[111]

- People showing signs of mental illness are twice as likely to be arrested as people without mental illness for the same behavior.[112]
- People with mental illness are sentenced to prison terms that are, on average, 12 percent longer than other people in prison.[113]
- 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.[114]

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.[115]

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.[116] 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.[117] 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

## TAKING THE LEAD

**The Governor:** The governor dictates the direction that the state will take on criminal justice reform and can take the lead on smart justice reform by developing a mission and goals that all other stakeholders should seek to achieve. Further, the power of clemency allows the governor to get directly involved in correcting unjust sentences.

**Idaho Criminal Justice Commission:** The Idaho Criminal Justice Commission addresses important criminal justice issues and challenges, and develops and proposes policy solutions to the governor. Commissioners should identify mass incarceration as a critical challenge in Idaho and develop policy proposals that will reduce incarceration and combat racial disparities within the justice system.

**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. Lawmakers have a responsibility to enact these necessary reforms.

**Public Defense Commission:** They can provide recommendations that ensure public defense offices across Idaho have the necessary resources and training to run effectively and efficiently, and can support a wide range of policy reforms to criminal laws that impact defendants.

**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 departments can also participate in diversion programs, which enable officers to divert people into community-based intervention programs rather than the criminal justice system.

**Prosecutors:** They make decisions on when to prosecute an arrest, what charges to bring, 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.

**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.

**Commission of Pardons and Parole:** They decide when to allow people to leave prison. If the Commission 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.

behavioral health centers. Jurisdictions that have followed this approach have significantly reduced their jail populations.[118]

- 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, charging decisions, 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

# Endnotes

1 Urban Institute Analysis of U.S. Census Bureau, "Annual Estimates of the Resident Population by Sex, Age, Race, and Hispanic Origin for the United States and States," 2017 population estimates; Idaho Department of Correction, *Population Overview FY 2018* (2018), https://www.idoc.idaho.gov/content/document/fy_2018_population_overvew.

2 For the purposes of this Blueprint, the term "prison population" refers to all individuals committed to an Idaho Department of Correction institution. This includes people committed to Idaho state prisons for a term of imprisonment (76 percent in 2018), people committed to an Idaho Department of Correction rider program instead of a full term of imprisonment (17 percent in 2018), and people temporarily returned to a correctional institution from parole pending a hearing to determine whether they will be returned to term or parole status (7 percent in 2018). See "Prisons," Idaho Department of Correction, https://www.idoc.idaho.gov/content/prisons; Idaho Department of Correction, *Population Overview FY 2018* (2018), https://www.idoc.idaho.gov/content/document/fy_2018_population_overvew.

3 Bureau of Justice Statistics (BJS), Correctional Statistics Analysis Tool; Jennifer Bronson and E. Ann Carson, *Prisoners in 2017* (BJS, April 2019), https://www.bjs.gov/content/pub/pdf/p17.pdf.

4 Idaho Department of Correction, *Population Overview FY 2018* (2018), https://www.idoc.idaho.gov/content/document/fy_2018_population_overvew. All data cited from this source refers to fiscal year 2018.

5 Prison admissions reflect the number of people entering Idaho prisons in a given year, while the total prison population refers to the total number of people imprisoned at a given time (e.g., the end of the month or year).

6 Note: This includes people admitted to Idaho prisons on "parole violator" status, meaning they were temporarily returned to a correctional institution from parole pending a hearing to determine whether they will be returned to term or parole status. Supervision violations may include either technical violations of the terms of supervision or new offenses committed while on supervision. Idaho Department of Correction, *Population Overview FY 2018* (2018), https://www.idoc.idaho.gov/content/document/fy_2018_population_overvew; Jennifer Bronson and E. Ann Carson, *Prisoners in 2017* (BJS, April 2019), https://www.bjs.gov/content/pub/pdf/p17.pdf.

7 The Justice Reinvestment Initiative is a data-driven approach to state criminal justice reform that seeks to control corrections costs and reinvest savings in practices demonstrated to improve safety.

8 The Council of State Governments Justice Center, *Idaho's Justice Reinvestment Approach: Strengthening Probation and Parole, Structuring Parole Decision Making, and Measuring Recidivism-Reduction Efforts* (September 2014), https://csgjusticecenter.org/wp-content/uploads/2014/09/Idaho-JR-Approach.pdf.

9 Elizabeth Pelletier, Leigh Courtney, and Brian Elderbroom, *Assessing the Impact of Idaho's Parole Reforms* (Urban Institute, November 2018), https://www.urban.org/sites/default/files/publication/99417/assessing_the_impact_of_idahos_parole_reforms_0.pdf; Jennifer Bronson and E. Ann Carson, Prisoners in 2017 (BJS, April 2019), https://www.bjs.gov/content/pub/pdf/p17.pdf. Operational capacity is the number of people a facility can hold based on staffing and services. This figure includes both public and private facilities in Idaho, but excludes people held in local jails or other states.

