

Recommendations on Key Criminal Justice Reforms for the Biden-Harris Administration

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This past Election Day, voters of color made their voices heard at the polls among record-breaking turnout and helped deliver the White House to the Biden-Harris ticket. Exit polling data shows that in the midst of a pandemic that has disproportionately impacted people of color, Black and Latinx voters expect this administration to take steps to combat COVID-19, curb police violence that disproportionately targets and kills Black people, and end the cycle of mass incarceration—including crimmigration—that decimates families and communities.

Vera applauds the incoming Biden-Harris Administration for making racial equity, including justice reform, one of its top priorities. To deliver on this promise, the new administration and the 117th Congress should move urgently to adopt the recommendations in our justice policy platform, which is based on evidence of what works to produce public safety, promote racial equity, and foster healthy, thriving communities. At a time when the well-being of our country has never been at greater risk, these recommendations cannot wait.

End the devastation of COVID-19 in correctional facilities, and stop the virus's spread between correctional settings and the community

Recommendations

Take immediate, decisive action under existing authority to curb the spread and impact of the novel coronavirus in Bureau of Prisons (BOP) facilities. End the transfer of individuals in custody of the United States Marshals Service (USMS) between facilities, place as many people as possible on community supervision pretrial, and devise early release strategies to release people serving a federal sentence. Use state and local funding incentives and sanctions to ensure that the maximum number of people possible are released from state and local correctional facilities. Ensure accountability for the administration of state and local facilities by implementing mass testing, providing personal protective equipment to people incarcerated and who work in correctional settings, and require weekly reporting of comprehensive COVID-19 data.

Justification

COVID-19 in jails, prisons, and detention centers is uniquely dire—a pandemic within a pandemic fueled by the uniquely crowded and congregate nature of these facilities. Except for clusters on massive college campuses, the 25 largest COVID-19 clusters all have occurred in correctional settings.¹ As of November 11, 2020, at least 252,000 COVID-19

¹ New York Times. *Covid in the U.S.: Latest Map and Case Count*.

<https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html>. Accessed 11 Nov. 2020.

infections and 1,450 deaths had been reported among incarcerated people and correctional employees.² Furthermore, Black and Latinx people, who have borne the brunt of the pandemic, and people with chronic health conditions that predispose them to the worst outcomes of COVID-19, disproportionately make up America's correctional population.

Several key actions are needed to redress the ongoing disaster caused by the pandemic in correctional settings. Most critically, government at all levels must release as many individuals from jails, prisons, and detention facilities as possible; this may be achieved by many means, including more pretrial release, automatic release for people within a year of the end of their sentence, compassionate release, prioritizing people with COVID-19 risk factors for release, and clemency. Data from the first few months of the pandemic illustrate that significant, rapid reductions in jail populations are eminently possible.³

Critically, the federal government must stop moving individuals in USMS custody between jail facilities and across state and county lines. It is inexcusable for a federal agency to work against local efforts to curb the spread of the coronavirus by placing people in Marshals custody in local jails, and the practice must end.

Executive Action

The administration should use all means at its disposal to stop the spread and damage of the coronavirus in correctional facilities at the federal, state, and local levels by taking these actions:

- Use existing authority to reduce and protect the BOP population, by:
 - Devising more strategies for early release, including release of people within one year of the end of their sentence;
 - Expanding pretrial release options for people awaiting trial;
 - Issuing more clemencies and commutations;
 - Increasing opportunities for compassionate release, and approve as many of these requests as possible;
 - Providing all people who work and are incarcerated in the BOP system with personal protective equipment in accordance with Centers for Disease Control and Prevention guidance;
 - Developing policies for mass testing and quarantine regimes that promote social distance, not social isolation or punishment, and do not rely on lockdown or solitary confinement to control the spread of the virus;
- Make changes to USMS policy and practice;
- Direct federal prosecutors not to seek pretrial detention unless there is a credible and immediate public safety risk that would justify the use of incarceration;
- Use creative state and local funding incentives and sanctions to create similar changes in state and local criminal justice systems; and
- Urge Congress to pass the COVID-19 in Corrections Data Transparency Act, to hold state and local systems and facilities accountable for testing and infection numbers, spread, and outcomes.

