Supporting Black Women's Reentry from Incarceration

Recommendations for Reentry Policy & Practice in California

SEPTEMBER 2023

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Executive Summary

This policy report aims to center the challenges and needs of Black women returning to their communities from carceral institutions. It highlights promising practices and policy solutions. This report is informed by informational interviews and listening sessions with formerly incarcerated Black women, surveys of California-based reentry organizations, NBWJI's extensive research and evaluation of reentry needs and services in California, literature reviews, and legislative analysis. We recommend policymakers take action in the following five critical areas of reentry for Black women:

Address Black women's basic needs and better prepare them for release.

- Provide gender- and culturally-responsive reentry assessment, planning, and care continuity to better prepare women to reenter their communities.
- Ensure that women are equipped with basic personal care essentials upon release.
- Increase the California Department of Corrections and Rehabilitation release allowance to an amount that accounts for present-day economic realities.
- The United States Department of Agriculture Food and Nutrition Service (FNS) must grant California a statewide federal waiver to implement pre-release enrollment in CalFresh for individuals incarcerated in state prison or county jail.
- Allow incarcerated people to have their birth certificates at no cost before they are released.

Increase Black women's access to stable housing.

- Repeal crime-free laws that disproportionately exclude and evict formerly incarcerated Black women from housing.
- Enact statewide Fair Chance Housing legislation.

- Invest in new and build the capacity of existing supportive housing, allowing for flexibility and innovation in how housing programs utilize funds.

Increase opportunities for Black women's economic prosperity.

- Ensure that conviction history does not prevent qualified candidates from securing employment through additional protections beyond "banning the box."
- Raise the minimum wage to a living wage.
- Provide a temporary guaranteed basic income.
- Eliminate criminal legal system debts.
- Ensure that workforce development and employment-focused reentry programs include formerly incarcerated people without regard to supervision status.
- Invest in the provision of gender-specific employment-focused reentry services.

Support the preservation and reunification of families separated by incarceration.

- Pass legislation that makes it easier for parents to plan for reunification during incarceration or residential drug treatment.
- Eliminate timelines for termination of parental rights from existing law.
- Remove barriers to placement with non-relative or extended family members with conviction histories that do not endanger the child.

Support formerly incarcerated Black women's health and well-being.

- Build the capacity of community-based providers to provide care coordination for people in carceral facilities that helps establish

relationships with primary and behavioral health care providers, transition medical records, and set up community-based care before release.

- Provide incentives for community-based primary and behavioral health care clinics to adopt trauma-informed, gender-responsive, and culturally affirming models to care for the reentry population and to hire community health workers with lived experience of incarceration.
- Close the Medicaid coverage gap for people leaving carceral facilities across the country with federal legislation.

Black women's success in reentry is not solely indicated by avoiding re-arrest or re-incarceration but is also characterized by the ability to establish stability, build and repair meaningful connections, and restore dignity and self-worth. The investments and policy changes outlined in this report will help ensure that Black women returning to their communities from confinement have access to all of the resources they need to thrive.

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Introduction

The number of women[1] incarcerated in the United States has steadily increased over the past 40 years, solidifying the United States as the global leader in mass incarceration.[2] Tough-on-crime policing practices and harsh sentencing laws have driven prison and jail populations to crisis levels. Today, women in the United States are incarcerated at more than 10 times the level in 1970.[3]

Similar to the country as a whole, California's incarceration rate surpasses much of the rest of the world, and women make up the fastest-growing population in jails and prisons over the past several decades.[4] In the late 2000s, California began efforts to reverse this carceral crisis by enacting a series of policy reforms to reduce the use of incarceration, ease overcrowding in prisons and jails, and save millions of taxpayer dollars annually. These major reforms include the following:

- The Community Corrections Performance Incentives Act of 2009 (Senate Bill 678) provided incentive-based funding for county probation departments to reduce the number of revocations to state prison and reinvested a portion of state savings from reduced recidivism and revocations back to counties to implement evidence-based supervision practices.[5] Prior to this reform, probation revocations were estimated to account for 40% of prison admissions.[6]

- Senate Bill 18 X3 (2010) established a new type of "non-revocable parole" for individuals convicted of low-level offenses and deemed to not pose a threat to society, which essentially eliminated technical parole violations for these individuals.[7] The law also raised the minimum dollar value for certain property crimes to qualify as felonies and increased the availability of credits that incarcerated people can earn toward earlier release.[8]

- Public Safety Realignment of 2011 (Assembly Bill 109) targeted prison overcrowding by shifting the responsibility for monitoring, tracking, and incarcerating individuals convicted of nonviolent, non-serious, and non-sexual crimes from the state to the counties. In addition, people serving time in prison who were not convicted of violent, serious, or sexual offenses continued to be released to a county-directed post-release community supervision program instead of to the state's parole system.

- California Proposition 36, also known as the Three Strikes Reform Act (2012), revised the state's Three Strikes law, making it applicable only to people whose third strike was a serious or violent offense.[9] It removed the mandatory 25-years-to-life sentence for a third nonviolent offense, and it also enabled those currently serving a life sentence for a nonviolent or non-serious third strike to petition for resentencing.

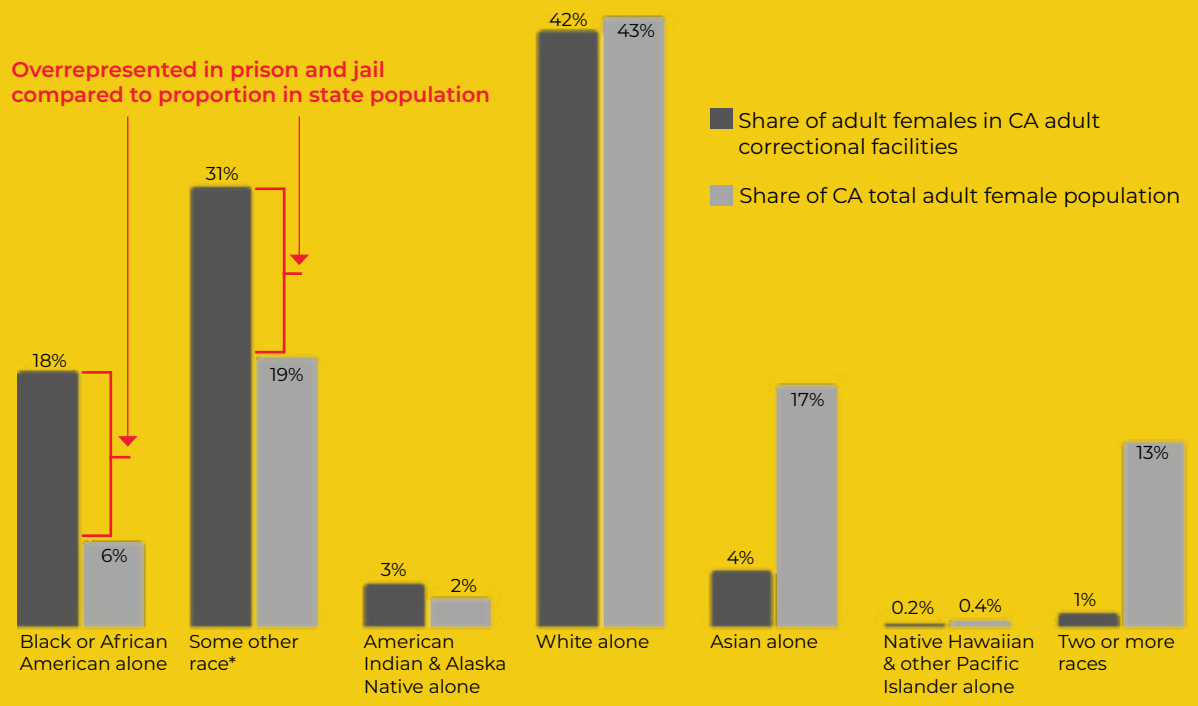
- California Proposition 47, also known as the Safe Neighborhoods and Schools Act (2014), reclassified certain property and drug offenses from felonies to misdemeanors. Cost-savings resulting from the reduction in the prison population due to the proposition are distributed to the Safe Neighborhood and Schools Fund to enhance educational, victims' compensation, and correctional programs.

These reforms appear to have made an impact, as the overall prison population, probation and parole revocations, and state correctional expenditures have been decreasing since 2010.[10] Given the interrelated nature of these reforms, it is challenging to attribute changes in outcomes to any one policy change. Research suggests that implementation of SB 678 led to substantial increases in the use of evidence-based probation practices, including the expansion of gender-specific programs.[11] Research also suggests that the decrease in the number of women in California prisons is attributable specifically to AB 109 and Proposition 47.[12] The female population decreased by 25% by the end of the first year of AB 109 implementation,[13] and both the state prison and jail populations significantly decreased once Proposition 47 was initiated.[14] Proposition 47 significantly benefited women because women in California (and similarly nationally) are disproportionately incarcerated for property and drug-related crimes,[15] the same offenses targeted by AB 109 and reclassified as lesser offenses under Proposition 47.

The effect of AB 109 and Proposition 47 is also evident in how the offense types have changed among women serving prison sentences in California: The number of women imprisoned for violent offenses increased by 41% from 2010 to 2012, while the number of women imprisoned for drug or property offenses decreased in 2012.[16] Despite the rise in women incarcerated for violent offenses in the state, Proposition 36 (three strikes reform) has not had a significant effect on women because women are more likely to be incarcerated for property and drug-related crimes and are less likely than men to be sentenced under the three strikes law.[17] As of January 2022, only 0.6% of people serving third-strike enhancements were female.[18]

Although the data about the impact of these reforms cannot be broken down by race and gender, the effects of these policies on women generally and Black women specifically can be inferred. Between 2010 and 2019, the number of Black women in prisons

Figure 1: Women incarcerated in correctional facilities in California vs. proportion of state population, by race, 2020



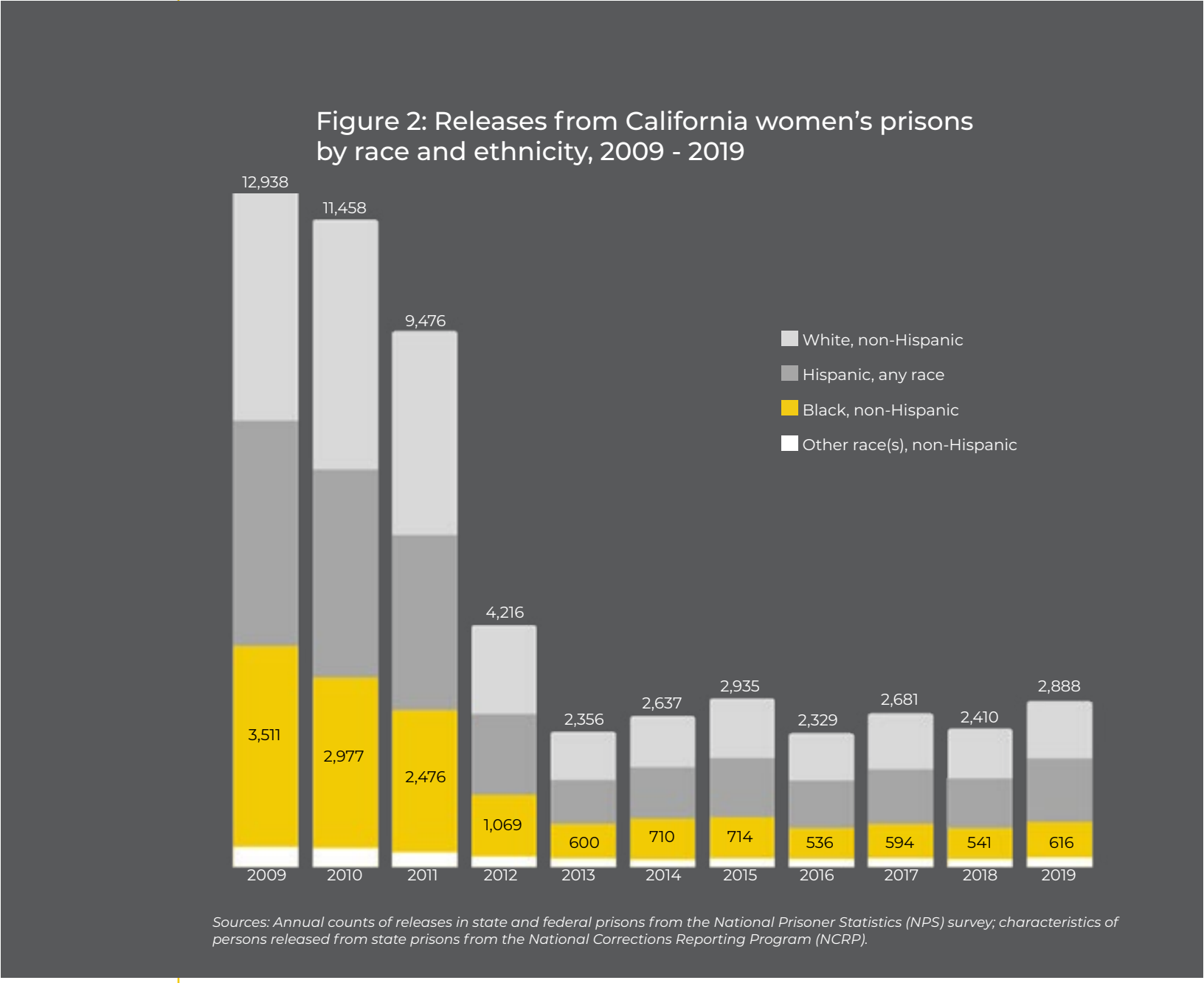
Source: Author calculations of 2020 U.S. Census data. Correctional facilities for adults in the 2020 Census includes federal detention centers, federal and state prisons, local jails and other municipal confinement facilities, correctional residential facilities (e.g., halfway houses), and military disciplinary barracks and jails.

