



REENTRY COALITION OF NEW JERSEY

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April 17, 2018

The Honorable Sandra B. Cunningham
New Jersey State Senate
New Jersey Legislature, 31st District
1738 Kennedy Blvd.
Jersey City, NJ 07305

Dear Senator Cunningham-

Thank you for your outstanding leadership on prisoner reentry. In anticipation of our meeting in June, I am submitting a proposal for your consideration regarding strategies to alleviate the financial burdens of individuals leaving prison. Your expertise and understanding of the criminal justice system distinguishes you as a thought leader on reform. The Reentry Coalition believes these recommendations are in line with the progressive agenda that New Jersey has for criminal justice reform.

Many individuals returning from state prison face outstanding municipal court warrants upon release. Unsurprisingly, unresolved warrants and the financial costs associated with them often pose a significant challenge to successful reentry. Currently, outstanding municipal arrest warrants are typically handled once someone is released. Disappointingly, the resolution is often the imposition of a payment plan which unduly strains the returning citizen with additional debts. Adding financial burdens to the formerly incarcerated is a significant impediment to community reintegration and rehabilitation and can lead to re-incarceration.

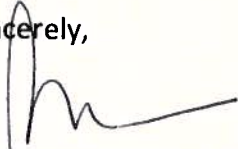
The Reentry Coalition of New Jersey is advocating for legislation that would require all municipal court matters be revealed and resolved at the time of sentencing in Superior Court. When someone is sent to state prison, they should not have to come home and face outstanding municipal court matters such as fines, fees, and warrants after they have served their term of incarceration.

For most individuals returning from prison, the debt accumulated as a result of their criminal justice involvement can be staggering. Legal financial obligations including fines, fees, restitution, and child support compounded by penalties and arrears amassed over a period of incarceration. When taken together, these financial obligations saddle individuals returning home with overwhelming debt that impedes their ability to contribute to their families and

their communities. Criminal justice debt significantly hobbles a person's chances to reenter society successfully after a convictionⁱ and the facts supporting this contention are compelling.

I have attached the supporting research for your consideration and we are sincerely looking forward to our meeting with you on June 12, 2018. I can be reached at pmckernan@voadv.org or at 609-315-0971 with any questions related to this proposal. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Pat McKernan', with a long horizontal stroke extending to the right.

Pat McKernan, MSW, LSW
President

FACTS ABOUT REENTRY:

Most individuals returning from prison were low wage earners prior to incarcerationⁱⁱ. Unemployment rates *prior* to incarceration have been reported to be 40% for sentenced individualsⁱⁱⁱ and only 55% of incarcerated individuals reported having full-time employment at the time of their arrest^{iv}. Post incarceration, sustainable employment can be difficult to find and maintain. More than half of individuals returning home experience financial insecurity, unemployment, and reliance on public assistance in the critical months post-release^v.

Losing one's driver's license complicates employment prospects post incarceration. The New Jersey Motor Vehicle Affordability and Fairness Task Force reported in 2006 that more than 20,000 people lose their driver's license due to a drug conviction on an annual basis. Moreover, most drivers' license suspensions have nothing to do with poor driving. The suspension of driver's licenses is common place in municipal court practices across New Jersey and was mandatory under the Comprehensive Drug Reform Act of 1987. The law was amended in 2007 but driver's license suspension remains an expensive and difficult barrier to repair for ex-offenders. The loss of a driver's license limits one's employability as well as mobility. Further, the practice is counterintuitive to the payment of fines related to driver's license suspension and other legal financial obligations. Each driver's license restoration fee is \$100 and many of our clients have their driver's license suspended in more than one municipality.

Nearly two-thirds of prisoners reported having been assessed monetary sanctions by the court^{vi}. For 20 percent, the average monthly debt exceeded their monthly income^{vii}. Debt assessed for individuals returning from prison was found to range from \$500 to \$80,000 with a median legal financial obligation of \$9,091^{viii}. For some individuals, debt payments could be as high as \$600 a month^{ix}. Exacerbated by low-wage jobs and limited employment prospects post incarceration, the ability to manage financial insecurity often involves dependence on family members post incarceration^x.

Family reunification is integral to prisoner reentry. More than half of people held in the nation's prisons are parents with children under the age of 18^{xi}. Child support orders are a particular challenge for individuals returning home from incarceration. The majority of incarcerated individuals with child support orders owed back support—sometimes upwards to \$400 a month—despite having made payments prior to imprisonment^{xii}. For individuals who reported owing money for child support, their child support debt accounted for 90% or more of their total debt^{xiii}.