End money injustice: Bail, fines, and fees

Recommendations

² Ibid

³ Heiss, Jasmine, et al. "The Scale of the COVID-19-Related Jail Population Decline." *Vera*, 11 Nov. 2020, <https://www.vera.org/downloads/publications/the-scale-of-covid-19-jail-population-decline.pdf>

Use the tools of the presidency and executive branch agencies to curb money injustice— unjust bail, fines, and fees—which criminalizes and perpetuates poverty. Bail, fines, and fees are almost exclusively the province of local and state government, and the administration should pursue both executive action and a legislative agenda to help jurisdictions end money injustice.

Justification

Nobody should be in jail because they are too poor to pay bail, fines, or fees. Yet, every day in America, nearly 750,000 people sit in jail, approximately two-thirds of whom have not been convicted of a crime yet have been locked up mostly because they couldn't make bail.⁴ Further, local governments jail people for nonpayment of fines and fees related to court costs, traffic violations, jail stays, and other agency operations. In some jurisdictions, nonpayment of fines and fees can result in individuals having their driver's license suspended, and for those who still cannot pay but must drive for work, family, or other obligations, this leads to arrests on charges of driving on a suspended license.

Money injustice has devastating consequences for individuals, families, and communities.⁵ Bail, fines, and fees are driving much of the increase in local jail populations across the country and extracting hard-earned dollars from poor people and communities of color, and keeping too many people in jail or otherwise involved with the justice system for far too long. Even short stays in jail are associated with job loss, longer-term family separation, and harmful criminal-legal system outcomes, such as a greater likelihood of pleading guilty, longer sentences, and subsequent criminal-legal system involvement. In addition, pretrial detention costs \$13.6 billion nationwide every year.⁶ Finally, whether incarcerated or not, for those unfortunate enough to be caught up in systems of money injustice, fines, fees, and attendant interest payments can turn into a hamster wheel of payments and debt.

Money injustice fails to uphold American values and must be excised from the nation's criminal-legal systems, and the federal government has a key, leadership role to play in ending these practices.

Executive Action

The administration should use all means at its disposal to encourage state and local governments to end money injustice via the following policy principles:

- Limit the number of people who are eligible for detention in the first place by their current charge, and allow as many people as possible to be released automatically.
- Guarantee the right to counsel at any hearing where someone's freedom is at stake.
- Create more robust due process requirements necessary for detaining someone.
- Set goals to cut the number of people in pretrial incarceration by at least half and eliminate racial disparities in pretrial detention.
- Eliminate fees and tie fine amounts to an individual's income.
- Use a clear definition of "willful" nonpayment of fines and fees.
- Never suspend a person's driver's license for nonpayment of fines or fees.

Ensure the adoption of these policies at the state and local level through these policy mechanisms:

⁴Digard, Léon, and Elizabeth Swavola. "Justice Denied." *Vera*, 21 Oct. 2020, www.vera.org/publications/for-the-record-justice-denied-pretrial-detention.

⁵ Wool, Jon, et al. *Paid in Full: A Plan to End Money Injustice in New Orleans*. June 2019.

⁶ Prison Policy Initiative. *Pretrial Detention Costs \$13.6 Billion Each Year*. https://www.prisonpolicy.org/blog/2017/02/07/pretrial_cost/. Accessed 8 Oct. 2020.

- Call for legislation to end money injustice and for Congress to incorporate these policies in any reauthorizing legislation dealing with Byrne Justice Assistance Grants (JAG), Second Chance Act, and other Department of Justice (DOJ) programs that invest in state and local systems.
- Include these principles in the president’s budget request. Where existing authority allows, use the budget process to reshape programs such as Byrne JAG, SCA, and others.
- Require state and local grantees under Byrne JAG, SCA, and other relevant DOJ programs to collect and report data on their progress toward the implementation of these policies.
- Issue federal guidance from DOJ that outlines state and local government options for implementation, including new state statutes and local ordinances and the use of governors’ and mayors’ executive authority.
- Use germane funding streams to state and local governments from the Department of Transportation as leverage, to end the practice driver’s license suspension for failure to pay fines and fees. Utilize existing authority, if possible, and advance the strategy as part of the president’s legislative agenda, if additional authority is needed.

