Health Impact Review of HB 1125
Providing judicial discretion to modify sentences in the interest of justice
(2025 Legislative Session)

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WASHINGTON STATE BOARD OF HEALTH

HEALTH EQUITY
Governor's Interagency Council on Health Disparities

Full review
The full Health Impact Review report is available at:
https://sboh.wa.gov/sites/default/files/2025-01/HIR-2025-01-HB1125.pdf

Acknowledgements
We would like to thank the community members directly impacted by the carceral system who shared their lived experience with Health Impact Review staff to inform this analysis as well as key informants who provided consultation and technical support during this Health Impact Review.

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HB 1125, Providing judicial discretion to modify sentences in the interest of justice
(2025 Legislative Session)

Evidence indicates that HB 1125 may lead to some people who are incarcerated in DOC facilities becoming aware of their eligibility to file a petition for resentencing, which may lead to some people filing a petition, being granted a hearing, and having their original sentence modified, which would likely improve health outcomes for some people who are incarcerated. It is not well researched how sentence modification may impact recidivism and reincarceration. There is unclear evidence how HB 1125 may impact equity.

BILL INFORMATION

Sponsors: Simmons, Obras, Scott, Stearns, Ryu, Taylor, Peterson, Reeves, Tharinger, Fey, Morgan, Alvarado, Macri, Ormsby, Stonier, Doglio, Berg, Fosse, Reed, Berry, Duerr, Kloba, Goodman, Farivar, Street, Donaghy, Pollet, Bernbaum, Nance, Ortiz-Self, Slatter, Ramel, Mena, Gregerson, Wylie, Hill

Summary of Bill:

- Establishes a process for certain people convicted of a felony offense to petition the sentencing court for a modification of the original sentence upon meeting specific eligibility criteria.
- Requires the Department of Corrections (DOC) to provide written notice of the section of law, in specified time frames, to any person sentenced to a term of more than 10 years of confinement and other relevant entities in the applicable judicial district.
- Directs the Office of Public Defense (OPD), within available resources, to provide representation for people who are eligible to file a petition, based on the eligibility criteria and timelines established in Section 3(1) of HB 1125.
- Requires the Office of Crime Victims Advocacy (OCVA) to 1) establish a flexible fund for victims and survivors of victims affected by resentencing and 2) contract with prosecuting attorneys' offices to offer related victim advocacy services; and allows OCVA to contract with an entity with expertise in victim services to provide related training for victim advocates.
- Requires DOC to make an individual reentry plan and the resources necessary to complete the plan available to people who petition for resentencing within 6 months of their expected release date from total confinement.[a]

[a] RCW 9.94A.030 defines "total confinement" to mean "confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for 24 hours a day" or work or labor camps. Based on this definition, youth and emerging adults in juvenile rehabilitation facilities for 24 hours a day meet the definition of "total confinement" (personal communication, Department of Children, Youth, and Families [DCYF], January 2025).

HEALTH IMPACT REVIEW

Summary of Findings:
This Health Impact Review found the following evidence for HB 1125:

- **Informed assumption** that HB 1125 may result in some people who are incarcerated in DOC facilities becoming aware of their eligibility to file a petition for resentencing. This assumption is based on information from community members with lived experience of incarceration in DOC facilities[b] and key informants and evidence from Prosecutor-Initiated Resentencing efforts in Washington State and California.
- **Informed assumption** that some people becoming aware of their eligibility may result in some people filing a petition for resentencing. This assumption is based on information from community members with lived experience of incarceration in DOC facilities and key informants and evidence from Prosecutor-Initiated Resentencing efforts in Washington State and California.
- **Informed assumption** that some people filing a petition may result in some people being granted a resentencing hearing by the court. This assumption is based on information from community members with lived experience of incarceration in DOC facilities and key informants and evidence from Prosecutor-Initiated Resentencing efforts in Washington State and California.
- **Informed assumption** that some people being granted a resentencing hearing by the court may result in some people's original sentences being modified. This assumption is based on provisions in the bill, information from community members with lived experience of incarceration in DOC facilities and key informants, and evidence from Prosecutor-Initiated Resentencing efforts in Washington State and California.
- **Very strong evidence** that some people's original sentences being modified would likely improve health outcomes.
- **Not well researched** how some people's original sentences being modified may impact recidivism and reincarceration.
- **Unclear evidence** how improving health outcomes for people whose original sentences are modified may impact equity.

Additional Considerations includes discussion of:

- How OCVA creating a flexible fund to serve victims[c] and survivors of victims affected by resentencing and contracting with prosecuting attorneys' offices may impact services and resources for victims and survivors of victims; and

[b] This Health Impact Review uses the phrase "community members with lived experience of incarceration in DOC facilities" to collectively refer to people we spoke with who are currently incarcerated as well as people who were formerly incarcerated and are now back in community.
[c] The terms "victim" and "survivor" are both used to describe people who have experienced violence. "Victim" is typically used more often in legal contexts, and "survivor" is used by some to convey a sense of empowerment. Key informants stated that different people prefer to use different terminology to describe their experiences of violence. The bill uses "victims and survivors of victims" which some key informants interpreted to mean victims and family and friends of crime victims. Throughout this HIR, we retain the language from the bill and the language used for each cited source to maintain accuracy.

- Potential impacts for youth and emerging adults younger than age 25 years serving sentences in juvenile rehabilitation facilities before being transferred to DOC facilities.

*UPDATE TO PREVIOUS HEALTH IMPACT REVIEW

This review is an update to the Health Impact Review completed for 2SHB 2001, Providing judicial discretion to modify sentences in the interests of justice (2024 Legislative Session). As part of this update, Health Impact Review staff:

- Spoke with 14 community members directly impacted by the carceral system, including those currently incarcerated in a DOC facility serving a long or very long sentence as well as those who have experienced incarceration and returned to community after serving a long or very long sentence.
- Spoke with 9 additional key informants, including 5 state agency staff with expertise working with people who are incarcerated; 3 people representing public defenders and prosecuting attorneys; and 1 person with expertise in the Washington State Superior Court system.
- Requested and analyzed data and updated data that are available through public datasets.
- Incorporated 15 updated resources and research, as available. Including evidence related to:
    - Incarceration and health outcomes.
    - Hope as a protective factor for physical and mental health (page 52).

Introduction and Methods

A Health Impact Review is an analysis of how a proposed legislative or budgetary change will likely impact health and health disparities in Washington State (RCW 43.20.285). For the purpose of this review "health disparities" have been defined as differences in disease, death, and other adverse health conditions that exist between populations (RCW 43.20.025). Differences in health conditions are not intrinsic to a population; rather, inequities are related to social determinants (access to healthcare, economic stability, racism, etc.). This document provides summaries of the evidence analyzed by State Board of Health's Health Impact Review staff during the Health Impact Review of House Bill 1125 (HB 1125).

Health Impact Review staff analyzed the content of HB 1125 and created a logic model visually depicting the pathway between bill provisions, social determinants, and health outcomes and equity. The logic model reflects the pathway with the greatest amount and strongest quality of evidence. The logic model is presented both in text and through a flowchart (Figure 1).

We conducted an objective review of published literature for each step in the logic model pathway using databases including PubMed, Google Scholar, and University of Washington Libraries. The annotated references are only a representation of the evidence and provide examples of current research. In some cases, only a few review articles or meta-analyses are referenced. One article may cite or provide analysis of dozens of other articles. Therefore, the number of references included in the bibliography does not necessarily reflect the strength-of-evidence. In addition, some articles provide evidence for more than one research question and are referenced multiple times.

As part of a previous Health Impact Review that evaluated 2SHB 2001, Providing judicial discretion to modify sentences in the interests of justice (2024 Legislative Session), staff completed key informant interviews. We consulted with people who have content and context expertise about the provisions and potential impacts of the bill. The primary intent of key informant interviews is to ensure staff interpret the bill correctly, accurately portray the pathway to health and equity, and understand different viewpoints, challenges, and impacts of the bill. In total, we spoke with 24 key informant interviewees, including: 13 state agency staff with expertise working with people who are incarcerated; 4 people representing public defenders and prosecuting attorneys; 4 staff at community organizations and state agencies working with victims and survivors; 2 people with expertise in the Washington State Superior Court system; and 1 researcher.

As part of this update, Health Impact Review staff retained relevant information gathered during the prior analysis. Staff spoke with 14 community members directly impacted by the carceral system, including those currently incarcerated in a DOC facility serving a long or very long sentence as well as those who have experienced incarceration and returned to community after serving a long or very long sentence. To facilitate conversations, staff shared questions about HB 1125 with community members who are currently incarcerated or who have experienced incarceration in advance of meetings. Some of these community members engaged their peers by asking the interview questions and shared not only their own perspective but also the perspectives others they spoke with. Therefore, information incorporated into this report reflects

the insights and lived experiences of at least 28 community members directly impacted by incarceration in DOC facilities. Staff also spoke with 9 additional key informants, including 5 state agency staff with expertise working with people who are incarcerated; 3 people representing public defenders and prosecuting attorneys; and 1 person with expertise in the Washington State Superior Court system. Staff requested and analyzed data; updated data that are available through public datasets; and incorporated updated resources and research, as available. More information about key informants and detailed methods is available upon request.

We evaluated evidence using set criteria and determined a strength-of-evidence for each step in the pathway. The logic model includes information on the strength-of-evidence. The strength-of-evidence ratings are summarized as:

- **Very strong evidence:** There is a very large body of robust, published evidence and some qualitative primary research with all or almost all evidence supporting the association. There is consensus between all data sources and types, indicating that the premise is well accepted by the scientific community.
- **Strong evidence:** There is a large body of published evidence and some qualitative primary research with the majority of evidence supporting the association, though some sources may have less robust study design or execution. There is consensus between data sources and types.
- **A fair amount of evidence:** There is some published evidence and some qualitative primary research with the majority of evidence supporting the association. The body of evidence may include sources with less robust design and execution and there may be some level of disagreement between data sources and types.
- **Expert opinion:** There is limited or no published evidence; however, rigorous qualitative primary research is available supporting the association, with an attempt to include viewpoints from multiple types of informants. There is consensus among the majority of informants.
- **Informed assumption:** There is limited or no published evidence; however, some qualitative primary research is available. Rigorous qualitative primary research was not possible due to time or other constraints. There is consensus among the majority of informants.
- **No association:** There is some published evidence and some qualitative primary research with the majority of evidence supporting no association or no relationship. The body of evidence may include sources with less robust design and execution and there may be some level of disagreement between data sources and types.
- **Not well researched:** There is limited or no published evidence and limited or no qualitative primary research and the body of evidence was primarily descriptive in nature and unable to assess association or has inconsistent or mixed findings, with some supporting the association, some disagreeing, and some finding no connection. There is a lack of consensus between data sources and types.
- **Unclear:** There is a lack of consensus between data sources and types, and the directionality of the association is ambiguous due to potential unintended consequences or other variables.

