

Meeting the Grand Challenge to **Promote Smart Decarceration**

Policy Recommendations

- (Re)invest criminal legal funds into communities.
- Target and eliminate disparities in the criminal legal system.
- Prevent incarceration at the front end.
- Stop the increased use of electronic monitoring.

Issue

The United States has the highest incarceration rate in the world, with an estimated 1.9 million people in prison or jail and another 3.7 million on probation or parole.¹ Mass incarceration results in significant economic, social, and health disadvantages, stigma and discrimination, and disrupted relationships, particularly among Black, Indigenous, and Latinx communities. To address the harms of incarceration, punitive policies and practices must be dismantled and replaced with new approaches that foster community safety and well-being. The Grand Challenge for Social Work to Promote Smart Decarceration (PSD) seeks to advance federal, state, and local policies that substantially reduce the use of incarceration in ways that are evidence-driven, socially just, anti-racist, and inclusive of diverse strategies. The following policy recommendations to Promote Smart Decarceration echo prevailing calls for policies to advance decarceration, shrink the footprint of the criminal legal system, and abolish the prison industrial complex.²

Policy Recommendations

1. (Re)invest criminal legal funds into communities.

Investments in services that meet people's basic needs have been shown to positively impact their lives and improve community safety. A cornerstone of smart decarceration is fostering capacity-building within communities that are historically over-surveilled and disenfranchised by uplifting community-based groups that have been driving key mobilizing efforts aimed at reinvestment. Criminal legal public funds should be redirected away from local and state public safety budgets and earmarked for community-driven

¹ Sawyer, W. & Wagner, P. (2023). Mass incarceration: The whole pie 2023. Prison Policy Initiative. <https://www.prisonpolicy.org/reports/pie2023.html>

² <https://static.prisonpolicy.org/reports/winnable2023.pdf> ; https://criticalresistance.org/wp-content/uploads/2021/08/CR_abolitioniststeps_antiexpansion_2021_eng.pdf ; <https://www.aclu.org/documents/aclu-policy-priorities-prison-reform>

strategies that help prevent harm and violence without expanding the reach of the carceral system. Examples include investments in organizations providing behavioral health services, public education, job creation and training, public housing, youth programming, and other supports prioritizing community-led safety strategies. Research shows how investment in key infrastructure needed for communities to thrive helps reduce involvement with the carceral system.³ A true community reinvestment strategy requires policies that do not redistribute funds *among* criminal legal agencies within a state (i.e., justice reinvestment) but instead distributes them *away* from those agencies and into communities.⁴

Community Reinvestment Initiatives in Colorado are a leading example of how a state department of corrections can directly invest in community providers who offer reentry and diversion supports, crime and violence reduction strategies, and victims' services.⁵ Other resources for reinvestment strategies include the Center for American Progress' "How to Reinvest in Communities when Reducing the Scope of Policing"⁶ and the Urban Institute's "Investing Justice Resources to Address Community Needs."⁷ A final example comes from New Jersey where community leaders advocated for innovative responses to people experiencing mental health crises and passage of the Seabrooks-Washington Community-Led Crisis Response Act, which appropriated \$12 million to community-based organizations leading crisis response teams.⁸

2. Target and eliminate disparities in the criminal legal system.

The uneven effects of mass incarceration on people of color, those in poverty, LGBTQ+ people, and individuals with substance use and mental health disorders is well

³ Hawks, L., Lopoo, E., Puglisi, L., Cellini, J., Thompson, K., Halberstam, A. A., Tolliver, D., Martinez-Hamilton, S., & Wang, E. A. (2022). Community investment interventions as a means for decarceration: A scoping review. *The Lancet Regional Health—Americas*, 8, Article 100150. [https://www.thelancet.com/journals/lanam/article/PIIS2667-193X\(21\)00146-0/fulltext](https://www.thelancet.com/journals/lanam/article/PIIS2667-193X(21)00146-0/fulltext)

⁴ Dollar, C. W. (2023). A new coat of paint: The bluewashing of justice reinvestment and realignment to community reinvestment. *Sociology Compass*, 17(3), e13072. <https://compass.onlinelibrary.wiley.com/doi/pdf/10.1111/soc4.13072>

⁵ <https://www.ccjrc.org/wp-content/uploads/2021/04/April-2021-Community-Reinvestment-in-Colorado.pdf>

⁶ <https://cdn.americanprogress.org/content/uploads/2020/07/28150215/Reducing-the-Scope-of-Policing.pdf>

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https://www.urban.org/sites/default/files/publication/96341/investing_justice_resources_to_address_community_needs.pdf