End federal investment in local law enforcement and incarceration

Recommendation

Implement a comprehensive federal strategy to divert federal funding from local jails and policing and reinvest in other community needs to improve public safety. End the flow of Immigration and Customs Enforcement (ICE), U.S. Department of Agriculture, U.S. Marshals Service (USMS), and other federal dollars into local jails. Prohibit federal employees from communicating with local officials about increasing the number of jail beds in their communities. Eliminate the Community Oriented Policing (COPS) Hiring Grants program. Commit to reinvestment in areas that meet community demands for support in education, health care, employment, alternatives to police enforcement and incarceration, and other areas, and champion the bipartisan Community First Pretrial Reform and Jail Decarceration Act (H.R. 8647).

Justification

While most of the money spent on the criminal-legal system comes from state and local coffers, federal actions have incentivized the expansion of state and local carceral systems. Federal investments in these systems include the following:

- The USMS uses intergovernmental agreements (IGA) to maintain a dispersed and shifting network of locally run county jails, to hold people awaiting trial on federal charges. In fiscal year (FY) 2018, USMS paid over \$1 billion to local jails for this purpose.⁷ This network came about as a result of the lesser-known 1984 Crime Bill, the Comprehensive Crime Control Act, and jail incarceration rates rose dramatically after the law’s enactment and only leveled off in the late 2000s. USMS employees also sometimes encourage local officials to increase the number of beds in their jail, and the agency provides some financial support for construction.⁸

⁷ Jack Norton and Jacob Kang-Brown. “If You Build It.” *Vera*, 10 Jan. 2020, <https://www.vera.org/in-our-backyards-stories/if-you-build-it>.

⁸ *ibid.*

- ICE has its own IGAs in-place with local facilities to detain immigrants and can piggyback on USMS IGAs.⁹ ICE payments to local jails in FY 2018 totaled approximately \$340 million.¹⁰ As with USMS, ICE employees have used promises of revenue for holding people on behalf of the agency to encourage local officials to increase their jail's capacity.
- USDA allows recipients of funds under its Community Facilities (CF) loan and grant programs for jail construction.¹¹ The agency possesses no recognized expertise in criminal justice system issues, and jail construction and expansion do not align with the spirit of the programs. Indeed, CF operated for over two decades before it funded its first jail construction project.
- COPS Hiring Grants, created under the 1994 Crime Bill, provide funds to law enforcement agencies for hiring and rehiring of personnel. However, the program mostly operates like a slush fund, fails to promote practices that create trust between police and the community, and does not hold agencies accountable for malpractice and police brutality.¹² After over a quarter century in operation, it is time to pull the plug on this "no strings attached" federal investment in law enforcement staffing.

These federal investments--particularly by ICE, USDA, and USMS--are associated with alarming increases over recent decades in rural jail incarceration. Since 2013, the jail population has grown 27 percent in rural counties and 7 percent in smaller cities – even as the number of people in jails in the nation's biggest cities declined by 18 percent.¹³ This crisis of incarceration is both a cause and consequence of the challenges faced by small town America, including deaths of despair, joblessness, and poverty. As we work to support and revitalize rural America, it is critical to vastly reduce jail incarceration rates in these parts of the country. The federal government can provide critically needed leadership by curbing the flow of these federal dollars into rural and small county jails.

Furthermore, communities that have been disproportionately affected by investments in mass incarceration and policing need new federal support. These efforts should work toward ending money bail. As the federal government ends support for local jails and law enforcement, it must reinvest to meet community demands for support in education, health care, employment, alternatives to police enforcement and incarceration, and other areas.

Executive Action

Develop a comprehensive federal strategy to divest from local jails and policing and reinvest in decarceration, alternatives to policing, and community supports. This strategy should, at least, contain the following components:

- An executive order announcing the strategy and directing agency staff to implement it.
- Agency-initiated divestment that includes:
 - Ending IGAs between ICE and USMS and local jails;

⁹ *ibid.*

¹⁰ *ibid.*

¹¹ Jack Norton and Jacob Kang-Brown. "Federal Farm Aid for the Big House." *Vera*, 22 Oct. 2018, <https://www.vera.org/in-our-backyards-stories/federal-farm-aid-for-the-big-house>.