This review was not requested during legislative session and was therefore not subject to the 10-day turnaround required by law. This review was subject to time constraints, which influenced the scope of work for this review.

Analysis of HB 1125 and the Scientific Evidence

Summary of relevant background information

U.S. history of sentencing

- The U.S. began developing methods of sentencing (i.e., the phase in which the court orders formal legal consequences associated with a conviction) and incarceration during the Colonial Era, where "punishments frequently differed, depending on the race of both the person who committed the act and the person harmed."[1]
- Data from the 1890's through the 1950's show inequities due to racism, where Black people received longer and harsher sentences than white people during this period.[1]
- By the early 20th Century, prisons started offering more visitation, recreation, external communication, education, and training to "people believed to be capable of redemption – by and large white people."[1]
- The Boggs Act of 1951 amended the federal Narcotic Drugs Import and Export Act and set mandatory minimum sentences for certain drug convictions.[1] However, most mandatory minimum sentences were repealed by the Comprehensive Drug Abuse Prevention and Control Act of 1970.[1]
- From the 1960s through 1990s, legislators took a "tough on crime" approach (e.g., The Anti-Drug Abuse Acts of 1986 and 1988 and the Violent Crime Control and Law Enforcement Act of 1994 [1994 Crime Bill]), which led to disproportionate arrests and sentencing among people of color.[1]
    - By the end of the 20th Century, federal and state legislatures created mandatory minimums, truth-in-sentencing laws,[d] new and longer enhancements based on prior criminal convictions, and laws that restricted parole release.[1]
    - Incarceration in the U.S. more than tripled from 1971 to 1999.[1]
- From 2000 to present day, various sentencing reform legislation and initiatives have been introduced at the federal, state, and local levels.[1] Despite these efforts, inequities due to racism persist, where "Black people are more than twice as likely to be arrested and 5.1 times as likely to be sentenced to prison than white people."[1]
    - "Second look laws" refer to state legislation "authorizing judges to review sentences after a person has served a lengthy period of time."[2]
    - Prosecutor-Initiated Resentencing laws allow prosecutors to evaluate past cases and "consider whether further confinement is in the interest of justice."[3] Generally, these laws are discretionary, meaning that prosecuting attorneys and judges determine who may be eligible for the resentencing process, which cases may be reviewed for resentencing, and which cases may receive a resentencing hearing.[3]

[d] Truth in sentencing laws require people convicted of an offense "to serve a substantial portion of the prison sentence imposed by the court before being eligible for release. Previous policies which reduce the amount of time […] served on a sentence, such as good-time, earned-time and parole board release, are restricted or eliminated under truth-in-sentencing laws."[2] Washington State enacted the first truth-in-sentencing law in 1984.[2]

- The Supreme Court of the United States (SCOTUS) issued 2 decisions related to second look legislation. In *Graham v. Florida* (2010) and *Miller v. Alabama* (2012), SCOTUS ruled juvenile[e] life without parole sentences violate the 8th Amendment and are unconstitutional.[2,4] States have acted to comply with these decisions and have extended these decisions to "other types of sentences and populations, such as other excessive sentences imposed on youth, and emerging adults sentenced to life without parole."[2]

Washington State law

- The Washington State Sentencing Reform Act (SRA) of 1981 (Chapter 9.94A RCW) eliminated indeterminate sentences (i.e., a type of sentence where the amount of time someone will spend in prison is not known when they are sentenced)[5] and parole in Washington State, with some exceptions.[6] Instead, the SRA established determinate sentencing for people convicted of felony offenses.[6]
    - RCW 9.94A.030[18] defines "determinate sentence" to mean "a sentence that states with exactitude the number of actual years, months, or days of total confinement,[f] of partial confinement,[g] of community custody, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation [LFO]. The fact that [a person] through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence."[7]
    - The SRA is used to determine a specific sentence within the statutory maximum.[6]
    - Under the SRA, prosecutors' charging decisions became more consequential for sentencing outcomes.[8]
- A judge determines a person's sentence based on a standard sentence range provided in the sentencing grid (RCW 9.94A.510) or drug offense sentencing grid (RCW 9.94A.517).[6] The sentence is calculated based on the seriousness of the crime and the person's criminal history score, which is based on any previous convictions.[6]
    - Other factors may also affect sentences, including sentencing enhancements, exceptional sentences, consecutive or concurrent sentences, whether the person convicted is considered a persistent offender as defined by the three-strikes or two-strikes laws, and sentencing alternatives.[6] In addition, certain crimes may

[e] The term "juvenile" will be used in relation to specific laws or rules governing youth alleged of crimes through the juvenile criminal legal system. The term "youth" refers to people younger than 18 years of age, and "emerging adults" refers to people 18 through 25 years of age.

[f] RCW 9.94A.030 defines "total confinement" to mean "confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for 24 hours a day" or work or labor camps. Based on this definition, youth and emerging adults in juvenile rehabilitation facilities for 24 hours a day meet the definition of "total confinement" (personal communication, Department of Children, Youth, and Families [DCYF], January 2025).

[g] RCW 9.94A.030 defines "partial confinement" to mean "confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government". Partial confinement includes work release, home detention, work crew, electronic monitoring, and a combination of work crew, electronic monitoring, and home detention, including as part of the parenting program or the graduated reentry program.

result in reduced sentences in instances where the law has been changed in relation to that particular crime (i.e., robbery in the second degree).[6,9]
    - Chapter 9.94A RCW also includes sentencing ranges and requirements specific to certain criminal convictions.
- Chapter 9.94A RCW outlines conditions in which people may be released prior to the expiration of their sentence.
- RCW 72.09.270 outlines that, with certain exceptions, the Washington State Department of Corrections (DOC) must develop individual reentry plans for each person who is incarcerated to prepare for release into the community and details the necessary components of such plans.
- Chapter 7.69 RCW establishes definitions, rights, and protections of victims, survivors, and witnesses of crimes.

Resentencing in Washington State

- In Washington State, there are multiple laws under which a person may receive a sentence modification, and some people may be eligible for resentencing under multiple pathways.[4] However, sentencing reforms in the state have been described as complex, opaque, and piecemeal.[8]
- The courts and the Indeterminate Sentence Review Board (ISRB) are involved in post-conviction sentence review processes. Both entities may play a role in the same cases.[4]
    - Created in 1986, the ISRB is a quasi-judicial board located within DOC. ISRB has independent decision making and jurisdiction over people who committed:
        - Crimes prior to July 1, 1984, and were sentenced to prison;
        - Certain sex offenses on or after September 1, 2001; and
        - Crimes prior to their 18th birthday and were sentenced as adults.[5]
- Sentencing reform policies passed by the Washington State Legislature include:
    - The "Miller-fix" legislation (2014 and 2015). RCWs 9.94A.730, 10.95.030, and 10.95.035 were updated to remove mandatory life without parole sentences for people who were juveniles at the time of their offense.[4]
    - SB 5288, Removing robbery in the second degree from the list of offenses that qualify an individual as a persistent offender (Chapter 187, Laws of 2019). The offense no longer counted as a strike for sentencing purposes.
        - SB 5164, Resentencing of individuals sentenced as a persistent offender due to robbery in the second degree conviction (Chapter 141, Laws of 2021). The new law made the change retroactive.[4]
    - SB 6164, Concerning prosecutorial discretion to seek resentencing (Chapter 203, Laws of 2020).[h] The law permits county prosecutors in Washington State to petition the sentencing court, or the sentencing court's successor, to resentence

[h] RCW 36.27.130 details Washington State's Prosecutor-Initiated Resentencing process. Key informants and resources reviewed for this Health Impact Review commonly referred to petitions filed under this statute as "6164 petitions" in reference to the authorizing legislation, SB 6164 (Chapter 203, Laws of 2020). In this Health Impact Review, we use "SB 6164" when discussing RCW 36.27.130 as well as requests for review, petitions filed, and data collected specific to this statute.

people who have been convicted of crimes if the sentence no longer advances the interests of justice.[9] Some counties have identified priority case categories for review (personal communications, June-July 2024). The trial court then has discretion to grant or deny the petition.

