



**THE
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PROJECT**

A close-up photograph of a man and a woman embracing. The man, on the right, is an older Black man with a mustache, wearing a dark blue suit jacket over a light blue shirt. He has his arm around the woman's shoulder. The woman, on the left, is a younger Black woman with long, dark braids, wearing a dark turtleneck and a green jacket. She is smiling warmly. The background is a blurred outdoor setting, possibly a city street.

A SECOND LOOK AT INJUSTICE



THE SENTENCING PROJECT

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Sections of this report benefited from the generous feedback of the following individuals: Hillary Blout, Crystal Carpenter, Kate Chatfield, Sarah Comeau, Tara Libert, Rick Owen, Katerina Semyonova, Tyrone Walker, Laura Whitehorn, Steve Zeidman, and James Zeigler.

The Sentencing Project promotes effective and humane responses to crime that minimize imprisonment and criminalization of youth and adults by promoting racial, ethnic, economic, and gender justice.

The Sentencing Project gratefully acknowledges Arnold Ventures for their generous support of our research on extreme sentences in the United States.

Cover photo: William Underwood, criminal justice reform advocate and survivor of 33 years in prison, with his daughter Ebony Underwood, founder of We Got Us Now and a member of The Sentencing Project's Board of Directors. Photography provided by Underwood Legacy Fund.

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EXECUTIVE SUMMARY

Lawmakers and prosecutors have begun pursuing criminal justice reforms that reflect a key fact: ending mass incarceration and tackling its racial disparities require taking a second look at long sentences.

Over 200,000 people in U.S. prisons were serving life sentences in 2020—more people than were in prison with any sentence in 1970.¹ Nearly half of the life-sentenced population is African American. Nearly one-third is age 55 or older.

“There comes a point,” Senator Cory Booker has explained, “where you really have to ask yourself if we have achieved the societal end in keeping these people in prison for so long.”² He and Representative Karen Bass introduced the Second Look Act in 2019 to enable people who have spent at least 10 years in federal prison to petition a court for resentencing.

Legislators in 25 states, including Minnesota, Vermont, West Virginia, and Florida, have recently introduced second look bills. A federal bill allowing resentencing for youth crimes has bipartisan support.³ And, over 60 elected prosecutors and law enforcement leaders have called for second look legislation,⁴ with several prosecutors’ offices having launched sentence review units.

This report begins by examining the evidence supporting these reforms. Specifically:

- Legal experts recommend taking a second look at prison sentences after people have served 10 to 15 years, to ensure that sentences reflect society’s evolving norms and knowledge. The Model Penal Code recommends a judicial review after 15 years of imprisonment for adult crimes, and after 10 years for youth crimes. National parole experts Edward Rhine, the late Joan Petersilia, and Kevin Reitz have recommended a second look for all after 10 years of imprisonment—a timeframe that corresponds with what criminological research has found to be the duration of most “criminal careers.”

- Criminological research has established that long prison sentences are counterproductive to public safety. Many people serving long sentences, including for a violent crime, no longer pose a public safety risk when they have aged out of crime. Long sentences are of limited deterrent value and are costly, because of the higher cost of imprisoning the elderly. These sentences also put upward pressure on the entire sentencing structure, diverting resources from better investments to promote public safety.
- Crime survivors are not of one mind and many have unmet needs that go beyond perpetual punishment. Ultimately, a survivor’s desire for punishment must be balanced with societal goals of advancing safety, achieving justice, and protecting human dignity.

The report presents in-depth accounts of three reform efforts that can be models for the nation:

1. California’s 2018 law (Assembly Bill 2942) allows district attorneys to initiate resentencings.

Elected prosecutors across the state have begun using the law to undo excessively long sentences. Los Angeles County District Attorney George Gascón announced a sentence review unit for all who have served over 15 years. Lawmakers have also advanced legislation to enable all who have served at least 15 years to directly petition for resentencing. California’s experience demonstrates the potential of reaching a bipartisan consensus among prosecutors on the principle that some are serving unjust prison sentences. California also underscores the need for dedicating resources and educating the courts to achieve broad application of sentence modifications.

2. Washington, DC's Second Look Amendment Act (2020) allows those who committed crimes as emerging adults—under age 25—to petition for resentencing after 15 years of imprisonment.

Supported by a coalition of advocates and local leaders, the law builds on an earlier reform for youth crimes and makes up to 29% of people imprisoned with DC convictions eventually eligible for resentencing. Local media coverage of the success of those resentenced for youth crimes helped generate broad public support to overcome opposition from the U.S. Attorney's Office. DC Attorney General Karl Racine, Council Judiciary Chair Charles Allen, and Corrections Director Quincy Booth have recommended expanding the reform to all who have served over 10 years in prison.

3. New York State's Elder Parole bill would allow people aged 55 and older who have served 15 or more years in prison to receive a parole hearing.

This ongoing campaign, led by Release Aging People in Prison and allies, became especially urgent amidst the state's reluctance to use medical parole or commutations to release people at risk of COVID-19. Brooklyn District Attorney Eric Gonzalez supports the bill, explaining: "If someone has gone through the process of changing themselves ... there should be a mechanism for them to then appear before a parole board that will fully vet them."⁵

To end mass incarceration and invest more effectively in public safety, The Sentencing Project recommends limiting maximum prison terms to 20 years, except in unusual circumstances.⁶ Achieving this goal requires abolishing mandatory minimum sentences and applying reforms retroactively. To implement a second look policy that can effectively correct sentencing excesses of the past, The Sentencing Project recommends instituting an automatic sentence review process within a maximum of 10 years of imprisonment, with a rebuttable presumption of resentencing, and intentionally addressing anticipated racial disparities.

INTRODUCTION

“Regrets, I’ve had a few”

During the 2020 presidential campaign, Joe Biden acknowledged that aspects of the 1994 Crime Bill, which he had strongly supported, were a mistake. “Things have changed drastically,” he explained, expressing greater understanding and remorse about the law’s harmful disparate impact on African Americans.⁷ President Biden is not alone in expressing regrets about his role in the buildup of mass incarceration, though he is uniquely positioned to undo its damage.

Former Princeton University Professor John Dilulio Jr. regrets that his “superpredator” theory contributed to the mass incarceration of youth of color beginning in the 1990s and encouraged the Supreme Court to limit life imprisonment for youth crimes.⁸ Former Maryland Governor Parris Glendening regrets having set a precedent of denying parole to eligible people serving life sentences and has encouraged his successors to support legislation giving parole boards the final say.⁹ Former California Governor Jerry Brown regrets approving laws that contributed to California’s prison boom, and worked to undo their impact during his second run as governor.¹⁰

TAKING A SECOND LOOK AT INJUSTICE

In recent years, lawmakers and criminal justice practitioners have begun taking a second look at sentences imposed during the buildup of mass incarceration. With support from Attorney General Karl Racine, the DC Council passed legislation allowing people who have served over 15 years in prison for crimes committed under age 25 to petition the courts for resentencing. Los Angeles District Attorney George Gascón joined a group of prosecutors in his state and around the country in creating a sentence review unit, instructing his office to identify cases for resentencing among those who have served over 15 years in prison. When describing her office’s sentence review unit—for people medically vulnerable to COVID-19 who are either over age 60 and have served over 25 years or who have

served over 25 years for a youth crime—Baltimore City State’s Attorney Marilyn Mosby explained that prosecutors should repair the harm caused by their past support for “the epidemic of mass incarceration and racial inequality.”¹¹ She, like her counterpart Larry Krasner in Philadelphia, has endorsed statewide second look legislation.¹² Over 60 other elected prosecutors and law enforcement leaders have also called for second look legislation.¹³ At the federal level, Senator Cory Booker and Representative Karen Bass introduced legislation allowing people who have spent over 10 years in federal prison to petition a court for resentencing and Senators Dick Durbin and Chuck Grassley have introduced a bill allowing resentencing for youth crimes. Legislators in 25 states, including Minnesota, Vermont, West Virginia, and Florida, have recently proposed second look bills.

THE NEED FOR SECOND LOOK REFORMS

Because of the dramatic increase in long prison terms in the United States, especially for African Americans, ending mass incarceration and tackling its racial disparities require a second look at long sentences. Currently, over 200,000 people are serving life sentences in U.S. prisons, more people than were in prison with any sentence in 1970.¹⁴ One in five imprisoned Black men is serving a life sentence. The remarkably low recidivism rates that follow long sentences, and the notable accomplishments of some amidst the constraints of incarceration, have increased momentum for revisiting long sentences imposed in an era when some saw these individuals as less than human.¹⁵

U.S. crime rates increased dramatically beginning in the 1960s, but between 1991 and 2019 crime rates fell by about half, just as they did in many other countries around the world.¹⁶ The United States was exceptional in dramatically increasing its prison population during the crime wave—from under 200,000 imprisoned people in 1972 to nearly 800,000 in 1991—and in continuing to imprison more people when crime rates were falling,

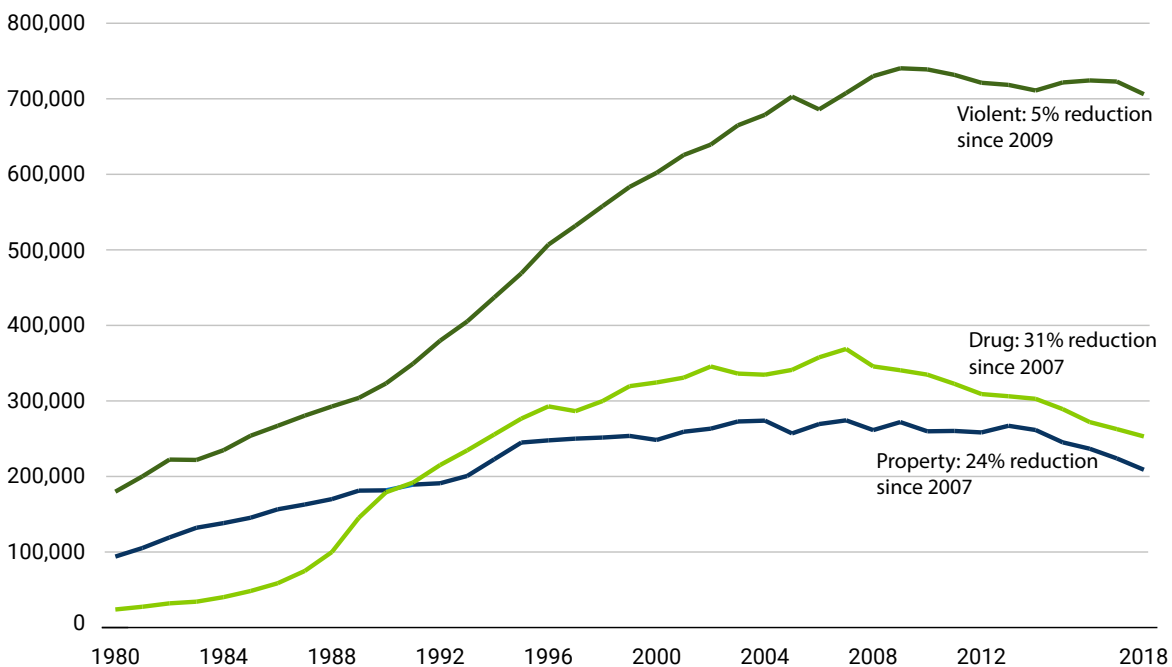


Momolu Stewart (center) was released after 22 years of incarceration in 2019 under DC's Incarceration Reduction Amendment Act (IRAA). IRAA recipients Kareem McCraney (left) and Halim Flowers (right) advocated for his resentencing, as did Kim Kardashian West. Stewart was sentenced to life at age 16. Courtesy Kareem McCraney, 2019.

reaching a peak of nearly 1.6 million imprisoned people in 2009, with an additional 767,000 people held in jails.¹⁷ This growth was the product of growing prison admissions, driven in part by the War on Drugs, and of longer prison terms imposed for all crimes.¹⁸ Policymakers lengthened prison terms through mandatory sentencing laws on the front end, and by reducing discretionary release mechanisms on the back end. As Margaret Colgate Love, former U.S. pardon attorney, and Cecelia Klingele, law professor at University of Wisconsin, have observed: “The severity of American prison sentences is magnified by the atrophy of back-end release mechanisms like parole and clemency.”¹⁹

The prison population has been modestly downsized since reaching its peak level in 2009, achieving an 11% reduction before the COVID-19 pandemic led many political leaders and criminal justice practitioners to further, though insufficiently, depopulate prisons.²⁰ But most of the prison downsizing thus far has been among people with nonviolent—particularly drug—convictions. Among the half of the prison population that is serving time for a violent offense, there was only a 5% reduction in imprisonment levels between peak year 2009 and 2018, despite the dramatic crime drop.

U.S. Prison Population by Conviction Offense, 1980-2018



Note: Reductions are from years when the prison population for that offense category reached its peak. Based on sentenced prison populations in state and federal systems. Chart omits public order and other/unspecified offenses, for which an additional 244,604 people were imprisoned in 2018, a peak historical level.

Source: Bureau of Justice Statistics Prisoners Series (1994-2019)

Legal and criminological experts have supported second look reforms to scale back extreme sentences. According to the American Law Institute, a nonpartisan group of leading legal practitioners and scholars who strive to clarify and modernize U.S. laws:

The prospect of evolving norms, which might render a proportionate prison sentence of one time period disproportionate in the next, is a small worry for prison terms of two, three, or five years, but is of great concern when much longer confinement sentences are at issue.... [I]t is unsound to freeze criminal punishments of extraordinary duration into the knowledge base of the past.²¹

In one of its flagship documents, the Model Penal Code, the American Law Institute recommends that legislatures authorize judicial review of sentences after 15 years of imprisonment for adult crimes, and after 10 years for youth crimes.²² National parole experts Edward Rhine, the late Joan Petersilia, and Kevin Reitz have added: “We would have no argument with a shorter period such as 10 years”—a timeframe that corresponds with criminological research showing that most “criminal careers” typically last fewer than 10 years.²³

Survivors of violent crime are not of one mind regarding extreme punishment, and some have supported second look efforts. Becky Feldman, who lost her brother to homicide in Baltimore City in 2000, heads Baltimore’s sentence review unit. She has stated:

I deeply appreciate the importance of closure and holding people accountable. But it was my time at the Public Defender’s office representing inmates that brought me healing and purpose. There is so much humanity, talent, and kindness behind prison walls, and we cannot give up on them.²⁴

Victim advocacy and service organizations in DC and New York have supported second look reforms in their jurisdictions.

This report examines the rationale behind second look reforms and presents three efforts around the country to implement these reforms. “Second look” reforms considered here include post-sentencing relief such as second look legislation, sentence review units established by prosecutors, and the establishment of new parole

eligibility or granting of more meaningful parole consideration. “Life imprisonment is not the solution to problems, but a problem to be solved,” Pope Francis has said.²⁵ Second look reform efforts are a part of the solution.

WHY A SECOND LOOK?

The evidence that long prison terms are not just inhumane and ineffective, but are in fact *counterproductive* to public safety, led The Sentencing Project in 2018 to launch a campaign to end life imprisonment and limit prison sentences to 20 years, except in unusual circumstances.²⁶

Second look reforms are a key tool for curbing excessive imprisonment. In recent years, leading criminological and legal experts have recommended second look reforms, and some faith groups and victim advocacy organizations have supported scaling back extreme sentences. For example:

- **Policymakers should “reexamine policies regarding mandatory prison sentences and long sentences,” advised a 2014 National Academy of Science report** edited by Jeremy Travis, Bruce Western, and Steve Redburn, currently executive vice president of Criminal Justice at Arnold Ventures, professor of sociology at Columbia University, and professorial lecturer at George Washington University, respectively.²⁷ “There is strong evidence that increasing long sentences has promoted neither deterrence nor incapacitation,” explained the panel of scholars and practitioners.²⁸
- **Members of the American Law Institute voted in 2017 to approve an updated Model Penal Code including a “second look” post-sentencing modification process.** The Model Penal Code recommends that youth who commit crime under age 18 should be eligible for sentence modification within 10 years of imprisonment, and that their maximum sentence be limited to 20-25 years.²⁹ For everyone 18 and older they recommend:

The legislature shall authorize a judicial panel or other judicial decisionmaker to hear and rule upon applications for modification of sentence from prisoners who have served 15 years of any sentence of imprisonment.³⁰

University of Minnesota Law School Professor Kevin Reitz, who led the Model Penal Code revisions as Reporter, explained: “Where there was disagreement

over the 15-year provision, it came from proponents of significantly shorter periods, such as 10 or even 5 years.”³¹ With national parole experts Edward Rhine and the late Joan Petersilia, Reitz has endorsed initiating resentencing reviews after 10 years of imprisonment.³²

- **The Charles Colson Task Force on Federal Corrections and a task force of the Council on Criminal Justice have echoed the Model Penal Code’s second look recommendation for people in federal prisons.**³³
- **Pope Francis’s criticism of life imprisonment is echoed by other faith groups.** “A just and necessary punishment must never exclude the dimension of hope and the goal of rehabilitation,” the pope told a joint session of Congress in 2015, reiterating his call for the global abolition of the death penalty.³⁴ Pope Francis condemns capital punishment because it violates the sanctity of life and the dignity of convicted individuals, and because it fosters a sense of vengeance, rather than justice, among crime survivors.³⁵ He is similarly opposed to life-without-parole sentences, calling them “a hidden death penalty” in his recent encyclical *Fratelli Tutti*.³⁶ The United Methodist Church also opposes life-without-parole sentences and it is joined by the Jewish Council on Urban Affairs, the Muslim Public Affairs Council, and other faith-based organizations in signing the Campaign for the Fair Sentencing of Youth’s Statement of Principles, which opposes sentencing youth to life without the possibility of parole.³⁷

This section presents the criminological evidence, racial equity lens, survivor perspective, and legal expertise undergirding a vision of a more effective, racially equitable, and humane sentencing policy.

1. CRIMINOLOGICAL EVIDENCE: EXTREME SENTENCES ARE COUNTERPRODUCTIVE FOR PUBLIC SAFETY

People age out of crime and recidivism declines with age

The “age-crime curve” is a longstanding and well-tested concept in criminology, depicting the proportion of individuals in each age group that is engaged in criminal activity.³⁸ For a range of offenses, crime rates peak around the late teenage years and begin a gradual decline in the early 20s. Criminal sentencing laws and practices, however, generally do not reflect evidence of the limited life cycle of criminal activity, though this has begun to change. “Criminal careers are of a short duration (typically under 10 years),” write University of Texas Criminologist Alex Piquero and colleagues, “which calls into question many of the long-term sentences that have characterized American penal policy.”³⁹

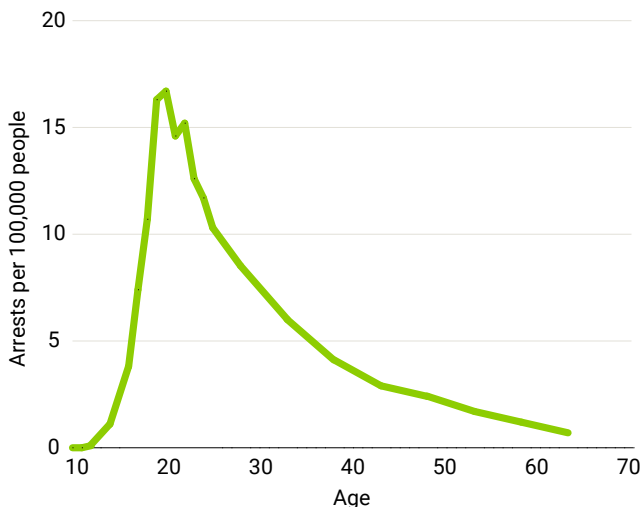
The age-based rise and decline in criminal activity reflects the changing lives and minds of youth and young adults. As children grow, the combination of greater individual freedom and incomplete psychological maturation elevates risk of criminal offending.⁴⁰ During adolescence and into early adulthood, young people gain cognitive capability before they learn to self-regulate by controlling their impulses, considering the impact of their actions on others, delaying gratification, and resisting the influence of peers.⁴¹ Criminal careers wane in adulthood

not only because of greater maturity, but also because adults acquire other forms of social control that promote desistance from crime, such as family and work responsibilities.

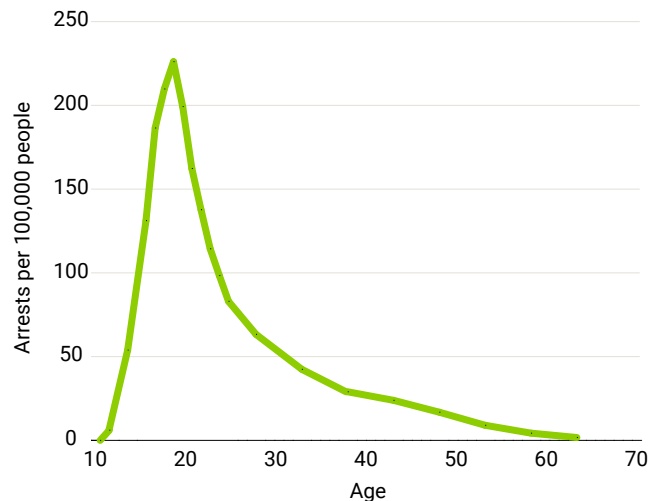
Aging out of crime is a key reason why people who have been imprisoned for violent crimes—who generally serve longer sentences—are the least likely to recidivate when released from prison. When the Bureau of Justice Statistics examined individuals released from state prisons in 2005, it found that those with violent convictions were less likely to be arrested than those with drug or property convictions.⁴² Specifically, in either the first or ninth year after release, “the percentage of prisoners released for a violent offense who were arrested following release was about three-quarters of the percentage for those released for a property offense.”⁴³ The violent crime category used in this Bureau of Justice Statistics study is driven by the most common violent offenses, assault and robbery.⁴⁴ As described next, recidivism rates are lowest among those convicted of the most serious violent crimes for which people generally serve the longest sentences, sexual offenses and homicide.

People released after decades of imprisonment for the most serious crimes have extremely low recidivism rates. This fact indicates that they have been imprisoned long past the point at which they pose an above-average public safety risk. Specifically:

Murder Age-Arrest Curve, 2010



Robbery Age-Arrest Curve, 2010



Source: Snyder, H. N. (2012). *Arrest in the United States, 1990-2010*. Bureau of Justice Statistics. <https://www.bjs.gov/content/pub/pdf/aus9010.pdf>

- Reincarceration rates among people previously imprisoned for murder or nonnegligent manslaughter in New York and California were less than half that of the general population released from prison (4% versus 10%, respectively), according to a study of new-crime reimprisonment within three years of release by University of Michigan Law School’s J.J. Prescott, Benjamin Pyle, and Sonja Starr.⁴⁵ Among those with homicide convictions who were aged 55 and older and released during the study period, between 1991 and 2014, only 0.2% were re-imprisoned for the same offense. These findings echo past research revealing that life-sentenced individuals paroled in California with murder convictions have a “minuscule” recidivism rate for new crimes.⁴⁶
- People paroled in Michigan between 2007 and 2010 with convictions for second-degree murder, manslaughter, or a sex offense were about two-thirds less likely to be reimprisoned for a new crime within three years as the total paroled population, according to a 2014 study by the Citizens Alliance on Prisons and Public Spending.⁴⁷ Over 99% of these individuals were not re-imprisoned for a similar offense within three years.
- Among 188 life-sentenced individuals released from prison due to the 2012 *Unger v. State* decision by the

Maryland Court of Appeals, which found that a jury instruction used by Maryland courts until 1981 had denied defendants due process rights, only five had returned to prison after five years of release for either a violation of parole or for a new crime, well below the state’s overall recidivism rate.⁴⁸

While these studies demonstrate the minimal public safety risk people pose after lengthy prison sentences for serious crimes—echoing research in other states and other western countries⁴⁹—some of these individuals do far more than avoid recidivism. Thomas Farrell, who leads the Pennsylvania Supreme Court’s Office of Disciplinary Counsel, notes that the men he met at the Elsinore Bennu ThinkTank for Restorative Justice at Duquesne University, who were released after serving decades on life sentences, now work as paralegals, community activists, and volunteers with local charities. “There is so much more they could have contributed had they been released decades sooner,” writes Farrell.⁵⁰ Prolonged incarceration prevents many others from making similar contributions to society.