¹² *Statement of Civil Rights, Civil Liberties, and Criminal Justice Organizations on Federal Divestment from Policing*. June 2020.

¹³ Jacob Kang-Brown, et al. *People in Jail in 2019*. Vera Institute of Justice, Dec. 2019, <https://www.vera.org/downloads/publications/people-in-jail-in-2019.pdf>, page 1.

- Ending the practice of ICE and USMS staff encouraging local officials to expand the number of jail beds in their communities; and
- Prohibiting the use of USDA CF program funds for jail construction expansion, operation, or equipment.
- Budget requests and agency funding priorities that eliminate COPS Hiring Grants.
- Investments across the federal agency apparatus in communities plagued by mass incarceration and its collateral effects, to further decrease arrests, prosecution, and incarceration, end money bail, invest in community-based alternatives to incarceration, eliminate unnecessary and onerous fines and fees, reduce readmission to jail for minor offenses such as violations of probation and parole, and meet communities' needs for education, health care, jobs, and other supports.
- Push Congress to enact the Community First Pretrial Reform and Jail Decarceration Act (H.R. 8647).

Improve transparency and accountability for jails, prisons, law enforcement, and probation/parole

Recommendations

Request adequate funding for DOJ's Bureau of Justice Statistics (BJS) to meet and exceed its obligations for data collection and reporting in a timely manner. Reinvigorate and make improvements to BJS's Annual Survey of Jails, Census of Jails, Mortality in Correctional Institutions, National Corrections Reporting Program, and probation and parole surveys. Mandate a vastly expanded pool of data that must be reported by local and state law enforcement agencies. Provide training and technical assistance through the Bureau of Justice Assistance (BJA) to ensure that state and local agencies collect and report ethnicity data accurately.

Justification

The DOJ Bureau of Justice Statistics (BJS) provides data critical to the efforts of criminal-legal system researchers and advocates and must be given additional funds and institutional support to meet the challenges of our time, including monitoring responses to the COVID-19 pandemic and systems reforms. BJS, to a large extent, provides the best window into the populations and practices of jails, prisons, courts, and community corrections agencies, but BJS has fallen short of the gold standard it set for itself in terms of timely reporting and comprehensiveness of data. For example, in the 1980s and '90s BJS would report prison populations twice a year, for June and for December.¹⁴ Both were published with haste, within a few months. The lag time for current, once-per-year prison population reporting is closer to 16 months. Furthermore, the substance of BJS data collections have not kept pace with changes in America's criminal-legal systems and need to be revisited and revised.

In addition, the federal government needs to develop and implement a five-year plan to gather comprehensive budget, use-of-force, enforcement, and misconduct data from the nation's police departments. At present, law enforcement data is reported only voluntarily to federal agencies, but the moment calls for mandatory reporting. Under a five-year timeline, departments would be asked to build up to full reporting in stages, and this should ease the strain of mandatory collection on smaller departments.

Finally, the longstanding problems with the collection and reporting of data about Latinos/Hispanics by criminal justice agencies must be fixed. A wide range of data collection

¹⁴ "Bureau of Justice Statistics (BJS) - Publications & Products: Prison Population Counts." *Www.Bjs.Gov*, www.bjs.gov/index.cfm?ty=pbtp&tid=131&dcid=0&sid=0&iid=1&sortby=&page=paging&curpg=5.

and reporting practices deployed by state and local agencies result in undercounting and other problems, and then, important policies are based upon these flawed statistics.¹⁵ BJA should provide training and technical assistance to State Administering Agencies (SAA), who, in turn, should be given the resources to ensure standardized collection and reporting practices across agencies within their states.

Executive Action

To improve criminal-legal data systems, we recommend the administration use the budget request process and existing authority. Critically, the president should ensure that Congress provides for full funding for BJS.