- Washington State court rulings:
  - In 2017, in *State v. Houston-Sconiers* the Washington Supreme Court (Court) maintained that trial courts must consider youth and adolescent development before imposing a sentence in adult courts.[4] It also clarified that courts have discretion to depart from the SRA's mandatory sentencing provisions (e.g., enhancements and mandatory minimum terms) when sentencing people who were juveniles at the time of their crime.[4]
    - Subsequent rulings first expanded (e.g., *In re Domingo-Cornelio and In re Ali* [2020]) and then restricted (e.g., *Matter of Hinton* [2023]) who could petition for and receive resentencing.[4]
    - As of January 2024, "virtually no juveniles sentenced before *Houston-Sconiers* [were] eligible for resentencing."[4]
    - People who had access to legal representation (i.e., a lawyer) "prior to these contradictory rulings were resentenced, with many receiving significantly lower sentencings at their new hearings."[4] However, "[people] who were indigent and were convicted in counties that either were slow or did not appoint [legal] counsel were mostly denied resentencing."[4]
  - In 2018, *In re Brashear* the Washington Court of Appeals reiterated that the ISRB could only deny release of people who were younger than 18 years at the time of the original crime if it found that the petitioner was more likely than not to reoffend.[4]
  - In 2018, in *State v. Basset* the Court maintained that sentencing people who were younger than age 18 years at the time of their offense to life without parole constitutes cruel punishment and is therefore unconstitutional under Article I, Section 14 of the Washington State Constitution.[4]
  - In 2021, *In the Matter of the Personal Restraint of Kurtis William Monschke*, the Court ruled that courts must exercise discretion when sentencing people aged 18, 19, or 20 years of age and that they may not receive automatic life sentences for aggravated murder.[10]
    - Under the ruling, people who were age 18, 19, or 20 years at the time of conviction and were sentenced to life without parole can petition for a resentencing hearing.[4]
  - In 2021, in *State of Washington v. Blake* (*State v. Blake)* the Court ruled that the state law prohibiting simple possession of a controlled substance (PCS) was unconstitutional.[4,11] People with previous PCS convictions are eligible to vacate these convictions.[4] Additionally, people are entitled to a resentencing hearing in cases where a PCS conviction increased the "standard sentence range" for other crimes.[4]

- In 2022, the Washington State Criminal Sentencing Task Force issued a non-consensus recommendation (indicating significant disagreement among Task Force members) that the Washington State Legislature "establish a new process for Second Chance review."[12] The intent of the recommendation was to expand second look legislation "beyond the legal processes that already exist" and "create a process for [people] sentenced to and who have served more than 20 years of confinement to be able to petition for review for release."[12] The Criminal Sentencing Task Force also recommended requiring that the "process explicitly include the opportunity for victim input."[12]

Other jurisdictions

- The federal government, 12 states (including Washington State), and Washington D.C. have passed "second look laws."[2]
- Since 2018, 6 states (i.e., California, Illinois, Louisiana, Minnesota, Oregon, and Washington) have passed Prosecutor-Initiated Resentencing laws.[3]
    - Only California has allocated funding to support the initiative and for an independent evaluation of the initiative.[4] In 2021, the California State Legislature established the California County Resentencing Pilot Program, providing funding for the implementation of Prosecutor-Initiated Resentencing in 9 counties and for evaluation of the law.[13]
- In 2019 and 2022, the U.S. Senate introduced bills that, if passed, would have allowed a person who has served at least 10 years in prison to petition a federal court for sentence reduction.[14,15]
- In Washington, D.C., the Second Look Amendment Act of 2019, now known as the Omnibus Public Safety and Justice Act of 2020, allows a person who committed a crime when they were younger than 18 years of age to petition the court for resentencing after they have served at least 15 years.[16]
- Many national organizations have recommended second look legislation for lengthy sentences. For example:
    - In 2021, the National Association of Criminal Defense Lawyers recommended second look legislation that includes judicial review of sentences after 10 years of incarceration.[2]
    - In 2021 and 2023 (respectively), the American Bar Association adopted resolutions urging federal, state, local, territorial, and Tribal governments to authorize judicial review of sentences after 10 years of incarceration and to adopt Prosecutor-Initiated Resentencing laws.[17,18]
    - In 2022, the National Academies of Sciences, Engineering, and Medicine recommended "establishing second-look provisions as a way to reduce racial [inequities] in incarceration, given that racial [inequities] in imprisonment increase with sentence length."[2]

Summary of HB 1125

- Establishes a process for certain people convicted of a felony offense to petition the sentencing court for a modification of the original sentence upon meeting specific eligibility criteria.
    - Any person, except people convicted of aggravated first-degree murder or as a persistent offender with a term of life without parole, who is sentenced to total confinement for a felony conviction may petition the court for a sentence modification if the original sentence no longer serves the interests of justice and the person meets any of the following criteria:
        - Beginning July 1, 2026:
            - Served at least 7 years for a felony committed at age 17 years or younger; or
            - Is terminally ill or experiences a permanent or degenerative medical condition to such a degree they do not pose a threat to public safety.
        - Beginning July 1, 2027:
            - Meet either July 1, 2026, criteria; or
            - Served at least 20 years for a felony committed at age 18 through 24 years.
        - Beginning July 1, 2028:
            - Meet either July 1, 2026, criteria; or
            - Served at least 13 years for a felony committed at age 18 through 24 years.
        - Beginning July 1, 2029:
            - Meet any July 1, 2026, criteria;
            - Served at least 13 years for a felony committed at age 18 through 24 years; or
            - Served at least 20 years for a felony committed at age 25 years or older.
        - Beginning July 1, 2030:
            - Meet either July 1, 2026, criteria;
            - Served at least 10 years for a felony committed at age 18 years or younger than age 25 years; or
            - Served at least 17 years for a felony committed at age 25 years or older.
        - Beginning July 1, 2031:
            - Meet either July 1, 2026, criteria;
            - Served at least 10 years for a felony committed at age 18 years or younger than age 25 years; or
            - Served at least 13 years for a felony committed at age 25 years or older.

        - Beginning July 1, 2032:
            - Meet either July 1, 2026, criteria; or
            - Served at least 10 years for a felony committed at age 18 years or older.
        - At any time, with the prosecuting attorney's consent.
    - Establishes that the 1-year time limit on collateral attacks (RCW 10.73.090) does not apply to resentencing petitions filed under this act.
    - Requires the petitioner to file the petition for sentence modification in writing with the sentencing court in the judicial district where the original sentence was imposed and serve the prosecuting attorney.
    - Requires DOC, upon request of the petitioner or their counsel, to assist in compiling supporting documentation (e.g., disciplinary record) at no cost to the petitioner.
    - Allows the sentencing court to decline to accept a petition that does not meet one or more of the eligibility criteria.
    - Directs the sentencing court to grant a hearing within 120 days if the court accepts the petition and determines by a preponderance of the evidence that the petitioner meets 1 or more of the criteria.
        - Allows the hearing date to be continued for good cause upon motion by the petitioner or the prosecuting attorney.
    - Entitles people who are eligible to petition for sentence modification and are unable to afford a lawyer to have counsel appointed at no cost to the person, unless they expressly waive the right to counsel after being advised of this right by the court.
    - Entitles the petitioner to a de novo review of the original sentence.
    - Allows the court to modify the sentence to a shorter period if the sentence no longer advances the interests of justice, provided that any new sentence imposed be subject to the following restrictions:
        - If the original sentence is an indeterminate sentence imposed under RCW 9.94A.507, the court may modify the minimum term but may not modify the maximum term of the sentence or order the petitioner's release from custody;
        - If the original sentence includes a mandatory minimum term imposed under RCW 9.94A.540, the court may not modify the sentence below the mandatory minimum term required by law; and
        - Limits the earliest allowable release date from total confinement for any petitioner who is resentenced to at least 6 months after the date of the resentencing hearing.
    - Allows the court to consider mitigating factors from RCW 9.94A.535(1) as well as additional factors, including the petitioner's:
        - Discipline and rehabilitation records;
        - Risk of future recidivism (e.g., related to age, time served, physical condition);

        - Level of culpability for the offense;
        - Circumstances since being sentenced; and
        - Potential impact of release on the victim or survivors of the victim of the crime for which the petitioner is incarcerated.
    - Requires the prosecutor to make reasonable efforts to notify victims and survivors of victims of any hearing on a petition for sentence modification, including by providing the date of the hearing.
    - Requires the court to provide an opportunity for victims and survivors of victims to present a statement.
    - If the court denies the petition or declines to modify the petitioner's sentence, requires the court to state the basis for its decision on the record and provide an explanation for its decision in a written order. Allows a petitioner to appeal the denial of a hearing or decision related to resentencing.
    - Allows the petitioner to file a new petition 3 years after the court denies a petition and declines to set a hearing or grants a hearing but declines to modify the sentence. Allows the court to authorize a petitioner to file a new petition earlier than 3 years.
- Directs the Office of Public Defense (OPD), within available resources, to provide representation for people who are eligible to file a petition, based on the eligibility criteria and timelines established in Section 3(1) of HB 1125.
- Requires DOC to provide written notice of the section of law, in specified time frames, to any person sentenced to a term of more than 10 years of confinement and other relevant entities in the applicable judicial district (i.e., sentencing court, prosecuting attorney, and public defense agency).
- Requires the Office of Crime Victims Advocacy (OCVA) to 1) establish a flexible fund for victims and survivors of victims affected by resentencing and 2) contract with prosecuting attorneys' offices to offer related victim advocacy services; and allows OCVA to contract with an entity with expertise in victim services to provide related training for victim advocates.
    - Specifies that the flexible fund may be used for purposes including, but not limited to:
        - Relocation assistance related to a change in safety planning associated with the petitioner's resentencing;
        - Traveling to and from court for resentencing hearings; and
        - Out-of-pocket expenses for psychotherapy associated with the committed offense or resentencing.
    - Specifies that victim advocacy services must include:
        - Legal advocacy to understand the resentencing process and how a victim can exercise their rights;
        - Safety planning;
        - Options to participate in a restorative justice program with the petitioner; and
        - Case management to address needs that may result from resentencing.

- Requires DOC to make an individual reentry plan and the resources necessary to complete the plan available to people who petition for resentencing within 6 months of their expected release date from total confinement.

Health impact of HB 1125

Evidence indicates that HB 1125 may lead to some people who are incarcerated in DOC facilities becoming aware of their eligibility to file a petition for resentencing, which may lead to some people filing a petition, being granted a hearing, and having their original sentence modified, which would likely improve health outcomes for some people who are incarcerated. It is not well researched how sentence modification may impact recidivism and reincarceration. There is unclear evidence how HB 1125 may impact equity.