Long sentences have a limited deterrent effect

In addition to incapacitating people who pose limited criminal threat, long sentences also fail to effectively deter others from criminal activity. As Daniel Nagin,



“The Ungers” are a group of nearly 200 Maryland lifers who gained their freedom through the courts. Their extremely low recidivism rate underscores the need for the state to eliminate roadblocks to parole. Courtesy Michael Millemann, 2017.

professor of public policy and statistics at Carnegie Mellon University and a leading national expert on deterrence has written: “Increases in already long prison sentences, say from 20 years to life, do not have material deterrent effects on crime.”⁵¹ Researchers have found that long sentences are limited in deterring future crimes because most people do not expect to be apprehended for a crime, are not familiar with relevant legal penalties, or commit crime with their judgment compromised by substance use or mental health problems.⁵²

The expectation of getting away with crime is not unreasonable, given FBI data showing that police “clear” fewer than two-thirds of murders (arresting a suspect), with the clearance rate for reported rapes falling to one-third.⁵³ These low clearance rates are a key reason that criminologists emphasize that the *certainty* of punishment is a more effective deterrent than its *severity*.⁵⁴ Nagin’s survey of research on this issue with University of Chicago Professor Steven Durlauf concludes: “For the general incarceration of aged criminals to be socially efficient, it must have a deterrent effect on younger criminals ... Simply no reliable evidence is available that such an effect is sufficiently large to justify the costs of long prison sentences.”⁵⁵

Long sentences divert resources from effective investment in public safety

Since extreme sentences offer modest public safety gains and come at a high financial cost, they should be evaluated alongside more effective investments in public safety. Some organizations advocating on behalf of crime survivors have pointed to investments that should be made outside of the criminal legal system to prevent future victimization. For example, the Network for Victim Recovery of DC (NVRDC) has stated:

NVRDC believes that in order to fully support communities who have experienced violence, we must evaluate all the root causes of crime that affect crime victims and defendants alike—poverty, lack of access to education, lack of safe housing, institutional racism, and other systemic biases.⁵⁶

But during the era of mass incarceration, the United States has underinvested in key policies and programs to tackle the root causes of crime. One example is access to effective and affordable treatment for substance use disorder. The Bureau of Justice Statistics reports that

By lowering the “anchor point” affecting all sentence lengths, second look reforms can help to achieve broad reductions in imprisonment.

58% of people in state prisons and 63% of those serving jail sentences between 2007 and 2009 reported having a drug use disorder in the year prior to their admission.⁵⁷ But only about one-quarter of incarcerated people who had a drug use disorder reported participating in any drug treatment program while serving a sentence in prison or jail.⁵⁸ People with limited economic resources also struggle to get timely treatment for substance use problems in their communities. The gap between capacity and the need for treatment persists today—though it has been narrowed by the Affordable Care Act.⁵⁹ Reducing spending on excessive incarceration would free up resources to eliminate this gap. Other important investments to tackle the root causes of crime include: increasing access to high-quality early education, reducing residential segregation, and reducing the prevalence of firearms.⁶⁰

Counterintuitively, ending an individual’s imprisonment will not immediately translate to prison cost savings that can be better invested. This is because many of the fixed costs of running prisons, especially staffing costs, will not change until prison population reductions are enough to close down a prison wing, or an entire prison. At that point the savings would be substantial. In some communities, the cost savings from a prison closure have occurred alongside repurposing of the prison facility, helping to bring jobs and revenues to the affected communities.⁶¹ Second look reforms can help to achieve broad reductions in imprisonment levels, and prison closures, by lowering what the Model Penal Code calls the “anchor point” that puts upward pressure on the entire sentencing structure.⁶² Eliminating excessive prison terms for serious crimes can promote a broader evaluation of prison terms—even prison admissions—for other crimes.

2. A SECOND LOOK AT THE RACIAL BIAS EMBEDDED IN EXTREME SENTENCES

"I'm not a predator. I was a kid who made a terrible decision," explains Derrick Hardaway.⁶³ Hardaway served 20 years in prison, having been convicted as an adult at age 14 for helping his teenage brother kill Robert Sandifer in Chicago in 1994, who at age 11 was wanted for the murder of a young girl. All three Black boys in this case received national media scrutiny amidst what Carroll Bogert, President of the *Marshall Project*, has called the "sensational media myth" of the superpredator, begun by Princeton University Professor John Dilulio Jr.⁶⁴ Dilulio later expressed regret and worked to undo his theory's contribution to the mass incarceration of youth of color.⁶⁵ But his early work and its amplification in the media contributed to, as Bogert puts it, "branding a generation of young men of color as animals."⁶⁶ The legacy of this era can be found in the individuals who remain imprisoned for past crimes, and in the persistence of excessively punitive sentences for new crimes, particularly for people of color.

Dilulio had framed his support of increased punitiveness as advancing racial justice, claiming that the population he sought to protect were "crime-plagued [B]lack inner-city Americans and their children."⁶⁷ As Yale Law School Professor James Forman Jr. has argued, many Black

mayors, judges, and police chiefs supported tough-on-crime measures, out of fear that gains of the civil rights movement were being undermined by crime.⁶⁸ However, Forman notes, these Black officials also wanted a war on poverty, on racial injustice, and on joblessness, and these proposals gained far less traction.

Black Americans' views on how to improve public safety is particularly important because they are most likely to be victims of serious violent crime.⁶⁹ Blacks and Latinxs have been far more likely than whites to be crime victims, and to be more fearful of becoming crime victims, and yet they have been less supportive of punitive criminal justice practices while being more likely to support investments in rehabilitation and crime prevention.⁷⁰ But the fact that Black Americans have also been more likely than whites to commit violent crimes, and to be associated with crime at exaggerated levels by white Americans, contributes to the greater support among whites of punitive policies. This pattern has been underscored by the greater willingness among the public and policymakers to apply a public health framework, albeit amidst punitive policies, to the opioid crisis, in contrast to past drug crises. Not only does the association of this drug crisis with whites help to promote treatment and prevention as policy responses, so too does the greater proximity of white Americans to the policymaking process.⁷¹

John Dilulio Jr.

Dilulio coined the term "superpredator" in a fearful 1995 cover story in the conservative political opinion publication *The Weekly Standard*, which was later reprinted in the *Chicago Tribune*. He warned of an imminent crime wave resulting from a growing youth population that suffers from the "moral poverty ... of growing up surrounded by deviant, delinquent, and criminal adults in abusive, violence-ridden, fatherless, Godless, and jobless settings."⁷² Dilulio's term was picked up by presidential candidate Bob Dole, First Lady Hillary Clinton, and referenced in a federal crime bill, and his theory contributed to a wave of punitive policies for youth and young adults.⁷³ Steve Drizin, a Chicago attorney, said the term "had a profound effect on the way in which judges and prosecutors viewed my clients."⁷⁴ Dilulio's faulty analysis and exaggerated claims came under fire from leading scholars, including his mentor, conservative criminologist James Q. Wilson.⁷⁵ His prediction of a tidal wave of youth crime never materialized, with youth crime rates in fact falling.

3. A SECOND LOOK AT CRIME SURVIVORS' NEEDS

One argument raised against sentence modifications is that they violate societal expectations of finality, and in particular, the expectations of violent crime survivors. But as Douglas Berman, Law Professor at Ohio State University, has acknowledged, "Victim interests may not always run toward treating sentences as ... final."⁷⁶ For some crime survivors like Jeanne Bishop, who lost three family members to murders committed by a teenager, "An alternative type of 'finality' exists.... It happens when the work of punishment, penitence, remorse and rehabilitation is complete, and a young offender can re-enter society."⁷⁷

Crime survivors sometimes describe a transformation in their views, as can be seen among high-profile survivors who once advocated for severe penalties but are now working to undo their impact. This includes Samantha Broun, who now advocates in favor of second chances for people with life sentences. Broun testified for stronger restrictions on release from prison in 1995, after her mother was the victim of a violent crime perpetrated by a man whose murder sentence had been commuted only months earlier. Broun has since expressed concern for people who may still be behind bars because of policy changes made in the wake of her mother's victimization.⁷⁸ Another such advocate is Patty Wetterling, who lobbied for sex-offender registries after her son's abduction in 1989, but has since become a vocal critic of registries. Wetterling told *American Public Media* in 2016, "Locking them up forever, labeling them, and not allowing them community support doesn't work. I've turned 180 (degrees) from where I was."⁷⁹ Delivering the keynote speech at the Mitchell Hamline School of Law's symposium on residency restrictions and sex-offender registries, she voiced concern over the effectiveness and harms caused by a policy for which she once advocated.

Because harmed individuals begin and move towards different views regarding just punishment for their suffering, victim support and advocacy organizations, including Crime Victims Treatment Center in New York and Network for Victim Recovery of DC emphasize the diversity of views among their constituents regarding appropriate punishment. This complexity of survivor preferences can also be found within the conflicting views of family members in some high-profile cases.⁸⁰

A non-partial assessment of violent crime survivors' needs must grapple with the fact that many survivors have unmet needs that go beyond punishment. "Punishment alone does very little to heal the gaping wound a crime can leave on victims and their families," writes Linda Mills, professor of social work at New York University, noting also that the criminal legal system overlooks victims' needs beyond a desire for punishment.⁸¹ Mills advocates for incorporating restorative justice elements to the current practices of criminal courts to better assist victims and their family with healing from trauma, particularly by giving them a more active role in their recovery beyond testifying and submitting impact statements. As Danielle Sered, executive director of Common Justice, has noted, "The services and support to help victims come through their pain are often scarce—and they frequently leave out a significant portion of survivors"—those who do not cooperate with law enforcement.⁸² Common Justice works with New York prosecutors in Brooklyn and the Bronx to offer alternatives to incarceration and victim services for violent crimes, based in restorative justice principles to "recognize the harm done, honor the needs and interests of those harmed, and develop appropriate responses to hold the responsible party accountable."⁸³

Ultimately, some people impacted by violent crime will object to resentencing even if resentencing does not pose a public safety risk. Often, survivors' limited contact with the individual who caused them harm leaves them ill-prepared to assess risk of future violence, especially in cases resulting in long sentences.⁸⁴ Other times, the desire for additional punishment may be independent from public safety concerns, but it runs counter to the principles that the criminal legal system should seek to uphold. In these instances, it is worth noting, as Sered has observed:

A survivor-centered system is not a survivor-ruled system. Valuing people does not mean giving them sole and unmitigated control. The criminal justice system maintains a responsibility to safety, justice, and human dignity that it should uphold even when those interests run contrary to survivors' desires.⁸⁵

As Sered explains, in these situations the criminal legal system remains obliged to listen to survivors, to be transparent about the decision making process, and to connect them with support.

“A survivor-centered system is not a survivor-ruled system. Valuing people does not mean giving them sole and unmitigated control. The criminal justice system maintains a responsibility to safety, justice, and human dignity that it should uphold even when those interests run contrary to survivors’ desires.”

– Danielle Sered, Common Justice

Punishment imposed by the criminal legal system is intended, in part, to displace personal acts of retaliation by survivors. But governments undertake this retribution within a scaffolding of rights and norms that is intended to ensure fairness and justice. This includes procedures to ensure that the person being punished is guilty, and laws restraining excessive punishment for their offense, such as the death penalty. After reinstating the death penalty in 1976, the Supreme Court has narrowed the crimes and people for whom death could be sought in a series of cases responding to the “evolving standards of decency.”⁸⁶ This includes prohibiting capital punishment for crimes other than homicide (*Kennedy v. Louisiana*, 2008) and for individuals who are intellectually disabled (*Atkins v. Virginia*, 2002) or who were under the age of 18 at the time of their crime (*Roper v. Simmons*, 2005). While society owes a great debt to those who experience loss or trauma from the terrible crimes where the death penalty is prohibited, it rejects any preference they may have for an execution. Similarly, when society seeks to curb excessive terms of imprisonment that are counterproductive to public safety and are infused, to some degree, with racial bias, this can result in a sentence modification that conflicts with the wishes of survivors. Ultimately, as Berman suggests, reconsidering initial sentences “may foster respect for a criminal justice system willing to reconsider and recalibrate the punishment harms that it imposes upon its citizens.”⁸⁷

4. PRACTICAL LEGAL CONCERNS

Since 1923, the American Law Institute has brought together leading legal practitioners and scholars to clarify and modernize U.S. laws. In 2008, when Justice Ruth Bader Ginsburg spoke at the organization’s annual meeting, she credited the Institute’s projects with providing “enlightenment and guidance,” echoing Justice William Rehnquist’s praise from over a decade earlier.⁸⁸ One of these projects has been the Model Penal Code, which since its inception in 1962 has influenced criminal codes and court decisions.⁸⁹

The American Law Institute recommends the creation of a judicial post-sentence modification mechanism because long sentences have contributed to making the United States the world leader in its incarceration rate, even amidst plummeting crime rates, and to ensure that government decisions to deprive people of liberty for “a substantial portion of their adult lives remain intelligible and justifiable at a point in time far distant from their original imposition.”⁹⁰ The Institute began exploring second look post-sentencing modifications—beyond commutations, good-conduct sentence reductions, age-infirmity release, and retroactive application of sentencing reductions—for people serving very long prison sentences in 2008, to accompany its recommendation to eliminate indeterminate sentencing.⁹¹ Its experts disfavored hinging prison release decisions on parole boards,

explains Reitz, because “states with the highest standing incarceration rates in the early 21st century are nearly all indeterminate-sentencing jurisdictions.”⁹²

The Model Penal Code’s recommendation that jurisdictions retroactively apply second-look provisions to existing sentences raises practical concerns about courts’ administrative capacity to handle resentencing petitions. Its authors note that while the number of people already imprisoned who would seek resentencing under the reform “should not be overwhelming,” it would be greater in the initial phase than later years.⁹³ Cecelia Klingele, University of Wisconsin Law professor and Associate Reporter of the Model Penal Code, notes that while new second look legislation is likely to create a “temporary surge in filings, it seems unlikely that such motions would clog dockets or otherwise impede the orderly administration of justice in the trial courts.”⁹⁴ Klingele explains this reform would transform some of the existing correspondence between incarcerated individuals and the courts and that jurisdictions with existing sentencing modification practices have not been overburdened. Some recent examples of large-scale resentencings include the federal courts’ re-evaluation of 50,000 sentences as result of a sentencing guideline change by the U.S. Sentencing Commission and California’s modification of nearly 3,000 sentences as a result of that state’s retroactive three-strikes law reform.⁹⁵

NATIONWIDE REFORM EFFORTS

1. SECOND LOOK FOR ALL

Federal Second Look Bill

“There comes a point where you really have to ask yourself if we have achieved the societal end in keeping these people in prison for so long,” Senator Cory Booker told Vox in 2016. He continued: “Is the societal cost and expenditure worth it to keep somebody who’s older—higher medical costs and the like—in prison? This is a

conversation this country really needs to have.”⁹⁶ Three years later, he and Representative Karen Bass introduced the Second Look Act, which would allow people who have spent at least 10 years in federal prison to petition a court to take a “second look” at their sentence, enabling judges to determine whether they are eligible for a sentence reduction or release.⁹⁷ The bill has inspired model state legislation proposed by the National Association of Criminal Defense Lawyers.⁹⁸

William Underwood

Booker and Bass’s Second Look Act was inspired by the experiences and insights of individuals including William Underwood. Booker met Underwood during a 2016 visit to the Fairton Federal Correctional Institution in New Jersey. Underwood was arrested in 1988, on drug and conspiracy charges, and sentenced to a concurrent 20-year sentence and life without parole. “The man that stood before me was an intelligent, capable, a dedicated father and an atoned man. He has accepted responsibility for his crime,” said Booker after meeting Underwood. “America is the land of second chances. It’s time we lived up to that and show mercy to a man who has served almost three decades in prison.”⁹⁹

During his 33 years in prison, Underwood took advantage of every educational and service opportunity available to him. He served as a mentor for younger incarcerated men and received zero infractions during his entire incarceration.¹⁰⁰ Booker said not even the correctional officers believed Underwood should still be imprisoned.¹⁰¹

After several failed attempts at post-conviction relief, including seeking a commutation from the President of the United States and a sentence reduction under the First Step Act, Underwood was finally granted compassionate release on January 15, 2021 at age 67. His release was granted ten

days after he tested positive for COVID-19. In the order for his release, U.S. District Court Judge Sidney Stein wrote:

In light of Underwood’s exemplary record over [the] last three decades; his consequential mentorship of young men and contribution to a ‘culture of responsibility’ in federal prison; and his commendable efforts in raising and supporting his children and grandchildren from behind bars, the Court finds that ‘[b]y any measure, [Underwood’s] good deeds exceed the bounds of what we consider “rehabilitation” and amount to extraordinary and compelling reasons meriting a sentence reduction.’¹⁰²

Since his release, Underwood and his four children have started the Underwood Legacy Fund to advocate for criminal justice reform and mentor young entrepreneurs.¹⁰³ By sharing his experience, Underwood aims to fight for a second look for the men he left behind. “With all the youngsters that I’ve talked to [in prison], with all the ones that consider me their mentor, [with] the conditions of my probation I can’t talk to them for at least another one or two years,” said Underwood in his first interview post-release. “It’s kind of like prisoner’s remorse ... a lot of good men I left with life sentences.”¹⁰⁴

Rep. Bass has explained that the Second Look Act sought to ensure that “we aren’t forgetting those who did fall victim to the War on Drugs and are sitting in prison due to draconian sentencing practices for crimes that don’t fit the punishment.”¹⁰⁵ Former federal judge Kevin Sharp has supported the bill, noting that he “resigned, in large part, because he could no longer stand to impose the excessive and unjust prison terms Congress mandates in so many cases.”¹⁰⁶ Although Congress has yet to advance the Second Look Act, the bill has inspired other jurisdictions to move forward with similar reforms.

As illustrated below with California and DC’s reforms and New York’s ongoing campaign, jurisdictions differ in the period of imprisonment that they require before initiating a second look, and which populations they make eligible—often based on current age or age at the time of offense. In addition to the specific eligibility details provided below, The Sentencing Project’s preliminary analysis of the life-sentenced population in a group of 14 states in 2020 shows:

- 73% had already served at least 10 years in prison and 55% had served at least 15 years
- 27% committed their crime under age 25
- 45% were over age 50 and 32% were over age 55.¹⁰⁷

These figures indicate the varying impacts that second look reforms may have based on their eligibility criteria.

Featured Reform: “A Complete Paradigm Shift” for California Prosecutors

Over 26,000 people in California’s prisons have already served over fifteen years—27% of the state’s prison population.¹⁰⁸ Three quarters of this group are people of color. Although for decades California judges could revise sentences seen to no longer advance the interest of justice based on recommendations from the California Department of Corrections and Rehabilitation (CDCR) or the Board of Parole Hearings, resentencing requests were rarely made or granted.¹⁰⁹

Hillary Blout, a former San Francisco prosecutor, led the effort to pass Assembly Bill 2942 in 2018, enabling district attorneys to request resentencing.¹¹⁰ By 2020, Los Angeles’ District Attorney, George Gascón, announced a sentence review unit for all who have served over 15 years. Legislators are also seeking to enable all who

have served at least 15 years in prison to directly petition the courts for resentencing. California’s experience demonstrates the possibility of reaching a bipartisan consensus among prosecutors on the principle that some are serving unjust prison sentences. California also underscores the need for dedicating resources and educating the courts to achieve broad application of sentence modifications.

Assemblymember Phil Ting introduced AB 2942 in 2018, noting that California has the country’s highest proportion of people in prison serving long-term sentences. “It’s time we acknowledge that individuals convicted of more serious offenses can also turn their lives around and deserve a second chance,” Ting explained.¹¹¹ Bill sponsor Jeff Rosen, Santa Clara County’s District Attorney who launched the state’s first conviction review unit, has said: “Every prosecutor wants justice, and we want to right wrongs. And if we’ve done something that’s wrong, we want to fix it.”¹¹² Blout approached Ting with the idea for AB 2942 in 2018. “We talk a lot about all of the people that were ensnared because of the system and what we did to people back in the 90s and early 2000s and the 80s,” she has said, adding: “My mission is to go back and find those people and bring them home.”¹¹³ District Attorneys including Nancy O’Malley (Alameda County) and George Gascón (then DA of San Francisco) submitted support letters for the bill, as did the ACLU. Other prosecutors verbally supported the reform and law enforcement remained neutral.

AB 2942 instructs the courts to consider:

postconviction factors, including, but not limited to, the inmate’s disciplinary record and record of rehabilitation while incarcerated, evidence that reflects whether age, time served, and diminished physical condition, if any, have reduced the inmate’s risk for future violence, and evidence that reflects that circumstances have changed since the inmate’s original sentencing so that the inmate’s continued incarceration is no longer in the interest of justice.¹¹⁴

Victims are also included in the evaluation under Marsy’s Law, which gives crime survivors “a right to notice, the right to appear at a sentencing hearing, and the right to have their safety considered before any release.”¹¹⁵ Survivors may also receive a remorse letter from the person who harmed them, and in some cases, District Attorneys have offered restorative justice services.

For the People, the non-profit organization that Blout leads, partners with prosecutors' offices from across the political spectrum to "ensure that *all* prosecutors are actively reviewing cases."¹¹⁶ The organization also works with system leaders, community members, and incarcerated individuals to help implement the law. Silicon Valley DeBug has been organizing community-based meetings in several counties to develop "social biographies" of potential applicants, with support letters and photos of the homes that await them. The Ella Baker Center has published a resentencing toolkit.¹¹⁷ In many communities, public defender offices have also been working with DAs to make the case for a resentencing.

After the law took effect in January 2019, All of Us or None's San Diego chapter successfully advocated for the first release under this law, Kent Williams. Williams is now home with his wife in San Diego after serving 16 years for property crimes. He was sentenced to 50-years-

to-life in prison under the Three Strikes law for burglarizing two homes and stealing a car in 2003, crimes fueled by his substance use disorder. Williams said: "The Lord heard my cry.... I'm just so grateful for another chance."¹¹⁸ San Diego County DA Summer Stephan recommended Williams for resentencing, noting that if sentenced now, he would receive less time. Williams' sentencing judge, Albert Harutunian, resentenced him to time served in 2019. Without this reform, Williams would not have been eligible for parole consideration for another three decades.

Hillary Blout

When Kamala Harris asked Hillary Blout why she wanted to become a district attorney, Blout said she wasn't sure that she did. At the time, Harris was District Attorney of San Francisco and Blout was interning at her office. Blout, a Black woman, began the internship "to better understand how the system operated" but assumed she wasn't DA material.¹¹⁹ "I feel bad for the defendants and I'm probably going to know a lot of them ... I'm not sure I'm the kind of person you want here," Blout told Harris.¹²⁰ Blout remembers Harris explaining that she fit perfectly with Harris's vision of the office—to recruit prosecutors with lived experiences, people who share backgrounds of those being prosecuted, people who felt compassion for defendants. Blout took the job believing that increasing the office's representation of people of color from communities directly impacted by mass incarceration would help to produce more equitable outcomes.