10 Vera Institute of Justice, Incarceration Trends, 2015. Total jail population and pretrial jail population data are drawn from different sources in the cited source. Total jail population data is reported as average daily population in 2015 and excludes federal jail populations, while pretrial jail population is reported as a single day count (taken on June 30) and includes federal jail populations.

11 See Nicole Foy, "Immigration Holds at the Canyon County Jail Dramatically Increase in 2018," *Idaho Press* (June 9, 2018), https://www.idahopress.com/news/local/immigration-holds-at-the-canyon-county-jail-dramatically-increase-in/article_e271e6c8-6d24-5bcb-abfc-e2bcc6713dc1.html; Associated Press, "Idaho Jail Calls US Officials About All Foreign-Born Inmates" (June 11, 2019), https://apnews.com/9bc43c7e3c264114ad7a340b6b822bcb.

12 Idaho Department of Correction, *Population Overview FY 2018* (2018), https://www.idoc.idaho.gov/content/document/fy_2018_population_overvew.

13 "Out of State: Eagle Pass Correctional Facility," Idaho Department of Correction, https://www.idoc.idaho.gov/content/locations/prisons/EPCF.

14 Tommy Simmons and George Prentice, "Leaking Roofs, Abscessed Teeth, Little Time Outside: Idaho Prisoners Describe Texas Facility," *Idaho Press* (December 1, 2018), https://www.idahopress.com/news/local/leaking-roofs-abscessed-teeth-little-time-outside-idaho-prisoners-describe/article_7acb74bd-80af-5c58-a929-fc345080f8cc.html.

15 Urban Institute Analysis of U.S. Census Bureau, "Annual Estimates of the Resident Population by Sex, Age, Race, and Hispanic Origin for the United States and States," 2017 population estimates; Idaho Department of Correction, *Population Overview FY 2018* (2018), https://www.idoc.idaho.gov/content/document/fy_2018_population_overvew.

16 Ashley Nellis, *The Color of Justice: Racial and Ethnic Disparity in State Prisons* (Washington, D.C.: Sentencing Project, 2016), https://www.sentencingproject.org/wp-content/uploads/2016/06/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf.

17 Note: 1.5 percent of the prison population that year (124 people) were reported as "unknown race/ethnicity." Urban Institute Analysis of U.S. Census Bureau, "Annual Estimates of the Resident Population by Sex, Age, Race, and Hispanic Origin for the United States and States," 2017 population estimates; Idaho Department of Correction, *Population Overview FY 2018* (2018), https://www.idoc.idaho.gov/content/document/fy_2018_population_overvew.

18 Jennifer Bronson and E. Ann Carson, *Prisoners in 2017* (BJS, April 2019), https://www.bjs.gov/content/pub/pdf/p17.pdf.

19 Idaho Department of Correction, *Population Overview FY 2018* (2018), https://www.idoc.idaho.gov/content/document/fy_2018_population_overvew.

20 "Substance Abuse Services," Idaho Department of Correction, https://www.idoc.idaho.gov/content/prisons/treatment_programs/treatment/substance_abuse.

21 Idaho Department of Correction, *Justice Reinvestment Impact in Idaho: Report to the Legislature* (February 2019), https://www.idoc.idaho.gov/content/document/2019_jri_impact_report_final.

22 National Association of State Budget Officers, State Expenditure Report series, https://www.nasbo.org/reports-data/state-expenditure-report/state-expenditure-archives.

23 Safety and Justice Challenge, "Ada County 2017 Safety and Justice Challenge Fact Sheet" (2017), http://www.safetyandjusticechallenge.org/wp-content/uploads/2017/10/ada-county-safety-justice-challenge-fact-sheet-v2.pdf.

24 BJS, Correctional Statistics Analysis Tool; Jennifer Bronson and E. Ann Carson, *Prisoners in 2017* (BJS, April 2019), https://www.bjs.gov/content/pub/pdf/p17.pdf.

25 Idaho Department of Correction, *Population Overview FY 2018* (2018), https://www.idoc.idaho.gov/content/document/fy_2018_population_overvew. All data cited from this source refers to fiscal year 2018.

26 "Prisons," Idaho Department of Correction, https://www.idoc.idaho.gov/content/prisons.

27 The Council of State Governments Justice Center, *Idaho's Justice Reinvestment Approach: Strengthening Probation and Parole, Structuring Parole Decision Making, and Measuring*

*Recidivism-Reduction Efforts* (September 2014), https://csgjusticecenter.org/wp-content/uploads/2014/09/Idaho-JR-Approach.pdf.