⁸ Bonamo, M. J. (2024, January 8). Bill to boost community crisis response teams passed in wake of police-involved shootings. *New Jersey Monitor*. <https://newjerseymonitor.com/2024/01/08/bill-to-boost-community-crisis-response-teams-passed-in-wake-of-police-involved-shootings>

documented.⁹ Emerging decarceration policies must intentionally target the reduction of racial, economic, and behavioral health disparities. Decarceration efforts by federal, state, and local governments should include a commitment to articulate equity goals and develop innovations that actively reduce racial, economic, and behavioral-health disparities.¹⁰ Nine states (IA, CO, CT, FL, OR, ME, MD, NJ and VA) have adopted racial impact statements which, like environmental or fiscal impact statements, provide information to policymakers before they vote on decarceration-relevant legislation as to whether the policy might reduce or exacerbate disparities.¹¹ The Sentencing Project offers numerous criminal legal system reform examples that policymakers have initiated to address racial disparities.¹⁷

A larger effort to reducing disparities involves acknowledging the history of the carceral system in the United States and the ways that it has created “laws that criminalize race...and aim to control the lives of people of color.”¹² A recent example of such efforts is the New Jersey Institute for Social Justice, which aims to reckon with the state’s past history of slavery through the establishment of a Reparations Council.¹³ The council is comprised of several committees, two of which include a committee on public safety which explores the history of policing and incarceration and a committee on the history of slavery in NJ that examines how slavery shaped society in the state and how it continues to impact society presently.

3. Prevent incarceration at the front end.

Evidence shows a weak relationship between incarceration and reduced criminalized behavior. Additionally, pretrial jail detention of people awaiting trial increases the likelihood of future offending and arrests.¹⁴ As such, critical steps in smart decarceration include both preventing incarceration in the first place and decarcerating those already behind bars. Both local and state policymakers have jurisdiction over decisions in this area that could substantially reduce incarceration and recidivism. One strategy to prevent incarceration is

⁹ Epperson, M. W., & Pettus-Davis, C. (2015). Smart decarceration: Guiding concepts for an era of criminal justice transformation (CSD Working Paper No. 15-53). St. Louis, MO: Washington University, Center for Social Development. <https://csd.wustl.edu/15-53/>; Western, B., & Pettit, B. (2010). Collateral costs: Incarceration’s effect on economic mobility. Washington, DC: The Pew Charitable Trusts.

http://www.pewtrusts.org/-/media/legacy/uploadedfiles/pes_assets/2010/collateralcosts1pdf.pdf

¹⁰ Mauer, M. (2011). Addressing racial disparities in incarceration. *The Prison Journal*, 91(3, Suppl.), 875–1015.

¹¹ <https://www.sentencingproject.org/app/uploads/2023/12/One-in-Five-Racial-Disparity-in-Imprisonment-Causes-and-Remedies.pdf>

¹² Vera Institute of Justice. (2018). Addressing racial disparities starts at home.

<https://www.vera.org/news/addressing-racial-disparities-starts-at-home>

¹³ New Jersey Reparations Council. (2023). <https://www.njreparationscouncil.org/>

¹⁴ Loeffler, C. E., & Nagin, D. S. (2022). The impact of incarceration on recidivism. *Annual Review of Criminology*, 5, 133-152; <https://www.vera.org/downloads/publications/Justice-Denied-Evidence-Brief.pdf>

through bail reform, implemented in Illinois through groundbreaking pretrial detention policies in 2023 that ended the use of money bail and limited the types of offenses for which someone can be detained.¹⁵ Similarly, New Jersey has witnessed dramatic reductions in its jail population because of bail reform, and due to the early release of people incarcerated during the Covid-19 pandemic.¹⁶

Seattle's Law Enforcement Assisted Diversion (LEAD) prearrest diversion program¹⁷ and Texas' Sobering Center¹⁸ are examples of models that redirect people to case management and support services instead of jail and prosecution leading to reductions in arrests and felony charges. The Sequential Intercept Model is another example that was developed to address the criminalization of individuals with behavioral and mental health disorders by referring people to services (e.g., crisis care) to prevent further system involvement.¹⁹ For a summary of leading state legislative efforts where front-end diversion and deflection programs are being used, see the National Council of State Legislatures' "The Legislative Primer Series on Front-End Justice: Deflection and Diversion."²⁰ Additionally, a recent systematic review on police diversion programs shows results suggesting links between diversion and overall reductions in recidivism.²¹

4. Stop the increased use of electronic monitoring.

Electronic monitoring (EM, also known as "e-carceration") is increasingly used for those on pretrial release (while awaiting trial) and probation or parole as an "alternative" to incarceration. EM refers to a range of devices including GPS ankle monitors that government and private companies use to track people's whereabouts. While identified by