As a prosecutor, Blout kept noting racial disparities in drug sentencing and the cycling through of Black and Brown people as defendants. She took a step back to work on Proposition 47, the ballot initiative

that reduced penalties for drug possession and certain property crimes, which she saw as helping to bring some of the reforms already in place in San Francisco to other parts of the state. Immersed in community organizations, advocacy groups, and in academic research on criminal justice, Blout wanted this conversation to reach prosecutors—across political parties and across the state. She believed that prosecutors would universally agree on two points: "prosecutors are here to do justice" and "people are in prison that are serving unjust sentences."¹²¹ Several prosecutors agreed with her that it was their job to correct sentences that would now be considered unjust, or that remained imposed on people who had already rehabilitated. But, she noted, "I didn't realize that there was nothing on the books that would allow prosecutors ... to reconsider [the sentences that they had asked for].... It was shocking to me with all the power they have, that they didn't have the power to bring people home."¹²² This prompted Blout to lead the effort to pass AB 2942. The ultimate goal, she explains, is "to make bringing someone home a win as much as getting a conviction" for prosecutors.¹²³

Blout’s organization has worked with 12 prosecutor’s offices who have begun reviewing over 300 cases, with many prioritizing burglary or robbery convictions for which people have served at least 10 years.¹²⁴ About 50 people have been released so far in California, she says. Blout explains that increasing this number requires increasing dedicated funding for this effort—for district attorneys and public defender offices to make the case for resentencing, and for CDCR to provide necessary information.¹²⁵ “The bottleneck now,” she explains, “is about getting these cases reviewed and getting them ready for court.”¹²⁶

California courts have resentenced an additional 64 people based on their exceptional conduct as a result

of 155 referrals from CDCR between 2010 and 2019.¹²⁷ Increasing this resentencing rate, suggests Superior Court Judge Richard Couzens, requires educating judges about evidence-based sentencing principles in the post-sentencing context.¹²⁸ Prosecutors also need to be educated, says Sam Lewis of the Anti-Recidivism Coalition, to not oppose resentencing referrals from CDCR. Lewis adds: “Correctional officers see you Monday through Sunday, twenty-four hours a day, it’s documented what you do, when you have a good day, when you have a bad day.... Why would you oppose the correctional system that’s supposed to hold people inside that’s telling you this person’s ready to go?”¹²⁹

Andrew Aradoz

In 2020, Yolo County District Attorney Jeff Reisig successfully facilitated the resentencing and release of Andrew Aradoz after 16 years of imprisonment for an attempted-murder conviction. Prosecuted as an adult for a crime committed at age 14, Aradoz was sentenced to 24 years to life in prison.¹³⁰ Had Aradoz been sentenced after the passage of Senate Bill 1391 in 2018,¹³¹ which excludes anyone under age 16 from being charged as if they were an adult, he would have received a much shorter original sentence.

Aradoz faced a number of struggles from a young age before becoming involved with gangs as a teenager. After becoming incarcerated, he began to transform his life. He says that fellow incarcerated people who acted as his mentors along with an accountability and healing program in prison were crucial in turning his life around. Now the recipient of a second chance, Aradoz is working, on track to pursue a college degree, and has committed his life to supporting his family. Speaking about his future goals, he says, “I just want to be here with my family ... not just be here with them, I want to be able to help them. I’m doing better and now I want them to do better too.”¹³² He believes second look reforms should be expanded so that more people like him can come home. “I’m one of those people, I can’t be the only one,” he says.¹³³

Aradoz’s case was recommended by a legal clinic which Reisig created with For the People at University



Andrew Aradoz, resentenced under California’s AB 2942, with his nephew. Courtesy Andrew Aradoz, 2021.

of California, Davis. Aradoz’s victim did not oppose his resentencing.¹³⁴ Reisig has characterized second look as “a complete paradigm shift” for prosecutors,¹³⁵ explaining:

Our job as public servants, as protectors of the people is to make sure that not only that justice is done and people are accountable and victims are cared for, but that the community believes in the system. And looking at the entirety of a case to make sure that it’s done right I think is part of our obligation.¹³⁶

Since the passage of California’s second look law, Blout’s organization has worked with lawmakers and advocates in states including Minnesota and Oregon to help launch and implement resentencing policies. Washington State’s second look law, SB 6164, was modeled after California’s. In Minnesota, Attorney General Keith Ellison has supported legislation allowing prosecutors to file motions for a reduced sentence if a person is deemed safe and their sentence is deemed excessive.¹³⁷ Meanwhile, in California, Los Angeles’s District Attorney has developed a sentence review unit that can serve as a national model and state experts have recommended broadening the current second look law.

Expanding Second Look in Los Angeles County and in California

The most far-reaching application of California’s second look law has come from Los Angeles County District Attorney George Gascón. During his campaign to become District Attorney, Gascón committed to not seeking the death penalty, following his practice as San Francisco’s District Attorney. He also told *The Appeal*:

If you look at other countries around the world, you will see that often maximum sentences are usually around 20 years—and I’m talking for ... very serious offenses—and then after 20 years, it’s a year-by-year evaluation of psychological and dangerousness assessment. I think that we need to start moving in that direction.¹³⁸

In a policy memo issued on his first day in office in December 2020, Gascón instructed his staff to curb their reliance on sentencing enhancements and announced a new resentencing policy. Citing the American Law Institute and national parole experts, Gascón announced that his office would “reevaluate and consider for resentencing people who have already served 15 years in prison.”¹³⁹ The Amity Foundation, in partnership with the Returning Home Well initiative, has pledged assistance to those resentenced in Los Angeles.¹⁴⁰

Two months after Gascón’s policy memo, the Committee on Revision of the Penal Code announced 10 policies unanimously approved by its members. Among these recommendations was expanding the second look process to allow all individuals who have served over 15 years in prison to request a reconsideration of their sentence. The Committee also recommended creating

a presumption of resentencing if the petitioner has the support of law enforcement for certain specified reasons, requiring appointment of counsel for cases initiated by law enforcement, and requiring written reasons for court decisions.¹⁴¹ Assemblymembers Ting and Ken Cooley have introduced legislation to implement the Committee’s recommendations on resentencing.¹⁴²

Related Reforms

Legislative Reforms

- New York’s Domestic Violence Survivors Justice Act (2019) allows resentencing for people serving at least 8 years for a crime in which their experience as a domestic violence survivor was a significant contributing factor. The law’s exclusions include those convicted of first degree murder and people who are required to be on the state’s sex offender registry.¹⁴³ Few people have been resentenced under the law thus far.
- Illinois passed a Domestic Violence Amendment in 2015.¹⁴⁴ The law directs judges to consider the effects of abuse during sentencing and allows currently incarcerated people to petition for resentencing if evidence of abuse was not presented during their original sentencing. Few are thought to have benefitted from the law thus far.¹⁴⁵
- Washington State passed SB 6164 in 2020, enabling elected prosecutors to petition a court for resentencing of felony convictions.¹⁴⁶ The Department of Corrections has supported allowing people who have served over 15 to petition for early release.¹⁴⁷
- In Ohio, Civil Rule 60(b)(5) allows judges to issue relief if it is found in the interest of justice “for any reason.” The rule has been used by the Ohio Justice and Policy Center’s Beyond Guilt project to advocate for the release of people who have served long sentences and demonstrated rehabilitation.¹⁴⁸

Prosecutorial Reforms

- San Francisco District Attorney Chesa Boudin launched a Post-Conviction review unit in 2020. The unit reviews sentences that may be excessive or otherwise questionable by taking into account factors including conduct in prison and reentry plans.¹⁴⁹

- In Prince George’s County, MD, State’s Attorney Aisha Braveboy launched a Conviction and Sentencing Integrity Unit. The unit has moved at least one person sentenced to life for a youth crime to reentry court.
- Washington State’s King County Prosecuting Attorney’s office announced a new Sentencing Review Unit in 2020. The unit will build on the office’s prior review practices, which focused on people sentenced to life without parole under the state’s “three strikes” law whose third crime was 2nd degree robbery, which is no longer a strike.¹⁵⁰
- Wisconsin courts have the power to change or modify sentences on the grounds that they are “unduly harsh or unconscionable,” or upon the emergence of “new factors” in the case. At any time, a defendant may file a motion to have a sentence modified under the statute and District Attorneys have supported some motions.¹⁵¹
- Orleans Parish District Attorney Jason Williams’s office will no longer oppose parole or pardon applications, even for violent convictions. Williams contends that these decisions should be made by corrections professionals.¹⁵²

the hallmarks of independent adulthood—including marriage, parenting, and living independently—while post-secondary education has become “more economically necessary but also more difficult to attain for many young adults than in past decades.”¹⁵⁵ These factors make emerging adults especially likely to engage in crime, but also especially responsive to rehabilitative interventions. For these reasons, leading criminologists Rolf Loeber and David Farrington have recommended that legislatures “raise the minimum age for referral of young people to the adult court to age 21 or 24 so that fewer young offenders are dealt with in the adult criminal justice system.”¹⁵⁶

Jeffrey Jensen Arnett

The term “emerging adulthood” was coined by developmental psychologist Jeffrey Jensen Arnett in 2000. It refers to a distinct period of life occurring between the late-teens and mid-twenties, usually defined as ages 18 to 25. The period is developmentally distinct from both adolescence and established adulthood, and is significantly structured by emerging adults’ identity exploration in the workplace and in their personal lives. In addition, emerging adults are more likely to engage in certain risky behaviors than those in other age groups due to identity exploration, brain development, and a tendency to pursue “novel and intense experiences.”¹⁵⁷ Risk-taking behaviors peak during emerging adulthood before making a steep decline as an individual reaches their late-twenties.

2. SECOND LOOK FOR CRIMES BY EMERGING ADULTS

Rationale and Broader Context

Vincent Schiraldi, the former head of juvenile corrections in Washington, DC, and Bruce Western, a leading criminal justice scholar, proposed “raising the family court’s age to 21 or 25” in a 2015 *Washington Post* Op-Ed.¹⁵³ They explained that family courts, pioneered over a century ago to prioritize rehabilitation over punishment for youth crimes, arbitrarily restricted their jurisdiction to those under age 18.

Research in recent decades in neurobiology and developmental psychology has established that adolescent brain development continues until the mid-20s. During this stage of life, young people are still learning to self-regulate by controlling their impulses, considering the impact of their actions on others, delaying gratification, and resisting peer pressure.¹⁵⁴ Recent socioeconomic changes have also delayed several of

Several other social domains treat late adolescence, or emerging adulthood, as distinct from adulthood. As Schiraldi and Western note: “You can’t serve in the House of Representatives until age 25, it costs more to rent a car as a young adult, and you can stay on your parents’ health insurance until 26.”¹⁵⁸ In addition, a majority of states extend foster care or offer transition supports, such as transitional living services, housing, and

educational assistance, beyond age 18—often until age 21 as incentivized by a 2008 federal law.¹⁵⁹ The Juvenile Law Center explains that in addition to child welfare agencies, “mental health providers, workforce development programs, school systems, [and] housing authorities” all offer models for treating emerging adults distinctly from adults.¹⁶⁰

In the criminal legal system, recent Supreme Court decisions limiting life-without-parole sentences for youth have affirmed this scientific evidence for those up to age 18¹⁶¹ and a growing number of states are implementing reforms reflecting evidence that people are not mature adults until after reaching their mid-twenties. These reforms echo the established policies of several European countries.¹⁶² Domestically, these reforms include:

- In 2016, Vermont became the first state in the country to begin handling criminal cases involving those between ages 18 and 21 in its juvenile rather than adult courts, excluding the most serious offenses.¹⁶³ Elected officials in states including Massachusetts, Connecticut, Illinois, California, and Colorado have sought to implement similar reforms.¹⁶⁴ The Massachusetts proposal to raise the age of juvenile courts to 20 has the support of Suffolk County District Attorney Rachael Rollins.¹⁶⁵ Rollins has said that the overrepresentation of youth of color in the justice system may be preventing policymakers from treating young people with compassion.¹⁶⁶
- Some states allow specialized sentencing for “youthful offenders.” In Washington, DC, the Youth Rehabilitation Act (2018) allows courts to sentence youth aged 24 or younger to a community-based program in lieu of prison, or to receive a reduced prison sentence in cases where a mandatory minimums apply, except for some violent or sexual crimes.¹⁶⁷ The law also allows the court to seal a conviction from public view after the completion of a sentence. Michigan has a similar law and legislation proposed in New York’s 2019-2020 session would have strengthened that state’s modest version of this reform.¹⁶⁸
- The Washington state Supreme Court overturned the automatic life-without-parole sentences given to two individuals for murders committed at ages

19 and 20, expanding on the U.S. Supreme Court ruling in *Montgomery v. Louisiana*.¹⁶⁹

- Several community-based strategies seek to prevent emerging adults’ contact with the justice system, notes an Urban Institute report.¹⁷⁰ Successful programs provide targeted assistance in areas such as mentorship, mental and physical health services, and housing and financial stability.
- A number of states have begun incarcerating emerging adults separately from adults. As Youth Represent and Children’s Defense Fund-New York, explain, “By avoiding or delaying transfer from juvenile facilities to adult prisons at 18, young people are protected from the risks of physical and sexual violence that they face in adult prisons, and benefit from age-appropriate services, programming and re-entry supports that are typically more robust in juvenile justice systems.”¹⁷¹ Oregon, California and Washington State have enabled some individuals under age 25 to be held in juvenile rather than adult correctional facilities. New York City has created a separate jail facility for people between the ages of 18 and 21. The facility provides targeted programming and re-entry support, and does not allow the use of solitary confinement.¹⁷²

Since 2017, Connecticut prisons have been operating emerging-adult units to focus on the rehabilitative potential of a group of 18-to-25 year olds.¹⁷³ Based on a youth prison in Germany, the program focuses on the dignity of people in prison and includes daily check-ins and conversations meant to foster emotional growth, as well as expanded privileges during visitation hours. The select group of individuals in these units are paired with older imprisoned adults who serve as mentors.

Eriberto (Eddie) DeLeon is one of these mentors. DeLeon has been incarcerated since age 19, sentenced to 60 years for his involvement in a 1991 burglary that resulted in the killing of a bar owner at his home. “It took me 15 years to be sick and tired of being sick and tired,” DeLeon explains, reflecting on his path from gang involvement and trouble behind bars to becoming a mentor who develops programs that expedite others’ rehabilitation.¹⁷⁴ He helps imprisoned emerging adults manage their emotional responses to stress, handle conflict, and gain practical life skills. “I want to give back. For the rest of my life I want to prove myself,” DeLeon says.¹⁷⁵ His cousin, Thea Montañez, says: “It’s great that we’ve found a role for these men to play, but now what?”¹⁷⁶ Montañez sees reconsideration of extreme sentences from the 1990s as the next step in the evolution of criminal justice reform. While she is “very proud that Connecticut has done a great deal to apply what we know today to begin fixing the mistakes of the



Eriberto (Eddie) DeLeon, an incarcerated mentor for emerging-adults in Connecticut prisons. Courtesy Andrius Banevicius, Connecticut Department of Corrections, 2018.

past,” she sees her cousin as a reminder of the work that remains. Michael Lawlor, who served as undersecretary for criminal justice policy and planning for former Governor Dannel Malloy, has recommended one such remedy: a second look at sentences for emerging adults, similar to the one passed in Washington, DC.¹⁷⁷ Connecticut legislators recently proposed such a bill.¹⁷⁸ DeLeon described the bill as “a little light at the end of the tunnel.”¹⁷⁹

Featured Reform: Washington, DC’s Second Look at Sentences for Emerging Adults

In December 2020, the DC Council overwhelmingly approved the Second Look Amendment Act (“Second Look Act”) as part of a broad package of reforms, allowing people who committed crimes under age 25 to petition the courts for resentencing after 15 years of imprisonment.¹⁸⁰ Melody Brown was a key supporter of the reform.¹⁸¹ In 1995, Brown’s husband, Jerome McDaniel, was killed by 16-year-old Bennie Floyd. For years, Brown wanted Floyd to “rot in hell” for turning her anniversaries into visits to the cemetery. But she was

moved by a letter from Floyd demonstrating remorse and maturity, and by the example that her daughters set in forgiving him. “I’m rooting for him,” she now says of Floyd. She supported his release under DC’s original second look reform, the Incarceration Reduction Amendment Act (IRAA) of 2016, which allowed resentencing for crimes committed under age 18.¹⁸² She then successfully advocated for extending the reform to crimes committed by emerging adults.

A broad coalition supporting this legislation overcame opposition from the U.S. Attorney’s Office, with support from trusted criminal justice leaders and with informed

news coverage of the successes of those resentenced for youth crimes. DC's second look reforms make up to 29% of people imprisoned with DC convictions eventually eligible for resentencing.¹⁸³ Criminal justice leaders who championed this reform have recommended expanding it further.

Support from Crime Survivors

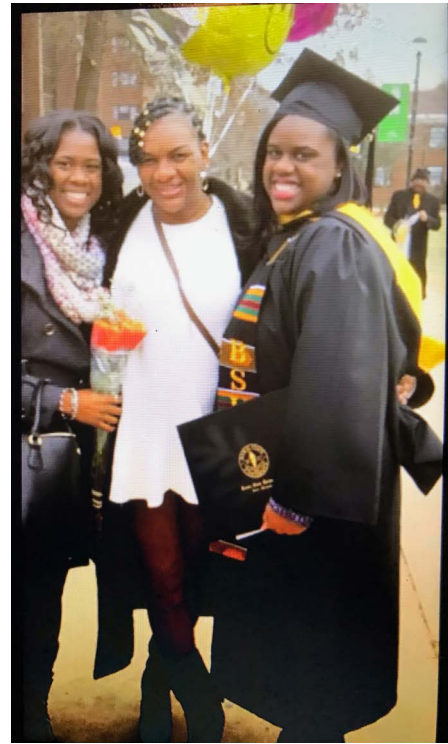
Brown was part of a broad array of DC violent crime survivors who supported the Second Look Act. When a local leader argued that reducing sentences for sexual violence disrespected victims,¹⁸⁴ April Goggans, an organizer with Black Lives Matter DC, wrote in the *Washington Post*:

As a [B]lack woman and mother who has survived sexual assault and intra-community violence, I will not tolerate being spoken for. I support the Second Look Amendment Act without any reservations. Keeping people in jail does not make us safer.¹⁸⁵

Network for Victim Recovery of DC, a victim services and advocacy organization, also supported the reform, hoping that it would create “new definitions of justice that account for the spectrum of crime survivors’ experiences.”¹⁸⁶ Another local leader and sexual violence survivor, Erin Palmer, guided her Advisory Neighborhood Commission (ANC)—among 40 elected commissions that advise the DC Council—to unanimously pass a resolution in support of the bill, and several other ANCs followed suit.¹⁸⁷ Before examining the broader coalition that coalesced behind this reform, it is helpful to understand the emerging adult law’s predecessor.

Second Look for Youth Crimes

Crystal Carpenter was one of the driving forces behind DC’s original second look reform, IRAA, which focused exclusively on youth whose offenses occurred prior to their 18th birthday. When Carpenter was 15 years old, her brother James Carpenter received a 57-years-to-life sentence for a crime he committed at age 17. “When people would spend their summers in college focused on summer breaks and spring breaks, I used to come back up to DC and sit in courtrooms and watch court cases,” Carpenter remembers.¹⁸⁸ Seeing no avenues to bring her brother home within a reasonable timeframe, she contacted numerous advocacy organizations for support, and the Campaign for the Fair Sentencing of Youth worked with her to develop a second look bill for



Melody Brown with her daughters Jerria Brown-McDaniel Houdhan (left) and Jerrika Brown-McDaniel (right). Courtesy Melody Brown, 2017.

juveniles modelled after that of West Virginia, proposing that resentencing be allowed after 15 years. Ultimately, DC’s law allowed resentencing after 20 years of imprisonment for youth crimes, and it applied retroactively. Councilmember Kenyan McDuffie championed the 2016 reform and the Council took it up as a response to the Supreme Court’s 2012 *Miller v. Alabama* ruling, which required states to consider the unique circumstance of youth to arrive at individualized life-without-parole sentences for homicide. Carpenter credits the advocacy of Eddie Ellis, who became an inspiring community leader upon being paroled in 2006 after serving 15 years for a crime he committed at age 16, for giving the Council the “confidence needed for a bill such as this.”¹⁸⁹ Carpenter and Ellis later joined the staff of the Campaign for the Fair Sentencing of Youth and supported the expansion of the original legislation.

In 2018, the DC Council expanded the 2016 law to allow people who committed their crimes under age 18 to petition the DC Superior Court for resentencing after 15 years of imprisonment, instead of 20.¹⁹⁰ In this second iteration of IRAA, the Council also sought to uphold the original reform’s intent to focus on rehabilitation by removing “the nature and circumstances of the offense” from a list of factors that judges must consider in deciding whether to award relief. The offense itself was

still implicitly included within several of the 11 remaining factors, including the individual’s rehabilitation, statement from the U.S. Attorney’s Office, statement from the victim, the defendant’s role in the offense, and the catch-all factor of “any other information the court deems relevant to its decision.”¹⁹¹ This reform made an additional 150 people eligible for resentencing, while the third iteration of the reform, the Second Look Act, made approximately 500 additional individuals immediately eligible for resentencing.¹⁹²

Overcoming Opposition to Expand Second Look to Emerging Adults

Three key factors contributed to the successful expansion of DC’s second look reform. First, a broad and strong coalition including advocates, individuals resentenced for youth crimes, attorneys, and researchers—known as the Thrive Under 25 Coalition—raised support for the bill.¹⁹³ Several thousand DC residents signed a petition circulated by the coalition in support of the reform.¹⁹⁴ In March 2019, over 50 people testified in person in support of the proposed legislation, and many more did so in writing.¹⁹⁵ The mayor’s office also testified in support of the bill, explaining that “We know from both lived experiences and research that, at a certain point, there is not a compelling public safety reason to keep someone incarcerated any longer.”¹⁹⁶ The Mayor later hedged her position on the bill in response to victim concerns, before ultimately signing it.¹⁹⁷

Second, trusted criminal justice leaders championed the reform. Judiciary Chair Charles Allen and DC Attorney General Karl Racine defended the bill against criticism from the *Washington Post* editorial board and the U.S. Attorney’s Office, writing, “We should not be dissuaded by the same echoes of fear that gave us mass incarceration.”¹⁹⁸ In a span of five months in 2019, the *Post* published three editorials against the bill. The editorial board’s discussions with advocates and individuals resentenced for youth crimes may have encouraged their support of a second look after 20 years of imprisonment for juvenile sentences in Virginia and Maryland.¹⁹⁹ But they characterized DC’s proposed reform for emerging adults as “deceiving the public and fooling victims.”²⁰⁰

The U.S. Attorney’s Office of DC, which prosecutes most local felonies and was then led by Trump-appointed Jessie Liu, strongly opposed the bill.²⁰¹ In September

2019, that office organized a convening to mobilize local ANCs against the bill. At this event, federal prosecutors falsely claimed that DC had one of the country’s lowest incarceration rates compared to states, later acknowledging the error via Twitter, and framed the maintenance of severe sentences as a racial justice issue for victims of color.²⁰² Peter Newsham, then-chief of the Metropolitan Police Department, presented slides highlighting crimes in which the accused or convicted would eventually qualify for resentencing under the reform. Outside of the meeting, organizers led by Black Lives Matter DC and Black Youth Project 100 held a public education “speak back”—handing out flyers explaining that this was an opportunity for a sentence review, not automatic release from incarceration. Also outside were Shannon Battle and Wendell Craig Watson—resentenced for youth crimes—who distributed T-shirts in support of the Second Look Act.²⁰³ Members of the Thrive Coalition later attended ANC meetings across the city clarifying the purpose and intent of the bill.