28 Elizabeth Pelletier, Leigh Courtney, and Brian Elderbroom, *Assessing the Impact of Idaho's Parole Reforms* (Urban Institute, November 2018), https://www.urban.org/sites/default/files/publication/99417/assessing_the_impact_of_idahos_parole_reforms_0.pdf.

29 Jennifer Bronson and E. Ann Carson, *Prisoners in 2017* (BJS, April 2019), https://www.bjs.gov/content/pub/pdf/p17.pdf. Operational capacity is the number of people a facility can hold based on staffing and services. This figure includes both public and private facilities in Idaho, but excludes people held in local jails or other states.

30 Associated Press, "Idaho Officials Propose Spending $500M on Prison Expansion" (June 12, 2018), https://www.kmvt.com/content/news/Idaho-officials-propose-spending-500M-on-prison-expansion-485266621.html.

31 Jennifer Bronson and E. Ann Carson, *Prisoners in 2017* (BJS, April 2019), https://www.bjs.gov/content/pub/pdf/p17.pdf; Note: This includes people admitted to Idaho prisons on "parole violator" status, meaning they were temporarily returned to a correctional institution from parole pending a hearing to determine whether they will be returned to term or parole status. Supervision violations may include either technical violations of the terms of supervision or new offenses committed while on supervision. Idaho Department of Correction, Population Overview FY 2018 (2018), https://www.idoc.idaho.gov/content/document/fy_2018_population_overvew.

32 Idaho Department of Correction, *Justice Reinvestment Impact in Idaho: Report to the Legislature* (February 2019), https://www.idoc.idaho.gov/content/document/2019_jri_impact_report_final.

33 *Id.*

34 Tommy Simmons, "IDOC Pitches New Community Violator Centers, More Prison Beds," *Idaho Press* (July 21, 2019), https://www.idahopress.com/eyeonboise/idoc-pitches-new-community-violator-centers-more-prison-beds/article_879279d0-1aea-5455-8d2d-2d276cbad9fa.html.

35 Idaho Department of Correction, *Population Overview FY 2018* (2018), https://www.idoc.idaho.gov/content/document/fy_2018_population_overvew.

36 Idaho Department of Correction, *Population Overview FY 2018* (2018), https://www.idoc.idaho.gov/content/document/fy_2018_population_overvew.

37 Idaho Department of Correction, *Justice Reinvestment Impact in Idaho: Report to the Legislature* (February 2019), https://www.idoc.idaho.gov/content/document/2019_jri_impact_report_final.

38 "Out of State: Eagle Pass Correctional Facility," Idaho Department of Correction, https://www.idoc.idaho.gov/content/locations/prisons/EPCF.

39 Tommy Simmons and George Prentice, "Leaking Roofs, Abscessed Teeth, Little Time Outside: Idaho Prisoners Describe Texas Facility," *Idaho Press* (December 1, 2018), https://www.idahopress.com/news/local/leaking-roofs-abscessed-teeth-little-time-outside-idaho-prisoners-describe/article_7acb74bd-80af-5c58-a929-fc345080f8cc.html.

40 Note: 100 people were held in Bonneville County Jail; 447 were held in other county jails. Idaho Department of Correction, *Population Overview FY 2018* (2018), https://www.idoc.idaho.gov/content/document/fy_2018_population_overvew.

41 Vera Institute of Justice, Incarceration Trends, 2015. Total jail population and pretrial jail population data are drawn from different sources in the cited source. Total jail population data is reported as average daily population in 2015 and excludes federal jail populations, while pretrial jail population is reported as a single day count (taken on June 30) and includes federal jail populations.

42 See Nicole Foy, "Immigration Holds at the Canyon County Jail Dramatically Increase in 2018," *Idaho Press* (June 9, 2018), https://www.idahopress.com/news/local/immigration-holds-at-the-canyon-county-jail-dramatically-increase-in/article_e271e6c8-6d24-5bcb-abfc-e2bcc6713dc1.html; Associated Press, "Idaho Jail Calls US Officials About All Foreign-Born Inmates" (June 11, 2019), https://apnews.com/9bc43c7e3c264114ad7a340b6b822bcb.

43 Idaho Statute § 19-2513.

44 Don Stemen, Andres Rengifo, and James Wilson, *Of Fragmentation and Ferment: The Impact of State Sentencing Policies on Incarceration Rates, 1975-2002* (Vera Institute of Justice, August 2005), https://storage.googleapis.com/vera-web-assets/downloads/Publications/of-fragmentation-and-ferment-the-impact-of-state-sentencing-policies-on-incarceration-rates-1975-2002/legacy_downloads/Of_Fragmentation_and_Ferment.pdf.