Pathway to health impacts

The potential pathway leading from HB 1125 to health and equity are depicted in Figure 1. We made the informed assumptions that HB 1125 may result in some people who are incarcerated in DOC facilities becoming aware of their eligibility to file a petition for resentencing, which may result in some people filing a petition for resentencing and being granted a resentencing hearing by the court. These assumptions are based on information from community members with lived experience of incarceration in DOC facilities and key informants and evidence from Prosecutor-Initiated Resentencing efforts in Washington State and California. We also made the informed assumption that some people being granted a resentencing hearing by the court may result in some people's original sentences being modified. This assumption is based on bill provisions, information from community members with lived experience of incarceration in DOC facilities and key informants, and evidence from Prosecutor-Initiated Resentencing efforts in Washington State and California. There is very strong evidence that some people's original sentences being modified would likely improve health outcomes for some people who are incarcerated.[19-33] It is not well researched how some people's original sentences being modified may impact recidivism and reincarceration.[1,2,4,26,34-44] There is unclear evidence how improving health outcomes for people whose original sentences are modified may impact equity.[17,35,45-85]

Scope

Due to time limitations, we only researched the most linear connections between provisions of the bill and health and equity and did not explore the evidence for all possible pathways. For example, we did not evaluate potential impacts related to:

- Superior Court workload. As part of the Multiple Agency Fiscal Note for 2SHB 2001 (2024 Legislative Session), Washington State Administrative Office of the Courts (AOC) indicated that the bill would likely significantly increase Superior Court workload.[86] AOC noted that hearing caseloads for Superior Courts would likely increase due to the number of people who may be eligible to petition for resentencing, the number of petitions the court may receive, the opportunity for people to refile a petition every 3 years, and the complexity of felony cases.[86] Moreover, "[c]ourts would be unable to meet the 120-day hearing requirement of this bill [...] given court capacity and current shortages of defense attorneys and prosecuting attorneys."[86] A key informant with expertise in the Washington State Superior Court system stated that judges would need time to review petitions, which could be impacted by a judge's workload and court

schedule as well as by the complexity, completeness, and content of a petition (personal communication, Superior Court judicial officer, August 2024). This Health Impact Review did not evaluate the potential impacts of increased Superior Court workload for judges or judicial and court staff, for people who may file resentencing petitions, or for other cases moving through the Superior Court system.

- Prosecuting attorneys' offices' workload. Key informants in Washington State noted that prosecuting attorneys' offices already have limited capacity (staffing shortages, case backlogs, etc.) to handle ongoing filing of serious crime and requests for review under SB 6164 (personal communication, Washington Association of Prosecuting Attorneys [WAPA], May 2024). Researchers and key informants have noted that Prosecutor-Initiated Resentencing cases "tend to be more complex than other resentencing cases" as these cases require "a number of steps to gather the information needed for the [prosecuting attorney] to determine whether" a case is eligible for resentencing.[13] The California State Legislature allocated specific funding to pilot implementation of Prosecutor-Initiated Resentencing.[13] In most counties participating in the pilot, district attorneys' (i.e., prosecuting attorneys') offices "allocated staff to form a dedicated unit focused on resentencing" using various models depending on "[district attorney] priorities, resentencing ideology, availability of funding and human resources, and existing structures."[13] Most counties have used funding to hire additional staff, including additional attorneys, paralegals, and investigators.[13] Even with dedicated funding and staff, personnel shortages in district attorneys' offices posed challenges to implementing California's Prosecutor-Initiated Resentencing law.[13] Although petitions for resentencing outlined in bill provisions would be directed to the original sentencing court, consideration of these petitions would also likely be staff-, resource-, and time-intensive for prosecuting attorneys' offices (personal communication, WAPA, May 2024). Prosecuting attorneys may review petitions for resentencing filed under the bill, including review of DOC records (e.g., disciplinary record, programming or training records, medical records), pre-sentencing information (e.g., substance use, counseling), and other non-criminal file work (personal communication, WAPA, May 2024). Prosecuting attorneys may also compile and provide judges with additional information to consider in determining whether to grant a resentencing hearing (statutory requirements, criminal history, new evidence, victims' comments, etc.) (personal communication, WAPA, June 2024). Prosecuting attorneys would also be involved in resentencing hearings and in proposing sentence recommendations for judicial consideration in the resentencing process (personal communication, WAPA, June 2024). This Health Impact Review did not evaluate the potential impacts of HB 1125 on prosecuting attorneys' offices' workload, staffing, or funding.

- Office of Public Defense workload. Under current law (RCW 2.70.020[3]), the Washington State Office of Public Defense (OPD) is required, subject to available funding, to "appoint counsel to petition the sentencing court if the legislature creates an ability to petition the sentencing court, or appoint counsel to challenge a conviction or sentence if a final decision of an appellate court creates the ability to challenge a

conviction or sentence."[87] If HB 1125 were to pass, bill provisions would require OPD, within available resources, to provide counsel for eligible people to petition the court for sentence modification or to refile a petition. OPD would prioritize review of applications and appointment of counsel based on criteria detailed in Section 3(1)(a-g) of HB 1125 (personal communication, OPD, January 2025). Based on a point-in-time estimate by OPD, 3,035 people in total confinement in a DOC facility in September 2024 may be eligible to petition for resentencing based on eligibility criteria outlined in HB 1125 (unpublished data, OPD, January 2025). However, the phased approach to implementation outlined in HB 1125 may help OPD handle the increase in caseload (personal communication, OPD, January 2025). It is not possible to estimate the number of people who may be eligible to petition with the consent of the prosecuting attorney or people who may have serious medical concerns (personal communication, OPD, September 2024-January 2025). OPD previously stated that if DOC could provide an estimate of people who may have serious medical conditions based on the size and age of the DOC population it may offer an idea of how many additional people may be eligible for resentencing and assistance of counsel through OPD if the bill were to pass (personal communication, OPD, September 2024). Evaluation of California's Prosecutor-Initiated Resentencing law found that public defenders participated in identifying, screening, and referring cases as well as helping people who are incarcerated with applications for resentencing.[13] Personnel shortages in California's public defender offices posed challenges to implementation.[13] This Health Impact Review did not evaluate the potential impacts of HB 1125 on OPD's workload, staffing, or funding or on the ability of people petitioning the court for sentence modification to receive counsel through OPD.

- Office of Crime Victims Advocacy (OCVA) workload. If the bill were to pass, Department of Commerce (Commerce) anticipates additional staffing would be needed for OCVA to plan, implement, and administer contracts and manage funding to serve victims and survivors of victims.[86] This Health Impact Review did not evaluate the potential impacts HB 1125 may have on OCVA staffing or workload.

- Department of Corrections (DOC) caseload. Washington State agencies previously noted that sentence modifications made as a result of the bill provisions may result in less restrictive sentences for people who are incarcerated.[86] As a result, Washington State Caseload Forecast Council and DOC anticipate sentence modifications have the potential to decrease the need for prison beds, decrease DOC caseload, and decrease the Average Daily Population in DOC facilities (unpublished data, DOC, January 2025). DOC stated that HB 1125 may increase administrative costs related to providing notice as outlined in HB 1125; Law Library resources; requested records; transition support; and resources for release if a person is resentenced for release to community (unpublished data, DOC, January 2025). DOC also stated staff workloads may increase or additional staffing may be needed to support potential increases in records processing, virtual hearings, and reentry planning (unpublished data, DOC, January 2025). This Health Impact Review did not evaluate the potential impact HB 1125 may have on DOC prison beds, caseload, supervision requirements, administrative costs, or staffing.

- Costs of incarceration. The American Bar Association stated that resentencing efforts (e.g., Prosecutor-Initiated Resentencing) may reduce costs of incarceration by reducing lengthy sentences, which could increase funding available for crime prevention.[40] They noted that, costs related to:

  > incarceration displaces critical resources that could be spent on [substance use] or mental health treatment, education, and other activities to promote public safety. Many people serving excessively long sentences can be safely released, with savings directed back into the community to prevent incarceration in the first place and combat racial [inequities].[40]

  Similarly, community members with lived experience of incarceration in DOC facilities and key informants in Washington State suggested that changes in DOC caseload could reduce the cost of housing people in DOC facilities (personal communications, June 2024-January 2025), which could make funding available for other services (e.g., facility upgrades or capital projects) (personal communication, Office of the Corrections Ombuds [OCO], June 2024). This Health Impact Review did not evaluate the potential impacts on costs of incarceration or potential budgetary decisions within Washington State's carceral system.

- Original sentencing. One key informant suggested that the opportunity for judicial review after a number of years of time served may affect judicial decisions in original sentencing for future cases. For example, a key informant with expertise in the Washington State Superior Court system questioned whether some courts may sentence some people to more restrictive sentences within the sentencing grid if people may petition for resentencing after a number of years and the court can assess whether they have undergone significant rehabilitation during incarceration (personal communication, Superior Court judicial officer, August 2024). This Health Impact Review did not evaluate the potential impacts of resentencing options on future original sentencing decisions in Superior Court.

- Interaction with other resentencing efforts. In Washington State, there are multiple laws under which a person may receive a sentence modification, and some people may be eligible for resentencing under multiple pathways.[4] For example, the courts and the ISRB are involved in post-conviction sentence review processes and prosecuting attorneys may initiate resentencing under SB 6164. In the evaluation of California's Prosecutor-Initiated Resentencing laws, district attorneys and public defenders mentioned there may be multiple resentencing options for each case and the need to evaluate each case to determine which option may be most appropriate.[13] The evaluation stated, "[additional] potential mechanisms for resentencing were cited as one reason why the review process for [Prosecutor-Initiated Resentencing] cases can take longer than other cases."[13] Similarly, key informants in Washington State suggested that, based on information from prosecuting attorneys' offices, some petitions for resentencing filed under one law (e.g., SB 6164) may ultimately be filed under a different resentencing law (personal communication, Katherine Beckett, University of Washington [UW], June 2024). This Health Impact Review did not evaluate how provisions of HB 1125 may interact with

other resentencing options for people who are incarcerated or impact the time or complexity of the petition process.

- Interaction with DOC's Extraordinary Medical Placement (EMP) Program. Under current law (RCW 9.94A.728), DOC may authorize an EMP for certain people who are incarcerated and who are experiencing a permanent or degenerative medical condition or expected to die within 6 months and are unlikely to pose a current or future risk to community or threat to public safety. DOC publishes an annual EMP report which details people granted EMP during the reporting period as well as the total number of people in community placement on EMP during the reporting period (personal communication, DOC, September 2024). People who receive an EMP may remain under electronic monitoring and may have their placement revoked at any time (personal communication, DOC, September 2024). Between July 2023 and June 2024, 6 people were released to nursing homes or adult family homes and 8 people had pending placements (personal communication, DOC, June 2024). Some people have had placements revoked (personal communication, DOC, June 2024). Key informants from DOC previously stated that, if the bill were to pass, people deemed medically frail could be released under the EMP Program (personal communication, DOC, June 2024). However, based on the provisions of HB 1125, it is unclear whether people who were deemed medically frail and resentenced would be released under the EMP program or subject to the same requirements. Key informants stated that this could impact DOC case workers and social workers who must follow-up with people released under EMP (personal communication, DOC, June 2024). This Health Impact Review did not evaluate how provisions of HB 1125 may interact with DOC's EMP Program or impact DOC staff capacity. See page 45 in Summaries of Findings for additional discussion about consideration of medical frailty.