The third key factor supporting the expansion of second look was informed local and national news coverage that profiled IRAA recipients, some of whom had already achieved incredible professional success and were giving back to the community.²⁰⁴ These men (no women qualified for sentencing until the passage of the Second Look Act) included Tyrone Walker, who mentored dozens of young men and completed college coursework while incarcerated, and became a leader in criminal justice reform at the Justice Policy Institute upon his release; Halim Flowers, who self-published 11 books and completed college coursework while incarcerated and has since won two competitive fellowships and is elevating the stories of those impacted by the criminal justice system; and Kareem McCraney, who earned an associate degree in paralegal studies while in prison and since his release has served as a youth mentor in Southeast DC, participated in a paralegal fellowship program at Georgetown University, and is a program analyst for the DC Corrections Information Council. Many others are working to prevent youth violence as violence interrupters, credible messengers, and youth mentors. None of those released had been convicted of new crimes.

The Law’s Enactment and Implementation

DC’s 2020 elections brought in three new council members who supported the reform and the defeat of

the lone member who later voted against it. During the final vote, council members also overwhelmingly rejected two amendments that were expected to discourage resentencing.²⁰⁵ The pandemic summer's protests against violence by the police, including the killing of George Floyd and Breonna Taylor, and additional local revelations of bias in policing and prosecution, heightened public expectations for legislation to advance racial justice.²⁰⁶ When the bill unanimously passed its first vote, Councilmember McDuffie explained: "This is about a system that's so disproportionately unfair to people of color, particularly about Black people.... The way we support victims is to address the root causes that compel young people to pick up guns to resolve disputes."²⁰⁷

Sixty people have been released so far under DC's first two second look laws and nine applicants have been denied, with the U.S. Attorney's Office opposing resentencing in all but a handful of cases.²⁰⁸ The legal work behind these petitions was shared by the Public Defender Service (PDS) for the District of Columbia, court-appointed private attorneys, and pro-bono law firms and law school clinics, who will also work together to coordinate implementation of the Second Look Act. The DC Council has also dedicated funding for restorative justice services to support survivors and reentry funding to support resentenced individuals.

Beyond the Second Look Act

DC advocates and leaders continue to build on the Second Look Act. In 2021, the District Task Force on Jails and Justice, an independent body whose members include Attorney General Racine, Councilmember Allen, and Director of the DC Department of Corrections Quincy Booth, recommended amending DC's second look law to:

allow any person who has served at least ten (10) years in prison to petition for resentencing and require D.C. Superior Court to review sentences of any person who has served at least 20 years.²⁰⁹

In May 2020, Carpenter's brother was released from prison as a result of the second look reform for youth, having spent 24 years incarcerated. Having him back is "beyond anything I could imagine," Carpenter explains, who now works to support people as they return home from long prison terms and advocates for similar reforms in other states.²¹⁰ As Michael Serota, law professor at Arizona State University, has written, "the District is by

no means an outlier" in imposing extreme sentences that should receive a second look.²¹¹

Related Reforms

Legislative Reforms

- In 2018, the California legislature began directing many individuals who committed crimes under age 26 to Youth Offender Parole Hearings, to give weight to the diminished culpability of youth and young adults serving lengthy sentences and to emphasize their potential for growth and maturity. The original Youth Offender parole law passed in 2013 applied to crimes committed under age 18, an age limit that was raised in 2015 and 2017. The law has notable exclusions, including people convicted of sexual offenses or sentenced to life without parole past age 18.²¹² Newt Gingrich described the reform extending these hearings to crimes committed under age 23 as "compassionate, fair, and backed up by the latest scientific understanding of brain development."²¹³
- Illinois passed legislation in 2018 allowing early parole review for people who committed their crime before age 21, with certain exclusions. To be eligible, a person must serve 10 years in prison, or 20 years if they were convicted of aggravated criminal sexual assault or first degree murder. The change only applies prospectively.²¹⁴

Prosecutorial Reforms

- Brooklyn, NY's District Attorney Eric Gonzalez now consents to parole at the first hearing for people who entered into plea agreements, which constitutes the vast majority of cases in the district, "absent extraordinary circumstances and subject to their conduct during incarceration."²¹⁵ Gonzalez's office has also instituted special review for people serving indeterminate life sentences for crimes committed under age 24, "so that there can be a meaningful inquiry into whether they have matured into appropriate candidates for release."²¹⁶
- In Massachusetts, Suffolk District Attorney Rachael Rollins has supported evidentiary hearings at the state's Supreme Judicial Court to consider whether to extend the state's ban on life-without-parole sentences for youth to emerging adults.²¹⁷

Joel Castón is a Washingtonian and incarcerated mentor, writer, and activist. After being convicted of murder at age 18, Castón underwent a remarkable transformation, driven by mentorship, faith, and education. He is one of the founding mentors in the Young Men Emerging Unit at the DC Jail, a program that provides recently incarcerated people between the ages of 18 to 25 with mentorship, job training, and educational programming. Passionate about finance, Castón has several self-published books and hopes to eventually become an investment advisor and professional trader, with a YouTube channel for demystifying the markets. He's felt ready to return home since at least his 18th year of incarceration, when he'd been imprisoned for the same number of years that he'd been free. He's now been incarcerated for 27 years and notes:

I am a middle-aged guy. I'm a dad, I'm a grandfather—I have two grandchildren. I have gray hair at my temples, I don't think like that 18-year-old guy that once had a mindset that I completely reject. I have changed. I am deeply remorseful.... I have a proven track record of rehabilitation and demonstrated remorse. Individuals like myself, they deserve an opportunity to present a colorful argument of why they deserve their freedom.²¹⁸

Castón was raised in a family and community that faced major obstacles. His father and sister struggled with substance use problems, and he recalls many in his community treating their trauma with drugs. Raised by a single mother and later by his sister, Castón and his cousin became active in the drug market by 6th grade, despite its harms on his family and community. His experiences have convinced him of the need to invest in “no entry” programs and services to prevent imprisonment, rather than just “re-entry” to prevent re-imprisonment. For him, this would have included wraparound services for his family. He also points to the counseling services that victims need, and that he himself needed to cope, at age 18, with a sentence of 30 years to life with the possibility of parole. “Faith gave hope to my despair,” Castón has written.²¹⁹

Castón was delighted by the news of the Incarceration Reduction Amendment Act (IRAA), even though it did not apply to him since he committed his crime 33 days after turning 18. The expansion of the law to those who committed their crime under age 25 would allow him to



Joel Castón, co-founder of the Young Men Emerging Unit at the DC Jail, wearing an “I Voted / Yo Voté” sticker. Courtesy Joel Castón, 2021.

petition for resentencing—but before the law went into effect Castón became one of the lucky few to be granted parole.²²⁰ Referencing his experience as a DC resident who is eligible for a second look and who has spent time in federal facilities around the country, Castón says:

I'm grateful that we have it in DC but what about the guys from New York? What about the people from North Carolina? What about the people from Puerto Rico? What about the people from Minnesota? What about the guys in California? What about the guys in Louisiana? What about all these places I've been at and they don't have nothing in place? But I've been with these guys, I can't forget my brothers and sisters still trapped behind prison doors.²²¹

With his longtime friend Tyrone Walker—an IRAA beneficiary who is now with the Justice Policy Institute—Castón continues to call for curbing excessive sentences, noting that they disproportionately affect Black men like themselves. With Michael Woody, another founding mentor of the Young Men Emerging Unit, they've written a report about how the DC program, inspired by Connecticut's, can serve as a model for the country.²²² In the *Washington Post*, Castón and Walker have written:

We are proud that we've helped create this program, and we hope the approach will also move beyond the walls of the DC jails and into the community.²²³

Castón once asked his own mentor why he did so much for others and was told that he was paying his dues. It's a philosophy that Castón now shares.

3. SECOND LOOK FOR OLDER PEOPLE IN PRISON

Rationale and Broader Context

Fiscal and Moral Costs of Imprisoning Older Individuals

In recent years, the imprisonment rate of people in older age groups has grown while the rate among the youngest age groups has declined. In fact, the Bureau of Justice Statistics observes that people aged 55 or older accounted for most of the growth of the state prison population between 2003 and 2013.²²⁴ Among imprisoned people aged 65 and above, half have served over 10 years. Two factors have driven the “graying” of the prison population: 1) People serving longer sentences, and 2) Older people being more likely to be imprisoned upon a conviction due to their greater likelihood of having a criminal history in the era of mass incarceration.²²⁵ The results are problematic both from public safety and humanitarian perspectives.

As noted earlier, older people are less likely than their younger counterparts to pose a public safety risk, making their incarceration an ineffective tool for promoting public safety. What’s more, older people are more costly to incarcerate, largely due to their health care needs. Incarcerated people in the United States tend to be less healthy than the overall population, and the experience of incarceration leaves many in poorer health.²²⁶ These facts result from the criminal legal system’s over-selection of low-income people of color, combined with the stresses of incarceration and the often low quality of health care delivered in carceral settings—with prisons generally lacking systems to “monitor chronic problems or to implement preventative measures.”²²⁷ The provision of medical care for elderly incarcerated individuals becomes particularly costly when they must be transported off-site, with security, for medical care. Although nationwide estimates have proven elusive because of a lack of uniformity and detail in data reporting across correctional institutions,²²⁸ several studies have documented far higher costs of imprisoning older individuals compared to younger ones.²²⁹

There are also humanitarian concerns with imprisoning older people who do not pose an unreasonable public safety risk. Given the chronic health problems and other issues that elderly people in prison face, it is almost certain that they are exposed to needless and prolonged

suffering due to the overcrowding, violence, and limited medical care in prisons. As Berkeley Law Professor Jonathan Simon argues, “given the record levels of physical and sexual violence prevalent in our prisons today, it is deceitful to argue that the custody provided prisoners is ‘safe.’”²³⁰ These problems are compounded in the case of elderly people in prisons, who are more likely to face declining health and abuse,²³¹ making their continued incarceration a violation of basic human dignity. As Justice Anthony Kennedy wrote in the Supreme Court’s review of the landmark California prison overcrowding case, *Brown v. Plata*, “A prison that deprives prisoners of basic sustenance, including adequate medical care, is incompatible with the concept of human dignity and has no place in civilized society.”²³² A second look at the continued imprisonment of older people in prison is an important step in reforming the criminal legal system to take account of human rights.

The Inadequacy of Medical / Compassionate Release

The National Conference of State Legislatures reports that while nearly all states have a medical or compassionate parole policy (extending parole consideration to people with certain serious medical conditions) and 17 states have geriatric parole laws (allowing parole review for imprisoned people who are past a certain age) few people are released from prison through these mechanisms.²³³ This is due both to the politicization of this decision making process and to the narrow eligibility criteria of these remedies. The Vera Institute of Justice notes that compassionate release policies often exclude people with the most serious convictions, have narrow medical criteria, and require medical professionals to make challenging timed prognoses—generally requiring the assessment of a terminal illness or permanent incapacitation and being within six months to two years of death.²³⁴ In addition, these policies often impose a burdensome application process, elevate the objections of law enforcement and victims in decision making, and require a level of post-release care in which states have not invested.²³⁵

The COVID-19 pandemic has underscored the limitation of existing statutes and practices. Incarcerated elderly individuals and those who have serious medical conditions often found that despite their heightened risk of serious illness or death from the coronavirus, they do not qualify for relief under existing laws.²³⁶ For those close to death, as Dr. Rachael Bedard, director of health

care for the elderly in the New York City jail system, explains, “We can make someone’s experience of leaving this world less sorrowful when we do our utmost to honor their dignity, and the complexity of their identity and life experience. To do that, it is imperative to open the cage.”²³⁷ For the over 2,500 people who have died in U.S. prisons of coronavirus-related causes, the experience of dying was not made less sorrowful.²³⁸

The Atrophy of Executive Clemency

The use of executive clemency, particularly of commutations to shorten sentences, has also declined significantly since the mid-twentieth century. Between 1897 and 1945, presidents commuted an average of 355 sentences per term; since then each president has commuted an average of just 132 sentences per term even as the U.S. prison population grew by over 900% between 1945 and 2019.²³⁹ In 2009, former U.S. Pardon Attorney Margaret Colgate Love suggested that commutations were available only to the politically connected, writing that, “what had once been a routine presidential housekeeping function subject to justice-based norms began to seem more like a perk of office available primarily to those with direct access to the White House.”²⁴⁰ The power was used more frequently by President Barack Obama, who granted over 1,700 commutations during his time in office, many as part of his Clemency Initiative.²⁴¹ But the U.S. Sentencing Commission found in 2017 that 2,595 incarcerated individuals appeared “to have met all the factors for clemency under the Initiative at the end of President Obama’s term in office but ... did not obtain relief.”²⁴² Presidential commutations dropped again during President Donald Trump’s term to only 94. Even as COVID-19 spread in prisons during his tenure, Trump made little use of clemency other than in the cases with political connections.²⁴³

Commutations have also dwindled at the state level. In Oklahoma, commutations declined during the COVID-19 crisis, even as the number of applications rose dramatically.²⁴⁴ In New York, Governor Andrew Cuomo approved just two of the more than 120 petitions filed by lawyers from the NACDL/FAMM State Clemency Project between 2017 and 2020.²⁴⁵ Historically, governors used commutations to address conditions in prisons and to reduce sentences for people who pose little threat to public safety. In 1975, for instance, Maryland Governor Marvin Mandel issued “Christmas commutations” to

nearly 200 people in prison whose sentences were set to expire within 180 days, in an attempt to address overcrowding and inhumane conditions.²⁴⁶ Declines in the traditional exercise of executive mercy are common across the country. In Massachusetts, 83 people were granted commutations during the 1970s, while only a single person had their sentence commuted between 1997 and 2019.²⁴⁷ Since the 1980s, presidents and governors have largely refrained from using commutations as a tool of mercy, likely due to fear of political pushback, even as prison populations have grown exponentially.²⁴⁸

Featured Campaign: New York’s Elder Parole Bill

“I felt alive for the first time in three decades,”²⁵⁶ Dino Caroselli wrote, describing the moment that he learned about New York’s Elder Parole bill (S.15A/A.3475A). The reform would allow people aged 55 and older who have served 15 or more years in prison to receive parole consideration, regardless of original crime of conviction or original sentence. Caroselli, 64 years old, has served nearly 30 years on a 65-year-to-life sentence for attempted robbery, attempted aggravated assault, and a subsequent prison fight. “I was a slow learner,” he explains, “but like so many others I’ve turned my life around” and he has the record of programming, work, and mentorship to prove it.

Without the passage of the Elder Parole bill, Caroselli will most likely die in prison. He is not eligible for parole until 2057, when he would be 100 years old.²⁵⁷ The Elder Parole bill would similarly give David Gilbert, the 76-year old father of San Francisco District Attorney Chesa Boudin, who has been incarcerated for 40 years, a parole hearing in his lifetime.²⁵⁸ Other paths out of prison, such as medical parole and executive clemency, have resulted in very few releases, even during the COVID-19 pandemic.²⁵⁹ Some of the most upstanding individuals in New York prisons, like Benjamin Smalls, have had their accomplishments chronicled in *New York Times* obituaries after being overlooked for executive clemency and medical parole.²⁶⁰ The Elder Parole bill would make over 1,100 people in New York prisons immediately eligible for parole consideration.²⁶¹ Although New York has reduced its prison population serving life with the possibility of parole between 2010 and 2016, the state still has the country’s fourth highest number of people serving these sentences.²⁶²

When Does Old Age Begin in Prison?

For the broader population in the United States, 65 has become a common age cutoff to be considered elderly, as reflected in the eligibility age of Medicare. While some people, including many of our current political leaders, remain professionally active in their 70s and 80s, many institutions and organizations rely on a lower-than-65 senior age cutoff to better reflect research on lived experiences, and many are encouraged to move in that direction.²⁴⁹ Thus AARP membership can begin at age 50, chain restaurants like Denny's and IHOP offer a 55-plus menu for seniors, and President Biden has proposed lowering the Medicare eligibility age from 65 to 60.

When it comes to the U.S. incarcerated population, researchers and government agencies have generally relied on either age 50 or 55 as the cutoff for being considered elderly. The *Marshall Project* explains:

In the early 1990s, a few officials suggested to the sociologist Ronald Aday that 'the typical inmate in his fifties has a physical appearance of at least 10 years older.' That comment was cited widely by journalists and researchers, and

a handful of mysteriously specific claims have floated around, saying prisoners over 50 have a health profile of people 11.5 years older.²⁵⁰

Some studies have begun to document accelerated aging among the incarcerated.²⁵¹ In a 2004 report, the National Institute of Corrections suggested that 50 may be an appropriate cutoff for being considered elderly in the corrections system since aging in prison is accelerated by the stresses of staying safe behind bars, financial troubles, drug or alcohol withdrawal, and inadequate health care prior to incarceration.²⁵² A 2008 national survey found that among 27 departments of correction, over half, 15, relied on 50 as the cutoff, 5 on 55, and the remaining 7 on ages 60 and above.²⁵³

At the federal level, while the Bureau of Prisons does not specify an age at which the people in its prisons are considered "aging," a 2016 report by the Department of Justice's Office of the Inspector General classified those age 50 and older as part of this category.²⁵⁴ In reports examining the aging of state prison populations, the Bureau of Justice Statistics focuses on those aged 55 or older.²⁵⁵

The Elder Parole bill, championed by the Release Aging People in Prison (RAPP) Campaign, has gained momentum every year since its introduction in 2018. In 2019, it passed through committees in both legislative houses, facing opposition from Republican legislators, police unions, and some District Attorneys. "Outrageous and idiotic," is how Staten Island District Attorney Michael McMahon described the bill in a 2019 *New York Post* article reminding readers that those who committed some of the city's most heinous crimes would become eligible for parole.²⁶³ In January 2020, Erie County District Attorney John Flynn said that while he would support revisiting sentences for youth crimes after many decades in prison, he was "not open to look at a 40-year-old man, a 40-year-old woman, an adult, who commits murder and 15 years later wants to get out because [they're] 55."²⁶⁴ But Brooklyn District Attorney Eric Gonzalez, who handles one of the state's—and country's—largest caseloads, has supported the bill. "If someone has gone

through the process of changing themselves ... there should be a mechanism for them to then appear before a parole board that will fully vet them," Gonzalez explained.²⁶⁵

In January 2020, hundreds of New Yorkers went to the State Capitol to support the bill, sponsored by Assemblymember Carmen De La Rosa and State Senator Brad Hoylman. Noting that most people serving life sentences are people of color, De La Rosa has written, "I refuse to have my five year-old daughter grow up in a state that condemns people who look like her to die in cages, regardless of their change and transformation over years and decades."²⁶⁶ Some victim service and advocacy groups support the reform, including the Crime Victims Treatment Center, whose executive director, Christopher Bromson, has said: "We recognize that many individuals enter the criminal justice system with histories of trauma, and that more may experience devastating

sexual victimization during their incarceration. And yet we also believe that healing and change are possible.”²⁶⁷ Other groups advocating on behalf of crime survivors, including the New York State Coalition Against Sexual Assault and the Downstate Coalition for Crime Victims, have also supported the bill.²⁶⁸

In January 2021, the People’s Campaign for Parole Justice (“People’s Campaign”), a coalition including criminal justice reform advocates, current and formerly incarcerated people, academics, and victim advocacy groups, organized hundreds of people to attend a virtual rally in support of the bill, which by then had the support of 25 lawmakers.²⁶⁹ Testimony at this event and at legislative hearings from imprisoned individuals including Caroselli, Stanley Bellamy, and Robert Ehrenberg has given lawmakers an opportunity to get to know the people who would be impacted by this reform.²⁷⁰ The state’s reluctance during the pandemic to use medical parole or commutations to significantly reduce the elderly and medically vulnerable populations in prison, combined with its decision to not prioritize COVID-19 vaccine

access to imprisoned people until ordered to do so by the courts, has underscored the need for the Elder Parole bill, as well as its challenging political prospects.²⁷¹

Advocates highlight one aspect of New York’s Elder Parole bill that distinguishes it from similar existing laws: it does not exclude people based on their sentence or crime of conviction. A 2019 letter signed by over 130 organizations in support of the bill states:

Exclusions based solely on the nature of a person’s crime only promote notions of punishment and revenge, and offer no benefit to public safety. In fact, they hinder it. Returning elders are mentors and leaders in our communities and help us build the safe and nurturing world we want.²⁷²

José Saldaña, Director of the RAPP campaign who had served 38 years in prison until his release in 2018, has said, “We believe every human that’s incarcerated is redeemable.”²⁷³ Saldaña has written:



José Saldaña speaking to supporters of the Elder Parole bill in Albany, New York. Courtesy Michelle Lewin, 2020.

African, Latinx, Asian, Indigenous People, and other People of Color have historically been denied human rights and civic rights. From generation to generation People of Color fought and died for every right we have today. Parole Justice is Racial Justice. Exclusions are not a part of our history of liberation.²⁷⁴

The Elder Parole bill, Saldaña argues, “is a step toward redemption and away from a racist culture of perpetual punishment and revenge rooted in the politics of mass incarceration.”²⁷⁵

Meanwhile, the list of people who have died awaiting sentencing and parole reform in New York continues to grow. This list includes Valerie Gaiter, who at age 61 had served nearly 40 years in prison on a 50-year-to-life sentence, longer than any other woman then incarcerated in New York State. Gaiter had a long list of accomplishments during her incarceration. “Just about every formerly incarcerated woman I have met attributes at least part of their transformation to Gaiter,” Saldaña observed.²⁷⁶ Gaiter died in prison from cancer in 2019, 10 years before she would have been eligible for parole.²⁷⁷

Supporters of the Elder Parole bill recognize that creating a meaningful parole opportunity for the elderly imprisoned population also requires mending a parole process that a former commissioner has described as “broken, terribly broken.”²⁷⁸ While RAPP’s and other groups’ advocacy has improved parole practices, procedures, and outcomes in recent years, the parole board held fewer parole hearings in 2020 than in 2019 and sustained a significant racial gap in parole grants.²⁷⁹ Another proposed bill supported by the People’s Campaign, The Fair and Timely Parole Act (S.1415/A.4231), would continue the effort to reorient the parole board’s decisions towards an assessment of current public safety risk rather than the historical crime.