45 Idaho Statute § 19-2514.

46 Idaho Statute § 37-2732B.

47 "2019 – HB 99 Mandatory Minimums," American Civil Liberties Union of Idaho, https://www.acluidaho.org/en/legislation/2019-hb-99-mandatory-minimums.

48 Idaho Department of Correction and Idaho Commission of Pardons and Parole, *Timely Release Report 2019* (February 2019), https://www.idoc.idaho.gov/content/document/2019_timely_release_report_final.

49 Elizabeth Pelletier, Leigh Courtney, and Brian Elderbroom, *Assessing the Impact of Idaho's Parole Reforms* (Urban Institute, November 2018), https://www.urban.org/sites/default/files/publication/99417/assessing_the_impact_of_idahos_parole_reforms_0.pdf.

50 Idaho Department of Correction and Idaho Commission of Pardons and Parole, *Timely Release Report 2019* (February 2019), https://www.idoc.idaho.gov/content/document/2019_timely_release_report_final.

51 Jennifer Bronson and E. Ann Carson, *Prisoners in 2017* (BJS, April 2019), https://www.bjs.gov/content/pub/pdf/p17.pdf.

52 Idaho Department of Correction, *Population Overview FY 2018* (2018), https://www.idoc.idaho.gov/content/document/fy_2018_population_overvew; Vera Institute of Justice, Incarceration Trends, 2015.

53 Idaho Department of Correction, *Population Overview FY 2018* (2018), https://www.idoc.idaho.gov/content/document/fy_2018_population_overvew.

54 Ashley Nellis, *The Color of Justice: Racial and Ethnic Disparity in State Prisons* (Washington, D.C.: Sentencing Project, 2016), https://www.sentencingproject.org/wp-content/uploads/2016/06/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf.

55 Note: 1.5 percent of the prison population that year (124 people) were reported as "unknown race/ethnicity." Urban Institute Analysis of U.S. Census Bureau, "Annual Estimates of the Resident Population by Sex, Age, Race, and Hispanic Origin for the United States and States," 2017 population estimates; Idaho Department of Correction, *Population Overview FY 2018* (2018), https://www.idoc.idaho.gov/content/document/fy_2018_population_overvew.

56 Ashley Nellis, *The Color of Justice: Racial and Ethnic Disparity in State Prisons* (Washington, D.C.: Sentencing Project, 2016), https://www.sentencingproject.org/wp-content/uploads/2016/06/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf.

57 Note: 1.5 percent of the prison population that year (124 people) were reported as "unknown race/ethnicity." Urban Institute Analysis of U.S. Census Bureau, "Annual Estimates of the Resident Population by Sex, Age, Race, and Hispanic Origin for the United States and States," 2017 population estimates; Idaho Department of Correction, *Population Overview FY 2018* (2018), https://www.idoc.idaho.gov/content/document/fy_2018_population_overvew.

58 *Id.*

59 American Civil Liberties Union, *At America's Expense: The Mass Incarceration of the Elderly* (June 2012), https://www.aclu.org/report/americas-expense-mass-incarceration-elderly?redirect=criminal-law-

reform/report-americas-expense-mass-incarceration-elderly; Human Rights Watch, *Old Behind Bars: The Aging Prison Population in the United States* (2012), https://www.hrw.org/sites/default/files/reports/usprisons0112webwcover_0.pdf.

60 Idaho Department of Correction, *Population Overview FY 2018* (2018), https://www.idoc.idaho.gov/content/document/fy_2018_population_overvew.

61 "Substance Abuse Services," Idaho Department of Correction, https://www.idoc.idaho.gov/content/prisons/treatment_programs/treatment/substance_abuse.

62 Idaho Department of Correction, *Justice Reinvestment Impact in Idaho: Report to the Legislature* (February 2019), https://www.idoc.idaho.gov/content/document/2019_jri_impact_report_final.

63 Idaho Department of Correction and Idaho Department of Health and Welfare, *Annual Community Gap Analysis FY 2018* (2019), https://www.idoc.idaho.gov/content/document/annual_community_gap_analysis_submitted_2019.

64 Elizabeth Pelletier, Leigh Courtney, and Brian Elderbroom, *Assessing the Impact of Idaho's Parole Reforms* (Urban Institute, November 2018), https://www.urban.org/sites/default/files/publication/99417/assessing_the_impact_of_idahos_parole_reforms_0.pdf; Idaho Department of Correction and Idaho Commission of Pardons and Parole, *Timely Release Report 2019* (February 2019), https://www.idoc.idaho.gov/content/document/2019_timely_release_report_final.