** "Some other race" is a race category used in the U.S. Census for respondents who do not identify with any of the other five categories (white, Black or African American, American Indian or Alaska Native, Asian, and Native Hawaiian or other Pacific Islander).*

in California fell by nearly half.[19] However, despite these declines, Black women remain severely overrepresented. According to data from the 2020 U.S. Census, Black women made up about 18% of the incarcerated population in California—more than three times higher than their share (6%) of all women in California (see figure 1).[20]

As incarceration rates decline, women, especially Black women, are being released from carceral facilities with little support

California annually releases more women from prisons and jails than any other state. In 2016, California released 189,066 women, which accounted for almost 10% of all women released from prisons and jails nationwide.[21] Within the state alone, women represent 20% of the total share of annual releases from state prisons and local jails in California. From 2009 to 2019, more than 56,000 women were released from California prisons, and one in four of those releases were Black (see figure 2).[22]



When people are released from incarceration, community reentry centers or reentry programs are meant to help people successfully "reenter" society and reduce the risk of returning to jail or prison through support services such as assistance in finding and maintaining employment and housing. However, even though one in five people released from prisons and jails in California are women, reentry services and post-release policies have been created primarily with men in mind.

Although women and men face similar reentry issues regarding housing, employment, behavioral health, and parenting, women experience these risk factors at higher rates and degrees, and more often face multiple risk factors at the same time.[23] Some of the complex, unmet needs that women face upon leaving prison include maintaining sobriety, staying on top of the punitive terms of parole or probation, and searching

for housing and employment—while working to repair broken bonds and navigate the child welfare system and the challenges surrounding family reunification. Reentry programs must also consider gender differences in pathways to incarceration, as the vast majority of women involved in the criminal legal system are survivors of physical, sexual, or emotional abuse, and these histories of gender-based violence often relate to their criminal offenses.[24] These programming gaps pose significant risks to the success and well-being of formerly incarcerated women, especially those who are Black or of color, who face additional systemic barriers due to race *and* gender.

Black women's experiences are unique: their precarious position in the overall structure, dynamics, and characteristics of society, caused by structural racism, makes them vulnerable to system involvement in the first place. Systemic oppression also shapes Black women's reentry experience.[25] Black women are more vulnerable to rearrest as targets of the police, and they have more difficulty maintaining stable housing and employment.[26] Without support, formerly incarcerated women risk rearrest and reincarceration and have little hope of interrupting the cycle of criminal legal system

involvement. As incarceration rates decline and women continue to be released from prisons and jails, it is vital to have gender-responsive housing and services in place for them when they reenter their communities.

Transformative policies and practices are needed to eliminate barriers and support Black women to thrive after release from confinement. At NBWJI, we seek to dismantle the systems and policies that heighten Black women's and girls' risk of criminalization and punishment and deny us access to safety, well-being, economic prosperity, and healing. Expanding access to gender-responsive and culturally-affirming reentry services through policy and programs is essential to achieving that mission and a vital strategic priority. NBWJI has received funding support from California-based foundations and has partnered with gender-specific reentry programs to strengthen and build the capacity of pioneering programs for formerly incarcerated women in California. This report highlights the critical issues and barriers facing Black women who are reentering communities from confinement, as well as promising practices and solutions to address these issues and create paths to opportunity and well-being. This report also outlines strategies that policymakers can take to address the urgent need for policies and practices that support and defend the health, well-being, and dignity of formerly incarcerated women in the state of California.

Each section of this report describes a current problem based on the experiences and insights of directly impacted Black women in California, the organizations that serve them, and a review of the literature. We discuss current state and federal policies in place to address the problem, how those policies have positively or negatively impacted formerly incarcerated Black women, whether and why they are insufficient, and why new policies may be necessary. Each section also includes an "Innovation Spotlight" to elevate promising practices and programs and ends with policy recommendations (including proposed and model legislation) to better support Black women returning to the community and the organizations that serve them.

Our Black Feminist Approach

The National Black Women's Justice Institute (NBWJI) takes a Black Feminist approach to our work, which, at its core, means that we prioritize the needs and desires of directly impacted Black women, value their experience as expertise, and create space for them to define issues of critical importance and speak for themselves. To that end, for this report NBWJI staff held two listening sessions with 12 formerly incarcerated Black women to understand their most pressing reentry needs, the actual and potential impact of current and proposed laws and policies in their lives, and what successful reentry looks like to them. We also conducted interviews with 13 staff and leaders within reentry service and advocacy organizations in the state—more than half of whom were Black women who experienced reentry themselves and are now working to help others successfully do the same.

To better understand the challenges and policy barriers, as well as policy opportunities to provide reentry support to formerly incarcerated Black women, we also administered an organizational needs assessment survey to 12 reentry service and advocacy organizations in California. In addition, NBWJI staff reviewed multidisciplinary research literature and conducted legislative searches and analysis to assess the reentry policy landscape in the state of California, which allowed us to situate what we learned from directly impacted women and the organizations that serve them within the broader reentry context. Lastly, this report is informed by NBWJI's extensive research and evaluation of reentry needs and services, particularly focused on California-related work that followed a similar approach. Taken together, we based our recommendations on a comprehensive assessment of current data and research, as well as the needs and experiences of directly impacted Black women.

Addressing Basic Needs and Preparing for Release

Black women released from prison must overcome significant barriers to meet their basic physiological and practical needs before and upon release. This includes access to food, clothing, hygiene and grooming products, a phone, transportation, access to vital records and documents such as a state ID, social security card, or birth certificate, supportive housing, healthcare (including mental health care and addiction treatment), and employment. These needs are interconnected. For example, it's difficult to secure housing if someone doesn't have employment, and it's difficult to secure employment without access to certain vital documents. It can be overwhelming trying to meet these needs with few resources and no plan. The reentry experience can be especially jarring for Black women who serve disproportionately longer sentences in California—one out of every four women serving a life sentence in the state is Black, and most will eventually be paroled to a society that has fundamentally changed since the start of their sentences.[27] One formerly incarcerated woman who served more than 36 years of a life sentence in California described how steep the learning curve can be for women returning to their communities after long-term sentences:

Basic needs Black women must meet upon release from incarceration

- Access to food
- Clothing
- Hygiene and grooming products
- A phone
- Transportation
- Access to vital records and documents such as a state ID, social security card, or birth certificate
- Supportive housing
- Healthcare (including mental health care and addiction treatment)
- Employment

For a person who has been incarcerated as long as I have, there are some loopholes in reentry. See, we didn't have cell phones then. We didn't have the Internet then. We didn't know how to take a card and get your money off your card. And how technology is so advanced now, they didn't give us that information. So, we had to fake it till you make it... They give you $200 and then they kick you out of the gate. But today, they give you money on a debit card. I never knew about debit cards. I learned all about this through

my peers—about credit scores and what you need to do to get a car, how you need to save, money management. That was all very, very important and [prisons] just don't get to that. You have to learn it.

Most people are released from prisons with no plan, little more than a paltry sum of "gate money," a bus ticket, and the clothes on their backs. It's critical for state and county carceral facilities to help smooth the transition from confinement to community with intentional pre-release reentry planning and coordination that includes but is not limited to providing sufficient cash assistance at the time of release and facilitating access to public benefits and vital documents.

The cash assistance granted upon release is insufficient to cover expenses for women's basic needs.

When people are released from the California Department of Rehabilitation and Correction (CDCR), they are granted a $200 release allowance.[28] Providing money to people leaving prison, commonly called "gate money," is a fairly common practice in state correctional departments to cover transportation, housing, or food costs for people after their release. According to an analysis by the Marshall Project, California's $200 was the highest reported release allowance (compared to as little as $10 on the low end); however, this amount has not increased since 1973 when $200 was worth the equivalent of about $1,400 today.[29] The $200 release allowance quickly dissipates after the cost of release clothing, public transportation, and other necessary items that women may have to purchase, such as pads and tampons and soap are deducted. Although current California law requires that menstrual products be provided upon request at no cost to people who are currently incarcerated in prisons,[30] women who are being released from prison are not included under this law. One formerly incarcerated woman explained the impact of this gap and the limits of how far $200 will go:

When you are coming home and re-entering society, there are certain things I wish I would have been able to parole with. So like the prison gives you packs of Narcan,[31] so if you run into someone who ODs or if you're a drug user… I was on my menstrual when I paroled, and I remember I asked for pads and tampons, and they were like, "No, we can't give you any," but you'll give me Narcan as a woman. That's a reality check when you're paroling and have no basic supplies like tampons, pads, or body wash and hygiene and you're a woman, and the only thing you're getting is $200. And then you're showing up at a program that says they need 30% of your income and $60 of $200, that's a lot to take when that's all

you have. And so when you're trying to get on your feet—and especially for us, we were in prison serving long-term sentences—pads, tampons, all of these things are not cheap when you're trying to stretch $200 and you have nothing and you're trying to get socks, bras, and panties.

The lack of financial resources available upon release also makes food insecurity a real concern for Black women returning to communities. CalFresh, California's Supplemental Nutritional Assistance Program (SNAP), can provide critical food assistance to people who are returning to communities from incarceration. While the reentry population is likely eligible for CalFresh benefits, they face particular barriers to enrollment that can cause delays in receiving benefits at a critical time immediately after their release, which is when studies have found that people are most likely to recidivate.[32] Current law requires that SNAP/CalFresh benefits cease after 30 continuous days of incarceration in jail or prison,[33] and California does not currently have a statewide process for processing CalFresh applications for incarcerated people who are nearing release. Such a process would not only ease the barriers to enrollment but also improve access to healthy food, which can be a buffer for formerly incarcerated Black women who are at greater risk for obesity and chronic illness.[34] Food benefits have also been linked to a lower likelihood to recidivate in the first year of release.[35]

Returning to communities without valid identification documents creates barriers to reentry

Photo identification is essential to reentry. Without identification, a person cannot obtain housing or employment, open a bank account, seek public benefits, or enroll in educational programs. In California, 71% of people who were released from prison in the last six months of 2019 were released with no California identification (Cal-ID)

INNOVATION SPOTLIGHT

Pilot Program to Pre-Enroll People in County Jails in CalFresh

Orange County, California, launched a pilot program from March 1, 2021, to February 28, 2023, for people incarcerated in five county jails to be able to apply for CalFresh benefits up to 30 days before their release as part of a larger strategy to integrate services.[a] While the pre-release application process was not fully implemented due to the county jails being closed to visitors during the COVID-19 pandemic, the county reported promising practices, including collaborative partnerships with community-based organizations to provide application assistance inside the county jails.[b] Orange County partnered with Community Health Initiative of Orange County (CHIOC), a community-based organization that contracts with Project Kinship. Project Kinship is a nonprofit organization in Orange County that provides intensive case management, supportive services, mental health support and substance use treatment to reentering individuals. Project Kinship also assists with CalFresh and Medi-Cal applications and is stationed outside of the Intake Release Center (at Central jail) and assists individuals with accessing cell phones, clothes, and transportation upon release. These are the kinds of supports that Black women say they need upon release.