We also recommend the following, specific changes to BJS data collections on corrections:

- Data on jails:
 - Census of Jails: Resume the census of jails every 5 years, at minimum.
 - Census and Survey of Jails: Include better questions on jail construction, renovation, and capital costs.
- Mortality in Correctional Institutions:
 - Revive this critical data collection by reinstating mandatory reporting, restarting the publication of data files from it, and improving upon current delayed and limited reporting of basic summary statistics on mortality.
 - Release in a timely fashion basic population statistics on jail and prison facility population, as they are important supplement to the existing jail and prison data collections.
- Probation survey: Release complete, detailed historical probation files. Include county level details in summary reports and in the data files published with the National Archive of Criminal Justice Data.
- Probation and parole surveys: Collect and report data on electronic monitoring, which currently only is collected for jails, when it should be collected from parole and probation agencies, as well as from courts.

The administration should pursue a five-year plan for the mandatory reporting of law enforcement data. Components of this plan must include:

- DOJ's commitment to providing resources, including training and technical assistance, to agencies and jurisdictions;
- Penalties severe enough to ensure widespread compliance;
- A staged implementation that builds on itself, in which agencies would report additional information year-by-year, e.g., mandatory completion of the National Incident-Based Reporting System (NIBRS) in year-one, mandatory completion of the National Use-of-Force data collection in year-two, etc.;
- Mandates to departments for data that include:
 - Completion of NIBRS;
 - Completion of the National Use-of-Force data collection;
 - Civilian deaths while in police custody;
 - Arrests, citations, summons, and calls for service;
 - Traffic and pedestrian stops, including but not limited to stop-and-frisk incidents;
 - Race, ethnicity, gender, and other key demographic details about the officer and, where relevant, members of the public that they interact with;

¹⁵ Urban Institute. "The Alarming Lack of Data on Latinos in the Criminal Justice System." *Urbn.Is*, Dec. 2016, apps.urban.org/features/latino-criminal-justice-data/.

- Detailed budget information, including amounts for overtime, federal funds spent on equipment, hiring, and surveillance technology, and other items frequently omitted from jurisdictions’ budget documentation;
- Officer disciplinary records, including the nature of all civilian complaints, actions taken in response, outcomes, and misconduct settlements;
- Total damages paid out to settle after officer misconduct suits; and
- Individual licensing and misconduct cases by officer.

Regarding collection and reporting of data on Hispanic ethnicity, BJA should:

- Provide training and technical assistance to SAAs;
- Provide additional funding to SAAs for the purpose of standardizing data collection and reporting on Hispanic ethnicity in their states, including through the provision by the SAAs of training and technical assistance to law enforcement agencies in their state.

Transform conditions of confinement

Recommendations

Issue minimum standards that apply to all confined settings so that incarcerated people do not suffer the loss of their safety, health, well-being, dignity, humanity, and connections to family as a result of being behind bars. Vastly transform conditions within the federal Bureau of Prisons, and use executive branch powers and pressure Congress to pass legislation and provide funding incentives to create similar transformational change at the state and local level. Repeal the Prison Litigation Reform Act as a key legislative priority for the administration.

Justification

Jails, prisons, detention centers, and secure facilities are universally seen as places that degrade and harm the 2.3 million people behind bars, the 425,000 employees who work in them, and the countless family members and friends who experience incarceration along with their loved ones.¹⁶ These facilities are overcrowded, under-resourced, and overlooked by design, despite costing over \$80 billion per year to run.¹⁷ In 2017, the federal Bureau of Prisons (BOP) and 13 state prisons systems were housing more than the maximum number of people their facilities could hold.¹⁸ Trauma and victimization is widespread in prisons, with rates of assault 10 times that found in the community.¹⁹ In 2017, 61,000 of 1.5 million people in American prisons were held in solitary confinement, where they are restricted to a small cell—either alone or with another person—for at least 22 hours per day with no access to programming or treatment, and thousands more are held in solitary in local jails.²⁰ Thousands of people are released every year from solitary straight to the community.²¹ Despite the well-documented efficacy of providing incarcerated people with meaningful engagement in education, treatment, and employment, most jails, prisons, and detention

¹⁶U.S. Bureau of Labor Statistics. “Correctional Officers and Jailers Occupational Employment Statistics.” *Www.Bls.Gov*, May 2019, www.bls.gov/oes/current/oes333012.htm.

¹⁷ Peter Wagner and Bernadette Rabuy. *Following the Money of Mass Incarceration*. <https://www.prisonpolicy.org/reports/money.html>. Accessed 9 Oct. 2020.