Related Reforms

Legislative Reforms

- The First Step Act (2018) provides an avenue for compassionate release for people incarcerated in the federal system, allowing incarcerated individuals to directly petition courts for release after meeting certain criteria. The act also reauthorizes and expands the BOP’s early release pilot program, which allows certain people age 65 and above with non-

violent conviction histories to be placed in home confinement.²⁸⁰

- California passed an Elderly Parole reform bill in 2020 (AB-3234), which lowers the requisite age of eligibility for elderly parole review to 50 years and time served to 20 years. The law instructs the parole board to consider whether age, time served, or physical health affect chances of reoffending. The law excludes people convicted of first degree murder if the victim was a peace officer.²⁸¹
- Washington, DC passed a compassionate release law in 2020 that allows anyone age 60 and above who has served at least 25 years in prison, or who meets other criteria, to petition a judge for early release.²⁸²

Prosecutorial Reforms

- During the coronavirus pandemic Marilyn Mosby, State’s Attorney for Baltimore, MD, launched a Sentencing Review Unit focusing in part on medically vulnerable people over age 60 who have been incarcerated over 25 years.²⁸³ Mosby’s office will connect impacted individuals with restorative justice and reentry services. Describing the effort, Mosby wrote alongside Los Angeles District Attorney George Gascón that, “The United States spends millions of dollars to incarcerate elderly people who no longer present a public safety threat.... People over 60 comprise 3 percent of violent crime arrests.”²⁸⁴

RECOMMENDATIONS

To end mass incarceration and better invest in public safety, The Sentencing Project and over 200 organizations recommend limiting maximum prison terms to 20 years, except in unusual circumstances.²⁸⁵ Achieving this goal requires reforming front-end sentencing laws and practices, such as by abolishing mandatory minimum sentencing laws as recommended at the federal level by President Biden and Attorney General Merrick Garland, and more broadly by the American Bar Association and the NAACP Legal Defense and Educational Fund.²⁸⁶ These reforms should be applied retroactively to those already sentenced.

Changing prosecutorial practices is also key to achieving front-end sentencing reform. Over 60 elected prosecutors and law enforcement leaders have recommended that prosecutors' offices develop policies to ensure that lengthy sentences, such as those beyond 15 or 20 years, "be reserved for the unusual and extraordinary case."²⁸⁷

Second look reforms, in addition to executive clemency, are important tools for correcting sentencing excesses of the past. For lawmakers and prosecutors, several lessons can be drawn from the successful and ongoing second look reform efforts presented in this report. Recommended components of an effective second look policy include:

1. Instituting an automatic sentence review process within a maximum of 10 years of imprisonment, with a rebuttable presumption of resentencing. Subsequent hearings should occur within a maximum of two years.²⁸⁸
2. Anticipating and intentionally monitoring and addressing racial and other disparities in resentencing.²⁸⁹ Discretionary resentencing decisions may be impacted by the race and other characteristics—such as educational level, mental health status, and gender—of the incarcerated individual or their victim. For example, disparities in both sentencing and in-

prison discipline driven by racial bias will impact eligibility for resentencing and must therefore be accounted for in any resentencing policy, practice, or law.

3. Appointing legal counsel to represent individuals through the resentencing process.
4. Placing decision-making authority within an entity willing to make an evidence-based assessment of whether an individual's release would pose an unreasonable public safety risk. In some jurisdictions, judges or judicial panels, rather than parole boards, may be better insulated from political aversions to resentencing.
5. Establishing assessment criteria and training, and requiring written explanations for resentencing denials. Ensure that resentencing decisions balance the desire for punishment from some crime survivors with societal goals of advancing safety, achieving justice, and protecting human dignity.
6. Enabling crime survivors to provide input and ensuring that the resentencing process is transparent to them. Invest in restorative justice services to support crime survivors and in rehabilitative programming in prisons and reentry programming outside of prisons to promote success for those who are resentenced.

CONCLUSION

Rehabilitation and redemption are relevant goals not only for imprisoned people being held accountable for their crimes, but also for the policymakers, practitioners, and members of the public who demand excessive prison terms that are counterproductive to public safety. During his campaign, President Biden committed to cutting the prison population by half, saying that he would even “go further than that.”²⁹⁰ Ending mass incarceration in our lifetime will require reducing prison admissions and moderating prison terms for all crimes, including for violent crimes for which half of the U.S. prison population is imprisoned. Necessary reforms will take a better *first look* at criminal legal penalties going forward, and a *second look* at sentences already imposed for past crimes.

Endnotes

1. Nellis, A. (2021). *No end in sight: America's enduring reliance on life imprisonment*. The Sentencing Project. <https://www.sentencingproject.org/publications/no-end-in-sight-americas-enduring-reliance-on-life-imprisonment/>
2. Lopez, G. (2016, May 17). *Cory Booker: Senate bill is "in my lifetime the first reversal of mass incarceration."* Vox. <https://www.vox.com/2016/5/17/11661858/cory-booker-criminal-justice-reform>
3. United States Senate Committee on the Judiciary. (2021, March 26). *Durbin, Grassley introduce bipartisan legislation to advance the First Step Act's goals* [Press release]. <https://www.judiciary.senate.gov/press/dem/releases/durbin-grassley-introduce-bipartisan-legislation-to-advance-the-first-step-acts-goals>
4. Fair and Justice Prosecution. (2021, April). *Joint statement on sentencing second chances and addressing past extreme sentences* [Press release]. <https://fairandjustprosecution.org/wp-content/uploads/2021/04/FJP-Extreme-Sentences-and-Second-Chances-Joint-Statement.pdf>
5. Dorn, S. (2019, April 27). 'Outrageous' bill may release murderers, rapists back on city streets. *New York Post*. <https://nypost.com/2019/04/27/outrageous-bill-may-release-murderers-rapists-back-on-city-streets/>; Goldberg, N. (2019, April 29). A bill to increase parole for 'elder' inmates now has the Brooklyn DA's support. *Brooklyn Eagle*. <https://brooklyneagle.com/articles/2019/04/29/a-bill-to-increase-parole-for-elder-inmates-now-has-the-brooklyn-das-support/>
6. The Sentencing Project. Campaign to End Life Imprisonment. <https://endlifeimprisonment.org>
7. Schor, E., & Kinnard, M. (2019, January 21). *Biden says he regrets 1990s crime bill, calls it a 'big mistake' at MLK day event*. Delaware Online. <https://www.delawareonline.com/story/news/2019/01/21/biden-says-he-regrets-1990-s-crime-bill-calls-big-mistake-mlk-day-event/2639190002/>
8. Amici Curiae Supporting Petitioners Kuntrell Jackson and Evan Miller, January 17, 2012. 567 U.S. (2012). (no. 10-9646 and 10-9647), 2012. <https://cfsy.org/wp-content/uploads/Miller6.pdf>
9. Glendening, P. (2021, March 1). Opinion: I made a serious mistake as Maryland governor. We need parole reform. *Washington Post*. <https://www.washingtonpost.com/opinions/2021/03/01/i-made-serious-mistake-maryland-governor-we-need-parole-reform/>
10. Ghandnoosh, N. (2019). *The next step: Ending excessive punishment for violent crimes*. The Sentencing Project. <https://www.sentencingproject.org/publications/the-next-step-ending-excessive-punishment-for-violent-crimes/>
11. Prudente, T. (2020, December 7). Baltimore state's attorney Marilyn Mosby hires public defender to free elderly prisoners. *Baltimore Sun*. <https://www.baltimoresun.com/news/crime/bs-md-ci-cr-mosby-review-juvenile-lifers-20201207-qtih72nxfvfi5ojdxy72djvb3i-story.html>
12. Office of the State's Attorney for Baltimore City. (2020, December). *State's attorney announces creation of sentencing review unit* [Press release]. <https://www.stattorney.org/media-center/press-releases/2148-state-s-attorney-announces-creation-of-sentencing-review-unit>; Philadelphia District Attorney's Office. (2018, September 20). *Action alert: Supporting #SB942 empowers PA parole board to make right decisions*. Medium. <https://medium.com/philadelphia-justice/action-alert-supporting-sb942-empowers-pa-parole-board-to-make-right-decisions-32d617773983>
13. Fair and Justice Prosecution. (2021, April). *Joint statement on sentencing second chances and addressing past extreme sentences* [Press release]. <https://fairandjustprosecution.org/wp-content/uploads/2021/04/FJP-Extreme-Sentences-and-Second-Chances-Joint-Statement.pdf>
14. This includes people serving life with or without the possibility of parole or "virtual life" sentences of 50 years or longer. See, Nellis, A. (2021). *No end in sight: America's enduring reliance on life imprisonment*. The Sentencing Project. <https://www.sentencingproject.org/publications/no-end-in-sight-americas-enduring-reliance-on-life-imprisonment/>
15. See, for example, Ryals, M. (2019, October 10). How to end a sentence. *Washington City Paper*. <https://washingtoncitypaper.com/article/178137/how-to-end-a-sentence/>
16. Federal Bureau of Investigation. Crime data explorer. <https://crime-data-explorer.fr.cloud.gov>; Doob, A., & Webster, C. (2006). Countering punitiveness: Understanding stability in Canada's imprisonment. *Law & Society Review*, 40(2), 325–367; Tseloni, A., Mailley, J., & Garrell, G. (2010). Exploring the international decline in crime rates. *European Journal of Criminology*, 7(5), 375–394.
17. Bureau of Justice Statistics. (1982). *Prisoners 1925-81*. <https://www.bjs.gov/content/pub/pdf/p2581.pdf>; Carson, A. E., & Mulako-Wangota, J. (n.d.). Bureau of Justice Statistics. *Count of jurisdiction population - sentences greater than 1 year*. Generated using the Corrections Statistical Analysis Tool (CSAT). <https://www.bjs.gov/index.cfm?ty=nps> (April 2021); Zheng, Z. Minton, T. D. (2021). *Jail Inmates in 2019*. Bureau of Justice Statistics. <https://www.bjs.gov/content/pub/pdf/ji19.pdf>
18. Travis, J., Western, B., & Redburn, S. (Eds.) (2014). *The growth of incarceration in the United States: Exploring causes and consequences*. National Research Council. National Academies Press. <https://www.nap.edu/catalog/18613/the-growth-of-incarceration-in-the-united-states-exploring-causes>
19. Love, M. C., & Klingele, C. (2011). First thoughts about "second look" and other sentence reduction provisions of the Model Penal Code: Sentencing revision. *University of Toledo Law Review*, 42(4), 859–880, p. 859.
20. Ghandnoosh, N. (2021). *Can we wait 60 years to cut the prison population in half?* The Sentencing Project. <https://www.sentencingproject.org/publications/can-we-wait-60-years-to-cut-the-prison-population-in-half/>; Kang-Brown, J., Montagnet, C., & Heiss, J. (2021). *People in jail and prison in 2020*. Vera Institute of Justice. <https://www.vera.org/downloads/publications/people-in-jail-and-prison-in-2020.pdf>; Franco-Paredes, C., Ghandnoosh, N., Latif, H., Krsak, M., Henao-Martinez, A. F., Robins, M., Vargas Barahona, L., & Poeschla, E. M. (2021). Decarceration and community re-entry in the COVID-19 era. *The Lancet Infectious Diseases*, 21(1), e11–e16.

21. American Law Institute. (2021). *Model Penal Code: Sentencing*. Prepublication Draft, p. 802.
22. American Law Institute. (2021). *Model Penal Code: Sentencing*. Prepublication Draft, pp. 338, 797.
23. Rhine, E. E., Petersilia, J., & Reitz, R. 2017. The future of parole release. In Tonry, M. (Ed.), *Crime and Justice*, Vol. 46 (pp. 279–338), p. 294; Piquero, A., Hawkins, J., & Kazemian, L. (2012). Criminal career patterns. In R. Loeber & D. P. Farrington (Eds.), *From juvenile delinquency to adult crime: Criminal careers, justice policy, and prevention* (pp. 14–46). New York, NY: Oxford University Press.
24. University of Baltimore School of Law. (2020, December 16). *Public defender and UB law alumna named to head Baltimore State’s Attorney’s new sentencing review unit*. <https://ublawacolades.wordpress.com/2020/12/08/public-defender-and-ub-law-alumna-named-to-head-baltimore-states-attorneys-new-sentencing-review-unit/>
25. Mares, C. (2019, September 6). Pope Francis: Life imprisonment forgoes the ‘right to start over.’ *Catholic News Agency*. <https://www.catholicnewsagency.com/news/pope-francis-life-imprisonment-forgoes-the-right-to-start-over-69915>
26. The Sentencing Project. Campaign to End Life Imprisonment. <https://endlifeimprisonment.org>; Mauer, M., & Nellis, A. (2018). *The meaning of life: The case for abolishing life sentences*. The New Press.
27. Travis, J., Western, B., & Redburn, S. (Eds.) (2014). *The growth of incarceration in the United States: Exploring causes and consequences*. National Research Council. National Academies Press, p. 343.
28. Travis, J., Western, B., & Redburn, S. (Eds.) (2014). *The growth of incarceration in the United States: Exploring causes and consequences*. National Research Council. National Academies Press, p. 342.
29. American Law Institute. (2021). *Model Penal Code: Sentencing*. Prepublication Draft, pp. 337-8.
30. American Law Institute. (2021). *Model Penal Code: Sentencing*. Prepublication Draft, p. 797.
31. American Law Institute. (2021). *Model Penal Code: Sentencing*. Prepublication Draft, p. 802.
32. Rhine, E. E., Petersilia, J., & Reitz, R. 2017. The future of parole release. In Tonry, M. (Ed.), *Crime and Justice*, Vol. 46 (pp. 279-338).
33. Charles Colson Task Force on Federal Corrections; Charles Colson Task Force on Federal Corrections. (2016). *Transforming prisons, restoring lives*. The Urban Institute. <http://www.urban.org/sites/default/files/publication/77101/2000589-Transforming-Prisons-Restoring-Lives.pdf>; Independent Task Force on Federal Priorities. (2020). *Next steps: An agenda for federal action on safety & justice*. Council on Criminal Justice. <https://counciloncj.foleon.com/taskforce/federal-priorities/rec10/>
34. Pope Francis. (2015). *Address presented at joint session of U.S. Congress*. https://www.washingtonpost.com/local/social-issues/transcript-pope-franciss-speech-to-congress/2015/09/24/6d7d7ac8-62bf-11e5-8e9e-dce8a2a2a679_story.html
35. San Martin, I. (2016, June 21). *Pope Francis calls for world ‘free of the death penalty.’* Crux. <https://cruxnow.com/vatican/2016/06/pope-francis-calls-world-free-death-penalty/>
36. Goldenrosen, N. (2020, November 19). Life without parole is a ‘secret death penalty.’ It’s also against Catholic teaching. *America: The Jesuit Review*. <https://www.americamagazine.org/politics-society/2020/11/19/life-without-parole-secret-death-penalty-prison-catholic-teaching-fratelli-tutti>; Rocca, F. X. (2014, October 23). Pope Francis calls for abolishing death penalty and life imprisonment. *National Catholic Reporter*. <https://www.ncronline.org/blogs/francis-chronicles/pope-francis-calls-abolishing-death-penalty-and-life-imprisonment>
37. United Methodist Church. (2016). *The book of resolutions of the United Method Church, 2016*. United Methodist Publishing House; n.a. (2013, January 30). *US Church joins call to end life sentences without parole for children*. Independent Catholic News. <https://www.indcatholicnews.com/news/21857>
38. Loeber, R., & Farrington, D. (2014). Age-crime curve. In G. Bruinsma & D. Weisburd (Eds.), *Encyclopedia of criminology and criminal justice* (pp. 12–18). Springer.
39. Piquero, A., Hawkins, J., & Kazemian, L. (2012). Criminal career patterns. In R. Loeber & D. P. Farrington (Eds.), *From juvenile delinquency to adult crime: Criminal careers, justice policy, and prevention* (pp. 14–46). New York, NY: Oxford University Press, p. 40.
40. Piquero, A., Hawkins, J., & Kazemian, L. (2012). Criminal career patterns. In R. Loeber & D. P. Farrington (Eds.), *From juvenile delinquency to adult crime: Criminal careers, justice policy, and prevention* (pp. 14–46). New York, NY: Oxford University Press; Sampson, R., & Laub, J. (1993). *Crime in the making: Pathways and turning points through life*. Harvard University Press.
41. Steinberg, L., Cauffman, E., & Monahan, K. (2015). *Psychosocial maturity and desistance from crime in a sample of serious juvenile offenders*. Office of Juvenile Justice and Delinquency Prevention. <https://www.courts.ca.gov/documents/BTB24-2M-5.pdf>
42. Alper, M., Durose, M., & Markman, J. (2018). *2018 update on prisoner recidivism: A 9-year follow-up period (2005-2014)*. Bureau of Justice Statistics. <https://www.bjs.gov/content/pub/pdf/18upr9yfup0514.pdf>. Note that a study of people released from federal prisons finds the opposite trend, perhaps because of the differing natures of these crimes or differing levels of supervision upon release: Hunt, K., Iaconetti, M., & Maass, K. (2019). *Recidivism among federal violent offenders*. United States Sentencing Commission. https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2019/20190124_Recidivism_Violence.pdf
43. While in the early years following their release those with violent convictions were more likely than the others to be arrested for a violent offense, by the sixth year after their release they were equally as likely to be arrested for violence as those previously convicted of a property or public order offense. Alper, M., Durose, M., & Markman, J. (2018). *2018 update on prisoner recidivism: A 9-year follow-up period (2005-2014)*. Bureau of Justice Statistics. <https://www.bjs.gov/content/pub/pdf/18upr9yfup0514.pdf>, p. 10.
44. Robbery was classified as a property crime until the 1980s. See, for example, Table 3-19: Cahalan, M., & Parsons, L. (1986). *Historical corrections statistics in the United States, 1950-1984*. Bureau of Justice Statistics. <https://www.bjs.gov/content/pub/pdf/hcsus5084.pdf>
45. This study also finds “stickiness” in reoffense type, with people previously convicted of violence being more likely than others to be reimprisoned for violent offenses.

- Prescott, J. J., Pyle, B., & Starr, S. B. (2020). Understanding violent-crime recidivism. *Notre Dame Law Review*, 95(4), 1643–1698.
46. Among a group of 860 individuals who served life sentence for murder in California and were paroled 1995 and 2011, less than 1% were sentenced to jail or prison for new felonies, and none recidivated for life-term crimes. This compares to the approximately one-in-three rate of re-incarceration for new crimes within three years of release for all formerly imprisoned individuals in California. Weisberg, R., Mukamal, D. A., & Segall, J. D. (2011). *Life in limbo: An examination of parole release for prisoners serving life sentences with the possibility of parole in California*. Stanford Criminal Justice Center. http://law.stanford.edu/wp-content/uploads/sites/default/files/child-page/164096/doc/slpublic/SCJC_report_Parole_Release_for_Lifers.pdf; Fischer, R. (2005). *Are California's recidivism rates really the highest in the nation? It depends on what measure of recidivism you use*. UC Irvine Center for Evidence-Based Corrections. https://cpb-us-e2.wpmucdn.com/sites.uci.edu/dist/0/1149/files/2013/06/bulletin_2005_vol-1_is-1.pdf
 47. Levine, B., & Kettunen, E. (2014). *Paroling people who committed serious crimes: What is the actual risk?* Citizens Alliance on Prisons and Public Spending. https://www.prisonpolicy.org/scans/cappsmi/CAPPS_Paroling_people_who_committed_serious_crimes_11_23_14.pdf; see also Citizens Alliance on Prisons and Public Spending. (2009). *Denying parole at first eligibility: How much safety does it actually buy?* Citizens Alliance on Prisons and Public Spending. <https://static.prisonpolicy.org/scans/cappsmi/Recidivismstudy.pdf>
 48. Justice Policy Institute. (2018). *The Ungers, 5 years and counting*. http://www.justicepolicy.org/uploads/justicepolicy/documents/The_Ungers_5_Years_and_Counting.pdf
 49. Roberts, A. R., Zgoba, K. M., & Shahidullah, S. M. (2007). Recidivism among four types of homicide offenders: An exploratory analysis of 336 homicide offenders in New Jersey. *Aggression and Violent Behavior*, 12(5), 493–507; Neuilly, M.-A., Zgoba, K. M., Tita, G. E., & Lee, S. S. (2011). Predicting recidivism in homicide offenders using classification tree analysis. *Homicide Studies*, 2, 154; Anderson, J. L. (2019). Recidivism of paroled murderers as a factor in the utility of life imprisonment. *Current Issues in Criminal Justice*, 31(2), 255–268.
 50. Farrell, T. (2020). A real second chance. *Federal Sentencing Reporter*, 32(5), 272–275, p. 274.
 51. Nagin, D. (2019, March 21). Guest post: Reduce prison populations by reducing life sentences. *Washington Post*. <https://www.washingtonpost.com/crime-law/2019/03/21/guest-post-reduce-prison-populations-by-reducing-life-sentences/>
 52. Robinson, P., & Darley, J. (2004). Does criminal law deter? A behavioural science investigation. *Oxford Journal of Legal Studies*, 24(2), 173–205.
 53. Federal Bureau of Investigation. (2019). *Crime in the United States, 2019: Percent of offenses cleared by arrest or exceptional means by population group*. Department of Justice. <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/tables/table-25>
 54. National Institute of Justice. (2016). *Five things about deterrence*. Department of Justice. <https://nij.ojp.gov/topics/articles/five-things-about-deterrence>
 55. Durlauf, S., & Nagin, D. (2011). Imprisonment and crime: Can both be reduced? *Criminology and Public Policy*, 10(1), 13–54, p. 38.
 56. Stumpf, B. (2019, September 26). Letter to Chairman Charles Allen and Staff. Subject: B23-0127, the “Second Look Amendment Act of 2019” and the Implementation of the Sentence Review Provisions of the “Incarceration Reduction Amendment Act of 2016.” On file with author.
 57. Bronson, J., Stroop, J., Zimmer, S., & Berzofsky, M. (2017). *Drug use, dependence, and abuse among state prisoners and jail inmates, 2007-2009*. US Department of Justice. <https://www.bjs.gov/content/pub/pdf/dudasppi0709.pdf>
 58. Ghandnoosh, N., & Anderson, C. (2017). *Opioids: Treating an illness, ending a war*. The Sentencing Project. <https://www.sentencingproject.org/wp-content/uploads/2017/12/Opioids-Treating-an-Illness-Ending-a-War.pdf>
 59. Jones, C., Campopiano, M., Baldwin, G., & McCance-Katz, E. (2015). National and state treatment need and capacity for opioid agonist medication-assisted treatment. *American Journal of Public Health*, 105(8), e55–63; Gorman, A. (2014, April 5). Despite Obamacare, a gaping hole in addiction treatment. USA Today. <https://www.usatoday.com/story/news/health/2014/04/05/obamacare-drug-alcohol-treatment-addictions-medicare-beds/7256127/>
 60. Ghandnoosh, N. (2017). Minimizing the maximum: The case for shortening all prison sentences. In C. Pettus-Davis & M. Epperson (Eds.), *Smart decarceration: Achieving criminal justice transformation in the 21st century* (pp. 137–159). New York: Oxford University Press; RAND Corporation (2018). *The science of gun policy: A critical synthesis of research evidence on the effects of gun policies in the United States*. https://www.rand.org/pubs/research_reports/RR2088.html
 61. Porter, N. (2016). *Repurposing: New beginnings for closed prisons*. The Sentencing Project. <https://www.sentencingproject.org/publications/repurposing-new-beginnings-closed-prisons/>
 62. American Law Institute. (2021). *Model Penal Code: Sentencing*. Prepublication Draft, p. 275.
 63. Hardaway, D. as told to Bogert, C. (2020, November 20). *I wasn't a superpredator. I was a kid who made a terrible decision*. Marshall Project. <https://www.themarshallproject.org/2020/11/20/i-wasnt-a-superpredator-i-was-a-kid-who-made-a-terrible-decision>
 64. Hardaway, D. as told to Bogert, C. (2020, November 20). *I wasn't a superpredator. I was a kid who made a terrible decision*. Marshall Project. <https://www.themarshallproject.org/2020/11/20/i-wasnt-a-superpredator-i-was-a-kid-who-made-a-terrible-decision>; Bogert, C., & Hancock, L. (2020, November 20). “Superpredator”: *The media myth that demonized a generation of black youth*. Marshall Project. <https://www.themarshallproject.org/2020/11/20/superpredator-the-media-myth-that-demonized-a-generation-of-black-youth>
 65. Becker, E. (2001, February 9). As ex-theorist on young ‘superpredators,’ Bush aide has regrets. *New York Times*. <https://www.nytimes.com/2001/02/09/us/as-ex-theorist-on-young-superpredators-bush-aide-has-regrets.html>; Amici Curiae Supporting Petitioners Kuntrell Jackson and Evan Miller, January 17, 2012. 567 U.S. (2012). (no. 10-9646 and 10-9647), 2012. <https://cfsy.org/wp-content/uploads/Miller6.pdf>