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a Innovative Proposal to Pre-Enroll Inmates in Nutrition Program Prior to Release Granted Federal Approval, Orange County, https://bos1.ocgov.com/OC-Nutrition-Program-Prior-to-Release-Granted-Federal-Approval.

b California Department of Social Services, "All County Welfare Directors Letter," November 2022, https://www.cdss.ca.gov/Portals/9/Additional-Resources/Letters-and-Notices/ACWDL/2022/CL_11-18-22.pdf?ver=2022-11-22-171815-397.

card in hand.[36] Although current law now allows for an incarcerated person to leave the California Department of Corrections and Rehabilitation (CDCR) with a Cal-ID card in hand, a birth certificate typically is needed to prove the date of birth and legal presence in order to obtain the identification card.[37] Without the necessary documentation to get a Cal-ID, such as a birth certificate, people would have to undergo the lengthy process for obtaining a birth certificate, which also comes with a $29 fee in California. While the $29 fee may seem nominal, for many people who have already had transportation and clothing costs deducted from their $200 in gate money, this fee can be cost-prohibitive to successful reentry.

Recommendations

- **Provide gender- and culturally-responsive reentry assessment, planning, and care continuity to better prepare women to reenter their communities.** A common sentiment among formerly incarcerated women is not knowing where to start in getting established after release. AB 2250 (Bonta, 2021-2022) would establish a five-year, three-phase pilot program that would allow women to be released with, among other things, the following: a clear, individualized reentry plan, including a plan for housing and career development; and comprehensive case management services to facilitate access to public assistance programs and basic skills training such as computer literacy, financial literacy, job readiness, life skills, and parenting courses.[38] The program would also provide a culturally competent peer reentry navigator, subsidized employment and housing assistance, and support focused on family reunification. This type of program would be especially helpful for the disproportionate number of Black women reentering who have served long-term sentences, helping them to learn basic skills and supporting them as they navigate today's world. AB 2250 died in committee, but this type of legislation should be reintroduced.

- **Ensure that women are equipped with basic personal care essentials upon release.** Similar to the Narcan (naloxone) emergency kits provided to people leaving California prisons, women exiting carceral facilities should be provided with personal care kits that include basic essentials such as feminine hygiene products, undergarments, and toiletries. These products should not be deducted from release allowances.

- **Increase the California Department of Corrections and Rehabilitation release allowance to an amount that accounts for present-day economic realities.** In 2022, then-state Senator Sydney Kamlager-Dove introduced SB 1304, which proposed that the CDCR release allowance increase

from $200 to $1,300 with an annual inflation adjustment. The bill received no opposition and made it to the governor's desk before being vetoed. The governor cited "lower-than-expected revenues" for the state and noted that funding had already been provided for other community reentry programs in the state budget.[39] As sufficient cash assistance is indispensable to meeting even the most basic needs, it's imperative that a similar bill be introduced that increases the release amount to at least $1,400 to account for inflation as of 2023.

- **The United States Department of Agriculture (USDA) Food and Nutrition Service (FNS) should grant California a statewide federal waiver to implement pre-release enrollment in CalFresh for individuals incarcerated in state prison or county jail.** In November 2022, the California Department of Social Services issued guidance to county welfare departments regarding processing CalFresh applications for people incarcerated in prisons and jails.[40] The state does not currently have a statewide process for pre-release CalFresh enrollment, but the state has submitted a waiver request to the USDA FNS to create one. It is now up to the USDA FNS to approve the waiver request to make CalFresh pre-release enrollment a standard practice for jails and prisons across the state.[41] Successful implementation could provide around $141 per person per month, which could be a significant protective factor against food insecurity for reentering Black women.[42]

- **Allow incarcerated people to have their birth certificates at no cost before they are released.** Assembly Bill 974 seeks to allow currently incarcerated individuals to qualify for a single-use fee waiver in order to get a copy of their birth certificate without needing to pay the current $29 fee.[43] Receiving this document without the need to save up for it and returning to the community with it already in hand will provide greater opportunities and preparedness for Black women as they leave the carceral system.

Access to Stable Housing

Housing is a basic human need and is the bedrock of stability. It's difficult to focus on getting a job or meeting the conditions of parole with nowhere to call home. Restrictions on housing opportunities are one of the most significant obstacles to successful reentry, especially for Black women. Black women face severe barriers to housing after release. According to an analysis conducted by the Prison Policy Initiative, formerly incarcerated Black women experience sheltered homelessness (living in a shelter) at nearly four times the rate of white men and two times the rate of Black men.[44] The same analysis also found that Black women experience unsheltered homelessness (no fixed residence) at much higher rates than white women. This type of housing instability creates safety risks for formerly incarcerated women, such as relying on unhealthy relationships or exchanging sex to meet basic or immediate needs.[45] Our conversations with formerly incarcerated Black women and survey of reentry providers echo the grim reality of housing instability. One directly impacted woman now working in reentry shared:

> *It is hard to try to focus on getting a job when you have nowhere to stay. You're just not stable enough to focus. And then everybody has all these demands—your parole officer wants you to be here, be there, and they're not providing the spaces [to live] ... For us women, it's nowhere to go. So you end up either back at your mom's like me or end up trying to find a boyfriend or something. You can't really focus on yourself when you have nowhere really clean or safe to go. And if you do, there's a waiting list.*

Having a place to call home puts women in a better position to care for themselves and their families. Lack of availability and affordability fueled by discriminatory policies collectively create a housing crisis that hits formerly incarcerated Black women especially hard in California.

"Crime-free" housing policies keep formerly incarcerated Black women from accessing safe housing.

Crime-free housing ordinances and programs encourage or require private landlords to conduct criminal background checks before renting to a prospective tenant and reject applicants based on criminal history with no guidance or consideration for how much time has elapsed since a conviction or circumstances surrounding the conviction.[46] Specific provisions of crime-free housing ordinances vary by jurisdiction, but

some hold landlords legally responsible for their tenants' actions, which also drive evictions. These ordinances also typically require or encourage landlords to evict the entire tenant household for the alleged criminal activity or "nuisance" behavior of tenants and/or their guests. Crime-free housing ordinances cast a wide net on what constitutes actual or alleged "criminal activity" and may even be applied without an arrest or conviction. These policies may evict and exclude people with convictions for minor crimes such as shoplifting or for mere police contact for suspected criminal activity. Even calls to police for domestic violence can be grounds for eviction, which research has shown disproportionately impacts Black women.[47]

Although these policies are race-neutral on the surface, their impact certainly is not. Landlords' selective refusal to rent to an applicant based on their criminal history under crime-free housing policies has disparate impacts on protected classes covered by the federal Fair Housing Act (FHA) and the California Fair Employment and Housing Act (FEHA), both of which prohibit housing discrimination based on race, color, sex, and other characteristics. Crime-free housing policies have been adopted and enforced in jurisdictions with increasing or concentrated Black populations. A Los Angeles Times investigation found that among the 20 California cities with the largest increases in Black residents since 1990, 85% have approved crime-free housing policies.[48] These programs are promoted using coded language that elicits racist notions of criminality. For example, the Los Angeles Times reported that a city councilman in Hesperia, CA, said that the purpose of his city's ordinance was "to correct a demographical problem with people that are committing crimes in this community."[49]

Crime-free housing policies put Black women in precarious positions—criminal background checks create a barrier to safety, independence, and stability. Even for Black women without a criminal history who are the heads of their households, living in racially segregated neighborhoods where policing and incarceration rates are high, increases the likelihood that either she or a household member will be targeted by such an expansive zero-tolerance policy.[50]

INNOVATION SPOTLIGHT: The SAFE Housing Network

"The SAFE Housing Network has developed almost everything you can need to start a reentry home that's really inclusive of not just the housing component, but the dignity, care, and healing that women, and specifically Black women, deserve." —directly impacted Black woman leading a reentry organization

The Sisterhood Alliance for Freedom & Equality (SAFE) Housing Network is a nationally recognized successful reentry model that provides a framework for supporting the stability, healing, and leadership development of formerly incarcerated women nationwide. Designed for women experiencing reentry by women who have experienced reentry, the SAFE Housing Network model is an innovative, holistic, community-based and gender-responsive program offering flexible wrap-around reentry support services. These support services include legal help, mental health treatment, parenting and life skills instruction, substance misuse training, and employment assistance. The SAFE Housing Network also affirms formerly incarcerated women as the experts in ending mass incarceration and rebuilding lives, families, and communities by developing their leadership and advocacy skills.

Since 2018, the SAFE Housing Network has provided services for more than 3,890 individuals in 16 states. To learn more about the SAFE Housing Network, visit https://anewwayoflife.org/safe-housing-network/.

Exclusionary zoning laws create barriers to stable housing.

Zoning ordinances are part of a long history of discriminatory housing policies that prevent poor or minority residents from being able to move into more resourced communities. These ordinances place restrictions on the types of homes that can be built in a particular neighborhood.[51] In our conversations, NBWJI staff learned that the availability of transitional and supportive housing specifically for women is scarce and, for some women, the prospect of returning to the same neighborhood after release is a potential threat to their reentry success. As one person shared:

> *"Most women have to return back to the hypervigilant neighborhood that probably got them caught up in the first place. So, for women, we find it way more difficult because there aren't houses like there are for men. Come out here in Oakland, we got this halfway house, we got that halfway house and it's full of men because their population in jails and prisons is higher than women. But we still make up a population."*

Starting Over, Inc. is an example of an organization striving to disrupt the scarce housing landscape for women returning from incarceration by providing gender-responsive housing for them in middle-class neighborhoods where women will have greater opportunities. However, they are often met with resistance from residents in those neighborhoods who don't want to see formerly incarcerated Black women living among them. Starting Over's executive director shared her experience with the discriminatory attitudes and policies of neighbors, code enforcement, and zoning boards looking to keep formerly incarcerated women out of certain neighborhoods and how she's fighting back.

Neighbors complain to the local code enforcement division or the homeowners association about the prospect of formerly incarcerated women being housed in the neighborhood, and code enforcement responds with a requirement to obtain a conditional use permit (CUP) as a probation or parole house, even though the organization doesn't require that reentering people in their house be on probation or parole. Applying for the CUP is associated with a steep, nonrefundable administrative fee, and the decision to grant or deny the request rests with the zoning board. Starting Over staff shared:

> *They want to make it a requirement that if you have two people on probation or parole in your house, that you have to get a conditional use permit. And then you have to pay for it upfront, and then they decide whether to grant it or not. Either way, you don't get your money back. And it's like $8,000, at least for what they told us. It was going to be $8,000 for a conditional use permit, and then the NIMBY [not in my backyard] people (the people who don't want us in the neighborhood) they don't come and talk to the people at the meeting. So they ain't gonna give you the conditional use permit anyway. They're gonna tell you, 'Oh, well, we discussed it, and we think in the best interest of the community, we're not going to be able to grant you that.' They can't say because you're Black, they can say because you're a probation or parole house.*

Housing discrimination against people with criminal convictions through crime-free housing policies and exclusionary zoning laws add to an already hard-hitting housing crisis in California that creates precarity and housing instability in the lives of formerly incarcerated Black women. Policymakers must intervene with legislation that removes these structural barriers and invests in housing opportunities.