- Resentencing timeline. SB 6164 does not specify a time frame in which prosecuting attorneys must respond to requests for resentencing under the law or courts must hear resentencing cases.[88] As a result, some requesters may never receive a response to their SB 6164 petition or may wait months or years before receiving a response or a hearing (personal communication, Katherine Beckett, UW, June 2024). In California, the most common time frame for a district attorney to review a resentencing case was 1 to 6 months.[13] However, of resentencing cases where a review decision by the district attorney was pending, about 33% of cases had been under consideration for more than 1 year.[13] While HB 1125 would require the sentencing court to grant a hearing within 120 days if the petitioner shows by a preponderance of the evidence that they meet 1 or more of the criteria, the courts previously indicated they would be unable to meet the 120-day hearing requirement.[86] Key informants suggested that, even if a resentencing hearing was quickly granted and scheduled, it could take 6 months or longer before the resentencing process is complete and an outcome is reached, especially for cases requiring expert testimony, involving a person who was age 18 years or younger when the offense was committed, or involving a person with mental health concerns (personal communication, Superior Court judicial officer, August 2024). Additionally, a community member with lived experience of incarceration in DOC facilities noted that resentencing hearings could require the

petitioner to be moved from a DOC facility to a county jail to participate in an in-person resentencing hearing and back to a DOC facility, which could affect the timeline for resentencing as well as impact the petitioner's health (personal communications, January 2025). This Health Impact Review did not evaluate how HB 1125 may impact the resentencing timeline for people who petition for resentencing under HB 1125 or another resentencing law in Washington State.

- Reentry planning. Under current law (RCW 72.09.270), DOC must develop individual reentry plans for each person who is incarcerated that prepare the person for release into the community. HB 1125 would require DOC to make an individual reentry plan and the resources necessary to complete the plan available to people who petition for resentencing within 6 months of their expected release date from total confinement. Key informants from DOC previously stated that a 6-month timeline for reentry planning would be a change to current processes, as resentencing specialists typically work with people about 30 days prior to resentencing to plan for release/reentry (personal communication, DOC, June 2024). Other key informants have stated that 6 months is not enough time for successful reentry planning (personal communication, Washington Statewide Reentry Council [Reentry Council], June 2024). In addition, some key informants stated that a reentry plan could be considered by a judge as part of a resentencing hearing; however, community members with lived experience of incarceration in DOC facilities and additional key informants noted that, unless people are very close to their release date, most people petitioning for resentencing are unlikely to have a reentry plan and would not be able to include this as part of the resentencing process (personal communications, May 2024-January 2025). This Health Impact Review did not evaluate how reentry planning requirements may impact current processes, the resentencing process for people who petition for resentencing, or reentry outcomes for people released from confinement due to resentencing.

- Notification to victims and survivors of victims. HB 1125 would require a prosecuting attorney to make reasonable efforts to notify victims and survivors of victims of any hearing on a petition for resentencing, including by providing the date of the hearing. Key informants representing prosecuting attorneys noted that prosecutors are currently required to notify victims and survivors about court proceedings, and this process aligns with current practice (personal communication, WAPA, January 2025). HB 1125 is unique in that it is looking at a sentence retroactively; and while it only requires the prosecutor to make reasonable efforts to notify victims or survivors if a hearing on a petition for resentencing is scheduled, some prosecutors may decide to notify victims and survivors as soon as they become aware of the petition regardless of whether the court has decided to grant the petition a hearing (personal communication, WAPA, January 2025). Key informants previously suggested that such notifications may negatively impact and cause distress for some victims and survivors of victims, even if a court is not going to modify a person's sentence (personal communications, May-August 2024). The American Bar Association stated:

> crime survivors may play a critical role [in Prosecutor-Initiated Resentencing] by participating in dialogue with prosecutors during their review and evaluation of past sentences. While some victims may choose not to participate in the [Prosecutor-Initiated Review] process, which can potentially open old wounds, others may see resentencing as an opportunity for greater healing, closure, and support.[40]

However, one key informant noted that not notifying victims and survivors of a petition that has been filed could prevent them from having additional time to engage in safety planning, counseling, etc. (personal communication, WAPA, January 2025). Key informants in Washington State have also noted that victims and survivors of victims continue to experience trauma years after a crime (personal communications, June-August 2024). Key informants have stated that access to victim advocate supports would be important following any notification and throughout any resentencing processes (personal communications, July 2024). This Health Impact Review did not evaluate the potential impacts of prosecuting attorneys' offices notifying victims and survivors of a hearing on a petition for sentence modification or potential impacts of victims' and survivors' involvement in the resentencing process.

Magnitude of impact

HB 1125 has the potential to impact people who are incarcerated for felony offenses and victims and survivors of victims of crime in Washington State.

People who are incarcerated for felony offenses

National data suggest that 57% of people incarcerated in 2019 were serving sentences of 10 years or longer.[40] A 2020 report analyzed sentencing data provided by the Washington State Caseload Forecast Council.[8] Data included "all felony sentences issued by Washington State Superior Courts from January 1, 1986[,] through June 30, 2017."[8] The analysis found that the number of long (10-19.99 years), very long (20-39.99 years), and life sentences (life without the possibility of parole and 40 years or more in prison) grew dramatically between 1986 and 2016, despite falling crime rates.[8] Authors also found that long and life sentences were disproportionately imposed on people of color, particularly on Black people and American Indian or Alaska Native people.[8]

In December 2024, there was an average of 14,373 people held in total or partial confinement under Washington State DOC custody, including in state prisons, reentry centers, community parenting alternative programs, and graduated reentry programs.[35] Of people who are actively incarcerated, 28.0% of people received an initial sentence of more than 10 years in total confinement, 16.5% of people received a sentence of life with the possibility of parole, and 3.8% of people received a sentence of life without parole.[35] Data for sentence length were not available by demographic factors, for example age, gender, race/ethnicity, or sex.

The Office of Public Defense (OPD) developed estimates of the number of people who may be eligible to petition for resentencing based on the eligibility criteria outlined in HB 1125. While HB 1125 outlines a phased approach to eligibility and implementation, OPD did not estimate eligibility based on a phased approach (personal communication, OPD, January 2025). Rather, OPD estimated how many people in total confinement in a DOC facility in September 2024 may

meet eligibility criteria outlined in HB 1125 (i.e., as if all eligibility criteria were in place at one time) (personal communication, OPD, January 2025) (Table 1).

Table 1. Estimate of the number of people in total confinement in a DOC facility[i] in September 2024 who may meet eligibility criteria outlined in HB 1125 (unpublished data, OPD, January 2025)

Eligibility criteria outlined in HB 1125	Estimate of the number of people in total confinement in a DOC facility in September 2024 who may meet eligibility criteria outlined in HB 1125
People who were younger than 18 years at the time of offense that have served at least 7 years	107
People who were age 18 through 24 years at the time of offense that have served at least 20 years	366
People who were age 18 through 24 years at time of offense that have served 13 through 19 years	388
People who were age 25 years or older at time of offense that have served at least 20 years	467
People who were age 18 through 24 years at time of offense that have served 10 through 12 years	256
People who were age 25 years or older at time of offense that have served 17 through 19 years	289
People who were age 25 years or older at time of offense that served 13 through 16 years	604
People who were age 25 years or older at time of offense that served 10 through 12 years	558
Total number of people who may be eligible to petition for resentencing based on September 2024 point-in-time estimates	**3035**

Based on this point-in-time estimate, 3,035 people in total confinement in a DOC facility in September 2024 may be eligible to petition for resentencing based on eligibility criteria outlined in HB 1125 (unpublished data, OPD, January 2025).

[i] These estimates do not include youth and emerging adults younger than age 25 years serving sentences in juvenile rehabilitation facilities before being transferred to a DOC facility. Based on data from December 2024, 145 youth and emerging adults were currently serving sentences in a juvenile rehabilitation facility who are expected to be transferred to DOC custody on their 25th birthday, including 61 youth and emerging adults who had received an initial sentence of more than 10 years and 4 youth and emerging adults who had received a sentence of life with the possibility of parole.[35]

However, these estimates are likely to shift year-to-year based on who may be or who may become eligible to petition for resentencing if HB 1125 were to pass. These estimates do not include people who may be eligible to petition if they do not pose a threat to public safety due to terminal illness or permanent or degenerative medical condition or people who may be eligible to petition with the consent of the prosecuting attorney (personal communication, OPD, January 2025). These estimates are also not cumulative and do not account for changes in the DOC prison population, which could include people being released to community prior to gaining eligibility to petition for resentencing and people who may become eligible to petition over time. For example, 107 people who were younger than 18 years at the time of offense who have served at least 7 years may be eligible to petition based on the September 2024 DOC prison population (unpublished data, OPD, January 2025). This group of people would continue to be eligible to petition for resentencing throughout the 7 years of bill implementation; however, estimates do not include the number of people who may be eligible in subsequent years of bill implementation (i.e., 2027 through 2032). It is likely that the number of people who were younger than 18 years at the time of offense who have served at least 7 years would shift year-to-year as people continue to serve sentences.