66. Bogert, C., & Hancock, L. (2020, November 20). "Super-predator": The media myth that demonized a generation of black youth. Marshall Project. <https://www.themarshallproject.org/2020/11/20/superpredator-the-media-myth-that-demonized-a-generation-of-black-youth>
67. See, for example Dululio, J. (1994). The question of black crime. *Public Interest*, 3-32, p. 15 https://www.nationalaffairs.com/public_interest/detail/the-question-of-black-crime
68. Forman, J. (2017). *Locking up our own: Crime and punishment in black America*. Farrar, Straus and Giroux.
69. Morgan, R., & Oudekerk, B. (2019). *Criminal Victimization, 2018*. Bureau of Justice Statistics. <https://www.bjs.gov/content/pub/pdf/cv18.pdf>
70. Ghandnoosh, N. (2014). *Race and punishment: Racial perceptions of crime and support for punitive policies*. The Sentencing Project. <https://www.sentencingproject.org/publications/race-and-punishment-racial-perceptions-of-crime-and-support-for-punitive-policies/>
71. Ghandnoosh, N., & Anderson, C. (2017). *Opioids: Treating an illness, ending a war*. The Sentencing Project. <https://www.sentencingproject.org/wp-content/uploads/2017/12/Opioids-Treating-an-Illness-Ending-a-War.pdf>
72. Dilulio, J. (1995, November 27). The coming of the super-predators. *Washington Examiner*. <https://www.washingtonexaminer.com/weekly-standard/the-coming-of-the-super-predators>
73. The Violent Youth Predator Act of 1996, H.R.3565, 104th Congress (1995-1996). <https://www.congress.gov/bill/104th-congress/house-bill/3565/text>; Gearan, A., & Phillip, A. (2016, February 25). Clinton regrets 1996 remark on 'super-predators' after encounter with activist. *Washington Post*. <https://www.washingtonpost.com/news/post-politics/wp/2016/02/25/clinton-heckled-by-black-lives-matter-activist/>
74. Hardaway, D. as told to Bogert, C. (2020, November 20). *I wasn't a superpredator. I was a kid who made a terrible decision*. Marshall Project. <https://www.themarshallproject.org/2020/11/20/i-wasnt-a-superpredator-i-was-a-kid-who-made-a-terrible-decision>
75. Schiraldi, V. (2001, February 5). Will the real John Dilulio please stand up. *Washington Post*. <https://www.washingtonpost.com/archive/opinions/2001/02/05/will-the-real-john-diulio-please-stand-up/cd4e6bec-5dac-4eeb-b431-cee7de2b33e2/>
76. Berman, D. (2014). Re-balancing fitness, fairness, and finality for sentences. *The Wake Forest Journal of Law & Policy*, 4(1), 151-177, p. 175.
77. Bishop, J. (2015). A victims' family member on juvenile life without parole sentences: "Brutal finality" and unfinished souls. *DePaul Journal for Social Justice*, 9(1), 85-92, p. 92.
78. Broun, S., & Allison, J. (2016, December 9). *20 years later*. This American Life. <https://www.thisamericanlife.org/604/20-years-later>; DiFilippo, D. (2016, November 1). *Stepping back from vengeance; seeking reformative justice*. WHY? <https://why.org/articles/stepping-back-from-vengeance-seeking-reformative-justice/>
79. Baran, M., & Vogel, J. (2016, October 4). *Sex-offender registries: How the Wetterling abduction changed the country*. APM Reports. <https://www.apmreports.org/story/2016/10/04/sex-offender-registries-wetterling-abduction>; Wetterling, P. (2019, February 28). Keynote speech: Spring 2019 symposium – Residency restriction: Wise or unwise? Mitchell Hamline School of Law. <https://mitchellhamline.edu/sex-offense-litigation-policy/2019/03/20/spring-2019-symposium-residency-restrictions-wise-or-unwise/>
80. On the family members of Polly Klaas, see: Nichol, J., & Nichol, A. (2020, October 18). Op-Ed: Polly Klaas was our sister. We don't want unjust laws to be her legacy. *Los Angeles Times*. <https://www.latimes.com/opinion/story/2020-10-18/polly-klass-legacy-unjust-laws>; Domanick, J. (2004, September 19). They changed their minds on three strikes. Can they change the voters'? *Los Angeles Times*. <https://www.latimes.com/archives/la-xpm-2004-sep-19-tm-threestrikes38-story.html>. On Herman Bell's case, see: Baker, A. (2018, March 14). Nearly 5 decades later, man who killed New York officers wins parole. *New York Times*. <https://www.nytimes.com/2018/03/14/nyregion/herman-bell-nypd-parole.html>; On the family members of Donnie Johnson, see: Burgess, K. (2019, May 8). Their father killed their mother. Now, the siblings disagree on whether he should be executed. *Memphis Commercial Appeal*. <https://www.commercialappeal.com/story/news/2019/05/08/donnie-johnson-death-row-inmate-children-disagree-whether-he-should-be-executed/3654731002/>
81. Mills, L. (2006). The justice of recovery: How the state can heal the violence of crime. *Hastings Law Journal*, 57(3), 457-508, p. 457.
82. Sered, D. (2017). *Accounting for violence: How to increase safety and break our failed reliance on mass incarceration*. Vera Institute of Justice. <https://d3n8a8pro7vnm.cloudfront.net/commonjustice/pages/82/attachments/original/1506608259/accounting-for-violence.pdf?1506608259>, p. 12; see also, Sered, D. (2019). *Until we reckon: Violence, mass incarceration, and a road to repair*. The New Press.
83. Common Justice. (2021). *Our Work*. https://www.commonjustice.org/our_work; on similar work in Jackson County, Missouri see Murphy, K. (2021). Neighborhood accountability boards: A case study on the promise and limitations of prosecutor-led reform. *Stanford Journal of Civil Rights & Civil Liberties*, 16(3), 421-433.
84. Rhine, E. E., Petersilia, J., & Reitz, R. (2015). Improving parole release in America. *Federal Sentencing Reporter*, 28(2), 96-104.
85. Sered, D. (2017). *Accounting for violence: How to increase safety and break our failed reliance on mass incarceration*. Vera Institute of Justice. <https://d3n8a8pro7vnm.cloudfront.net/commonjustice/pages/82/attachments/original/1506608259/accounting-for-violence.pdf?1506608259>, p. 15
86. Steiker, C. S., & Steiker, J. M. (2011, September 27). *Why death penalty opponents are closer to their goal than they realize*. The New Republic. <https://newrepublic.com/article/95378/troy-davis-death-penalty-abolish>
87. Berman, D. (2014). Re-balancing fitness, fairness, and finality for sentences. *The Wake Forest Journal of Law & Policy*, 4(1), 151-177, p. 170.
88. American Law Institute. (2021). *About ALI*. <https://www.ali.org/about-ali/>
89. Robinson, P., & Dubber, M. (2007). The American Model Penal Code: A Brief Overview. *New Criminal Law Review*, 10(3), 319-341.

90. American Law Institute. (2021). *Model Penal Code: Sentencing*. Prepublication Draft, p. 800.
91. Frase, R. (2009). Second look provisions in the proposed Model Penal Code revisions. *Federal Sentencing Reporter*, 21(3), 194–202.
92. American Law Institute. (2021). *Model Penal Code: Sentencing*. Prepublication Draft, p. 290.
93. American Law Institute. (2021). *Model Penal Code: Sentencing*. Prepublication Draft, p. 813.
94. Klingele, C. (2010). Changing the sentence without hiding the truth: Judicial sentence modification as a promising method of early release. *William & Mary Law Review*, 52(2), 465-536, p. 528.
95. United States Sentencing Commission (2020, March). *U.S. Sentencing Commission 2014 drug guidelines amendment retroactivity data report*. <https://www.ussc.gov/sites/default/files/pdf/research-and-publications/retroactivity-analysis/drug-guidelines-amendment/20200324-Drug-Retro-Analysis.pdf>; M. Romano, personal communication, April 22, 2021.
96. Lopez, G. (2016, May 17). *Cory Booker: Senate bill is “in my lifetime the first reversal of mass incarceration.”* Vox. <https://www.vox.com/2016/5/17/11661858/cory-booker-criminal-justice-reform>; see also Lustbader, S., & Gullapalli, V. (2019, February 6). “Special edition: Will Cory Booker continue talking about second chances for people convicted of violent crimes?” The Appeal. <https://theappeal.org/will-cory-booker-continue-talking-about-second-chances-for-people-convicted-of-violent-crimes/>
97. The bill also proposed creating a rebuttable presumption of release for petitioners aged 50 or older, shifting the burden to the government to demonstrate why the individual should remain imprisoned. See: Office of Cory Booker. (2019, July 15). *Booker, Bass to introduce groundbreaking bill to give “second look” to those behind bars* [Press release]. <https://www.booker.senate.gov/news/press/booker-bass-to-introduce-groundbreaking-bill-to-give-and-ldquo-second-look-and-rdquo-to-those-behind-bars>
98. National Association of Criminal Defense Lawyers. (2020, December). NACDL model “second look” legislation: Second look sentencing act. <https://www.nacdl.org/getattachment/4b6c1a49-f5e9-4db8-974b-a90110a6c429/nacdl-model-second-look-legislation.pdf>
99. Brown, S. R. (2021, January 18). Harlem heroin dealer sentenced to life in 1990 wins release. *New York Daily News*. <https://www.nydailynews.com/new-york/ny-harlem-heroin-dealer-compassionate-release-20210118-ssgkjfdmojb5rd5nomfhgcn2ba-story.html>
100. Taifa, N. (2021, January 15). *Personal statement of Nkechi Taifa on today’s granting of compassionate release to William Underwood*. Justice Roundtable. <https://justiceroundtable.org/news-item/personal-statement-of-nkechi-taifa-on-todays-granting-of-compassionate-release-to-william-underwood/>
101. Caldwell, L. A. (2019, July 14). *Cory Booker aims to give aging prisoners ‘a second look.’* NBC News. <https://www.nbcnews.com/politics/2020-election/cory-booker-aims-give-aging-prisoners-second-look-n1029711>
102. *United States v. Underwood*, 88-Cr-822 (SHS) (S.D.N.Y. Jan. 15, 2021)
103. Underwood Legacy Fund. <https://underwoodlegacyfund.com/>
104. Justice Roundtable. (2021, March 21). Welcome home fireside chat featuring Senator Cory Booker and William Underwood. [video]. YouTube. <https://shout-out.wix.com/so/feNWNsjMh?languageTag=en&cid=8f-b4508e-5317-4f0a-8c3b-d2d382f072c1®ion=76e25405-571a-421b-ad63-947938b1593f#/main>
105. Office of Cory Booker. (2019, July 15). *Booker, Bass to introduce groundbreaking bill to give “second look” to those behind bars* [Press release]. <https://www.booker.senate.gov/news/press/booker-bass-to-introduce-groundbreaking-bill-to-give-and-ldquo-second-look-and-rdquo-to-those-behind-bars>
106. Sharp, K., & Ring, K. (2019, June 20). Judges should be able to take a ‘second look’ at prison sentencing. *USA Today*. <https://www.usatoday.com/story/opinion/policing/2019/06/20/inmates-prison-reform-judges-sentencing-trump-policing-the-usa/1498072001/>
107. This analysis is based on data on 37,270 individuals who comprised 58% of the life-sentenced population in the following 14 states: Arizona, Colorado, Florida, Georgia, Illinois, Mississippi, Montana, New York, North Carolina, North Dakota, Ohio, South Carolina, Wisconsin, and Wyoming. Life sentences include those with or without parole eligibility or “virtual life” sentences of 50 years or longer. Based on data collected for Nellis, A. (2021). *No end in sight: America’s enduring reliance on life imprisonment*. The Sentencing Project. <https://www.sentencingproject.org/publications/no-end-in-sight-americas-enduring-reliance-on-life-imprisonment/>
108. R. Owen, personal communication, April 28 and 29, 2021, based on the Committee on Revision of the Penal Code’s analysis of data provided by California Department of Corrections and Rehabilitation Office of Research; California Department of Corrections and Rehabilitation Office of Research. (2021). *Weekly report of population as of midnight April 28, 2021*. <https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2021/04/Tpop1d210428.pdf>
109. California Penal Code § 1170(d)(1)
110. AB 2942 also allows individuals serving life without parole for a crime they committed under age 18 to directly petition for resentencing after 15 years of imprisonment, with several exclusions. California Assembly Bill 2942, Chapter 1001 (2018). https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB2942
111. Ting, P. (n.d.). Second chances. *San Francisco Bay Times*. <http://sfbaytimes.com/second-chances-2/>; See Nellis, A. (2017). *Still life: America’s increasing use of life and long-term sentences*. The Sentencing Project. <https://www.sentencingproject.org/publications/still-life-americas-increasing-use-life-long-term-sentences/>
112. For the People. Justice call us [video]. <https://www.fortheppl.org> at 2:06.
113. California Law Revision Commission. (2020, November 14). Committee on Revision of the Penal Code, November 12, 2020 Pt. 2/3 [video]. YouTube. <https://www.youtube.com/watch?v=PqX2KkD-PME> at 4:30.
114. California Assembly Bill 2942, Chapter 1001 (2018). https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB2942
115. Sentence Review Project. (2019, January). *District Attorney Discretion to Recommend Sentence Recall and Re-*

- sentencing Assembly Bill 2942 & Penal Code § 1170(d)(1).: Frequently Asked Questions. https://a19.asmdc.org/sites/a19.asmdc.org/files/pdf/AB2942-FAQs_0.pdf
116. H. Blout, personal communication, April 6, 2021.
 117. Ella Baker Center for Human Rights. (2021). Back to court: A resentencing guide for the fair and just sentencing reform act (SB 1393) and PC § 1170(d)(1). https://ellabakercenter.org/wp-content/uploads/2021/01/Toolkit_Jan2021.pdf
 118. Gardiner, D. (2019, August 2). First inmate released under new California resentencing law. *San Francisco Chronicle*. <https://www.sfchronicle.com/politics/article/First-inmate-released-under-new-California-14276997.php>; Repard, P. (2019, August 2). Burglar freed after 16 years of a 50-year prison term under new resentencing law. <https://www.latimes.com/california/story/2019-08-02/burglar-freed-after-16-years-of-a-50-year-prison-term-under-new-sentencing-law>
 119. H. Blout, personal communication, April 6, 2021.
 120. H. Blout, personal communication, March 3, 2021.
 121. H. Blout, personal communication, March 3, 2021. See also: Berman, D. (2010). Encouraging (and even requiring) prosecutors to be second-look sentencers. *Temple Political & Civil Rights Law Review*, 19(429).
 122. H. Blout, personal communication, March 3, 2021.
 123. H. Blout, personal communication, February 2, 2021.
 124. Currently, For the People partners with District Attorneys' offices in counties including Contra Costa, Humboldt, Napa, Riverside, San Diego, San Francisco, San Luis Obispo, Santa Clara, Santa Cruz, and Yolo. See For the People. *District Attorney partners*. <https://www.fortheppl.org/new-page-55>; Association of Prosecuting Attorneys. (2021, January 27). Second look: Prosecutor led resentencing [video]. YouTube. https://www.youtube.com/watch?v=LM6Z0_MH-qm0&feature=youtu.be
 125. In 2018 California's legislature also passed Assembly Bill 1812, allocating additional resources to CDCR to identify candidates for resentencing and advising judges to consider evidence of rehabilitation and post-conviction factors. See Ella Baker Center for Human Rights. (2021). Back to court: A resentencing guide for the fair and just sentencing reform act (SB 1393) and PC § 1170(d)(1). https://ellabakercenter.org/wp-content/uploads/2021/01/Toolkit_Jan2021.pdf
 126. California Law Revision Commission. (2020, November 14). Committee on Revision of the Penal Code, November 12, 2020 Pt. 2/3 [video]. YouTube. <https://www.youtube.com/watch?v=PqX2KkD-PME> at 47:48.
 127. California Committee on Revision of the Penal Code. (2020). *Annual report and recommendations*. http://www.clrc.ca.gov/CRPC/Pub/Reports/CRPC_AR2020.pdf, p. 66
 128. California Law Revision Commission. (2020, November 14). Committee on Revision of the Penal Code, November 12, 2020 Pt. 2/3 [video]. YouTube. <https://www.youtube.com/watch?v=PqX2KkD-PME>
 129. California Change Lawyers. (2020, November 16). From slavery to mass incarceration [video]. YouTube. <https://www.youtube.com/watch?v=w10VW1HapSY> at 52:50.
 130. Shaddox, R. (2020, December 7). New resentencing law grants second chance to California inmates. *Fox* 40. <https://fox40.com/news/local-news/new-resentencing-law-grants-second-chance-to-california-inmates/>
 131. California Senate Bill 1391, Chapter 1012. (2018). https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB2942
 132. A. Aradoz, personal communication, March 30, 2021.
 133. A. Aradoz, personal communication, March 30, 2021.
 134. *Woodland Daily Democrat*. Yolo residents get prison sentences cut under new state law. <https://www.dailydemocrat.com/2020/12/07/state-law-allows-yolo-county-convictions-to-be-reduced/>
 135. Association of Prosecuting Attorneys. (2021, January 27). Second look: Prosecutor led resentencing [video]. YouTube. https://www.youtube.com/watch?v=LM6Z0_MH-qm0&feature=youtu.be at 37:32.
 136. For the People. Justice call us [video]. <https://www.fortheppl.org> at 1:12.
 137. Mearhoff, S. (2021, February 23). Minnesota House bill would allow prosecutors to review past sentences for long-serving inmates. *Pine Journal*. <https://www.pinejournal.com/news/government-and-politics/6901929-Minnesota-House-bill-would-allow-prosecutors-to-review-past-sentences-for-long-serving-inmates>
 138. Nichanian, D. (2020, January 9). *How George Gascón wants to reform Los Angeles and achieve "the lowest level of intervention."* The Appeal. <https://theappeal.org/politicalreport/how-george-gascon-wants-reform-los-angeles-district-attorney-election/>
 139. Gascón, G. (2020, December 7). *Special Directive 20-14*. <https://www.georgegascon.org/wp-content/uploads/2020/12/SPECIAL-DIRECTIVE-20-14.docx.pdf>
 140. Gascón, G., & Mosby, M. (2020, December 8). *Resentencing units can rectify, rehabilitate, and restore*. The Appeal. <https://theappeal.org/resentencing-units-can-rectify-rehabilitate-and-restore/>
 141. California Committee on Revision of the Penal Code. (2020). *Annual report and recommendations*. http://www.clrc.ca.gov/CRPC/Pub/Reports/CRPC_AR2020.pdf, p. 66
 142. California Assembly Bill 1540 (2021). https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1540; California Assembly Bill 1245 (2021). https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1245
 143. New York Assembly Bill A3974, 2019-2020 Legislative Session (2019). <https://www.nysenate.gov/legislation/bills/2019/a3974>
 144. Illinois Public Act 099-0384, (2015). <https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=099-0384>
 145. Law, V. (2020, September 3). *New York lawmakers fear court may render domestic violence survivor law 'meaningless'*. The Appeal. <https://theappeal.org/new-york-lawmakers-fear-court-may-render-domestic-violence-survivor-law-meaningless/>
 146. Washington Senate Bill 6164, Chapter 203 (2020). <http://lawfilesexternal.wa.gov/biennium/2019-20/Pdf/Bills/Session%20Laws/Senate/6164.SL.pdf?q=20200505154858>
 147. Shapiro, N. (2020, September 17). Washington's prisons may have hit pivotal moment as they eye deep cut in their population. *The Seattle Times*. <https://www.seattletimes.com/seattle-news/politics/a-transformational-moment-washingtons-prison-system-backs-reforms-as-it-faces-covid-19-budget-cuts-and-protests-over-racial-injustice/>