Recommendations

- **Local jurisdictions must repeal crime-free laws that disproportionately exclude and evict formerly incarcerated Black women.** California's Office of the Attorney General (OAG) recently issued guidance to all cities and counties in California to repeal any provisions of a local crime-free housing policy that would constitute a prohibited practice, such as mandates for landlords to consider criminal history in assessing housing opportunities or initiating eviction proceedings against tenants arrested, suspected, or convicted of crimes.[52] Assembly Bill 1418 (McKinnor, 2023) prohibits local governments from encouraging landlords with their crime-free policies to perform a criminal background check on a tenant or prospective tenant is currently being considered in California's legislature.[53]

- **Enact statewide fair chance housing legislation.** Fair chance housing is legislation that prohibits the blanket discrimination of rental applicants based on criminal histories.[54] Senate Bill 460 (Wahab, 2023) would have established the first statewide fair chance housing law, which would remove structural housing exclusion by preventing rental housing providers from screening for criminal history of applicants during the advertisement, application, selection, or eviction process unless required by federal law. SB 460 would apply to any and all private and publicly subsidized housing in the state of California.[55]

- **Invest in new, and build the capacity of existing, innovative supporting housing. This includes allowing for flexibility and innovation in how housing programs utilize funds.** Providing supportive housing—an affordable place to live with wrap-around supportive services that does not limit the length of stay—has been shown to reduce recidivism by 40 percent to 60 percent.[56] Assembly Bill 745 (Bonta) would require the Department of Housing and Community Development (HCD) to create the Reentry Housing and Workforce Development Program with the goal of alleviating homelessness and the risk of homelessness among formerly incarcerated people with permanent supportive housing and workforce training.[57] The program would use a justice reinvestment strategy by redirecting cost savings at the California Department of Corrections and Rehabilitation from prison closures to fund the program.

Opportunities for Economic Prosperity

Having a job that pays a living wage impacts the quality and accessibility of many other parts of life such as the ability to find and maintain housing, access education, take care of personal health, and other issues. Securing gainful employment is a core component of self-sufficiency for everyone. For people leaving prison, it's a key factor in not returning. However, structural barriers to employment affect an estimated 8 million, or one in five, California residents who have a conviction history of some kind, including 2 million working-age Californians living with a felony record.[58] Hundreds of categories of jobs are off-limits to people with felony convictions (such as teachers, workers in the healthcare field, real estate brokers, salespersons, and more).

Poverty is the strongest predictor of recidivism among women,[59] and Black women's employment trajectories after incarceration put them at highest risk. Research conducted by the Prison Policy Institute found that of all formerly incarcerated people, Black women have the highest unemployment rate and the greatest difficulty finding full-time employment. The unemployment rate for formerly incarcerated Black women is estimated to be about 43 percent, compared with 5 percent for their never-incarcerated counterparts.[60]

Despite laws that prevent discrimination against people with criminal convictions, reentering Black women still face employment discrimination due to their conviction history.

Fair chance (sometimes called "second chance") employers means that they base their employment decisions on applicants' qualifications rather than their criminal records. California's Fair Chance Act, also known as a "ban the box" law, went into effect on January 1, 2018, to reduce undue barriers to employment for individuals with criminal histories.[61] The law generally prohibits employers with five or more employees from asking a job candidate about conviction history before making a job offer. In most cases, it is also illegal for employers to have blanket bans that exclude all applicants with criminal records or applicants with certain convictions. The intended goal of this law would especially benefit Black women, as previous research on differential treatment among formerly incarcerated women seeking employment found that résumés sub-

mitted by Black women received the lowest response rate from potential employers.[62] Black women in the study were concerned that a criminal record was used as a proxy for race with regard to employment opportunities. Even though the Fair Chance Act of 2018 bans employers from asking about conviction history on applications, we learned that some employers are still asking the question at the application stage, and reentering Black women are still being discriminated against with background checks.

Formerly incarcerated Black women are being denied employment for convictions that are decades old. Current law prohibits consumer reporting agencies from reporting records of arrests, indictments, and convictions of crimes older than seven years from the date of "disposition, release, or parole."[63] However, the dates of disposition, release, and parole may span a broad time range, which means that when someone's release or parole date is more than seven years after their disposition date, old convictions may still be accessible and reportable by reporting agencies. According to the experiences of directly impacted Black women we spoke with, that clock starts at the time of release, not the time of disposition, making the path to post-incarceration employment a bumpy one. This is especially true for women who have served long-term (10 years or more) sentences, as Black women disproportionately do; having a conviction show up for an additional seven years beyond time served makes it harder to gain employment.

TRINA'S STORY

One directly impacted woman, Trina, served 25 years in a federal prison in California. Due to changes in the law, she was resentenced to only 5 years, meaning she had already served 20 years beyond her sentence. In turn, she was released without conditions, meaning no supervision. Excited about her employment prospects due to the ban the box law, she was discouraged when potential employers continued to rescind offers or become nonresponsive after her background checks returned her conviction from more than 30 years ago. She also sought employment assistance from reentry programs, but she was ineligible for assistance because she wasn't on probation or parole. Running out of options, she shared, "I've been out six years and it's like I just got out of prison yesterday... I got tired of being discriminated against for employment. How am I supposed to survive?... You say second chances, but I haven't been given a second chance. So I called legal aid because I felt like enough is enough." Trina is currently fighting her discrimination in the courts right now in the Civil Rights Department of Fair Housing.

Most formerly incarcerated Black women who do secure employment tend to be relegated to low-wage, part-time, and seasonal work.

Research suggests that in combination with a criminal record, race and gender play a significant role in shaping who gets access to desirable jobs with living wages. An analysis conducted by the Prison Policy Initiative finds that formerly incarcerated Black women (the group least likely to be employed) were overrepresented in part-time and seasonal jobs while nearly all formerly incarcerated white men (the group most likely to be employed) who were employed worked in full-time positions.[64] One listening session participant shared that she has observed that the majority of the jobs that hire formerly incarcerated women are retail jobs, which "are not going to really help us make a living out here in LA County, where the cost of living is very expensive." For formerly incarcerated Black women who are able to secure work, low-wage and/or part-time wages are not enough to adequately support themselves or their families. Just to cover basic living expenses, a single adult in California with no dependents needs to earn at least $21.82 an hour for 40 hours per week (or $45,385.60 annually)—much more than the minimum wage allows.[65] For a single parent with one child, that figure rises to $44 an hour, and for two kids, it's nearly $55 an hour.

INNOVATION SPOTLIGHT: Empowering Black Women's Entrepreneurship with the BBOP

Time for Change Foundation and BBOP Center founder, Kim Carter, used her own of incarceration and reentry experience to work against systemic racism and inequality by providing the opportunity for disenfranchised Black and brown women to work on their terms in a safe and supported environment. The Black and Brown Opportunities for Profit (BBOP) Center in San Bernardino, CA is a hub where Black and brown women can access the space, support, and education they need to innovate, become entrepreneurs, and elevate their financial acumen in order to build generational wealth. Offering three unique programs, the BBOP Center seeks to change the financial trajectory for women of color by "creating an economy that works for them." Learn more at https://bbopcenter.com/.

In certain areas of California, a single adult with no dependents must make even more to "live comfortably." SmartAsset calculated the income needed to live comfortably using the latest MIT Living Wage Calculator and the 50/30/20 budget rule—50% of post-tax income goes toward needs, 30% goes to wants, and 20% goes to savings or debt repayment.[66] According to these calculations, to live comfortably, a single person in San Diego must earn $79,3324 annually, while Bay Area residents must earn $84,026. It's clear that the cost of living has far outpaced wages, hindering returning Black women's ability to thrive economically.

Lack of access to child care—both in terms of affordability and availability—creates a barrier to successful reentry for Black women. As one directly impacted interviewee shared,

> *"There are different programs out that the women can go through, but it's [that] there are so many steps. So if you don't have the funds to pay somebody to watch your child while you're trying to get back into society, that could hold you back. And being on a waiting list takes three to four months, that fire to [get] ready to get out there can just disappear. Anything can happen in a matter of days, because women coming from incarceration, we go through depression and we have a lot going on."*

The cost of childcare combined with the prevalence of precarious work among formerly incarcerated Black women illustrate that gender and race operate together in the context of reentry.

The anticipated and actual barriers to obtaining the kind of employment opportunities that formerly incarcerated Black women deserve fueled the ambition of many of the women we spoke with to start their own businesses. One woman who earned a business certificate while in prison shared that she pursued education in business because "I felt like I always thought that I might have a hard time when I get out. So the best thing for me to do is try to get in business for myself, open up my own kind of business some kind of way."

Fines and fees exacerbate economic instability and barriers to successful reentry.

> *"After we're getting out after serving these long sentences, we're still having to face issues with court debts… It's hard to try to move forward and build your credit when you're being hunted down for these fees." —Directly impacted Black woman from Los Angeles, CA*

Financial obligations associated with parole and probation, referred to as community supervision, might include supervision fees, court costs, urinalysis tests, electronic monitoring, fines, and treatment and special services. Additionally, California state law requires judges to order restitution in the form of fines or direct orders in every criminal case "to help victims recover from any financial hardship caused."[67] California is one of 13 states in which individuals can be charged interest or late fees if they fall behind on payments, with no regard for ability to pay or conflicting obligations like child support.[68] California may assess up to $300 for late payment of fines. Given formerly incarcerated Black women's employment prospects and relatively low earnings when they are employed, fines and fees make economic stability and empowerment even more of a challenge to achieve. The additional penalties and accumulated interest on court debts generate a perpetual cycle of poverty and debt.

INNOVATION SPOTLIGHT: Fresno Reentry Women's Employment Initiative

Root & Rebound's Fresno Women's Reentry Employment Initiative (FRWEI) is an innovative, evidence-based program providing integrated, coordinated, and comprehensive wraparound reentry services focused on the unique needs of Black and Latina women with criminal records in Fresno County. With a goal to increase employment and economic stability, FRWEI ensures that program participants have direct access to employment opportunities, employment coaching, economic security, and social and legal services that help them secure careers and become financially resilient. To increase access to existing community supports, FRWEI strengthens Fresno providers' ability to provide women centered services to system-impacted individuals and engage Fresno employers in fair chance hiring. FRWEI works to ensure that employers are compliant with the law through trainings and public education on the barriers to employment for formerly incarcerated women. With the Fair Chance Hiring Training, service providers hear from women in FRWEI about the barriers to employment because of their records and bias against Black and Latina women.[a]

a For a more in-depth resource for employers, H.R. departments, corporate counsel, and workforce development professionals on Fair Chance Hiring, check out R&R's California Employers' Fair Chance Hiring Toolkit.

Recommendations

- **Ensure that conviction history does not prevent qualified candidates from securing employment through additional protections beyond "banning the box."** Senate Bill 809 (Smallwood-Cuevas and Wahab, 2023) would expand upon the current law that took effect in 2018 with three key provisions: 1) a blanket prohibition on consideration of criminal history unless required by law; 2) stricter procedural safeguards against improper consideration of criminal history when it is required; and 3) a proactive mechanism for the state to enforce these anti-discrimination provisions through civil penalties. Allowing job applicants to be evaluated as individuals independent of their conviction histories would help level the playing field in formerly incarcerated Black women's unemployment rates, supporting their successful reintegration into society.

- **Raise the minimum wage.** The Living Wage Act of 2022, a proposed ballot measure to increase the California minimum wage to $18 an hour by 2025, would lift more than 3.5 million Californians above the federal poverty threshold. If implemented, the California Living Wage Act would raise prices by just .042% over three years, debunking possible fears that higher wages will stoke inflation.[69] Although the measure failed to qualify for the 2022 ballot due to the late submission of verified signatures to the California Secretary of State, the proposition has been cleared for the 2024 ballot.

  While $18 per hour is a good start, it is still not the living wage that Californians deserve. State lawmakers recently took action to raise the minimum wage for health workers in California to a nation-leading $25 per hour by 2027; a plan for a comparable raise for the rest of the state must closely follow. Californians must earn about $22 per hour to cover their basic needs, and legislators don't have to wait for voters to decide on the minimum wage in 2024. The legislature and governor can take action by introducing a bill that mirrors the California Living Wage Act.