¹⁸ Bronson, Jennifer, et al. *Prisoners in 2017*. 2019.

¹⁹ Delaney, Ruth, et al. “Reimagining Prison.” Oct. 2018.

²⁰ *Reforming Restrictive Housing: The 2018 ASCA-Liman Nationwide Survey of Time-in-Cell Center Yale Law School*. *Reforming Restrictive Housing: The 2018 ASCA-Liman Nationwide Survey of Time-in-Cell*. 2018.

²¹ Digard, Léon, et al. *Rethinking Restrictive Housing Lessons from Five U.S. Jail and Prison Systems*. 2018.

centers lack quality programs and classes that enrich people's lives while behind bars and set them up for success upon reentry. In a recent report, the U.S. Department of Justice reported that 49 percent of people in BOP custody had completed no programs or activities while incarcerated.²² Young adults (between the ages of 18-25) are the people most likely to experience violence in prison, including being killed, dying by suicide, or being sent to solitary confinement, and racial disparities are even starker among this group than they are among the overall prison population.

Clearly, we are failing incarcerated people and their families and communities. Fortunately, models exist—particularly from nations such as Germany and Norway—that center human dignity. These approaches invest in people's growth and development while behind bars, do not rely on harmful and unproductive practices, like excessive discipline and solitary confinement, and, ultimately, produce better outcomes for incarcerated people and society as a whole. After studying German and Norwegian incarceration models and learning from European corrections leaders, Vera is piloting this approach in several states, with encouraging early success.

The president has authority over the federal Bureau of Prisons and should use it to set the benchmark for transformational change that will lead to true rehabilitation and healing for incarcerated people and create a positive, rewarding work environment for correctional staff. We also should create conditions that keep incarcerated people from returning after they are released. This will entail radical change that values the dignity of everyone behind bars and affords incarcerated people the chance to develop, grow, and realize their potential.

Executive Action

We urge the administration to use a combination of executive authority and legislative pressure to improve conditions in the nation's jails, prisons, detention centers, and secure facilities by passing minimum standards that would apply to the federal Bureau of Prisons and, through an incentive structure, to local and state facilities.

These minimum standards should include:

- Entirely ending solitary confinement and the use of any form of isolation as punishment, including in-cell confinement;
- Providing access to high quality, effective programs, activities, and classes as a right and not a privilege;
- Providing incarcerated people who are able to work with full-time job opportunities, including workforce development and skills training;
- Paying incarcerated people the prevailing minimum wage or higher in that jurisdiction;
- Providing incarcerated people with quality medical, dental, mental, and behavioral health care services on par with services provided in the community and, if providing that level of care within the facility is not possible, guaranteeing a right to furlough to seek effective treatment in a community setting;
- Providing, at minimum, weekly in-person visits or, if the incarcerated person elects, free video visits as an alternative, with approved family members and friends;
- Making phone calls from jails, prisons, detention centers, and secured facilities free;
- Restoring the right to vote to incarcerated citizens;

²² *The First Step Act of 2018: Risk and Needs Assessment System*. 19 July 2019.

- Providing gender-responsive and age-appropriate programs, resources, and services as needed;
- Designing facilities for human dignity and rehabilitation, not punishment, by requiring access to natural light, air circulation, natural materials, and sufficient space for privacy in all areas, including cells, dorms, classrooms, dining halls, and congregate areas.

In addition to adopting minimum standards to apply to facilities within the federal Bureau of Prisons, use grant requirements or performance measures to incentivize state and local jurisdictions to follow suit, and encourage Congress to pass legislation codifying these priorities. Finally, roll back the Prison Litigation Reform Act, to eliminate the bureaucratic and procedural obstacles incarcerated people face in challenging substandard conditions of confinement.

Protect immigrants from the harms of criminal legal and immigration system detention and enforcement

Recommendations

Eliminate the use of civil immigration detention as we build a system guaranteeing universal representation for all people facing deportation.