65 National Association of State Budget Officers, State Expenditure Report series, https://www.nasbo.org/reports-data/state-expenditure-report/state-expenditure-archives.

66 Danielle Sered, *Accounting for Violence: How to Increase Safety and Break Our Failed Reliance on Mass Incarceration* (New York: Vera Institute of Justice, 2017), https://storage.googleapis.com/vera-web-assets/downloads/Publications/accounting-for-violence/legacy_downloads/accounting-for-violence.pdf.

67 Safety and Justice Challenge, "Ada County 2017 Safety and Justice Challenge Fact Sheet" (2017), http://www.safetyandjusticechallenge.org/wp-content/uploads/2017/10/ada-county-safety-justice-challenge-fact-sheet-v2.pdf.

68 "Community Service," ADA County Sherriff's Office, https://adacounty.id.gov/sheriff/Services/Alternative-Sentencing/Community-Service.

69 Mark S. Umbreit, Robert B. Coates, and Betty Vos, "Victim-Offender Mediation: Three Decades of Practice and Research," *Conflict Resolution Quarterly* 22, nos. 1-2 (2004): 279-303, https://doi.org/10.1002/crq.102; National Council on Crime & Delinquency, *Scaling Restorative Community Conferencing Through a Pay for Success Model: A Feasibility Assessment Report* (Oakland, CA: NCCD, 2015), 9, https://www.nccdglobal.org/sites/default/files/publication_pdf/rj-pfs-feasibility-report.pdf.

70 Mark S. Umbreit, Robert B. Coates, and Betty Vos, "Victim-Offender Mediation: Three Decades of Practice and Research," *Conflict Resolution Quarterly* 22, nos. 1-2 (2004): 279-303, https://doi.org/10.1002/crq.102; National Council on Crime & Delinquency, *Scaling Restorative Community Conferencing Through a Pay for Success Model: A Feasibility Assessment Report* (Oakland, CA: NCCD, 2015), 9, https://www.nccdglobal.org/sites/default/files/publication_pdf/rj-pfs-feasibility-report.pdf.

71 Caroline M. Angel, Lawrence W. Sherman, Heather Strang, Barak Ariel, Sarah Bennett, Nova Inkpen, Anne Keane, and Therese S. Richmond, "Short-Term Effects of Restorative Justice Conferences on Post-Traumatic Stress Symptoms Among Robbery and Burglary Victims: A Randomized Controlled Trial," *Journal of Experimental Criminology* 10, no. 3 (September 2014): 291-307, https://doi.org/10.1007/s11292-014-9200-0.

72 Henry J. Steadman and Michelle Naples, "Assessing the Effectiveness of Jail Diversion Programs for Persons with Serious Mental Illness and Co-Occurring Substances Use Disorders," *Behavioral Sciences & the Law* 23, no. 2 (March/April 2005): 163-170, https://doi.org/10.1002/bsl.640.

73 Alexander J. Cowell, Nahama Broner, and Randolph Dupont, "The Cost Effectiveness of Criminal Justice Diversion Programs for People with Serious Mental Illness Co-Occurring With Substance Abuse," *Journal of Contemporary Criminal Justice* 20, no. 3 (August 2004): 292-315, https://journals.sagepub.com/doi/10.1177/1043986204266892.

74 Henry J. Steadman, Lisa Callahan, Pamela Clark Robbins, Roumen Vesselinov, Thomas G. McGuire, and Joseph P. Morrisey, "Criminal Justice and Behavioral Health Care Costs of Mental Health Court Participants: A Six-Year Study," *Psychiatric Services* 65, no. 9 (September 2014): 1100-1104, https://doi.org/10.1176/appi.ps.201300375.

75 Gary A. Zarkin, Alexander J. Cowell, Katherine A. Hicks, Michael J. Mills, Steven Belenko, Laura J. Dunlap, and Vincent Keyes, "Lifetime Benefits and Costs of Diverting Substance-Abusing Offenders From State Prison," *Crime & Delinquency* 61, no. 6 (November 2012): 829-850, https://journals.sagepub.com/doi/abs/10.1177/0011128712461904.

76 Idaho SB 1204 (April 9, 2019).

77 Betsy Z. Russell, "Gov. Little Signs Medicaid Expansion Work-Requirements Bill Into Law," *Idaho Press* (April 9, 2019), https://www.idahopress.com/news/local/gov-little-signs-medicaid-expansion-work-requirements-bill-into-law/article_7b4e40e7-b664-5c44-b9fe-40e0f39384db.html.