  Because of how race exacerbates the gender pay gap, raising the minimum wage will offset the low wages that formerly incarcerated Black women are often relegated to when they do manage to secure employment. It would also benefit Black women with incarcerated loved ones (which also include formerly incarcerated women) who tend to suffer economically as sole caretakers who shoulder the fines, fees, and other costs when a loved one is incarcerated.

  One study led by Essie Justice Group found that women with incarcerated loved ones commonly work more hours, change jobs, miss out on job opportunities, and cannot pursue their own education due to the financial strain of incarceration.[70] Essie Justice Group founder, Gina Clayton Johnson, shared, "there are millions of Black women who are doing the hard work of loving someone and holding together families and providing money on books and doing those long visits and the emotional labor, the opportunity costs, the financial costs, the mental health and physical health costs." For example, female family members spend roughly $5,594.16 per year (in inflation-adjusted dollars) to maintain communications with an incarcerated loved one.[71]

- **Provide a temporary guaranteed basic income to assist formerly incarcerated women in establishing financial stability.** The idea of a guaranteed basic income—the provision of unconditional cash payments to support recipients' basic needs—has been tried and tested all over the world with promising effects.[72] The idea of a temporary basic income has recently been gaining traction for formerly incarcerated people specifically, with experiments in Florida, Chicago,

Durham in North Carolina, and the San Francisco Bay Area.[73] These experiments average a $600 monthly payment over the course of the first year after release from incarceration (when the recidivism risk is highest).

Policies like guaranteed basic income that decouple income support from traditional employment can make it easier for women with caretaking responsibilities to be part of the labor market. Preliminary data from the Stockton Economic Empowerment Demonstration (SEED) in California, for example, show that basic income measurably improved recipients' ability to find full-time employment, financial stability, and overall well-being.[74] A temporary basic income can be instrumental to formerly incarcerated Black women, who have higher rates of homelessness and unemployment, to help meet their basic needs, find or keep stable housing, pay fines and fees to avoid reincarceration, pay for childcare, invest in education, or anything else to assist in their reintegration.

- **Eliminate criminal system debts** by considering individuals' ability to pay, familial obligations, and other individual circumstances in criminal legal system debt. Being responsive to the economic realities of many formerly incarcerated Black women would help them escape the unrelenting cycle of debt that is a barrier to reentry.

- **Ensure that workforce development and employment-focused reentry programs include formerly incarcerated people without regard to supervision status.** While most women leaving prisons are released to parole or community supervision, the relatively small number who are released without conditions are overlooked in reentry programs. Assembly Bill 2060 established the California Workforce Development Board, which administers grants to help individuals under supervision. Some of AB 2060's funding is restrictive and does not cover the needs of formerly incarcerated people who are not under supervision. Funds dedicated to workforce development programs, reentry, and rehabilitation must be extended to people with conviction records who are not under supervision.

- **Invest in the provision of gender-specific employment-focused reentry services.** A holistic approach addressing the full scope of formerly incarcerated women's needs is critical to their success in employment and becoming financially stable. Vital components to programs that support formerly incarcerated women's employment success include holistic assessment of needs and strengths, strategic partnerships that create pathways to employment opportunities, coaching/mentoring, peer support, and advocacy training support (e.g., educating women about their employment rights).

Supporting Family Reunification

The impacts of incarceration extend beyond the individual; it impacts whole families and communities. The children of incarcerated mothers are eight times more likely to be placed in foster care and seven times more likely to be placed in a group home or institutional setting when compared to the children of incarcerated fathers.[75] This disproportionately impacts Black women and children: most (61%) of Black women in state prisons reported having minor children, and nearly 80% of women in federal prison lived with children just prior to incarceration.[76] Recent data show that Black children have contact with the child welfare system at more than three times the rate of white children,[77] and they are more than twice as likely to have their parents' rights terminated than white children nationwide.[78] In addition, about one in eight parents with no history of child abuse or neglect who have children in foster care solely because they are incarcerated have their parental rights terminated; incarcerated mothers have their rights taken away most often.[79]

After release from confinement, formerly incarcerated mothers of minor children must meet a long list of requirements to regain custody of their children and avoid losing parental rights, including showing that they have secured employment and housing. Neither is easy, as discrimination against people with criminal records is rampant in both the employment and housing sectors.[80]

Family separation by incarceration weakens family bonds and sometimes permanently breaks them, especially for Black incarcerated mothers.

There is a long history of policy in the United States that has disproportionately separated Black families. The Adoption and Safe Families Act (ASFA) of 1997 is one example. ASFA is a federal law that promotes the adoption of children in foster care through a performance-based incentive system that awards states money for each additional child adopted. It does this primarily by accelerating timelines for states to terminate parental rights.[81] A central provision of ASFA requires states to file a termination of parental rights petition after a child has been in foster care for 15 of the most recent 22 months and work concurrently to find an adoptive family. There are

a few exceptions to this timeline known as the 15/22 rule, including if the child is in a relative's home, if "reasonable efforts" at reunification with the parents were not made by the state, or if a state agency finds there is a "compelling reason" that terminating parental rights would not be in the best interest of the child.

The 15/22 rule puts Black mothers who are incarcerated or in residential drug treatment at high risk of losing their right to parent. The average prison sentence is much longer than 15 months. It is also shorter than most waitlists for public housing and shorter than the average time someone might need to access substance use treatment.[82] Incarcerated mothers also face barriers to maintaining contact with their children, such as the distance of prisons from their homes, the cost of visits and phone calls, and the frequent relocation of children in foster care.[83] Once incarcerated, both correctional facilities' visitation policies and the failure of child welfare agencies to prioritize family visits make it difficult for mothers to maintain a connection with their children, further jeopardizing reunification after release.[84]

According to a 2016 estimate, 1 in 100 (approximately 7.4 million) children in the

INNOVATION SPOTLIGHT: The Transitions Clinic Network

Transitions Clinic Network is a national community-based organization transforming health systems to care for the formerly incarcerated population. Central to the model are community health workers with lived experience of incarceration, who are integrated into the primary care team to engage patients, leading to better health outcomes and stronger communities. It started as a single clinic in San Francisco providing recently released individuals with chronic illnesses with medical care and coordinated social services.[a] The Transition Clinic Network also has a Reentry Healthcare Hotline that is staffed by trained community health workers with histories of incarceration who can provide information about local clinics, how to get enrolled in Medi-Cal, and how to navigate the healthcare system. The hotline is available to people to call from inside California prisons as well as from jails that use GTL phone services. For more information, visit www.transitionsclinic.org.

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a Emily A. Wang, Clemens S. Hong, Liz Samuels, Shira Shavit, Ronald Sanders, and Margot Kushel, "Transitions clinic: Creating a community-based model of health care for recently released California prisoners," *Public Health Reports* 125, no. 2 (2010): 171-177.

United States will experience termination of parental rights during childhood. The likelihood of the termination of parental rights doubled between 2000 (shortly after ASFA was enacted) and 2016.[85] While rates of parental rights termination vary widely among states, more than half of parental rights terminations occur within 17 months of foster care entry in California.[86] California has taken legislative action to mitigate family separation by incarceration with a caregiver diversion law that created a specialty program that diverts primary caregivers from incarceration during the pretrial period; individuals who successfully complete the program avoid not only incarceration but also the collateral consequences of a criminal conviction.[87] However, for mothers who are already involved in the criminal legal and child welfare systems, access to legal aid and supportive services to facilitate family reunification is critical. Regardless of whether the child is placed in foster care or is taken in by a family member, staying in contact during incarceration and reunifying with their families after release is often a major challenge for Black women upon re-entering the community.

Blanket restrictions on the placement of children in the homes of kinship caregivers and fictive kin with criminal conviction histories create barriers to placement.

Research shows that children taken from the custody of their parent or guardian and placed with a trusted relative or other person with whom they have a family-like relationship experience less trauma and maintain family bonds better than if they were placed with a stranger.[88] Every state in the United States has statutes or regulations that require background checks of prospective foster and adoptive parents as well as kinship caregivers.[89] Many of these statutes also require background checks on any adult residing in the household of prospective foster and adoptive parents. This has been particularly devastating for people and families targeted by police and incarceration.

A recent bill in California's state senate, SB 354, sought to address barriers to family reunification for children with potential relative caregivers who have a criminal history that does not endanger the child.[90] Prior to SB 354's passage, if a relative of a child had been convicted of certain crimes (essentially any violent felony), they would be unable to be approved to take custody of the child, regardless of how long ago the crime was committed, their relationship to the child, or whether the court found the relative to be of present good character. SB 354 introduced more flexibility in criminal records clearance, resource family approval, and judicial determinations of placement by allowing for a case-by-case determination of the person's fitness to care for the child.[91]

A reentry leader we interviewed shared that "[SB 354 has] helped a lot of people. People that we work with have had partners who might have had a life sentence or had done some time for something before and they couldn't get their family members home. With SB 354, now they're bringing their children home." Despite the legislative victory of SB 354, California's placement and approval processes still exclude many individuals who are willing and able to care for children but who do not fit within the legal definition of a "relative" and have a criminal conviction.

INNOVATION SPOTLIGHT: Family Reunification, Equity & Empowerment (FREE) Project

The Family Reunification, Equity & Empowerment (FREE) Project supports families facing child dependency court and the child welfare system and aims to improve outcomes for foster youth through free resources, court support, and strategy to advocate for family reunification. Biweekly FREE Hub meetings offer a new approach to child dependency court procedures, making the process more open and accessible for families with open child protective services (CPS) cases, helping them better understand and navigate their cases. At FREE Hubs, family members of children in foster care create social biographies (including compiled letters, videos, certificates, etc.) that offer a humanizing, holistic picture of the person seeking to love and care for related and extended family children. This model improves case outcomes by assisting counsel in case preparation and increasing visible family presence in the California child dependency court process. FREE aims to transform California child dependency court procedures by enabling families and community members to engage in the dependency court process on behalf of their loved ones and not be silenced by the stigma and unchecked power of the current system. For more information about the FREE Project, visit https://www.startingoverinc.org/free.

Recommendations

- **Pass legislation that makes it easier for parents to plan for reunification during incarceration or residential drug treatment.** Laws at the state level have been passed in New York in 2010 and Washington in 2013 to give incarcerated parents a fair chance at family preservation and reunification by allowing for flexibility and special considerations in the parental rights termination timeline, as well as offering support.[92] New York's Adoption and Safe Families Expanded Discretion Act, for example, requires agencies to assess whether an incarcerat-

ed parent "maintains a meaningful role in the child's life" *before* deciding to file a termination of parental rights petition. It also requires foster care agencies and courts to consider the circumstances of parents in prison or residential treatment (e.g., difficulty seeing children in person, meeting with lawyers or social workers, and making court appearances). Additionally, New York's law requires agencies to give parents information about their rights and responsibilities, as well as referrals to services available to help maintain relationships with their children. While current guidance exists for case planners to make contact with parents, it is rarely followed in practice for incarcerated parents. California should consider similar legislation, including provisions that explicitly require case planners to make visits and engage incarcerated parents in the planning process.

- **Eliminate timelines for terminating parental rights from existing law.** A proposal to make changes to ASFA at the federal level, the 21st Century Children and Families Act (Rep. Bass, D-CA), would extend federal timelines from 15 to 24 consecutive months and exempt cases in which a child is in foster care "based principally on the incarceration of a parent."[93] However, Black women who have been directly impacted by the criminal legal and foster care systems don't see a way around the complete repeal of ASFA. As one key informant with lived experience shared, *"I think there's nothing really salvageable with ASFA. And I really believe that as a community and as a society, we can care for our children, and our communities have done that. So fast-tracking adoptions and giving money to states to grow their CPS [child protective service] systems has not served us well."* The repeal of ASFA would most likely have the biggest impact on system-involved Black mothers because they are excessively policed and punished by both child welfare and criminal-legal systems.[94]

- **Address racial disparities in the family regulation system by removing barriers to placement with non-relative or extended family members with conviction histories that do not endanger the child.** California Senate Bill 824 is an extension of SB 354 that would apply to non-relative or extended family members who are not related to the child by blood but have a familial or mentoring relationship with the child.[95] With this bill, extended family members and non-extended family members with criminal convictions will be eligible for the same exemption from the Department of Social Services as relatives, thereby expanding the number of trusted persons who may take custody of a child if they have to be taken from their parent or guardian.