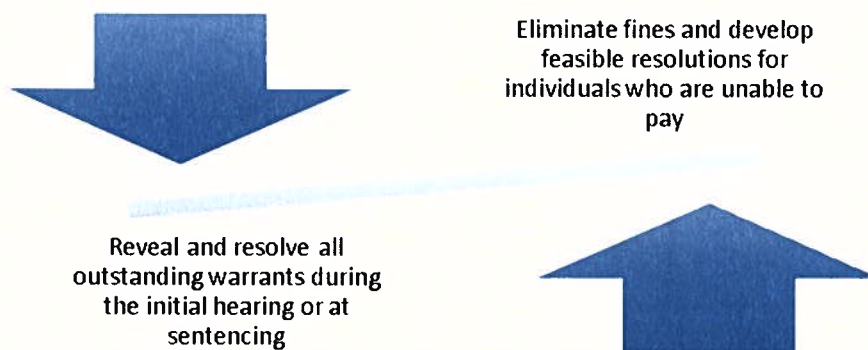
The combination of low wages and high debt may discourage people from taking and keeping jobs in the formal economy^{xiv}. Employment is a significant protective factor in reducing the likelihood for returning to criminal behavior and a significant opportunity within a residential

community release program. Strategies to improve outcomes for individuals leaving prison must include promoting gainful employment and reducing unmanageable legal financial obligations.

Immediate Reform Needed

In 2012, Rutgers University School of Criminal Justice facilitated a working group on warrants and detainers to address this significant obstacle in prisoner reentry. Representatives from the New Jersey Department of Corrections, Administrative Offices of the Courts, the Juvenile Justice Commission, Probation, Parole, the Prosecutor's Office, local and state law enforcement, county jail administrators, and community based organizations met to develop a sustainable model to resolve outstanding arrest warrants for individuals leaving State prison. Recommendations from law enforcement, the judiciary, and corrections were outlined. Unfortunately, the lack of coordinated leadership on this issue prevented the recommendations from being implemented.

Key Recommendations:



Some municipal courts have permitted the use of existing statutes which include monetizing days of incarceration for individuals returning from state prison, up to \$50 a day per day served, as payment against municipal court fines. However, the municipal court judge has complete discretion whether to exercise this option. Indigent defendants are in a disadvantaged position when this option is left to the discretion of local municipal court judges in towns and cities dependent on court fines for revenue. Protections need to be in place for indigent defendants and proactive steps can be taken prior to state incarceration to resolve municipal court matters.

Consistent with recommendations from the Brennan Center's *Criminal Justice Tool Kit*, New Jersey should consider creating and enforcing exemptions for indigence, eliminating collateral

consequences related to criminal justice debt, and ending incarceration and the use of arrest warrants for non-willful failure to pay^{xv}. However, most important for New Jersey's released prisoners would be to resolve matters before their prison term.

Critical Steps:

- At sentencing in superior court, all municipal court matters should be revealed, resolved, and included in the defendant's judgment of conviction.
- Protections through legislation or court rules must be created.

Conclusion:

New Jersey has made significant strides in ending mass incarceration and reforming bail practices. To promote effective prisoner reentry, attention must be paid to outstanding arrest warrants and the criminalization of poverty. Evaluating municipal court practices that disproportionately penalize the poor and incarcerate individuals without financial means is the next logical step to bail reform.

An immediate step that would impact more than 10,000 individuals leaving State prison each year would be to require all municipal court matters be revealed and resolved at sentencing in superior court. The meaningful impact on men and women who have served their sentence and are attempting to move their lives forward in a productive way would be immeasurable. Acknowledging the roles that structural racism and poverty play, these reforms take critical steps forward in improving faith in the criminal justice system.

ⁱ Bannon, A., Nagrecha, M., & Diller, R. (2010). Criminal justice debt: A barrier to reentry. *New York University School of Law Brennan Center for Justice*, 1-34.

ⁱⁱ Harris, A. (2016). *A Pound of Flesh: Monetary Sanctions as Punishment for the Poor*. New York, New York: Russell Sage Foundation; Roman, C. G., & Link, N. (2015). Child support, debt, and prisoner reentry: Examining the influences of prisoners' legal and financial obligations on reentry. *Final Report to the National Institute of Justice*, 1-88; Bannon (2010).

ⁱⁱⁱ Western, B., Braga, A.A., Davis, J. & Siriois, C. (2015). Stress and Hardship after Prison. *American Journal of Sociology*, 120 (5), 1512-47.

^{iv} *Prisoner Reentry and Crime in America* (2005). In Travis J., Visher C. A. (Eds.). Cambridge ; New York: Cambridge University Press.

^v Visher, C., Courtney, S. & Travis, J. 2004. *Returning Home: Understanding the Challenges of Prisoner Reentry, Maryland Pilot Study; Findings from Baltimore*. Washington, D.C.: Urban Institute.; Western (2015)

^{vi} Harris (2016); Visher (2004)

^{vii} Visher (2004)

^{viii} Harris (2016)

^{ix} Visher (2004)

^x Western (2015)

^{xi} Glaze, L.E. & Bonczar, T.P. 2010. *Parents in Prison and Their Minor Children*. Report NCJ 222984. Washington, D.C.: Bureau of Justice Statistics.

^{xii} Roman (2015)

^{xiii} Visher (2004)

^{xiv} Levingston, K. D., & Turetsky, V. (2007). Debtors' Prison—Prisoners' accumulation of debt as a barrier to reentry. *Clearinghouse Review Journal of Poverty and Law Policy*, 41(3), 187-197.7

^{xv} Patel, R., & Philip, M. (2012). Criminal justice debt: A toolkit for action. New York University School of Law: Brennan Center for Justice, 1.38.