78 Idaho SB 1357 (March 19, 2014); see also Marc Levin and Geoffrey Talmon, "Idaho Ready for Criminal Justice Reform," The Council of State Governments Justice Center (February 24, 2014), https://csgjusticecenter.org/jr/idaho/media-clips/idaho-ready-for-criminal-justice-reform.

79 Idaho Department of Correction, *Justice Reinvestment Impact in Idaho: Report to the Legislature* (February 2019), https://www.idoc.idaho.gov/content/document/2019_jri_impact_report_final.

80 Idaho Department of Correction, *Justice Reinvestment Impact in Idaho: Report to the Legislature* (February 2019), https://www.idoc.idaho.gov/content/document/2019_jri_impact_report_final.

81 Note: This includes people admitted to Idaho prisons on "parole violator" status, meaning they were temporarily returned to a correctional institution from parole pending a hearing to determine whether they will be returned to term or parole status. Supervision violations may include either technical violations of the terms of supervision or new offenses committed while on supervision. Jennifer Bronson and E. Ann Carson, *Prisoners in 2017* (BJS, April 2019), https://www.bjs.gov/content/pub/pdf/p17.pdf.

82 "Legislature Stalls Again; Advocates Prepare to Put Medical Marijuana on the 2020 Ballot," Marijuana Policy Project (July 10, 2019), https://www.mpp.org/states/idaho.

83 Meghan Sacks and Alissa R. Ackerman, "Pretrial Detention and Guilty Pleas: If They Cannot Afford Bail They Must Be Guilty," *Criminal Justice Studies* 25, no. 3 (July 2012): 265-278, https://doi.org/10.1080/1478601X.2012.705536.

84 Evidence has shown that pretrial detention puts the defense at a disadvantage and weakens a defendant's bargaining position during plea negotiations. Evidence has also indicated that a person is more likely to plead guilty to a crime if she is detained pretrial. See Will Dobbie, Jacob Goldin, and Crystal S. Yang, "The Effects of Pretrial Detention on Conviction, Future Crime, and Employment: Evidence from Randomly Assigned Judges," *American Economic Review* 108, no. 2 (February 2018): 201-240, https://www.aeaweb.org/articles?id=10.1257/aer.20161503; Juleyka Lantigua-Williams, "Why Poor, Low-Level Offenders Often Plead to Worse Crimes," *The Atlantic* (July 2016), https://www.theatlantic.com/politics/archive/2016/07/why-pretrial-jail-can-mean-pleading-to-worse-crimes/491975.

85 See John Wooldredge, "Distinguishing Race Effects on Pre-Trial Release and Sentencing Decisions," *Justice Quarterly* 29, no. 1 (March 2011): 41-75, https://doi.org/10.1080/07418825.2011.559480; Stephen Demuth, "Racial and Ethnic Differences in Pretrial Release Decisions and Outcomes: A Comparison of Hispanic, Black, and White Felony Arrestees," *Criminology* 41, no. 3 (August 2003): 873-908, https://doi.org/10.1111/j.1745-9125.2003.tb01007.x; Ian Ayres and Joel Waldfogel, "A Market Test for Race Discrimination in Bail Setting," *Stanford*

*Law Review* 46, no. 5 (May 1994): 987-992, https://ianayres.yale.edu/sites/default/files/files/A%20Market%20Test%20for%20Race%20Discrimination%20in%20Bail%20Setting.pdf.

86 Gideon v. Wainwright, 372 U.S. 335 (1963).

87 See Alexa Van Brunt, "Poor People Rely on Public Defenders Who Are Too Overworked to Defend Them," The Guardian (June 17, 2015), https://www.theguardian.com/commentisfree/2015/jun/17/poor-rely-public-defenders-too-overworked.

88 See Caroline S. Cooper, "The ABA 'Ten Principles of a Public Defense Delivery System': How Close Are We to Being Able to Put Them Into Practice?," *Albany Law Review* 78, no. 3 (2015): 1193-1213, http://www.albanylawreview.org/Articles/Vol78_3/78.3.1193%20Cooper.PDF.

89 Suzanne M. Strong, *State-Administered Indigent Defense Systems, 2013* (BJS, May 2017), https://www.bjs.gov/content/pub/pdf/saids13.pdf.

90 James M. Anderson, Maya Buenaventura, and Paul Heaton, "The Effects of Holistic Defense on Criminal Justice Outcomes," *Harvard Law Review* 132, no. 3 (January 2019), https://harvardlawreview.org/wp-content/uploads/2019/01/819-893_Online.pdf.

91 American Civil Liberties Union of Idaho, "Support Ban the Box Legislation – Fair Chance Access to Employment" (2018), https://www.acluidaho.org/sites/default/files/field_documents/btb_one-pager_2018.pdf.