148. Association of Prosecuting Attorneys. (2021, January 27). Second look: Prosecutor led resentencing [video]. YouTube. https://www.youtube.com/watch?v=LM6Z0_MH-qm0&feature=youtu.be 32:37; Robertson, C. (2019, July 19). Would you let the man who killed your sister out of prison? *New York Times*. <https://www.nytimes.com/2019/07/19/us/violent-crime-ohio-prison.html>; Robertson, C. (2019, August 1). His victim's sisters said he should be released from prison. Now he's a free man. *New York Times*. <https://www.nytimes.com/2019/08/01/us/ohio-prison-murder-early-release.html>
149. The San Francisco District Attorney's Office. (2020, September 17). *District Attorney Boudin announces formation of post-conviction unit and innocence commission* [Press release]. <https://www.sfdistrictattorney.org/press-release/formation-of-post-conviction-unit-and-innocence-commission/>
150. King County Courthouse, Prosecuting Attorney's Office. (2020, June 5). *New unit announcement* [Press release]. <https://www.kingcounty.gov/depts/prosecutor/news/sru-announcement.aspx>; Office of the State's Attorney for Baltimore City. (2020, December). *State's attorney announces creation of sentencing review unit* [Press release]. <https://www.statattorney.org/media-center/press-releases/2148-state-s-attorney-announces-creation-of-sentencing-review-unit>
151. WIS.STAT. § 973.19. See also: Klingele, C. (2010). Changing the sentence without hiding the truth: Judicial sentence modification as a promising method of early release. *William & Mary Law Review*, 52(2), 465-536; Vielmetti, B. (2018, August 16) Denied parole 6 times, inmate featured in 'Milwaukee 53206' documentary wins release. *Milwaukee Journal Sentinel*. <https://www.jsonline.com/story/news/crime/2018/08/16/wisconsin-inmate-featured-documentary-wins-release-fairness/993003002/>
152. Simerman, J. (2021, January 26). Jason Williams says office won't oppose parole bids as new DA launches reform agenda. *Nola.com*. https://www.nola.com/news/courts/article_60463a88-6026-11eb-aaaf-2f392551c025.html?utm_medium=social&utm_source=twitter&utm_campaign=user-share&fbclid=IwAR0OtrECrVgyrIwY4t-GlvX57YoH9MwjK65AyNyY2gU2JWfMDu7H24MPQng
153. Schiraldi, V., & Western, B. (2015, October 2). Why 21 year-old offenders should be tried in family court. *Washington Post*.
154. Steinberg, L., Cauffman, E., & Monahan, K. (2015). *Psychosocial maturity and desistance from crime in a sample of serious juvenile offenders*. Office of Juvenile Justice and Delinquency Prevention. <https://www.courts.ca.gov/documents/BTB24-2M-5.pdf>. Note that some experts recommend treating emerging adults as a separate category from youth and adults. See Scott, E. S., Bonnie, R. J., & Steinberg, L. (2016). Young adulthood as a transitional legal category: Science, social change, and justice policy. *Fordham Law Review*, 85(2), 641-666.
155. Institute of Medicine and National Research Council. (2015). *Investing in the health and well-being of young adults*. The National Academies Press, p. 50. <https://www.nap.edu/catalog/18869/investing-in-the-health-and-well-being-of-young-adults>
156. Loeber, R., & Farrington, D. P. (2013). *Bulletin 1: From juvenile delinquency to young adult offending*. National Institute of Justice, p. 20 <https://www.ojp.gov/pdffiles1/nij/grants/242931.pdf>
157. Arnett, J. J. (2000) *Emerging adulthood: A theory of development from the late teens through the twenties*. *American Psychologist* 55(5):469-80, p. 475.
158. Schiraldi, V., & Western, B. (2015, October 2). Why 21 year-old offenders should be tried in family court. *Washington Post*. https://www.washingtonpost.com/opinions/time-to-raise-the-juvenile-age-limit/2015/10/02/948e317c-6862-11e5-9ef3-fde182507eac_story.html
159. National Conference of Legislatures. (2017). *Extending foster care beyond 18*. <https://www.ncsl.org/research/human-services/extending-foster-care-to-18.aspx>; Child Welfare Information Gateway. (2017). Extension of foster care beyond age 18. Children's Bureau. <https://www.child-welfare.gov/pubPDFs/extensionfc.pdf>
160. Lindell, K. U., & Goodjoint, K. L. (2020). *Rethinking justice for emerging adults: Spotlight on the Great Lakes region*. Juvenile Law Center. <https://jlc.org/sites/default/files/attachments/2020-09/JLC-Emerging-Adults-9-2.pdf>
161. Hanan, M. E. (2019). Incapacitating errors: Sentencing and the science of change. *Denver Law Review*, 97(1), 151-230; Rovner, J. (2021). *Juvenile life without parole: An overview*. The Sentencing Project. <https://www.sentencing-project.org/publications/juvenile-life-without-parole/>
162. Schiraldi, V. (2018). *Reflections on how Europe handles emerging adults in trouble with the law*. Columbia University Justice Lab. <https://justicelab.columbia.edu/reflections-how-europe-handles-EAJ>
163. Becker, D. (2019, October 3). Why Vermont raised its juvenile court age above 18 – And Mass. might, too. *WBUR News*. <https://www.wbur.org/news/2019/10/03/juvenile-court-age-vermont-massachusetts>
164. Ryan, A. (2019, July 9). Crime bill would redefine juveniles as up to age 21. *Boston Globe*. <https://www.bostonglobe.com/metro/2019/07/09/crime-bill-would-redefine-juveniles-age/maHshbBT6QaaX9ooVDVidN/story.html>; Malloy, D. (2018, March 18). *Gov. Malloy introduces juvenile justice reform legislation: Legislative proposal raises the age of juvenile justice jurisdiction; expands opportunity for youthful offenders to lead productive lives* [Press release]. <https://portal.ct.gov/Malloy-Archive/Press-Room/Press-Releases/2018/03-2018/Gov-Malloy-Introduces-Juvenile-Justice-Reform-Legislation>; Dunklau, S. (2018, March 7). Lawmakers consider raising age limit for IL juvenile justice. *NPR Illinois*. <https://www.nprillinois.org/post/lawmakers-consider-raising-age-limit-il-juvenile-justice#stream/0>; Davis, J., & Rubin, K. (2020). *Expanding youth justice in New York*. Youth Represent and Children's Defense Fund-New York. https://www.cdfny.org/wp-content/uploads/sites/3/2020/10/FINAL_Expanding-Youth-Justice-in-New-York-4.pdf
165. The NFL Players Coalition also supported this reform. See, McCourty, D., & McCourty, J. (2019, November 14). NFL players back state bill supporting young offenders. *Boston Herald*. <https://www.bostonherald.com/2019/11/14/nfl-players-back-state-bill-supporting-young-offenders/>
166. Rollins, R., & Krinsky, M. A. (2019, June 12). Germany's better path on emerging-adult offenders. *Boston Globe*. <https://www.bostonglobe.com/opinion/editorials/2019/06/12/germany-better-path-emerging-adult-of->

- fenders/C4gRa5v6y2dqa1Q9DZiM0K/story.html?p1=Article_Inline_Text_Link
167. Youth Rehabilitation Amendment Act of 2018. D.C. Law 22-197 (2018). <https://code.dccouncil.us/dc/council/laws/22-197.html>
 168. Michigan Compiled Laws, Section 762.11 (2015). [https://www.nysenate.gov/legislation/bills/2019/A5871](https://www.legislature.mi.gov/(S(bu4ssxyvf5wmu5a-2bapajbuj))/mleg.aspx?page=GetObject&objectname=mcl-762-11; New York Assembly Bill A5871, 2019-2020 Regular Sessions (2019). <a href=); see also Davis, J., & Rubin, K. (2020). *Expanding youth justice in New York*. Youth Represent and Children's Defense Fund-New York. <https://static1.squarespace.com/static/5672e21ddf40f3fd5f527d40/t/5f7f29d11b5a1621b0ee765c/1602169299292/Expanding+Youth+Justice+in+New+York.pdf>
 169. Johnson, G. (2021, March 11). Court overturns automatic life sentences for young killers. *Associated Press*. <https://apnews.com/article/sentencing-washington-courts-e30b453434673211a9a3d4a826980daf>
 170. Sakala, L., Courtney, L., Matei, A., & Harvell, S. (2020). *A guide to community strategies for improving emerging adults' safety and well-being*. Urban Institute. https://www.urban.org/sites/default/files/publication/101838/a20guide20to20community20strategies20for20improving20emerging20adults2720safety20an_0.pdf
 171. Davis, J., & Rubin, K. (2020). *Expanding youth justice in New York*. Youth Represent and Children's Defense Fund-New York, p. 24. https://www.cdfny.org/wp-content/uploads/sites/3/2020/10/FINAL_Expanding-Youth-Justice-in-New-York-4.pdf
 172. Shanahan, R. (n.d.). *Young adults in Rikers Island jail*. Vera Institute of Justice. <https://www.vera.org/projects/young-adults-in-jail>; Associated Press. (2015, September 4). 'Young adult' jail at Rikers to house all inmates 18 to 21. *New York Post*. <https://nypost.com/2015/09/04/young-adult-jail-at-rikers-to-house-all-inmates-ages-18-to-21/>
 173. Chammah, M. (2018, May 8). *The Connecticut experiment*. The Marshall Project. <https://www.themarshallproject.org/2018/05/08/the-connecticut-experiment>
 174. E. DeLeon, personal communication, March 26, 2021.
 175. E. DeLeon, personal communication, March 26, 2021.
 176. T. Montañez, personal communication, June 30, 2020.
 177. Lyons, K. (2021, January 15). Judge approves shorter sentence for convicted murderer turned prison mentor. *CT Mirror*. <https://ctmirror.org/2021/01/15/judge-approves-shorter-sentence-for-convicted-murderer-turned-prison-mentor/>
 178. Connecticut Senate Bill 978 (2021). https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=SB-978&uid=vincent.russo@ct.gov&which_year=2021
 179. E. DeLeon, personal communication, March 26, 2021.
 180. After approval by the mayor in January 2021, the legislation's Congressional review process was completed in April, 2021.
 181. M. Brown, personal communication, Mar 9, 2020. See also: FAMM. (2019, September 26). *Why a second look* [video]. YouTube. <https://www.youtube.com/watch?v=596M-gO77dT4>
 182. As part of the Comprehensive Youth Justice Amendment Act: D.C. Law 21-238. Comprehensive Youth Justice Amendment Act of 2016. <https://code.dccouncil.us/dc/council/laws/21-238.html>
 183. Among the 3,627 individuals imprisoned with a DC criminal law conviction in a Federal Bureau of Prisons facility as of December 2019, 52% had sentences of 15 years or longer and of these, 54% committed their offense under age 25. Tarnalicki, T. *15+ year sentences, part two (incarceration data)*. Memo, District of Columbia Sentencing Commission, August 17, 2020. On file with author.
 184. Krepp, D. (2019, August 16). Opinion: D.C.'s early release bill is a slap in the face to sex-crime victims. *Washington Post*. https://www.washingtonpost.com/opinions/local-opinions/dcs-early-release-bill-is-a-slap-in-the-face-to-sex-crime-victims/2019/08/16/a55fd940-bdf1-11e9-a5c6-1e74f7ec4a93_story.html; see also Leshan, B. (2020, December 8). Survivors angry that DC bill could give hundreds of violent offenders a path to early release. *WUSA 9*. <https://www.wusa9.com/article/features/producers-picks/violent-dc-criminals-could-get-early-release/65-fa63feb5-9155-428e-9e19-37f55c35007b>; Magill, J. (2019, November 2). Guest view: A letter to the residents and council of Washington, D.C. *Appeal-Democrat*. https://www.appeal-democrat.com/opinion/guest-view-a-letter-to-the-residents-and-council-of-washington-d-c/article_d9036406-fde8-11e9-a52c-df29f615ca92.html
 185. Goggans, A. (2019, September 6). Opinion: I survived sexual assault, and I support giving D.C. inmates a second chance. *Washington Post*. https://www.washingtonpost.com/opinions/i-survived-sexual-assault-and-i-support-giving-dc-inmates-a-second-chance/2019/09/06/55829cd0-cff5-11e9-a620-0a91656d7db6_story.html
 186. Network for Victim Recovery of DC [@NVRDC]. The Second Look Amendment Act was approved by the DC Council this Tuesday. Read @NVRDC's statement expressing our strong support for DC's efforts towards criminal legal reform & NEW definitions of justice that account for the spectrum of crime survivors' experiences. #SecondLookAct [image attached] [Tweet]. Twitter. <https://twitter.com/NVRDC/status/1339956699260661764?s=20>; see also, Sered, D. (2019, December 31). Opinion: Prison isn't a preferred punishment, even by violent-crime survivors. *Washington Post*. https://www.washingtonpost.com/opinions/prison-isnt-a-preferred-punishment-even-by-violent-crime-survivors/2019/12/31/9b4b5f44-28e3-11ea-9cc9-e19cf-bc87e51_story.html
 187. Erin Palmer [@Erinfor4B02]. I've highlighted key items on our agenda, including @johnson4b06's res re agency failures as related to Kennedy St fire; a letter to Douglas Dev in opposition to proposed fed facility for unaccompanied minors & my res in support of the Second Look Act (attached). /2 [media attached] [Tweet]. Twitter. <https://twitter.com/Erinfor4B02/status/1174682289663545344?s=20>
 188. C. Carpenter, personal communication, March 7, 2021.
 189. C. Carpenter, personal communication, March 7, 2021. See, for example: Alexander, K. L. (2020, July 9). Former D.C. inmates use virtual meetings for support, encouragement as they adjust to life outside prison. *Washington Post*. https://www.washingtonpost.com/local/public-safety/former-dc-inmates-use-virtual-meetings-for-support-encouragement-as-they-adjust-to-life-outside-prison/2020/07/08/b6c2dbc2-bae6-11ea-bdaf-a129f921026f_story.html; Ellis, E. (2016, December 16). Opinion: I am one of the success

- stories from D.C.'s second-chance law for young offenders. *Washington Post*. https://www.washingtonpost.com/opinions/i-am-one-of-the-success-stories-from-dcs-second-chance-law-for-young-offenders/2016/12/16/f1f2c9a4-c211-11e6-8422-eac61c0ef74d_story.html
190. Code of the District of Columbia. § 24–403.03. Modification of an imposed term of imprisonment for violations of law committed before 18 years of age. <https://code.dccouncil.us/dc/council/code/sections/24-403.03.html>
191. Forman Jr., J. (2019, September 20). Opinion: Justice sometimes needs a do-over. *Washington Post*. https://www.washingtonpost.com/opinions/local-opinions/justice-sometimes-needs-a-do-over/2019/09/20/4216161a-d665-11e9-86ac-0f250cc91758_story.html
192. The Second Look Act makes half (50%) of those sentenced to over 15 years in prison for a DC criminal law conviction between 2010 and 2019 eventually eligible for resentencing, while the previous reform applying only to youth crimes impacts 8% of these sentences. Among those sentenced to over 15 years during this period, 88% are Black men. Tarnalicki, T. *15+ year sentences, part one (sentencing data)*. Memo, District of Columbia Sentencing Commission, August 7, 2020. On file with author; Public Welfare Foundation. (2019). *D.C.'s justice systems: An overview*. https://www.publicwelfare.org/wp-content/uploads/2019/10/PWF_DCs-Justice-Systems-Overview.pdf
193. The Sentencing Project was among the members. Thrive Under 25 Coalition. (2020, November 18). *Letter in support of the Second Look Amendment Act of 2019*. https://www.sentencingproject.org/wp-content/uploads/2021/03/DC-Second-Look-2020-Sign-On_111820v.pdf
194. Georgetown Juvenile Justice Initiative. (n.d.). Support the Second Look Amendment Act. *The Action Network*. <https://actionnetwork.org/petitions/support-the-second-look-amendment-act>
195. Allen, C. (2019, April 29). *Closing Hearing Record* [Memorandum]. Council of the District of Columbia, Committee on the Judiciary and Public Safety. https://lms.dccouncil.us/downloads/LIMS/41814/Hearing_Record/B23-0127-HearingRecord1.pdf
196. Donahue, K. (2019, March 26). *Public Hearing on B23-127, the "Second Look Amendment Act of 2019"* [Testimony]. Government of the District of Columbia: Office of the Deputy Mayor for Public Safety and Justice. https://dmprj.dc.gov/sites/default/files/dc/sites/dmprj/release_content/attachments/Donahue-Testimony-Second-LookAmendmentAct.pdf
197. Austermuhle, M. (2019, August 22). Should young violent offenders be eligible for early release? D.C. and the feds struggle to decide. *WAMU*. <https://wamu.org/story/19/08/22/i-wanted-him-to-rot-d-c-officials-and-prosecutors-wage-battle-over-fates-of-young-violent-offenders/>; Leshan, B. (2020, December 8). Survivors angry that DC bill could give hundreds of violent offenders a path to early release. *WUSA 9*. <https://www.wusa9.com/article/features/producers-picks/violent-dc-criminals-could-get-early-release/65-fa63feb5-9155-428e-9e19-37f55c35007b>
198. Allen, C., & Racine, K. A. (2019, August 16). Opinion: No, D.C.'s criminal justice reform efforts don't go too far. *Washington Post*. https://www.washingtonpost.com/opinions/local-opinions/no-dcs-criminal-justice-reform-efforts-dont-go-too-far/2019/08/16/907807c2-bea6-11e9-9b73-fd3c65ef8f9c_story.html
199. Washington Post Editorial Board. (2020, February 27). Opinion: Virginia finally recognizes that children jailed for life deserve at least a chance at parole. *Washington Post*. https://www.washingtonpost.com/opinions/virginia-finally-recognizes-that-children-jailed-for-life-deserve-at-least-a-chance-for-parole/2020/02/27/9d025bd4-58be-11ea-9000-f3cffee23036_story.html; Washington Post Editorial Board. (2021, February 5). Opinion: Maryland must put an end to juvenile life without parole. *Washington Post*. https://www.washingtonpost.com/opinions/maryland-must-put-an-end-to-juvenile-life-without-parole/2021/02/05/b813bb08-67da-11eb-886d-5264d4ceb46d_story.html;
200. Washington Post Editorial Board. (2019, August 3). Opinion: D.C. has gone too far on criminal justice reform. *Washington Post*. https://www.washingtonpost.com/opinions/dc-has-gone-too-far-on-criminal-justice-reform/2019/08/03/aedccfa4-b55f-11e9-8949-5f36ff92706e_story.html; Washington Post Editorial Board. (2019, August 18). For some of D.C.'s most violent criminals, a get-out-of-jail-soon card. *Washington Post*. https://www.washingtonpost.com/opinions/for-some-of-dcs-most-violent-criminals-a-get-out-of-jail-soon-card/2019/08/18/b2c55058-c065-11e9-9b73-fd3c65ef8f9c_story.html; Washington Post Editorial Board. (2019, December 25). Opinion: A bill to reduce sentences for violent D.C. felons goes too far. *Washington Post*. https://www.washingtonpost.com/opinions/a-bill-to-reduce-sentences-for-violent-dc-felons-goes-too-far/2019/12/25/fdbd52ba-e6e2-11e9-a331-2df12d56a80b_story.html
201. U.S. Attorney's Office, District of Columbia. (2019, August 9). *New bill seeks to make over 500 violent criminals (including many rapists and murderers) immediately eligible for early release* [Press Release]. <https://www.justice.gov/usao-dc/pr/new-bill-seeks-make-over-500-violent-criminals-including-many-rapists-and-murderers>
202. U.S. Attorney DC [@USAO_DC]. (2019, September 7). [image attached] [Tweet]. Twitter. https://twitter.com/USAO_DC/status/1170545354548420608?s=20; see The Sentencing Project. (2019, September 11). *Fact: DC has a mass incarceration problem*. <https://www.sentencingproject.org/news/fact-dc-mass-incarceration-problem/>
203. Sanders, C. (2019, September 16). Activists rally behind 'second look' amendment act for incarcerated youth. *Sojourners*. <https://sojo.net/articles/activists-rally-behind-second-look-amendment-act-incarcerated-youth>
204. Block, E. (2019, August 14). DC Council is considering letting more violent offenders out. The U.S. Attorney's office says that's a horrible idea. *WUSA 9*. <https://www.wusa9.com/article/news/local/dc/dc-council-is-considering-letting-more-violent-offenders-out-early-the-us-attorneys-office-says-thats-a-horrible-idea/65-2bb60b33-0a32-4c68-9a9a-394a5283d8b3>; <https://washingtoncitypaper.com/article/178137/how-to-end-a-sentence/>; Ryals, M. (2019, October 10). How to end a sentence. *Washington Post*. https://www.washingtonpost.com/local/public-safety/an-opportunity-to-change-new-dc-law-allows-juveniles-sentenced-as-adults-to-have-sentences-reduced-after-20-years/2018/08/09/dcc65ff2-93eb-11e8-a679-b09212fb69c2_story.html; Nnamdi, K. (2019, September 11). *A DC bill would allow young violent offenders to petition for early release* [Radio broadcast].

- WAMU. <https://wamu.org/story/19/09/11/a-d-c-bill-would-allow-young-violent-offenders-to-petition-for-early-release/>; Stern, M. J. (2019, September 6). D.C. residents aren't buying a Trump-appointed prosecutor's campaign against criminal justice reform. *Slate*. <https://slate.com/news-and-politics/2019/09/dc-us-attorney-blocks-community-from-community-event.html>
205. One amendment would have instructed judges to give survivors' input "substantial weight," a change from the current instruction to "consider" their input. The second amendment would have instructed judges to consider "the nature of the underlying offense" when considering resentencing. Councilmember Mary M. Cheh. (2020). Amendment 1 to B23-0127. https://lirms.dccouncil.us/downloads/LIMS/41814/Other/B23-0127-Amendment_1_to_B23-127.pdf; Councilmember Mary M. Cheh. (2020). Amendment 2 to B23-0127. https://lirms.dccouncil.us/downloads/LIMS/41814/Other/B23-0127-Amendment_2_to_B23-127.pdf
206. ACLU-DC & ACLU Analytics. (2020). *Racial disparities in stops by the D.C. metropolitan police department: Review of five months of data*. <https://www.aclu.org/press-releases/aclu-analysis-dc-stop-and-frisk-data-reveals-ineffective-policing-troubling-racial>; Hsu, S. S., & Alexander, K. L. (2020, September 3). D.C. crackdown on gun crime targeted Black wards, was not enforced citywide as announced. *Washington Post*. https://www.washingtonpost.com/local/legal-issues/dc-crackdown-on-gun-crime-targeted-black-wards-was-not-enforced-citywide-as-announced/2020/09/03/f6de0ce2-e933-11ea-970a-64c73a1c2392_story.html
207. Council of the District of Columbia. (2020, December 1). *Fortieth legislative meeting: Virtual meeting* [Video]. https://dc.granicus.com/MediaPlayer.php?view_id=2&clip_id=5958,1:00:57.
208. Based on an estimate provided by James Zeigler of the Second Look Project on April 5, 2021. The law allows individuals who have been denied resentencing to apply again three times, waiting three years between each petition.
209. District Task Force on Jails & Justice. (2021). *Jails & justice: Our transformation starts today*. Office of Victim Services and Justice Grants, Executive Office of the Mayor, District of Columbia, p. 63. <http://www.courtexcellence.org/uploads/publications/TransformationStartsToday.pdf>
210. C. Carpenter, personal communication, March 7, 2021.
211. Serota, M. (2020). Second looks & criminal legislation. *Ohio State Journal of Criminal Law*, 17(2), 495-523, p. 522.
212. Board of Parole Hearings. (n.d.). *Youth offender parole hearings*. California Department of Corrections and Rehabilitation. <https://www.cdcr.ca.gov/bph/youth-offender-hearings-overview/>
213. Gingrich, N. (2015, April 13). A second chance for young offenders. *HuffPost*. https://www.huffpost.com/entry/a-second-chance-for-young-offenders_b_7055246
214. Behr, N. (2020). *Specialized parole and resentencing laws focused on emerging adults: New and proposed reforms in CA, IL, CO, D.C., and FL*. Emerging Adult Justice Project. https://static1.squarespace.com/static/5c6458c07788975dfd586d90/t/5f7498fbed48091d1d13a65c/1601476860538/20200930+EAJP_Specialized+Parole+and+Resentencing+Laws+Focused+o
215. Note that this policy exacerbates the trial penalty. Robbins, T. (2019, April 17). *Took a plea? Brooklyn's District Attorney will support your parole*. Marshall Project. <https://www.themarshallproject.org/2019/04/17/took-a-plea-brooklyn-s-district-attorney-will-support-your-parole>
216. Brooklyn District Attorney's Office. (n.d.). *Post-conviction justice bureau*. <http://www.brooklynnda.org/post-conviction-justice-bureau/>
217. Murphy, S., & Ellement, J. R. (2020, July 9). District attorneys clash over young killers seeking parole based on brain research. *Boston Globe*. <https://www.bostonglobe.com/2020/07/09/metro/das-clash-over-young-killers-seeking-parole-based-brain-research/>
218. J. Castón, personal communication, March 5, 2021.
219. J. Castón, personal communication, November 25, 2018.
220. Castón was sentenced before DC abolished parole in 2000. See Ghandnoosh, N. (2017). *Delaying a second chance: The declining prospects for parole on life sentences*. The Sentencing Project. <https://www.sentencingproject.org/wp-content/uploads/2017/01/Delaying-a-Second-Chance.pdf>
221. J. Castón, personal communication, March 5, 2021.
222. Woody, M., Walker, T., & Castón, J. (2020). *DC's young men emerging unit: A story of reform and lessons learned from the front lines*. Justice Policy Institute. http://www.justicepolicy.org/uploads/justicepolicy/documents/Young_Men_Emerging_Unit_2020.pdf
223. Castón, J., & Walker, T. (2020, November 13). Opinion: D.C.'s promising initiative for young incarcerated people. *Washington Post*. https://www.washingtonpost.com/opinions/local-opinions/dcs-promising-initiative-for-young-incarcerated-people/2020/11/12/aa06caaa-22a7-11eb-8672-c281c7a2c96e_story.html
224. Carson, E. A. (2016). *Aging of the state prison population, 1993-2013*. Bureau of Justice Statistics. <https://www.bjs.gov/content/pub/pdf/aspp9313.pdf>
225. Urban Institute. (2017). *A matter of time: The causes and consequences of rising time served in America's prisons*. <https://apps.urban.org/features/long-prison-terms/about.html>; Shen, Y., Bushway, S. D., Sorensen, L. C., & Smith, H. L. (2020). Locking up my generation: Cohort differences in prison spells over the life course. *Criminology*, 58(4), 645-677.
226. Massoglia, M., & Pridemore, W. A. (2015). Incarceration and health. *Annual Review of Sociology*, 41, 291-310; Wildeman, C., & Wang, E. A. (2017). Mass incarceration, public health, and widening inequality in the USA. *The Lancet*, 389(10077), 1464-1474.
227. Ventors, H. (2020, November 24). How the CDC can get serious about the health of incarcerated people. *The Hill*. <https://thehill.com/opinion/criminal-justice/527115-how-the-cdc-can-get-serious-about-the-health-of-incarcerated-people>; American Civil Liberties Union. (2012). At America's expense: The mass incarceration of the elderly. P. 29. <https://www.aclu.org/report/americas-expense-mass-incarceration-elderly>
228. A widely cited 2004 National Institute of Corrections study estimating that taxpayers pay over twice as much annually to imprison an elderly individual compared to a younger one relied on a 1999 article from *The Nation* whose methods and sources are unclear. See Ahalt, C., Trestman, R. L., Rich, J. D., Greifinger, R. B., & Williams, B. A. (2013). Paying the price: The pressing need for quality,