Justification

Immigration detention has ballooned since 1996 as a result of a decades-long push to criminalize immigrants. This has been fueled by stepped-up interior enforcement and the implementation of over 400 anti-immigrant executive orders over the course of the last four years. Hundreds of thousands of immigrants each year, many seeking protection from persecution and violence, are detained in jails and prisons across the country where it is difficult to access legal services and conditions are inhumane. During the pandemic ICE has continued to book people into detention and transfer people between facilities at an alarming rate, in spite of the lack of access to sanitizing products and protective equipment, and the frequent impossibility of social distancing. Immigration detention reinforces systemic racism and criminalization of people of color. Any engagement with the criminal legal system, which unfairly disproportionately targets Black and brown people, increases the likelihood that noncitizens will be funneled into the detention and deportation system. The justification for depriving immigrants of their liberty has focused primarily on ensuring appearance in immigration court, but data shows that there are effective and more humane means to accomplish these ends. Vera's own research shows that more than 95% of immigrants with lawyers show up for hearings.

Executive Action

- Work with Congress to prioritize and advance legislation to ensure federally funded zealous, universal representation for all people facing deportation.
- Immediately reduce funding for immigration detention to reduce the footprint of detention and reinvest those resources in expanding access to counsel.
- Immediately release people with health risks due to COVID-19, and drastically reduce the use of civil immigration detention by enacting a system to review the case of every person in detention. Apply a presumption of release during review and release those who do not present a threat to national security or public safety that cannot be mitigated through parole, bond, or a less restrictive form of custody or supervision.
- Cease immigration enforcement and new book-ins to ICE custody during the pandemic.

- Cease transfers of people from criminal to immigration custody during the pandemic, and issue guidance that ends ICE requests of transfers without judicial warrants.
- Increase transparency regarding prevalence of COVID-19 in ICE and CBP facilities.
- Work with Congress to end mandatory detention.
- Immediately end solitary confinement and ensure detention conditions are the least restrictive possible.
- Immediately end all agreements and programs that incentivize cooperation between local criminal law enforcement and federal immigration, including 287(g) and Secure Communities.
- Work with Congress to establish and support community-based case management programs that prioritize release on recognizance without electronic monitoring or mandatory check-ins.

Secure postsecondary educational opportunities for those in prison

Recommendations

Adopt as part of the administration’s legislative agenda the reinstatement of Pell Grant eligibility for all postsecondary education students in prison.

Justification

We should immediately restore Pell Grant eligibility for all students in prisons. Postsecondary educational opportunities in prisons decreased precipitously after the ‘94 Crime Bill ended Pell eligibility for those in prisons. Additional benefits of higher education in prisons include the dignity of the educational experience, strengthening families, increased employment rates and earning potential for people reentering society, and better educational outcomes for children of students who are incarcerated, along with considerable financial savings for states.²³

Further, Pell reinstatement has strong bipartisan support in Congress. The REAL Act, legislation that would reinstate Pell eligibility, has a long list of bipartisan cosponsors in both the House and Senate, and the Chairmen of the Senate HELP and House Education and Labor Committees included Pell restoration in their Higher Education Act reauthorization packages in the 116th Congress.²⁴ Importantly, full Pell restoration for all students in prison has been included in the House Appropriations bill H.R. 7617 that passed in the House in July of this year. There is also broad community support for Pell restoration including a number of law enforcement organizations, the National District Attorney Association, the American Correctional Association, numerous commissioners of corrections, a growing bipartisan group of Governors and state Attorney Generals as well as The Business Roundtable, the U.S. Chamber of Commerce, and numerous local chambers of commerce.

Executive Action

²³ Allan Wachendorfer and Michael Budke. “Lessons from Second Chance Pell. A Toolkit for Helping Incarcerated Students Complete the Free Application for Federal Student Aid.” *Vera*, April 2020, <https://www.vera.org/publications/lessons-from-second-chance-pell>.

²⁴ U.S. Congress, House *REAL Act of 2019*, HR 2168, 116TH Cong., 1st sess., introduced in House April 9, 2019, <https://www.congress.gov/bill/116th-congress/house-bill/2168/text?q=%7B%22search%22%3A%5B%22REAL+Act%22%5D%7D&r=2&s=1>

Given bipartisan support for the issue, we urge the administration to push Congress to pass Pell reinstatement as quickly as possible in whatever legislative or funding vehicle moves early in the next Congress.