92 *Id.*

93 Jake Horowitz and Monica Fuhrmann, "States Can Safely Raise Their Felony Theft Thresholds, Research Shows," Pew Research Center (May 22, 2018), https://www.pewtrusts.org/en/research-and-analysis/articles/2018/05/22/states-can-safely-raise-their-felony-theft-thresholds-research-shows.

94 *Id.*

95 Idaho Statute § 19-2514.

96 Elizabeth Pelletier, Leigh Courtney, and Brian Elderbroom, *Assessing the Impact of Idaho's Parole Reforms* (Urban Institute, November 2018), https://www.urban.org/sites/default/files/publication/99417/assessing_the_impact_of_idahos_parole_reforms_0.pdf.

97 Jorge Renaud, *Failure Should Not Be an Option: Grading the Parole Release Systems of All 50 States,* Appendix A (Prison Policy Initiative, February 2019), https://www.prisonpolicy.org/reports/parole_grades_table.html.

98 Coalition for Effective Public Safety, Letter to Chief Justice Ralph D. Gants, Gov. Charles D. Baker, House Speaker Robert A. DeLeo, and Massachusetts Senate President Stanley C. Rosenberg (January 17, 2017), https://aclum.org/sites/default/files/wp-content/uploads/2017/01/20170117-CSG-Letter.pdf.

99 Betsy Z. Russell, "Lawmakers Wrestle With Prison Increases, Question Policies," *Idaho Press* (August 13, 2018), https://www.idahopress.com/news/local/lawmakers-wrestle-with-prison-increases-question-policies/article_1bf39dbc-dad4-5d08-8947-f3074822167b.html.

100 Betsy Z. Russell, "Lawmakers Wrestle With Prison Increases, Question Policies," *Idaho Press* (August 13, 2018), https://www.idahopress.com/news/local/lawmakers-wrestle-with-prison-increases-question-policies/article_1bf39dbc-dad4-5d08-8947-f3074822167b.html.

101 Mary Price, *Everywhere and Nowhere: Compassionate Release in the States* (Families Against Mandatory Minimums, June 2018), https://famm.org/wp-content/uploads/Exec-Summary-Report.pdf.

102 B. Jaye Anno, Camelia Graham, James E. Lawrence, and Ronald Shansky, *Correctional Health Care: Addressing the Needs of Elderly, Chronically Ill, and Terminally Ill Inmates* (U.S. Department of Justice, National Institute of Corrections, 2004), https://info.nicic.gov/nicrp/system/files/018735.pdf.

103 See Travis Hirschi and Michael Gottfredson, "Age and the Explanation of Crime," *American Journal of Sociology* 89, no. 3 (November 1983), https://www.jstor.org/stable/2779005.

104 American Civil Liberties Union, *At America's Expense: The Mass Incarceration of the Elderly* (June 2012), https://www.aclu.org/report/americas-expense-mass-incarceration-elderly?redirect=criminal-law-reform/report-americas-expense-mass-incarceration-elderly.

105 Hamida Labi, "Governors Can Succeed in Criminal Justice Reform Where Legislatures Fail," American Civil Liberties Union (June 24, 2019), https://www.aclu.org/blog/smart-justice/governors-can-succeed-criminal-justice-reform-where-legislatures-fail.

106 See, for example, Katherine B. Spencer, Amanda K. Charbonneau, and Jack Glaser, "Implicit Bias and Policing," *Social and Personality Psychology Compass* 10, no. 1 (January 2016): 50–63, https://doi.org/10.1111/spc3.12210; Besiki Kutateladze, Vanessa Lynn, and Edward Liang, *Do Race and Ethnicity Matter in Prosecution? A Review of Empirical Studies* (New York: Vera Institute of Justice, June 2012), https://storage.googleapis.com/vera-web-assets/downloads/Publications/do-race-and-ethnicity-matter-in-prosecution-a-review-of-empirical-studies/legacy_downloads/race-and-ethnicity-in-prosecution-first-edition.pdf; Tushar Kansal, *Racial Disparity in Sentencing: A Review of the Literature,* ed. Marc Mauer (Washington, D.C.: Sentencing Project, January 2005), https://www.opensocietyfoundations.org/sites/default/files/disparity.pdf; Michael Pinard, "Collateral Consequences of Criminal Convictions: Confronting Issues of Race and Dignity," *New York University Law Review* 85, no. 2 (May 2010): 457–534; Lisa Stolzenberg, Stewart J. D'Alessio, and David Eitle, "Race and Cumulative Discrimination in the Prosecution of Criminal Defendants," *Race and Justice* 3, no. 4 (August 2013): 275–299, http://raj.sagepub.com/content/3/4/275.abstract.