- cost, and outcomes data to improve correctional health care for older prisoners. *Journal of the American Geriatrics Society*, 61(11), 2013–2019; National Institute of Corrections. (2004). *Correctional health care: Addressing the needs of elderly, chronically ill, and terminally ill inmates*. U.S. Department of Justice. <https://nicic.gov/correctional-health-care-addressing-needs-elderly-chronically-ill-and-terminally-ill-inmates>
229. See, for example: Dawkins, K. (2013). *Aging-inmate population project (1992 – 2012)*. Georgia Department of Corrections. http://www.dcor.state.ga.us/sites/all/files/pdf/Research/Standing/Aging_inmate_population.pdf; The Pew Charitable Trusts and the John D. and Catherine T. MacArthur Foundation. (2014). *State prison health care spending; an examination*. <https://www.pewtrusts.org/~media/assets/2014/07/stateprisonhealthcarespendingreport.pdf>; Office of the Inspector General U.S. Department of Justice. (2015). *The impact of an aging inmate population on the Federal Bureau of Prisons*. Revised February 2016. <https://oig.justice.gov/reports/2015/e1505.pdf>
230. Simon, J. (2014). *Mass incarceration on trial: A remarkable court decision and the future of prisons in America*. The New Press, p. 4.
231. Kerbs, J. J., & Jolley, J. M. (2009). A commentary on age segregation for older prisoners: Philosophical and pragmatic considerations for correctional systems. *Criminal Justice Review*, 31(1), 119–139; Kerbs, J. J., & Jolley, J. M. (2007). Inmate-On-Inmate Victimization Among Older Male Prisoners. *Crime and Delinquency*, 53(2), 187–218.
232. *Brown v. Plata*, 131 S.Ct. 1910, 1928, as quoted in Simon, J. (2014). *Mass incarceration on trial: A remarkable court decision and the future of prisons in America*. The New Press, p. 8.
233. National Conference of State Legislatures. (2018). *State medical and geriatric parole laws*. <https://www.ncsl.org/research/civil-and-criminal-justice/state-medical-and-geriatric-parole-laws.aspx>
234. Silber, R., Shames, A., & Reid, K. (2017). *Aging out: Using compassionate release to address the growth of aging and infirm prison populations*. Vera Institute of Justice. https://www.vera.org/downloads/Publications/its-about-time-aging-prisoners-increasing-costs-and-geriatric-release/legacy_downloads/its-about-time-aging-prisoners-increasing-costs-and-geriatric-release.pdf
235. Williams, B. A., Sudore, R. L., Greifinger, R., & Morrison, R. S. (2011). Balancing punishment and compassion for seriously ill prisoners. *Annals of Internal Medicine*, 155(2), 122–126; Williams, B. A., Rothman, A., & Ahalt, C. (2017, February 6). For seriously ill prisoners, consider evidence-based compassionate release policies. *Health Affairs*. <https://www.healthaffairs.org/doi/10.1377/hblog20170206.058614/full/>
236. Rodriguez, C. (2020, December 30). Sick and frail as COVID-19 looms: Medical parole still rare in New York state. Gothamist. <https://gothamist.com/news/sick-and-frail-covid-19-ooms-medical-parole-still-rare-new-york-state>; Lyons, K. (2020, May 7). Inmates seeking compassionate release face laws not built for COVID-19. CT Mirror. <https://ctmirror.org/2020/05/07/inmates-seeking-compassionate-release-face-laws-not-built-for-covid-19/>
237. Bedard, R. (2020, April 10). I'm a doctor on Rikers Island. My patients shouldn't have to die in jail. *Washington Post*. https://www.washingtonpost.com/outlook/doctor-rikers-compassionate-release/2020/04/10/07fc863a-7a93-11ea-9bee-c5bf9d2e3288_story.html
238. Marshall Project. (2021, April 1). A state-by-state look at coronavirus in prisons. *Marshall Project*. https://www.themarshallproject.org/2020/05/01/a-state-by-state-look-at-coronavirus-in-prisons?utm_medium=email&utm_campaign=newsletter&utm_source=opening-statement&utm_term=newsletter-20210402-2406
239. Gramlich, J. (2021, January 22). *Trump used his clemency power sparingly despite a raft of late pardons and commutations*. Fact Take: News in the Numbers, Pew Research Center. <https://www.pewresearch.org/fact-tank/2021/01/22/trump-used-his-clemency-power-sparingly-despite-a-raft-of-late-pardons-and-commutations/>; Bureau of Justice Statistics. (1982). *Prisoners 1925-81*. <https://www.bjs.gov/content/pub/pdf/p2581.pdf>; Carson, E. A. (2020). *Prisoners in 2019*. Bureau of Justice Statistics. <https://www.bjs.gov/content/pub/pdf/p19.pdf>
240. Love, M. C. 2009. Taking a serious look at 'second look' sentencing reforms. *Federal Sentencing Reporter*, 21(3), 149-152, p. 150.
241. Barkow, R. E., & Osler, M. (2017). Designed to fail: The President's deference to the Department of Justice in advancing criminal justice reform. *William & Mary Law Review*, 59(2), 387–474.
242. United States Sentencing Commission. (2017). *An analysis of the implementation of the 2014 Clemency Initiative*. https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20170901_clemency.pdf; see also Office of the Inspector General: U.S. Department of Justice. (2018). *Review of the Department's Clemency Initiative*. <https://oig.justice.gov/reports/2018/e1804.pdf>
243. Reuters. (2021, January 20). Trump pardons and commutations – the full list. *The Guardian*. <https://www.theguardian.com/us-news/2021/jan/20/trump-pardons-and-commutations-the-full-list>; Osler, M. (2020, July 15). *The Roger Stone commutation was bad. Congress shouldn't make it worse*. The Appeal. <https://theappeal.org/the-roger-stone-commutation-was-bad-congress-shouldnt-make-things-worse/>.
244. n.a. (2021). *Commutation approvals in Oklahoma plummet during the COVID-19 pandemic*. Fwd.us. <https://www.fwd.us/news/oklahoma-pardon-parole-board-covid-commutations-2020/>
245. FAMM Foundation. (2020, June 17). *NACDL/FAMM State Clemency Project disappointed in small number of commutations in New York* [Press release]. <https://famm.org/nacdl-famm-state-clemency-project-disappointed-in-small-number-of-commutations-in-new-york/>
246. Wade, R. P. (1975, December 19). Crowded Prisons to Release 257 for Christmas. *Baltimore Sun*.
247. Notterman, B. (2019). *Willie Horton's shadow: Clemency in Massachusetts*. State Clemency Project, Center on the Administration of Criminal Law, New York University. https://www.law.nyu.edu/sites/default/files/CACL%20Clemency%20MA_Accessible.pdf
248. Siegal, Z. A., & Beletsky, L. (2020, May 19). *Why we shouldn't reward fearmongering in criminal justice reporting*. The Appeal. <https://theappeal.org/pulitzer-prize-matt-bevin-commutations/>

249. Moon, M., Guo, J., & McSorley, V. E. (2015). *Is 65 the best cutoff for defining "older Americans?"* Center on Aging, American Institutes for Research. <https://www.air.org/sites/default/files/downloads/report/Center-on-Aging-Is-65-the-Best-Cutoff-for-Defining-Older-Americans-Jan2015.pdf>
250. Chammah, M. (2015, August 24). *Do you age faster in prison?* Marshall Project. <https://www.themarshallproject.org/2015/08/24/do-you-age-faster-in-prison>; Aday, R. H. (1994). Golden years behind bars: Special programs and facilities for elderly inmates. *Federal Probation*, 58(2), 47.
251. Bolano, M., Ahalt, C., Ritchie, C., Stijacic-Cenzer, I., & Williams, B. (2016). Detained and distressed: Persistent distressing symptoms in a population of older jail inmates. *Journal of the American Geriatrics Society*, 64(11), 2349–2355; Kouyoumdjian, F. G., Andreev, E. M., Borschmann, R., Kinner, S. A., & McConnon, A. (2017). Do people who experience incarceration age more quickly? Exploratory analyses using retrospective cohort data on mortality from Ontario, Canada. *PLoS ONE*, 12(4), 1–11; Grierson, J. (2018, October 15). Prisoners age more quickly than general population, inspectors say. *The Guardian*. <https://www.theguardian.com/society/2018/oct/16/prisoners-age-more-quickly-than-general-population-inspectors-say>
252. Anno, B. J., Graham, C., Lawrence, J. E., & Shansky, R. (2004). *Correctional health care: Addressing the needs of elderly, chronically ill, and terminally ill inmates*. National Institute of Corrections, U.S. Department of Justice. <https://info.nicic.gov/nicrp/system/files/018735.pdf>
253. Sterns, A. A., Lax, G., Sed, C., Keohane, P., & Sterns, R. S. (2008). The growing wave of older prisoners: A national survey of older prisoner health, mental health and programming. *Corrections Today*, 4 (70).
254. Office of the Inspector General. (2015). *The impact of an aging inmate population on the Federal Bureau of Prisons*. U.S. Department of Justice. <https://oig.justice.gov/reports/2015/e1505.pdf>
255. Carson, E. A., & Sabol, W. J. (2016). *Aging of the state prison population, 1993-2013*. Bureau of Justice Statistics. <https://www.bjs.gov/content/pub/pdf/aspp9313.pdf>
256. Caroselli, D. (2020, December 16). Amid pandemic, Albany democrats must support Elder Parole and Fair and Timely Parole Act. *Lohud*. <https://www.lohud.com/story/opinion/2020/12/16/amid-pandemic-albany-democrats-must-support-elder-parole-and-fair-and-timely-parole-act/3927596001/?eType=EmailBlastContent&eld=01d27595-1c89-4538-b8e4-61cff2adc3b0>
257. "I got news for you: Incarcerated people do not live to be 92," explains Theresa Moses, calculating how long her 66-year-old husband would have to wait until he's eligible for parole under current law. Moses, T. (2020, December 31). Sen. Brian Benjamin we want Elder Parole consideration. *Amsterdam News*. <http://amsterdamnews.com/news/2020/dec/31/sen-brian-benjamin-we-want-elder-parole-considerat/>; see also Zeidman, S. (2019, August 27). Depraved indifference and second look sentencing. *Gotham Gazette*. <https://www.gothamgazette.com/opinion/8758-depraved-indifference-and-second-look-sentencing>
258. Boudin, C. (2021, March 8). Across prison walls, I felt my parents' love. *The Nation*. <https://www.thenation.com/article/society/chesa-boudin-parents-prison/>
259. Hogan, G., & Venugopal, A. (2020, December 24). NY state has seen a major surge in clemency petitions. Cuomo is unlikely to grant many of them. *Gothamist*. <https://gothamist.com/news/ny-state-clemency-petitions-cuomo-prison>; Silber, R., Digard, L., & LaChance, J. (2018). *A question of compassion: Medical parole in New York State*. Vera Institute of Justice. <https://www.vera.org/publications/medical-parole-new-york-state>
260. Thrush, G. (2020, May 31). Benjamin Smalls, jailhouse lawyer and prison reformer, dies at 72. *New York Times* <https://www.nytimes.com/2020/05/31/obituaries/benjamin-smalls-dead.html>
261. Saldaña, J., & George, D. (2019, January 29). *Members of the New York State Legislature, 2019 public protection budget hearing: January 29, 2019* [Testimony]. Release Aging People in Prison/RAPP Campaign. <http://rappcampaign.com/wp-content/uploads/RAPP-2019-Public-Protection-Budget-Hearing-Testimony.pdf>
262. Nellis, A. (2021). *No end in sight: America's enduring reliance on life imprisonment*. The Sentencing Project. <https://www.sentencingproject.org/publications/no-end-in-sight-americas-enduring-reliance-on-life-imprisonment/>; Nellis, A. (2017). *Still life: America's increasing use of life and long-term sentences*. The Sentencing Project. <https://www.sentencingproject.org/publications/still-life-americas-increasing-use-life-long-term-sentences/>
263. Dorn, S. (2019, April 27). 'Outrageous' bill may release murderers, rapists back on city streets. *New York Post*. <https://nypost.com/2019/04/27/outrageous-bill-may-release-murderers-rapists-back-on-city-streets/>; LET Staff. (2019, April 30). Politicians push bill to free rapists, murderers over age 55 from prison. *Law Enforcement Today*. <https://www.lawenforcementtoday.com/elder-parole-bill/>
264. Mroziak, M. (2020, January 27). *Flynn on proposed Elder Parole Bill: It 'ain't flying' for violent offenders*. WBFO. <https://news.wbfo.org/post/flynn-proposed-elder-parole-bill-it-aint-flying-violent-offenders>
265. Dorn, S. (2019, April 27). 'Outrageous' bill may release murderers, rapists back on city streets. *New York Post*. <https://nypost.com/2019/04/27/outrageous-bill-may-release-murderers-rapists-back-on-city-streets/>; Goldberg, N. (2019, April 29). A bill to increase parole for 'elder' inmates now has the Brooklyn DA's support. *Brooklyn Eagle*. <https://brooklyneagle.com/articles/2019/04/29/a-bill-to-increase-parole-for-elder-inmates-now-has-the-brooklyn-das-support/>
266. De La Rosa, C. (2020, January 14). Pursuing more justice: Elder Parole is good for communities across New York. *Gotham Gazette*. <https://www.gothamgazette.com/opinion/9051-pursuing-more-justice-elder-parole-is-good-for-communities-across-new-york>
267. Release Aging People in Prison. (2019, January 30). *Demands for parole justice rock the capitol* [Press release]. <https://rappcampaign.com/demands-for-parole-justice-rock-the-capitol/>; see also Law, V. (2021, March 22). *Why crime victims joined the fight for parole justice in New York*. *The Appeal*. <https://theappeal.org/why-crime-vic>

- tims-joined-the-fight-for-parole-justice-in-new-york/?utm_source=The+Appeal&utm_campaign=947d5d0e4e-EMAIL_CAMPAIGN_2018_08_09_04_14_COPY_01&utm_medium=email&utm_term=0_72df992d84-947d5d0e4e-58403483
268. New York State Coalition Against Sexual Assault. (2021, January 21). *NYS CASA joins lawmakers and advocates in support of the people's campaign for parole justice* [Press release]. <https://www.nyscasa.org/peoples-campaign-for-parole-justice/>
269. The People's Campaign for Parole Justice. The People's Campaign for Parole Justice. <https://www.parolejusticenyc.com/>; McKinley, E. (2021, January 14). Activists, lawmakers announce campaign to pass two parole reform bills. *Times Union*. <https://www.timesunion.com/news/article/Activists-lawmakers-announce-campaign-to-pass-15871517.php>
270. Rivas, S. (2021, January 28). 600 call for parole justice: 'Virtual rally' urges lawmakers for Elderly Parole bill. *Rochester First*. <https://www.rochesterfirst.com/new-york-state/600-call-for-parole-justice-virtual-rally-urges-lawmakers-for-elderly-parole-bill/>
271. Sivin, A., & Vaughn, J. (2020, November 25). *Families urge Cuomo to release loved ones from prison during COVID-19 pandemic*. The Appeal. <https://theappeal.org/families-urge-cuomo-to-release-loved-ones-from-prison-during-covid-19-pandemic/>; Hoos, D., Reverby, S. M., Zeller, B., & Fullilove, R. (2021, January 4). Opinion: It's time for NYS to act on decarceration in prisons to curb COVID-19. *City Limits*. <https://citylimits.org/2021/01/04/opinion-its-time-for-new-york-state-to-act-on-decarceration-in-prisons-to-curb-covid-19/>; Closson, T. (2021, January 26). The high-risk group left out of New York's vaccine rollout. *New York Times*. <https://www.nytimes.com/2021/01/26/nyregion/new-york-vaccine-prisons.html>; Closson, T. (2021, March 29). New York must offer vaccine to all prisoners immediately, judge rules. *New York Times*. <https://www.nytimes.com/2021/03/29/nyregion/covid-vaccine-new-york-prisons.html>
272. Release Aging People in Prison. (2019, October 24). *Community says: Pass Elder Parole -- no exclusions*. <http://rappcampaign.com/community-demands-nys-pass-elder-parole-no-exclusions/>
273. Goldberg, N. (2019, April 29). A bill to increase parole for 'elder' inmates now has the Brooklyn DA's support. *Brooklyn Eagle*. <https://brooklyneagle.com/articles/2019/04/29/a-bill-to-increase-parole-for-elder-inmates-now-has-the-brooklyn-das-support/>
274. J. Saldaña, personal communication, March 2, 2021.
275. Saldaña, J. (2019, September 20). Opinion: Elder Parole is overdue. *Times Union*. <https://www.timesunion.com/opinion/article/Elder-parole-is-overdue-14456590.php>
276. Saldaña, J. (2019, September 20). Opinion: Elder parole is overdue. *Times Union*. <https://www.timesunion.com/opinion/article/Elder-parole-is-overdue-14456590.php>; Robinson, D. (2020, February 9). Elder Parole law is needed to give second chances. *Buffalo News*. https://buffalonews.com/opinion/elder-parole-law-is-needed-to-give-second-chances/article_ab01baca-6189-5750-b817-1d3b-4ea23c59.html
277. Blau, R. (2019, August 16). Longest-serving woman inmate's death makes her case a cause. The City. www.thecity.nyc/justice/2019/8/16/21210860/longest-serving-woman-inmate-s-death-makes-her-case-a-cause
278. See Ghandnoosh, N. (2017). *Delaying a second chance: The declining prospects for parole on life sentences*. The Sentencing Project. <https://www.sentencingproject.org/wp-content/uploads/2017/01/Delaying-a-Second-Chance.pdf>
279. Herring, T. (2021, February 3). *Parole boards approved fewer releases in 2020 than in 2019, despite raging pandemic*. Prison Policy Initiative. <https://www.prisonpolicy.org/blog/2021/02/03/parolegrants/>; McKinley, E., & Fries, A. (2020, November 22). A 'broken' parole process: Data shows widened racial bias. *Times Union*. <https://www.timesunion.com/news/article/A-broken-parole-process-Data-show-widening-15739596.php#photo-19532593?e-Type=EmailBlastContent&eld=01d27595-1c89-4538-b8e4-61cff2adc3b0>
280. "The statutory text, context, and legislative history from 1984 make plain that Congress intended compassionate release to act as a second look provision to replace the abolishment of federal parole," writes Shon Hopwood, allowing resentencing for "extraordinary or compelling reasons" beyond rehabilitation alone but also, as affirmed by the U.S. Sentencing Commission in 2007, for reasons beyond medical condition, age, and family circumstances. See Hopwood, S. (2019). *Second Looks & Second Chances*. *Cardozo Law Review*, 41(1), 83–120.
281. California Assembly Bill 3234, Chapter 1001 (2020). https://leginfo.ca.gov/faces/billCompareClient.xhtml?bill_id=201920200AB3234&showamends=false
282. DC Corrections Information Council. (2020). *Compassionate clearinghouse criteria*. [Press release]. https://cic.dc.gov/sites/default/files/dc/sites/cic/release_content/attachments/FINAL%20mailing%20to%20DC%20prisoners.pdf; Freedman, J. L. (2020, June 12). *Compassionate release for medically vulnerable prisoners*. George Washington University Law School. <https://www.law.gwu.edu/compassionate-release-medically-vulnerable-prisoners>
283. Office of the State's Attorney for Baltimore City. (2020, December). *State's attorney announces creation of sentencing review unit* [Press release]. <https://www.statattorney.org/media-center/press-releases/2148-state-s-attorney-announces-creation-of-sentencing-review-unit>
284. Gascón, G., & Mosby, M. (2020, December 8). *Resentencing units can rectify, rehabilitate, restore*. The Appeal. <https://theappeal.org/resentencing-units-can-rectify-rehabilitate-and-restore/>
285. The Sentencing Project. *Campaign to End Life Imprisonment*. <https://endlifeimprisonment.org/>; Justice Roundtable. (2020). *Transformative justice: Recommendations for the new administration and the 117th Congress*. <https://www.sentencingproject.org/wp-content/uploads/2020/11/Transformative-Justice.pdf>
286. American Bar Association. (2017, August 15). *ABA opposes mandatory minimum sentences*. https://www.americanbar.org/news/abanews/aba-news-archives/2017/08/aba_opposes_mandator/; Justice Roundtable. (2020). *Transformative justice: Recommendations for the new administration and the 117th Congress*. <https://www.sentencingproject.org/wp-content/uploads/2020/11/Transformative-Justice.pdf>; Joe Biden for President Official Campaign Website. (n.d.) *The Biden plan for strengthen-*

- ing America's commitment to justice. <https://joebiden.com/justice/>; Lynch, S. N., & Chiacu, D. (2021, February 22). Key quotes from U.S. attorney general nominee Garland on criminal justice policies. *Reuters*. <https://www.reuters.com/article/us-usa-senate-garland-hearing-quotes/key-quotes-from-u-s-attorney-general-nominee-garland-on-criminal-justice-policies-idUSKBN2AM2HT>
287. Fair and Justice Prosecution. (2021, April). *Joint statement on sentencing second chances and addressing past extreme sentences* [Press release]. <https://fairandjustprosecution.org/wp-content/uploads/2021/04/FJP-Extreme-Sentences-and-Second-Chances-Joint-Statement.pdf>
288. See: Rhine, E. E., Petersilia, J., & Reitz, R. 2017. The future of parole release. In Tonry, M. (Ed.), *Crime and Justice*, Vol, 46 (pp. 279-338).
289. Porter, N. (2021). *Racial impact statements*. The Sentencing Project. <https://www.sentencingproject.org/publications/racial-impact-statements/>; Ghandnoosh, N. (2015). *Black lives matter: Eliminating racial inequity in the criminal justice system*. The Sentencing Project. <https://www.sentencingproject.org/publications/black-lives-matter-eliminating-racial-inequity-in-the-criminal-justice-system/>
290. Miller, K. (2019, July 9). *Joe Biden told a voter he'll "go further" than cutting incarceration by 50%*. BuzzFeed News. <https://www.buzzfeednews.com/article/katherinemiller/joe-biden-incarceration-prison-population-cut-aclu>

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May 2021



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