In addition, it is unknown how many people currently serving sentences may become eligible to petition for resentencing at some point in the future. For example, "sentence modification hearings for everyone currently in [DOC] custody who could be eligible in the future would be spread over a period of years, as some people have not served enough of their sentences to be eligible to petition for such hearings, but may become eligible to do so at some point in the future."[86] It is also unknown how many people may file "multiple petitions over succeeding years, or appeal […] the denial of a petition or an order entered pursuant to a sentence modification hearing."[86] It is also unknown how many people "sentenced after the effective date of the bill […] would become eligible to petition for a sentence modification at some point in the future."[86]

Overall, while OPD estimates provide a sense of who would be eligible to petition in September 2024 if all eligibility categories were in place, the estimates do not provide a sense of who may be eligible to petition during the actual calendar years outlined in HB 1125 or who may become eligible to petition over time. Moreover, the number of people who may be eligible to petition for resentencing if HB 1125 were to pass would likely shift year-to-year. It is also unknown how many people may petition for resentencing and how many people may be granted a resentencing hearing.[86]

Felony resentencing

Currently, the Washington State Legislature has not tasked a government agency with compiling data or records to assess the effects of sentencing reforms.[4] In January 2024, a report titled "Sentencing Reform in Washington State: Progress and Pitfalls" analyzed the effects of recent reforms.[4] The report focused on post-conviction sentence review for people serving long and life sentences.[4] Researchers stated, "[a]lthough some people serving long or life sentences [became] eligible for resentencing under [*State v. Blake*], most [people] resentenced and/or released under [*State v. Blake*] were serving shorter sentences."[4] Therefore, researchers did not include *State v. Blake* resentencings in their analysis.[4]

The analysis found, as of the end of 2022, an estimated 637 people had become potentially eligible (i.e., had qualifying offenses and/or circumstances) for review by the ISRB or criminal courts because of Washington State sentencing reforms (i.e., Miller-fix legislation, *Domingo-Cornelio/Ali*, *Monschke/Bartholomew*, Robbery II/HB 5154).[4] Records collected and analyzed to estimate the effects of reforms were incomplete and occasionally inaccurate.[4] Additionally, people may have been eligible for review under more than 1 reform (e.g., Miller-fix legislation and *Domingo-Cornelio/Ali* rulings).[4] For these reasons, it is unknown how many people were released under each reform.[4] Therefore, researchers estimated how many people became eligible for a second look under each reform and how many had been released from prison.[4] An estimated 286 eligible people had been released from prison after serving many years.[4]

In June 2024, authors published a follow-up report, "Prosecutor-Initiated Resentencing in Washington: The Impact of SB 6164."[89] Records obtained through 2 Public Disclosure Act requests show more than 1,000 people who were incarcerated requested prosecutors submit a petition for a resentencing hearing under SB 6164 between March 2020 and August 2023.[89] Researchers "were able to document a total of 42 petitions for resentencing submitted by prosecutors to the courts under SB 6164."[89] Prosecutors in 27 counties had not filed any petitions, despite having received requests for consideration.[89] Records showed 29 of the 42 (69%) petitions filed by prosecutors were filed in 1 of 3 counties (Clark, King, or Pierce).[89]

As of 2023, 900 people in the U.S. had been resentenced under Prosecutor-Initiated Resentencing laws.[2]

Victims and survivors of victims of crime

A 2022 national survey found that 64% of people in the U.S. have been a victim of crime in the past 10 years, and roughly half of those have been a victim of a violent crime.[90] People with low incomes; people of color; people with disabilities; people who are Lesbian, Gay, Bisexual, Transgender and Queer (LGBTQ); people who are unhoused; and people formerly convicted of a crime are significantly more vulnerable to becoming victims of violent crime.[90] The number of people in Washington State who have been a victim of crime is not known.

There are 39 Victim Witness Programs in Washington State located in each county's prosecuting attorney's office.[86] The intent of Victim Witness Assistance Programs are to provide "systems-based advocacy and support services for victims during investigation and prosecution of a crime."[91] Program staff "provide information, support, and advocacy services to victims, witnesses, and their families"; "act as a liaison for the victims as they interact with prosecutors, investigative staff, and court personnel"; and ensure that victims have the right to participate during prosecution.[91] Through grants, prosecuting attorneys' offices may offer various services, including (but not limited to) providing information about victim rights, criminal legal processes, and case status; notification of court proceedings, dates, and events; accompaniment to criminal court proceedings; assistance obtaining protection orders; assistance with impact statements and restitution; and referrals to resources, as appropriate.[91]

Overall, HB 1125 has the potential to affect people who are incarcerated for felony offenses and victims and survivors of victims of crime in Washington State.

Logic Model

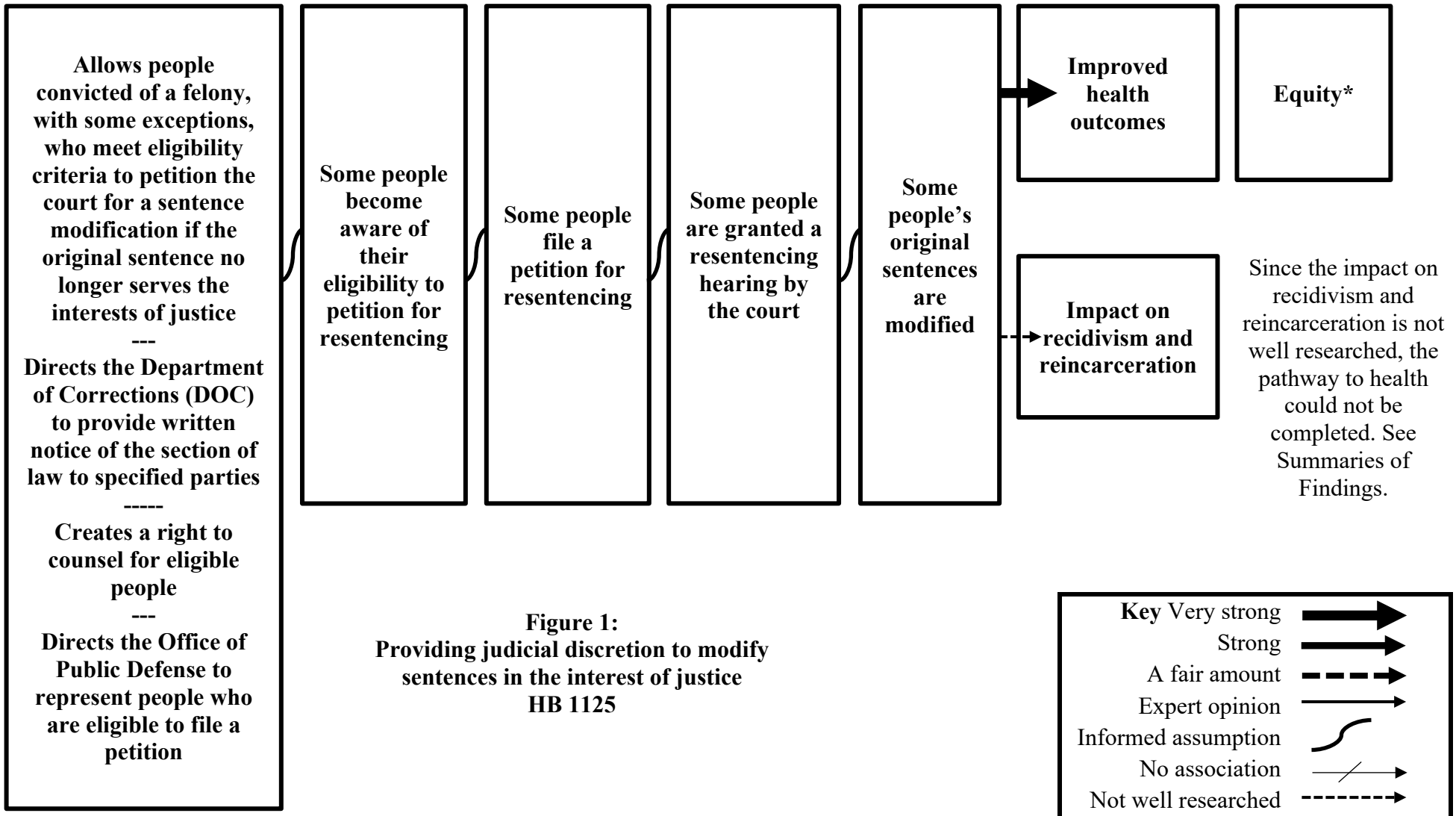

Figure 1:
Providing judicial discretion to modify sentences in the interest of justice
HB 1125

Summaries of Findings

Would 1) allowing people convicted of a felony, with some exceptions, who meet eligibility criteria to petition the court for a sentence modification if the original sentence no longer serves the interests of justice; 2) directing the Department of Corrections (DOC) to provide written notice of the section of law to specified parties; 3) creating a right to counsel for eligible people; and 4) directing the Washington State Office of Public Defense (OPD) to represent people eligible to petition result in some people becoming aware of their eligibility to file a petition for resentencing?

We have made the informed assumption that the following changes may result in some people becoming aware of their eligibility to file a petition for resentencing: 1) allowing people convicted of a felony, with some exceptions, who meet eligibility criteria to petition the court for a sentence modification if the original sentence no longer serves the interests of justice; 2) directing DOC to provide written notice of the section of law to specified parties; 3) creating a right to counsel for eligible people; and 4) directing the OPD to represent people eligible to petition. This assumption is based on information from community members with lived experience of incarceration in DOC facilities and key informants and evidence from Prosecutor-Initiated Resentencing efforts in Washington State and California.

If passed, HB 1125 would allow a person who is sentenced to total confinement[j] for a felony conviction, with some exceptions, to petition the court for a sentence modification if the original sentence no longer serves the interests of justice and they meet any of the criteria detailed in Section 3(1)(a-g).[k] Criteria would be phased in from July 1, 2026, through July 1, 2032. Beginning July 1, 2026, people who have served at least 7 years of their sentence for a felony committed at age 17 years or younger (i.e., as a youth) would be eligible to petition the court. People who are terminally ill or experience a permanent or degenerative medical condition to the degree that they do not pose a threat to public safety would also be eligible to petition. Additional criteria based on time served and age at the time of offense would expand eligibility over time. If the person does not meet any of the criteria, they would be allowed to petition the court with the prosecuting attorney's consent at any time. People convicted of aggravated first-degree murder (RCW 10.95.030) or as a persistent offender with a term of life without parole (RCW 9.94A.570) would not be eligible to petition for a sentence modification under HB 1125. Table 2 on page 29 provides a visual representation of eligibility criteria outlined in the bill.