107 Marc Mauer and Nazgol Ghandnoosh, *Fewer Prisoners, Less Crime: A Tale of Three States* (Washington, D.C.: Sentencing Project, 2015), https://sentencingproject.org/wp-content/uploads/2015/11/Fewer-Prisoners-Less-Crime-A-Tale-of-Three-States.pdf.

108 Ashley Nellis, *The Color of Justice: Racial and Ethnic Disparity in State Prisons* (Washington, D.C.: Sentencing Project, 2016), https://www.sentencingproject.org/wp-content/uploads/2016/06/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf.

109 Jennifer L. Eberhardt, P.G. Davies, Valerie J. Purdie-Vaughns, and Sheri Lynn Johnson, "Looking Deathworthy: Perceived Stereotypicality of Black Defendants Predicts Capital-Sentencing Outcomes," *Psychological Science* 17, no. 5 (May 2006): 383-386, https://doi.org/10.1111/j.1467-9280.2006.01716.x.

110 Doris J. James and Lauren E. Glaze, *Special Report: Mental Health Problems of Prison and Jail Inmates* (BJS, September 2006), https://www.bjs.gov/content/pub/pdf/mhppji.pdf; Jennifer Bronson and Marcus Berzofsky, *Special Report: Indicators of Mental Health Problems Reported by Prisoners and Jail Inmates, 2011-12* (BJS, June 2017), https://www.bjs.gov/content/pub/pdf/imhprpji1112.pdf; Jennifer Bronson, Laura M. Maruschak, and Marcus Berzofsky, *Special Report: Disabilities Among Prison and Jail Inmates, 2011-12* (BJS, December 2015), https://www.bjs.gov/content/pub/pdf/dpji1112.pdf.

111 Doris J. James and Lauren E. Glaze, *Special Report: Mental Health Problems of Prison and Jail Inmates* (BJS, September 2006), https://www.bjs.gov/content/pub/pdf/mhppji.pdf; Jennifer Bronson and Marcus Berzofsky, *Special Report: Indicators of Mental Health Problems Reported by Prisoners and Jail Inmates, 2011-12* (BJS, June 2017), https://www.bjs.gov/content/pub/pdf/imhprpji1112.pdf.

112 Linda A. Teplin, *Keeping the Peace: Police Discretion and Mentally Ill Persons* (National Institute of Justice Journal, July 2000): 12, https://www.ncjrs.gov/pdffiles1/jr000244c.pdf.

113 Stanford Justice Advocacy Project, *The Prevalence and Severity of Mental Illness Among California Prisoners on the Rise* (2017), https://law.stanford.edu/publications/the-prevalence-and-severity-of-mental-illness-among-california-prisoners-on-the-rise/.

114 *Id.*

115 *Id.*

116 Doris J. James and Lauren E. Glaze, *Special Report: Mental Health Problems of Prison and Jail Inmates* (BJS, September 2006), https://www.bjs.gov/content/pub/pdf/mhppji.pdf; Jennifer Bronson and Marcus Berzofsky, *Special Report: Indicators of Mental Health Problems Reported by Prisoners and Jail Inmates, 2011-12* (BJS, June 2017), https://www.bjs.gov/content/pub/pdf/imhprpji1112.pdf.

117 Doris J. James and Lauren E. Glaze, *Special Report: Mental Health Problems of Prison and Jail Inmates* (BJS, September 2006), https://www.bjs.gov/content/pub/pdf/mhppji.pdf.

118 John Buntin, "Miami's Model for Decriminalizing Mental Illness in America," *Governing* (August 2015), http://www.governing.com/topics/public-justice-safety/gov-miami-mental-health-jail.html; Michael T. Compton, Roger Bakeman, Beth Broussard, Dana Hankerson-Dyson, Letheshia Husbands, Shaily Krishan, Tarianna Stewart-Hutto, Barbara D'Orio, Janet R. Oliva, Nancy J. Thompson, and Amy Watson, "The Police-Based Crisis Intervention Team (CIT) Model: II. Effects on Level of Force and Resolution, Referral, and Arrest," *Psychiatric Services* 65, no. 4 (2014), https://doi.org/10.1176/appi.ps.201300108; Michael T. Compton, Masuma Bahora, Amy C. Watson, and Janet R. Oliva, "A Comprehensive Review of Extant Research on Crisis Intervention Team (CIT) Programs," *Journal of American Academy of Psychiatry Law* 36, no. 1 (2008), http://jaapl.org/content/36/1/47.

119 Alexander, Michelle. The New Jim Crow: Mass Incarceration in the Age of Colorblindness. New York: [Jackson, Tenn.]: New Press; Distributed by Perseus Distribution, 2010. Print.

ACLU
SMART
JUSTICE