Access to Healthcare

People who are incarcerated have higher medical, mental health, and substance use disorder treatment needs than the general population.[96] Health problems often go unmet and are even exacerbated by the carceral environment. Incarcerated and formerly incarcerated Black women in particular are disproportionately survivors of abuse and trauma and have particularly high rates of diagnoses for behavioral health issues such as depression, post-traumatic stress disorder, and substance use disorders (a coping mechanism for many to deal with trauma), and chronic health conditions.[97] The time immediately following release is critical for health, as research shows that recently released women have more hospitalizations and emergency room visits and a higher relative risk of death compared to recently released men.[98] Continuity of care, such as continuing on any medications, substance use disorder treatment, and mental health care is a critical need for women to fully recover and heal from the effects of incarceration, trauma, and addiction.

Accessing healthcare after incarceration can be difficult, especially for Black women.

Adverse experiences with the carceral healthcare system—combined with the stigma and discrimination of being Black and formerly incarcerated and having little support navigating the complexity of community healthcare systems after incarceration—can negatively impact healthcare engagement after release and provoke feelings of distrust and disempowerment around accessing care.[99]

Ensuring enrollment in health coverage is an essential component of improving care transitions between carceral settings and the community. Due to the "inmate exclusion" clause of the Social Security Act, Medicaid is generally terminated for incarcerated individuals. As a result, people leaving prison can experience an insurance coverage gap, preventing access to critical care.[100] While enrollment assistance for Medi-Cal (California's Medicaid program) has been available in California state prisons prior to an individual's release, some of the formerly incarcerated women we spoke with have received assistance enrolling in Medi-Cal or had enrollment applications submitted on their behalf while in prison, only to learn that it was not active upon release. This was likely due to paper pre-release applications for health insurance submitted by the California Department of Corrections and Rehabilitation being lost or misrouted to incorrect counties and the length of time it takes to reactivate Medicaid benefits from terminated status.[101]

To address the issues of coverage gaps and access to critical services for successful reentry, California is leading the nation in developing initiatives to improve health outcomes for individuals involved in the criminal legal system with the first-of-its-kind California Advancing and Innovating Medi-Cal (CalAIM) Justice-Involved Initiative.[102] One important change is that since January 1, 2023, and as authorized by SB 184, Medi-Cal benefits for juveniles and adults may be kept in suspended status (instead of being terminated) until the individual is no longer incarcerated. This streamlines the process of Medicaid reactivation upon release.

Additionally, through the Justice-Involved Initiative, the California Department of Health Care Services (DHCS) will partner with state agencies, counties, and community-based organizations to establish a coordinated community reentry process that will help connect people reentering communities to the physical and mental health services they need prior to release. The initiative allows eligible Californians who are incarcerated to enroll in Medi-Cal and receive a targeted set of services in the 90 days before their release.[103] These pre-release Medi-Cal services include but are not limited to reentry care management, physical and behavioral health clinical consultation services to diagnose and treat health conditions, and services provided by community health workers with lived experience. The initiative also provides people who are leaving carceral facilities with the prescribed medications and durable medical equipment (DME) they need and access to programs and services to support their transition.

The formerly incarcerated Black women we spoke with were supportive of the CalAIM Justice-Involved Initiative. However, they are skeptical about the common gap between stated policy and implementation. One person shared:

> *[Prison staff] are supposed to help us sign up for Medi-Cal so everything can be prepared. However, when we get out, it's not actually what they said it was going to be. We have to reapply and do all this other stuff. So I think it sounds good on paper, but are they gonna actually follow through with the process?*

The increased coordination, standardized processes, and intentional pre-release planning under the Justice-Involved Initiative are promising steps toward ending the coverage and service gaps that were experienced upon release by the women we spoke with. The initiative is in the early stages of implementation, so the successes of the new initiative are yet to be seen.

Recommendations

- **Build the capacity of community-based providers to provide care coordination in carceral facilities that helps establish relationships with primary and behavioral health care providers, transition medical records, and set up community-based care before release.** Research has found that services provided by community organizations to individuals in carceral facilities prior to their release (sometimes referred to as "in-reach" services) can be an effective strategy for ensuring continuity of care. This must include consistent funding streams for services provided before and after release; facilitating women's access to medical records, screenings, and assessments upon release from incarceration by improving electronic record keeping in carceral facilities; and implementing clear protocols for women and community-based providers to submit records requests free of charge.[104] Clear connections between carceral and community care would increase Black women's access to the care they need.

- **Provide incentives for community-based primary and behavioral health care clinics to adopt trauma-informed, gender-responsive, and culturally affirming models to care for the reentry population and to hire community health workers with lived experience of incarceration.** Formerly incarcerated Black women have expressed the need for healthcare providers who see them as full human beings and not only for their previous incarceration. They want healthcare providers who treat them with dignity, listen empathetically, and are non-judgmental. They also value being able to see healthcare

providers and community health workers and/or peer support specialists who are women and people of color, especially Black women, and have their experiences be genuinely understood.

- **Close the Medicaid coverage gap for people leaving carceral facilities across the country with federal legislation.** Although California has already taken legislative action to close the Medicaid coverage gap that people leaving carceral facilities often face, federal lawmakers can help other states do the same with legislation that would suspend, rather than terminate, Medicaid during incarceration and that would allow Medicaid payment for medical services provided to incarcerated people during a specified period preceding their release.

Conclusion

California has drastically reduced the number of women incarcerated over the past decade while also making major inroads in supporting the reentry of women released to the community. For example, the California Department of Corrections and Rehabilitation established the Female Offender Programs and Services Division (FOPS), which offers several gender-responsive programs to help smooth women's transition from confinement and reduce recidivism. However, even with these gender-specific programs, a troubling gap remains between the need and availability. These programs have strict eligibility requirements and a limited number of available slots.

As we have highlighted throughout this report, there are promising, innovative program models across the state that are working to support Black women in meeting the many demands of life after confinement. As the California prison population continues to decline, reallocating funds from the carceral system to support the reentering Black women and the community-based organizations that serve them is critical to their success. California spends approximately $106,000 annually to incarcerate an individual. Comparatively, the annual cost per woman at A New Way of Life Reentry Project, for example, is $16,000. It's imperative that investments are made to expand the capacity of these programs.

California has also taken important legislative action in recent years to help address reentry needs that disproportionately impact formerly incarcerated women. For example, the state has opted out of the federal ban that denies food stamps (SNAP) and cash assistance (TANF) benefits to people with prior felony drug convictions—a dis-

proportionate amount of whom are Black women. Additionally, California is leading the nation in developing initiatives to provide comprehensive reentry support through collaborative partnerships with community-based organizations such as in the California Advancing and Innovating Medi-Cal (CalAIM) reentry demonstration initiative and the Returning Home Well initiative. However, at the same time, the state has also missed critical legislative opportunities to expand and establish gender-responsive and culturally affirming programs, and there is much more to be done to eliminate structural barriers to reentry, especially for Black women.

When Black women return to their communities, they often lack the support and services to successfully reintegrate.[105] Navigating society as a Black woman with a criminal conviction can be extremely challenging, and the mark of a criminal record often compounds their marginality in society. The policy recommendations discussed in this report would help to ensure that formerly incarcerated Black women may heal from trauma, reconnect with their families and communities, achieve economic independence and wealth, access safe housing, and have every opportunity to live out their dreams.

Endnotes

1 We understand and acknowledge that the population of people in women's carceral facilities includes cisgender, transgender, gender expansive, and nonbinary people. However, most data available about people in carceral facilities are limited to the gender binary. Given this, throughout this report, all people incarcerated in women's prisons and jails are referred to as "women," but when we quote individuals from NBWJI's listening sessions and interviews, we refer to individuals by their stated pronouns and gender identities.

2 Niki Monazzam and Kristen M. Budd, "Incarcerated Women and Girls," The Sentencing Project, 2023, https://www.sentencingproject.org/fact-sheet/incarcerated-women-and-girls/.

3 Vera Institute of Justice, "Women's Incarceration," Incarceration Trends, 2023, https://trends.vera.org/.

4 Emily Widra and Tiana Herring, "States of Incarceration: The Global Context 2021," Prison Policy Initiative, 2021, https://www.prisonpolicy.org/global/2021.html.

5 Judicial Council of California, "2019 Report on the California Community Corrections Performance Incentives Act of 2009: Findings from the SB 678 Program," 2019, https://www.courts.ca.gov/documents/lr-2019-ca-community-corrections-performance-incentives-act-2019-pc-1232.pdf.

6 Mac Taylor, *Achieving Better Outcomes for Adult Probation*, (Legislative Analyst's Office, California State Legislature, 2009), https://lao.ca.gov/Publications/Detail/2074.

7 For more information on non-revocable parole in California, including the eligibility criteria, visit the California Department of Corrections and Rehabilitation website at https://www.cdcr.ca.gov/parole/non-revocable-parole/.

8 Aaron Gottlieb, Pajarita Charles, Branden McLeod, Jean Kjellstrand, and Janaé Bonsu, "Were California's Decarceration Efforts Smart? A Quasi-Experimental Examination of Racial, Ethnic, and Gender Disparities," *Criminal Justice and Behavior* 48, no. 1 (2021): 116-134, https://journals.sagepub.com/doi/full/10.1177/0093854820923384.

9 J. Richard Couzens and Tricia A. Bigelow, "The Amendment of the Three Strikes Sentencing Law," Judicial Branch of California, 2017, https://www.courts.ca.gov/documents/Three-Strikes-Amendment-Couzens-Bigelow.pdf.

10 Judicial Council of California, *2019 Report on the California Community Corrections Performance Incentives Act of 2009: Findings from the SB 678 Program*, 2019, https://www.courts.ca.gov/documents/lr-2019-ca-community-corrections-performance-incentives-act-2019-pc-1232.pdf.

11 Mia Bird and Ryken Grattet, *SB 678: Incentive-Based Funding and Evidence-Based Practices Enacted by California Probation Are Associated with Lower Recidivism Rates and Improved Public Safety*, (California Probation Resource Institute, 2020), https://www.cpoc.org/sites/main/files/file-attachments/capri-sb-678-report-march-2020.pdf?1588169880.

12 Sonya Tafoya, Mia Bird, Ryken Grattet, and Viet Nguyen, *California's County Jails in the Era of Reform*, (Public Policy Institute of California, 2016), https://www.ppic.org/publication/californias-county-jails-in-the-era-of-reform/; Michael Romano, *Proposition 47 Progress Report: Year One Implementation*, (Stanford Law School Publications, 2015), https://law.stanford.edu/publications/proposition-47-progress-report-year-one-implementation/.

13 Bureau of Justice Statistics, "National Prisoner Statistics Program, 2002-2012," https://bjs.ojp.gov/programs/national-prisoner-statistics.

14 Magnus Lofstrom, Mia Bird, and Brandon Martin, *California's Historic Corrections Reforms*, (San Francisco, CA: Public Policy Institute of California, 2016), https://www.ppic.org/wp-content/uploads/content/pubs/report/R_916MLR.pdf; Michael Romano, *Proposition 47 Progress Report: Year One Implementation*, (Stanford Law School Publications, 2015), https://law.stanford.edu/publications/proposition-47-progress-report-year-one-implementation/.

15 Niki Monazzam and Kristen M. Budd, "Incarcerated Women and Girls," The Sentencing Project, 2023, https://www.sentencingproject.org/fact-sheet/incarcerated-women-and-girls/; Aleks Kajstura and Wendy Sawyer, "Women's Mass Incarceration: The Whole Pie," Prison Policy Initiative, 2023, https://www.prisonpolicy.org/reports/pie2023women.html.

16 E. Ann Carson and Daniela Golinelli, "Prisoners in 2012: Advance counts," US Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, 2010.