[j] RCW 9.94A.030 defines "total confinement" to mean "confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for 24 hours a day" or work or labor camps. Based on this definition, youth and emerging adults in juvenile rehabilitation facilities for 24 hours a day meet the definition of "total confinement" (personal communication, DCYF, January 2025).

[k] While analyzing the bill, Health Impact Review staff created a table to visualize the bill provisions describing the phased implementation of eligibility criteria. Staff shared the visual during some conversations with community members with lived experience of incarceration in DOC facilities and key informants to check our understanding and to receive feedback on the table. We have included the visual representation as Table 2 on page 29.

Table 2. Proposed eligibility criteria outlined in HB 1125 for people under a term of total confinement for a felony conviction to petition the sentencing court for resentencing if the sentence no longer serves the interests of justice[1]

<table>
<tr><th rowspan="3">Year
(eligibility as of July 1)</th><th colspan="5">People incarcerated in total confinement for a felony conviction</th></tr>
<tr><th rowspan="2">with medical condition</th><th colspan="3">by age at time of offense</th><th rowspan="2">who do not meet any criteria (a-g)</th><th rowspan="2">whose original sentence was imposed under RCW 9.94A.570 (Persistent offenders) or 10.95.030 (Aggravated first degree murder)</th></tr>
<tr><th>Younger than 18 years (Youth)</th><th>Age 18 through 24 years (Emerging Adult)</th><th>Age 25 years and older (Adult)</th></tr>
<tr><td>2026</td><td rowspan="8">Eligible if does not pose a threat to public safety due to terminal illness or permanent or degenerative medical condition</td><td rowspan="8">Eligible if have served at least 7 years</td><td>Not eligible</td><td rowspan="2">Not eligible</td><td rowspan="8">Eligible with consent of the prosecuting attorney</td><td rowspan="8">Not eligible</td></tr>
<tr><td>2027</td><td>Served at least 20 years</td></tr>
<tr><td>2028</td><td rowspan="2">Served at least 13 years</td><td></td></tr>
<tr><td>2029</td><td>Served at least 20 years</td></tr>
<tr><td>2030</td><td rowspan="3">Served at least 10 years</td><td>Served at least 17 years</td></tr>
<tr><td>2031</td><td>Served at least 13 years</td></tr>
<tr><td>2032 - forward</td><td>Served at least 10 years</td></tr>
</table>

[1] While analyzing the bill, Health Impact Review staff created a table to visualize the bill provisions describing the phased implementation of eligibility criteria. Staff shared the visual during some conversations with community members with lived experience of incarceration in DOC facilities and key informants to check our understanding and to receive feedback on the table. We have included the visual representation as Table 2 on page 29.

Key informants questioned how sentence type may impact eligibility to petition for resentencing if the bill were to pass (personal communications, June 2024-January 2025). Key informants noted that many people who are incarcerated are serving multiple sentences and that it is unclear based on the bill language at what point someone serving multiple sentences may become eligible to petition (personal communication, DOC, June 2024). For example, some key informants questioned whether people would become eligible after straight time served (i.e., after serving the specified number of years regardless of whether they are serving a single or multiple sentences) or after serving time for a single sentence (e.g., after serving 10 years of a single felony conviction) (personal communications, June-July 2024). Key informants also questioned how concurrent and consecutive sentences may impact eligibility to petition for resentencing (personal communication, June 2024-January 2025).

Other key informants stated that the bill language would require someone to serve at least 7 or the specified number of years of a single "judgement and sentence" before they would be eligible to petition for resentencing (personal communication, Washington Association of Prosecuting Attorneys [WAPA], June 2024). A single "judgement and sentence" may be issued for 1 crime or for multiple crimes and may run concurrently (i.e., 2 or more crimes with a total sentence equally at least 7 or the specified number of years) or consecutively (i.e., 2 or more crimes with individual sentences that, when added together, are at least 7 or the specified number of years) (personal communication, WAPA, June 2024). Therefore, if 1 "judgement and sentence" was for at least 7 or the specified number of years, a person would be eligible to petition for resentencing according to the phased criteria (personal communication, WAPA, January 2025). However, key informants stated there may be instances where a person may not be eligible to petition for resentencing, even if their total sentence is at least 7 or the specified number of years (personal communication, WAPA, June 2024). For example, if a person receives a 6-year sentence for a crime committed in 2020 in 1 county and a 6-year sentence for a crime committed in 2022 in a different county, they may not be eligible to petition since each "judgement and sentence" was issued at a different time by 2 different court jurisdictions and neither individual sentence is at least 7 or 10 years (even though the total sentence is 12 years) (personal communication, WAPA, June 2024).

If HB 1125 were to pass, the bill specifies that DOC must provide written notice of the section of law, in specified time frames, to any person sentenced to a term of more than 10 years of confinement. DOC would also be required to notify the applicable sentencing court, prosecuting attorney, and public defense agency for the judicial district in which the person was sentenced. Specifically, for people serving an applicable sentence for a felony offense committed at age 18 years or older, DOC shall provide written notice no later than 180 days before the date on which the person's 10th year of confinement begins. For people serving an applicable sentence for a felony offense committed at age 17 years or younger, DOC shall provide written notice no later than 180 days before the date on which the person's 7th year of confinement begins. See Additional Considerations beginning on page 72 for further discussion about how bill provisions may impact youth and emerging adults younger than age 25 years serving sentences in juvenile rehabilitation facilities.

DOC staff previously stated providing notifications about resentencing options would be new work for the agency (personal communication, DOC, June 2024). While DOC may be aware of

when someone may be eligible for a resentencing process, existing resentencing efforts and information about eligibility are currently generally communicated by outside entities (e.g., OPD, Redemption Project of Washington [RPW], advocacy and community organizations) (personal communication, DOC, June 2024). DOC staff noted that they are able to pull information to identify who in DOC custody may be eligible to petition based on time-served requirements (personal communication, DOC, June-August 2024). However, DOC staff stated that determination of eligibility could be complicated by the type of sentence (e.g., single, multiple, concurrent, consecutive) (personal communication, DOC, June 2024). Furthermore, HB 1125 states that notification must be provided to any person sentenced to a term of more than 10 years of confinement, which may create a gap in notification for people in DOC custody who committed a felony offense at age 17 years or younger and who were sentenced to more than 7 years but fewer than 10 years in custody.

Key informants stated that bill provisions do not specify information to include in the notice (e.g., RCW number, full text of the section) or the process for notification (personal communications, May-June 2024). Some community members with lived experience of incarceration in DOC facilities[m] shared that individual notification (e.g., memo) would be best (personal communications, January 2025). However, key informants from DOC previously stated that, if passed, DOC would likely provide notification to the entire prison population of the new law but would likely not provide individualized communication (personal communication, DOC, June 2024). Additional key informants suggested broad notification may build awareness of the new law and alert people early on of this opportunity for resentencing, which could encourage people to participate in programming and positive, engaged, and productive behavior or rehabilitation (personal communications, May-June 2024). General notification may also address potential gaps in notification for people serving time in DOC custody for a felony offense committed at age 17 years or younger who were sentenced to more than 7 years but fewer than 10 years in custody. Key informants from DOC stated that people can access information about their sentence and release date through a kiosk and could also track their own potential eligibility under the new law (personal communication, DOC, June 2024).

However, some key informants suggested any communication related to resentencing should include clear information about potential eligibility, right to counsel, and the resentencing process (personal communications, May-June 2024). For example, as part of an evaluation of California's Prosecutor-Initiated Resentencing law, district attorneys (i.e., prosecuting attorneys) and public defenders discussed the importance of clear communication "to not get people's hopes up."[13] They noted the importance of clearly communicating with people who are incarcerated and their families about which resentencing options may be available to them, whether they may qualify for consideration under Prosecutor-Initiated Resentencing, and the potential timeframe for the resentencing process.[13] They also stressed the importance of clearly communicating eligibility criteria to avoid people applying for resentencing who are not eligible under the law.[13]

[m] This Health Impact Review uses the phrase "community members with lived experience of incarceration in DOC facilities" to collectively refer to people we spoke with who are currently incarcerated as well as people who were formerly incarcerated and are now back in community.

Some key informants in Washington State noted that communications regarding potential eligibility for resentencing should be communicated to people confidentially, especially if communications include personal information (offense, sentence, etc.) and could pose safety concerns (personal communication, Office of the Correction Ombuds [OCO], June 2024). For example, people with specific types of criminal convictions may receive threats or harm from other people who are incarcerated or staff (personal communication, OCO, June 2024). Therefore, listing specific charges may put some people at risk for violence (personal communication, OCO, June 2024).

Community members with lived experience of incarceration in DOC facilities and key informants shared that DOC has multiple methods of communicating with people who are incarcerated, including through information kiosks, letters/memos, bulletin boards, electronic tablets, and counselors (personal communications, June 2024-January 2025). Key informants from DOC stated they may provide general notification of the resentencing pathway by placing brochures on DOC-provided tablets and may not provide individualized notifications (personal communication, DOC, June 2024). Each potential communication method has its own limitations (e.g., limited accessibility, confidentiality concerns) (personal communication, OCO, June 2024). For example, not everyone who is incarcerated has access to a DOC electronic tablet (e.g., people in solitary confinement) (personal communication, OCO, June 2024). A benefit to written communication is the ability for people to refer to the information later, especially legal information that may take time to process and understand (personal communication, OCO, June 2024). However, there may be safety concerns depending on the information included in written notifications (personal communication, OCO, June 2024).

Community members with lived experience of incarceration in DOC facilities highlighted the diversity of languages spoken in carceral settings and the need for notifications and communications to provide access for people who do not read English or Spanish (personal communications, January 2025). Additional key informants previously noted that DOC must provide any communications in multiple languages and some information may need to be communicated through an interpreter or verbally, rather than a written format, based on the person's language, literacy, or intellectual needs (personal communications, June-July 2024).