¹⁵ <https://pretrialfairness.org/legal-resources/>

¹⁶ ACLU New Jersey (2023). Decarcerating New Jersey: The crisis of mass incarceration. <https://www.aclu-nj.org/en/crisis-mass-incarceration>

¹⁷ Collins, S. E., et al. (2017). Seattle's Law Enforcement Assisted Diversion (LEAD): Program effects on recidivism outcomes. *Evaluation and Program Planning*, 64, 49–56; <https://kingcounty.gov/en/legacy/depts/community-human-services/mental-health-substance-abuse/diversion-reentry-services/lead>

¹⁸ <https://soberingcenter.org/>

¹⁹ Abreu, D., Parker, T. W., Noether, C. D., Steadman, H. J., & Case, B. (2017). Revising the paradigm for jail diversion for people with mental and substance use disorders: Intercept 0. *Behavioral Sciences & the Law*, 35, 380–395; Munetz, M., & Griffin, P. A. (2006). Use of the Sequential Intercept Model as an approach to decriminalization of people with serious mental illness. *Psychiatric Services*, 57, 544–549.

²⁰ <https://documents.ncsl.org/wwwncsl/Criminal-Justice/Deflection-Diversion-f02.pdf>

²¹ Harmon-Darrow, C., Afkinich, J., Franke, N. D., & Betz, G. (2023). Police diversion at arrest: A systematic review of the literature. *Criminal Justice and Behavior*, 50(3), 307-329. <https://doi.org/10.1177/00938548221131965>

some as a preferred condition to prison or jail, the evidence is negative²² or mixed²³ as to whether EM decreases criminalized activity. EM also comes with significant harmful costs including an increase in racial and class inequities, high financial burdens, and restrictions on access to employment, health care, and family and community relationships—all needed to productively participate in society.²⁴ Instead of offering an effective and helpful alternative to incarceration, EM expands the footprint of the criminal legal system and increases the risk of incarceration because of complex, illogical, and onerous rules that often lead to technical violations and ultimately, re-incarceration.

State and local policy makers can enact legislation that would ban electronic monitoring for those on pretrial release, probation, or parole, and replace EM with more effective measures such as court appearance reminders, transportation assistance, and offering positive incentives for meeting rehabilitation requirements or recommendations.^{22,23} Illinois offers a recent example of EM reform with the following policies that were enacted as part of the Pretrial Fairness Act, HB 3653: 1) prosecutors must prove that a person has to be monitored pretrial, 2) judges must reassess every 60 days whether someone on EM can be given less restrictive conditions, 3) people on EM are guaranteed movement to complete essential functions, and 4) time on EM counts as time served at sentencing.²⁵ Other examples highlighted by the Brennan Institute for Justice include San Francisco, CA and Baltimore, MD, which have eliminated burdensome EM monitoring fees.²⁶ Additionally, the ACLU's report "Rethinking Electronic Monitoring: A Harm Reduction Guide"²⁴ provides a thorough review and set of recommendations to replace EM with less harmful strategies.

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²² Renzema, M., & Mayo-Wilson, E. (2005). Can electronic monitoring reduce crime for moderate to high-risk offenders? *Journal of Experimental Criminology*, 1, 215-237. <https://link.springer.com/article/10.1007/s11292-005-1615-1>

²³ Belur, J., Thornton, A., Tompson, L., Manning, M., Sidebottom, A., & Bowers, K. (2020). A systematic review of the effectiveness of the electronic monitoring of offenders. *Journal of Criminal Justice*, 68, 101686. <https://doi.org/10.1016/j.jcrimjus.2020.101686>

²⁴ ACLU (2022). Rethinking electronic monitoring: A harm reduction guide. <https://www.aclu.org/publications/rethinking-electronic-monitoring-harm-reduction-guide>

²⁵ <https://prismreports.org/2023/12/28/illinois-advocates-reform-beyond-cash-bail-end/>

²⁶ Brennan Center for Justice (2022). How electronic monitoring incentivizes prolonged punishment <https://www.brennancenter.org/our-work/analysis-opinion/how-electronic-monitoring-incentivizes-prolonged-punishment>

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About the Grand Challenges for Social Work

The Grand Challenges for Social Work was launched by the American Academy of Social Work & Social Welfare in 2016 to harness the ingenuity, expertise, dedication, and creativity of individuals and organizations within the field of social work and beyond to champion “social progress powered by science.” Additional information on the Grand Challenges may be found at GrandChallengesforSocialWork.org.