17 Karen A. Casey and Michael D. Wiatrowski, *Women Offenders and "Three Strikes and You're Out," (From Three Strikes and You're Out: Vengeance as Public Policy)*, (Thousand Oaks, CA: Sage Publications, 1996): 222-243, https://www.ojp.gov/ncjrs/virtual-library/abstracts/women-offenders-and-three-strikes-and-youre-out-three-strikes-and.

18 Mia Bird, Omair Gill, Johanna Lacoe, Molly Pickard, Steven Raphael, and Alissa Skog, *Three Strikes in California*, (California Policy Lab, 2022), https://www.capolicylab.org/wp-content/uploads/2022/08/Three-Strikes-in-California.pdf.

19 Scott Graves, *Racial Disparities in California's State Prisons Remain Large Despite Justice System Reforms*, (California Budget & Policy Center, 2021), https://calbudgetcenter.org/app/uploads/2021/06/R-FP-Prison-Racial-Disparities.pdf. This echoes a similar national trend. Between 2000 and 2021, the rate of imprisonment in state and federal prisons across the country declined by 70% for Black women. However, Black women continued to be incarcerated at higher rates than white women and all women in general. The imprisonment rate for Black women is still 1.3 times the imprisonment rate for all women in the United States and 1.6 times the rate of imprisonment for white women. See E. Ann Carson, "Prisoners in 2021–Statistical tables," NCJ 305125, 2022, 1-51, https://bjs.ojp.gov/library/publications/prisoners-2021-statistical-tables.

20 Author calculations of 2020 U.S. Census data. Correctional facilities for adults in the 2020 Census includes federal detention centers, federal and state prisons, local jails and other municipal confinement facilities, correctional residential facilities (e.g., halfway houses), and military disciplinary barracks and jails. See "Correctional Facilities for Adults" https://portal.ct.gov/-/media/Departments-and-Agencies/DPH/Population/Group-Quarters/2020-GQ-Definitions-and-Code-List.pdf.

21 Prison Policy Initiative analysis of data from the Bureau of Justice Statistics (BJS) National Corrections Reporting Program and BJS Census of Jails, 2013.

22 Annual counts of releases in state and federal prisons from the National Prisoner Statistics (NPS) survey, https://bjs.ojp.gov/data-collection/national-prisoner-statistics-nps-program; characteristics of persons released from state prisons from the National Corrections Reporting Program (NCRP), https://bjs.ojp.gov/programs/ncrp.

23 Gina Fedock, Lauren Fries, and Sheryl Pimlott Kubiak, "Service Needs for Incarcerated Adults: Exploring Gender Differences," *Journal of Offender Rehabilitation* 52, no. 7 (2013): 493-508, https://www.researchgate.net/publication/271939912_Service_Needs_for_Incarcerated_Adults_Exploring_Gender_Differences; Aaron Gottlieb and Melissa Mahabir, "Women and Incarceration: Introducing a Gendered Lens into Smart Decarceration," *Social Work* 67, no. 2 (2022): 155-164, https://pubmed.ncbi.nlm.nih.gov/35134244/.

24 Kathleen Daly, "Women's pathways to felony court: Feminist theories of lawbreaking and problems of representation," *Southern California Review of Law & Women's Studies* 2 (1992): 11, https://www.researchgate.net/publication/284292910_Women%27s_pathways_to_felony_court_Feminist_theories_of_lawbreaking_and_problems_of_representation; Beth Richie, *Compelled to Crime: The Gender Entrapment of Battered, Black Women*, (Routledge, 1996).

25 Reuben Jonathan Miller and Forrest Stuart, "Carceral citizenship: Race, rights and responsibility in the age of mass supervision," *Theoretical Criminology* 21, no. 4 (2017): 532-548, https://journals.sagepub.com/doi/abs/10.1177/1362480617731203.

26 Erin M. Kerrison, Jennifer Cobbina, and Kimberly Bender, ""Your Pants Won't Save You" Why Black Youth Challenge Race-Based Police Surveillance and the Demands of Black Respectability Politics," *Race and Justice* 8, no. 1

(2018): 7-26; Reuben Jonathan Miller and Forrest Stuart, "Carceral Citizenship: Race, Rights and Responsibility in the Age of Mass Supervision," *Theoretical Criminology* 21, no. 4 (2017): 532-548.

27 Ashley Nellis, "No End in Sight: America's Enduring Reliance on Life Imprisonment," (Washington, DC: The Sentencing Project, 2021), https://www.sentencingproject.org/reports/no-end-in-sight-americas-enduring-reliance-on-life-sentences/. People serving life sentences with the possibility of parole are automatically eligible for a parole hearing, typically 13 months before their minimum eligible parole date. A parole board decides whether the person is "suitable" for release, and the governor has the final authority to affirm or veto the parole board's decision. Since 2011, "lifers" have been paroled at record rates.

28 California Department of Corrections and Rehabilitation, Department Operations Manual, https://www.cdcr.ca.gov/regulations/cdcr-regulations/dom-toc/. This is for people who have been incarcerated for at least six months.

29 Mia Armstrong and Nicole Lewis, "What Gate Money Can (And Cannot) Buy," Marshall Project, September 10, 2019, https://www.themarshallproject.org/2019/09/10/what-gate-money-can-and-cannot-buy; U.S. Bureau of Labor Statistics Consumer Price Index Inflation Calculator, https://www.bls.gov/data/inflation_calculator.htm.

30 California Penal Code §3409 (2020), https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=3409.

31 Narcan is the brand-name version of the drug naloxone, an overdose reversal medication. In 2020, California began offering kits containing two doses of Narcan and information on how to use it to every returning community member. Inmates leaving California prisons may be armed with Narcan to reduce overdose risk.

32 A.L. Solomon, J. Osborne, S.F. LoBuglio, J. Mellow, & D.A. Mukamal, *Life After Lockup: Improving Reentry from Jail to Community*, (Washington, DC: Urban Institute, 2008).

33 Food and Nutrition Act of 2008, Section 11, https://www.govinfo.gov/content/pkg/COMPS-10331/pdf/COMPS-10331.pdf; Prisoner verification system (PVS), C.F.R. 272.13, https://www.ecfr.gov/current/title-7/subtitle-B/chapter-II/subchapter-C/part-272/section-272.13.

34 Katherine M. Flegal, Deanna Kruszon-Moran, Margaret D. Carroll, Cheryl D. Fryar, and Cynthia L. Ogden, "Trends in obesity among adults in the United States, 2005 to 2014," *JAMA* 315, no. 21 (2016): 2284-2291.

35 Crystal S. Yang, "Does Public Assistance Reduce Recidivism?," *American Economic Review* 107, no. 5 (2017): 551-555, https://www.aeaweb.org/articles?id=10.1257/aer.p20171001.

36 "Prisoners: identification cards," AB 717 (Stone, 2021) Third Reading Analysis, https://legiscan.com/CA/bill/AB717/2021.

37 "Prisoners: identification cards," Assembly Bill 2308 (Stone), Chapter 607, Statutes of 2014, http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_2301-2350/ab_2308_bill_20140926_chaptered.pdf; "Incarcerated persons: certified record of live birth," Assembly Bill 974 (McKinnor), https://legiscan.com/CA/text/AB974/id/2698912.

38 "Prisoners: reentry," Assembly Bill 2250 (Bonta, 2021), https://legiscan.com/CA/text/AB2250/id/2571191.

39 "Prisons: release allowance," Senate Bill 1304 (Kamlager, 2022), https://legiscan.com/CA/bill/SB1304/2021; Gavin Newsom, "Veto Message for SB-1304 to Members of the California State Senate," September 29, 2022, https://www.gov.ca.gov/wp-content/uploads/2022/09/SB-1304-VETO.pdf?emrc=c0a88e.

40 California Department of Social Services, "All County Welfare Directors Letter," November 2022, https://www.cdss.ca.gov/Portals/9/Additional-Resources/Letters-and-Notices/ACWDL/2022/CL_11-18-22.pdf?ver=2022-11-22-171815-397.

41 The Thriving Transitions campaign, anchored by Nourish California, Root & Rebound, Justice in Aging, and Legal Services for Prisoners with Children, is raising awareness about the effects of food insecurity on women exiting the penal system and imploring policymakers to integrate the CalFresh (SNAP/Food Stamps) application into the pre-release process for formerly incarcerated women in all 58 counties in California.

42 Ian Whitaker, "Campaign targets food benefit problems among ex-inmates," *Merced County Times*, December 5,

2022, https://mercedcountytimes.com/campaign-targets-food-benefit-problems-among-ex-inmates/.

43 "Incarcerated persons: certified record of live birth," Assembly Bill 974 (McKinnor, 2023), https://legiscan.com/CA/text/AB974/id/2698912.

44 Lucius Couloute, "Nowhere to go: Homelessness among formerly incarcerated people," Prison Policy Initiative, 2018, https://www.prisonpolicy.org/reports/housing.html.

45 Substance Abuse and Mental Health Services Administration, *After Incarceration: A Guide to Helping Women Reenter the Community*, Publication No. PEP20-05-01-001, (Rockville, MD: Office of Intergovernmental and External Affairs, Substance Abuse and Mental Health Services Administration, 2020), https://store.samhsa.gov/sites/default/files/pep20-05-01-001.pdf.

46 To learn more about "crime free" housing ordinances, see Emily Werth, *The Cost of Being "Crime Free": Legal and Practical Consequences of Crime Free Rental Housing and Nuisance Property Ordinances* (Sargent Shriver National Center on Poverty Law, 2013), https://www.urbanaillinois.us/sites/default/files/attachments/cost-being-crime-free.pdf.

47 Matthew Desmond and Nicol Valdez, "Unpolicing the Urban Poor: Consequences of Third-Party Policing for Inner-City Women," *American Sociological Review* 78, no. 1 (2013): 117-141, https://journals.sagepub.com/doi/10.1177/0003122412470829.

48 Sacramento, Fairfield, Antioch, San Leandro, Stockton, Fresno, Bakersfield, Lancaster, Palmdale, Adelanto, Victorville, Bellflower, Rancho Cucamonga, Fontana, Moreno Valley, Hemet, and Murrieta. For a map, see Liam Dillon, Ben Poston, and Julia Barajas, "Black and Latino Renters Face Eviction, Exclusion amid Police Crackdowns in California," *Los Angeles Times* November 19, 2020, https://www.latimes.com/homeless-housing/story/2020-11-19/california-housing-policies-hurt-black-latino-renters.

49 Liam Dillon, Ben Poston, and Julia Barajas, "Black and Latino Renters Face Eviction, Exclusion amid Police Crackdowns in California," *Los Angeles Times*, November 19, 2020, https://www.latimes.com/homeless-housing/story/2020-11-19/california-housing-policies-hurt-black-latino-renters.

50 Deborah N. Archer, "The New Housing Segregation: The Jim Crow Effects of Crime-Free Housing Ordinances," *Michigan Law Review*, 118 (2019): 173, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3331751.

51 For more information about exclusionary zoning and its effects, see Maya Brennan, Emily Peiffer, and Kimberly Burrowes, "How Zoning Shapes Our Lives," Housing Matters, Urban Institute, June 12, 2019, https://housingmatters.urban.org/articles/how-zoning-shapes-our-lives.

52 Rob Bonta, "Letter to All Cities and Counties in California RE: Crime-Free Housing Policies," 2023, https://oag.ca.gov/system/files/attachments/press-docs/Crime%20Free%20Housing%20Guidance_4.21.23.pdf.

53 "Tenancy: local regulations: contact with law enforcement or criminal convictions," Assembly Bill 1418 (McKinnor, 2023-2024), https://legiscan.com/CA/text/AB1418/id/2778119.

54 Fair Chance to Housing, "Learn More About Fair Chance to Housing Policies," https://fairchance4all.org/faq.

55 "Hiring of real property: criminal history," Senate Bill 460 (Wahab, 2023-2024), https://legiscan.com/CA/text/SB460/id/2696517.

56 United States Interagency Council on Homelessness, "Supportive Housing," https://www.usich.gov/solutions/housing/supportive-housing/.

57 "Reentry Housing and Workforce Development Program," Assembly Bill 745, (Bryan and Bonta, 2023-2024), https://legiscan.com/CA/text/AB745/id/2754861.

58 Californians for Safety and Justice, "Repairing the Road to Redemption in California," 2018, https://safeandjust.org/interactivereport/repairing-the-road-to-redemption-in-california/.

59 Kristy Holtfreter, Michael D. Reisig, and Merry Morash, "Poverty, state capital, and recidivism among women offenders," *Criminology & Public Policy* 3, no. 2 (2004): 185-208.

60 Lucius Couloute and Daniel Kopf, *Out of Prison & Out of Work: Unemployment Among Formerly Incarcerated People*, Prison Policy Initiative, 2018, https://www.prisonpolicy.org/reports/outofwork.html.

61 Fair Chance Act: Guidance for California Employers and Job Applicants, https://calcivilrights.ca.gov/fair-chance-act/.

62 Monique Morris, Michael Sumner, and Jessica Borja, *A Higher Hurdle: Barriers to Employment for Formerly Incarcerated Women*, University of California, Berkeley, 2008, https://www.law.berkeley.edu/wp-content/uploads/2016/07/A_Higher_Hurdle.pdf.

63 California Code, Civil Code - CIV § 1786.18; With respect to a criminal case, the date of disposition refers to the date that a court made a final ruling on the case.

64 Lucius Couloute and Daniel Kopf, *Out of Prison & Out of Work: Unemployment Among Formerly Incarcerated People*, Prison Policy Initiative, 2018, https://www.prisonpolicy.org/reports/outofwork.html.

65 Calculations are according to a living wage calculator by the Massachusetts Institute of Technology. The statewide minimum wage in California is $15.50, but varies locally up to $19.08.

66 SmartAsset is a financial technology that publishes articles, guides, reviews, calculators, and tools to help people make decisions about personal finance. See https://smartasset.com/data-studies/salary-needed-to-live-comfortably-2023 for more information about Smart Asset's study on how much money is needed to live comfortably in the 25 largest metro areas.

67 California Department of Corrections and Rehabilitation, "Restitution Responsibilities, Information for Adult Offenders," https://www.cdcr.ca.gov/victim-services/restitution-responsibilities/.

68 Rebekah Diller, Alicia Bannon, and Mitali Nagrecha, *Criminal Justice Debt: A Barrier to Reentry*, Brennan Center for Justice, 2010, https://www.brennancenter.org/our-work/research-reports/criminal-justice-debt-barrier-reentry.

69 Michael Reich, "An $18 Minimum Wage for California," Institute for Research on Labor and Employment, June 28, 2022, https://irle.berkeley.edu/publications/irle-policy-brief/an-18-minimum-wage-for-california/.

70 Gina Clayton, Endria Richardson, Lily Mandlin, and Brittany Farr, *Because She's Powerful: The Political Isolation and Resistance of Women with Incarcerated Loved Ones*, (Los Angeles and Oakland, CA: Essie Justice Group, 2018), https://www.becauseshespowerful.org/.

71 Tasseli McKay, "What the US' Mass Incarceration Regime Costs Black Women," Nonprofit Quarterly, January 19, 2023, https://nonprofitquarterly.org/what-the-us-mass-incarceration-regime-costs-black-women/.

72 Sigal Samuel, "Everywhere basic income has been tried, in one map," Vox, October 20, 2020, https://www.vox.com/future-perfect/2020/2/19/21112570/universal-basic-income-ubi-map.

73 For a primer on the idea of a temporary basic income for formerly incarcerated people, see Lucius Couloute, "The Case for Temporary Guaranteed Income for Formerly Incarcerated People," The Appeal, June 9, 2021, https://theappeal.org/the-lab/white-paper/the-case-for-temporary-guaranteed-income-for-formerly-incarcerated-people/. For specific cases, see Florida's Just Income GNV; Chicago Future Fund; and Durham's Excel.

74 Stacia West, Amy Castro Baker, Sukhi Samra, and Erin Coltera, *Preliminary Analysis: SEED's First Year* (Stockton: Stockton Economic Empowerment Demonstration, 2021), https://www.stocktondemonstration.org/.

75 D.H. Dallaire, "Incarcerated mothers and fathers: A comparison of risks for children and families," *Family Relations*, 56(5), 2007, 440–453.

76 Lauren E. Glaze and Laura M. Maruschak, *Parents in Prison and Their Minor Children*, 2008, https://www.ojp.gov/ncjrs/virtual-library/abstracts/parents-prison-and-their-minor-children.

77 D. Webster, S. Lee, W. Dawson, J. Magruder, M. Exel, S. Cuccaro-Alamin, E. Putnam-Hornstein, W. Wiegmann, G. Saika, M. Courtney, A.L. Eastman, I. Hammond, A. Gomez, E. Sunaryo, S. Guo, A. Agarwal, H. Berwick, C. Hoerl, H. Yee, A. Gonzalez, P. Ensele, J. Nevin, and B. Guinan, "Recurrence of Allegations," University of California at

Berkeley California Child Welfare Indicators Project, 2023, https://ccwip.berkeley.edu.

78 Martin Guggenheim, "Let's Root Out Racism in The Child Welfare System, Too," The Imprint Youth and Family News, June 15, 2020, https://imprintnews.org/child-welfare-2/lets-root-out-racism-child-welfare-too/44327.

79 Eli Hager and Anna Flagg, "How incarcerated parents are losing their children forever," The Marshall Project, December 2, 2018, https://www.themarshallproject.org/2018/12/03/how-incarcerated-parents-are-losing-their-children-forever.

80 See previous sections on housing and employment.

81 Adoption and Safe Families Act of 1997, Public Law 105–89, 105th Congress, https://www.congress.gov/105/plaws/publ89/PLAW-105publ89.pdf.

82 Repeal ASFA campaign, Plain Language Explainer of the Adoption and Safe Families Act, https://drive.google.com/file/d/1M6UXZ4O7P3hYDL5obtdrbjatSBzEn0lw/view.

83 Allison Durkin, Destiny Lopez, and Elenor Roberts, *Incarcerated Parents and Termination of Parental Rights in Connecticut: Recommendations for Reform*, (Connecticut Voices for Children and Yale Law School, 2021).

84 Beth E. Richie, "Challenges incarcerated women face as they return to their communities: Findings from life history interviews," *Crime & Delinquency* 47, no. 3 (2001): 368-389.

85 Christopher Wildeman, Frank R. Edwards, and Sara Wakefield, "The cumulative prevalence of termination of parental rights for US children, 2000–2016," *Child Maltreatment* 25, no. 1 (2020): 32-42; Wildeman et al. (2020).

86 Laura Radel and Emily Madden, *Freeing Children for Adoption within the Adoption and Safe Families Act Timeline: Part 1 – The Numbers*, (Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, February 2021), https://aspe.hhs.gov/sites/default/files/migrated_legacy_files//198601/freeing-children-for-adoption-asfa-pt-1.pdf.

87 California Penal Code 1001.83, SB 394.

88 Casey Family Programs, "Kinship Care," Nov. 18, 2019, https://wwwstaging.casey.org/kinship-care-topical-page/.

89 Child Welfare Information Gateway, *Background Checks for Prospective Foster, Adoptive, and Kinship Caregivers*, (Washington, DC: U.S. Department of Health and Human Services, Children's Bureau, 2019).

90 CA Senate Bill 354 (Skinner, 2021).

91 Public Social Services, SB-354, https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202120220SB354#.

92 Adoption and Safe Families Expanded Discretion Act (A.5462-A/S.2233-A) (2010); Substitute House Bill 1284, 63d Leg., Reg. Session. (Wash. 2013).

93 21st Century Children and Families Act, H.R.5856, 117th Congress (2021-2022), https://www.congress.gov/bill/117th-congress/house-bill/5856.

94 Doroth E. Roberts, "Prison, foster care, and the systemic punishment of black mothers," *UCLA Law Review* 59 (2011): 1474-1500.

95 California Senate Bill 824 (Ashby, 2023), https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB824.

96 Ingrid A. Binswanger, Patrick M. Krueger, and John F. Steiner, "Prevalence of chronic medical conditions among jail and prison inmates in the USA compared with the general population," *Journal of Epidemiology & Community Health* 63, no. 11 (2009): 912-919; California Health Policy Strategies, *The Prevalence of Mental Illness in California Jails Is Rising: An Analysis of Mental Health Cases & Psychotropic Medication Prescriptions*, 2009-2019, 2020.

97 Angela Browne, Brenda Miller, and Eugene Maguin, "Prevalence and severity of lifetime physical and sexual victimization among incarcerated women," *International Journal of Law and Psychiatry* 22, no. 3-4 (1999): 301-

322.

98 Ingrid A. Binswanger, Marc F. Stern, Richard A. Deyo, Patrick J. Heagerty, Allen Cheadle, Joann G. Elmore, and Thomas D. Koepsell, "Release from prison—a high risk of death for former inmates," *New England Journal of Medicine* 356, no. 2 (2007): 157-165.

99 Janae Bonsu-Love, *Pathways to Wellness: Health Needs of Black Women During Reentry from Incarceration* (National Black Women's Justice Institute, forthcoming).

100 Women reentering from jail usually don't lose their medical benefits due to the shorter length of stays.

101 State of California-Health and Human Services Agency, Department of Health Care Services, "State Inmate Pre-Release Medi-Cal Application Process," All County Welfare Directors Letter no. 14-24, May 6, 2014, https://www.dhcs.ca.gov/services/medi-cal/eligibility/letters/Documents/c14-24.pdf.

102 California requested and was granted approval from the Centers for Medicare & Medicaid Services (CMS) to amend section 115(a) of the Social Security Act, resulting in the California Advancing and Innovating Medi-Cal (CalAIM) reentry demonstration initiative. Section 1115(a) of the Social Security Act allows states to test innovative payment and service delivery models for the medical care of residents in the state. See https://www.ssa.gov/OP_Home/ssact/title11/1115A.htm for more information.

103 See https://www.dhcs.ca.gov/CalAIM/Justice-Involved-Initiative/Pages/home.aspx for more information about the Justice-Involved Initiative.

104 California Correctional Health Care Services and CDCR began working in partnership with the Cerner Corporation to plan and element an electronic health record system (EHRS) as part of a larger effort to turn California's Prison Medical System back to State control. CCHCS stated that the implementation of an EHRS "is a significant redesign of our organizational policies and procedures to most effectively utilize the benefits an EHRS can provide. Done right, the EHRS will significantly improve our ability to deliver constitutionally adequate care to our inmate-patient population. California Correctional Health Care Services, "Implementing an Electronic Health Record Solution," February 2017, https://www.youtube.com/watch?v=jmHQh-0Y6RM.

105 Beth E. Richie, "Challenges incarcerated women face as they return to their communities: Findings from life history interviews," *Crime & Delinquency* 47, no. 3 (2001): 368-389.

Credits

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NBWJI is deeply grateful to the directly impacted women who shared their experiences and insights for this report via listening sessions, interviews, and surveys.

NBWJI appreciates the time and thought partnership of staff from the following organizations that took the time to meet with us to shape the scope of this report: A New Way of Life, Anti-Recidivism Coalition, Chrysalis (Changing Lives Through Jobs), Community Works, Essie Justice Group, Friends Outside, PACT (People Acting in Community Together), and Starting Over Inc. We also appreciate the additional organizations that responded to our needs assessment survey.

Thank you to NBWJI's executive director, Dr. Sydney McKinney, for your thoughtful feedback at various stages of this report and to Abbi Leman for editing and design.

This report was funded by the Silicon Valley Community Foundation. The recommendations, conclusions, and views expressed in this report do not necessarily reflect the views of the Silicon Valley Community Foundation.

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We aim to dismantle the racist and patriarchal U.S. criminal-legal system and build, in its place, pathways to opportunity and healing.

We envision a society that respects, values, and honors the humanity of Black women and girls, takes accountability for the harm it has inflicted, and recognizes that **real justice is healing.**

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