People who are incarcerated in DOC facilities may also learn about resentencing laws in other ways. For example, community members with lived experience of incarceration in DOC facilities stated that information would likely spread rapidly by word-of-mouth in DOC facilities (personal communications, January 2025). However, information may not be accurate and may cause confusion (personal communication, RPW, July 2024), so formal channels and resources would be important to help people interpret whether they may be eligible to petition (personal communications, January 2025). OCO staff previously noted that if they received questions about the resentencing process through the office's hotline, they would likely provide general information the caller could use to advocate for themselves or direct the caller to an appropriate contact within DOC (e.g., counselor, unit supervisor) (personal communication, OCO, June 2024).

Key informants previously shared that outside entities may communicate with people who are incarcerated about changes to the law as they have done with SB 6164[n] and *State v. Blake* (personal communications, May-July 2024). For example, OPD noted that, as part of *State v. Blake* resentencing work, staff communicate with people who are incarcerated to ensure they are aware of available services (personal communication, OPD January 2025). Similarly, if the bill were to pass, OPD stated that staff would discuss the new resentencing pathway as part of educational sessions offered by OPD at DOC facilities to communicate directly with people who are incarcerated and their support networks about the availability of resentencing, the eligibility criteria, and the process for requesting information from OPD (personal communication, OPD, January 2025). Community members who are currently incarcerated in a DOC facility also shared that communications and workshops/seminars like those following *Stave v. Blake* would help people learn details about the policy and eligibility (personal communications, January 2025). OPD previously stated they would seek to hire a Community Outreach Specialist who would visit DOC facilities to communicate about resentencing with people who are incarcerated.[86] Additionally, OPD staff would continue to explore other communication options (DOC tablets, Securus Services email, etc.) to build awareness of eligibility for resentencing (personal communications, January 2025). Community members who are currently incarcerated in a DOC facility similarly shared that OPD education sessions, notifications on DOC tablets (e.g., via the FYI App), and a phone line to call for more information about resentencing opportunities as it relates to their case would likely help people to determine their eligibility (personal communications, January 2025).

Many groups also offer workshops within DOC facilities and may provide additional information about the petitioning process (personal communication, DOC, June 2024). For example, RPW, a collaboration between the Seattle Clemency Project (SCP) and Washington Defender Association (WDA), provides advocacy support in trial-level post-conviction cases statewide.[92] As part of this work, RPW offers workshops in DOC facilities that discuss resentencing pathways, eligibility, etc. (personal communication, RPW, July 2024). RPW also sends a newsletter to people who are incarcerated in a DOC facility every 2 months with information about changes to the law, resentencing processes and success stories, etc. (personal communication, RPW, July 2024). RPW newsletters are distributed via electronic tablet; however, DOC can object to portions of communications, tablets have limited space and are not updated regularly, and not all people in DOC custody have access to tablets (personal communication, RPW, July 2024). If the bill was to pass, RPW stated staff would incorporate information about the new petitioning process into both workshops and newsletters (personal communication, RPW, July 2024).

Therefore, since HB 1125 would require DOC to provide written notice of the section of law to any person who is incarcerated and sentenced to a term of confinement of more than 10 years and since people who are incarcerated may also learn about the resentencing process through

[n] RCW 36.27.130 details Washington State's Prosecutor-Initiated Resentencing process. Key informants and resources reviewed for this Health Impact Review commonly referred to petitions filed under this statute as "6164 petitions" in reference to the authorizing legislation, SB 6164 (Chapter 203, Laws of 2020). In this Health Impact Review, we use "SB 6164" when discussing RCW 36.27.130 as well as requests for review, petitions filed, and data collected specific to this statute.

additional methods, we have made the informed assumption that HB 1125 may result in some people who are incarcerated becoming aware of their eligibility to file a petition for resentencing.

Would some people becoming aware of their eligibility result in some people filing a petition for resentencing?

We have made the informed assumption that some people becoming aware of their eligibility may result in some people filing a petition for resentencing, either *pro se* (i.e., by filing a petition for resentencing themselves) or with the support of counsel (i.e., a lawyer). This assumption is based on information from community members with lived experience of incarceration in DOC facilities and key informants and evidence from Prosecutor-Initiated Resentencing efforts in Washington State and California.

HB 1125 would expand who can petition the court for resentencing to include people who are incarcerated under a term of total confinement for a felony conviction. Available evidence indicates that people who are incarcerated in Washington State currently seek resentencing through Prosecutor-Initiated Resentencing efforts. In 2020, the Washington State Legislature passed SB 6164, Concerning prosecutorial discretion to seek resentencing (Chapter 203, Laws of 2020).[93] This law allows prosecutors to seek resentencing for someone convicted of a felony "if the original sentence no longer advances the interests of justice."[93,94] Generally, Prosecutor-Initiated Resentencing laws are discretionary, meaning that prosecuting attorneys and judges determine who may be eligible for the resentencing process, which cases may be reviewed for resentencing, and which cases may receive a resentencing hearing.[3] In Washington State, only a prosecuting attorney may petition the court for resentencing under SB 6164.[94] However, a prosecutor's consideration for sentence modification is generally prompted by a request from someone who is incarcerated, a family member, or their attorney (personal communications, May-June 2024). The volume of requests received varies by county (personal communications, May-August 2024). Moreover, RPW has noted "[t]here are no statewide criteria or policies to use when considering [Prosecutor-Initiated Resentencing]. Prosecutor's approaches and [eligibility] criteria vary from county to county."[93] Community members with lived experience of incarceration in DOC facilities shared that the lack of uniform approach to SB 6164 petitions across the state has made the process challenging and frustrating to navigate and undermines the intent of the law (personal communications, January 2025).

To date, no government entity in Washington State "is tracking the extent to which [people who are incarcerated] are requesting, prosecutors are petitioning for, and courts are granting resentencing hearings as authorized under SB 6164."[89] Therefore, to assess implementation of SB 6164, RPW and researchers at the University of Washington (UW) each submitted records requests through the Public Disclosure Act process.[61,89] Records obtained from county prosecuting attorneys' offices through the requests show, as of August 2023, more than 1,000 people who are incarcerated requested that prosecutors submit a petition for a resentencing hearing under SB 6164.[61,89] Of the 893 requests with full documentation, most came from people who are incarcerated rather than from attorneys (10.5% of requests came from attorneys),[89] suggesting that people who are incarcerated are currently submitting requests for resentencing.

While the volume of requests indicate some awareness of SB 6164, researchers stated records "revealed a lack of understanding about [SB] 6164 processes and the absence of clear criteria

and procedures to guide decision-making."[89] Similarly, in response to RPW's Public Disclosure Act request, fewer than half of Washington State's county prosecuting attorneys' offices (16 of 39) shared or reported creating any written standards, protocols, procedures, policies, or priorities for implementing Prosecutor-Initiated Resentencing as of August 2023.[61] The lack of publicly available information on SB 6164 petitioning processes resulted in many people being misinformed or confused about the potential applicability of Prosecutor-Initiated Resentencing to their case.[61] For example, key informants stated that people who are incarcerated have expressed frustration about the lack of clear SB 6164 eligibility criteria and processes; limited legal support; lack of obligation for a prosecutor to respond to requests; and differences by county (personal communication, Katherine Beckett, UW, June 2024).

Available evidence indicates people who are incarcerated in California have also initiated resentencing processes. In 2021, the California State Legislature established the California County Resentencing Pilot Program, providing funding for the implementation of Prosecutor-Initiated Resentencing in 9 counties and for evaluation of the law.[13] The RAND Corporation is evaluating the pilot program and has reported findings through the second year (i.e., from September 2022 through July 2023).[13] California law allows resentencing cases to be initiated by a district attorney, public defender, California Department of Corrections and Rehabilitation, community-based organizations, people who are incarcerated, and family members or attorneys of people who are incarcerated.[13] As of February 2023, (i.e., the first 18 months of the pilot program), 684 case reviews for resentencing were initiated.[13] The majority of case reviews (453 cases or 66% of cases reviewed) were initiated by district attorneys' offices (i.e., district attorneys' offices screened potential cases for resentencing eligibility).[13] Another 196 cases (29%) were initiated by people who are incarcerated or their family member or lawyer; 25 cases (4%) were initiated by a community-based organization; and 10 cases (1.5%) were initiated by a public defender.[13] While the evaluation is focused on district attorney-initiated cases,[13] these data also suggest some people who are incarcerated may initiate the resentencing process.

HB 1125 would allow people who are incarcerated to file a petition directly with the court, rather than seek resentencing through a prosecuting attorney's office. Key informants generally agreed this would result in courts receiving petitions for resentencing directly from people who are incarcerated and would likely increase the number of resentencing petitions received by the court (personal communications, June-August 2024). However, the degree to which HB 1125 may increase resentencing petitions filed with the court is unknown as people who are incarcerated may face challenges in initiating the process, accessing counsel, and compiling and submitting a petition for resentencing (personal communications, June 2024-January 2025). Community members with lived experience of incarceration in DOC facilities and key informants shared that some people may experience challenges initiating a petition for resentencing due to the complexities of the legal system or their ability to fully advocate for themselves throughout all stages of the process (personal communications, June-July 2024-January 2025). For example, a person experiencing a complex health condition or disability may not learn about changes to the law, understand their potential eligibility, or be able to go through all the steps to petition for resentencing (personal communication, OCO, June 2024).

Generally, community members with lived experience of incarceration in DOC facilities indicated that a lack of understanding of the law, what to file, where to file, and how to file a

petition would present significant barriers to people filing a petition for resentencing (personal communications, January 2025). Additionally, some community members with lived experience of incarceration in DOC facilities shared that articulating their case in writing for a legal document would be challenging for many people without the assistance of an advocate or legal support (personal communications, January 2025).

To initiate resentencing, someone would first need to determine whether they meet eligibility criteria and which court to petition. Based on the provisions of HB 1125, a person would be eligible to petition the court if they meet specific criteria (i.e., time served and age at time of offense, terminal illness, etc.) according to the phased implementation timeline outlined in Section 3 of HB 1125 (Table 2; page 29). People who are incarcerated can access information about their sentence and release date through a kiosk at DOC facilities and could track their own potential eligibility under the new law (personal communication, DOC, June 2024). However, some community members with lived experience of incarceration in DOC facilities noted that eligibility criteria outlined in the bill (e.g., time-served, phased implementation) may be challenging to interpret, particularly as it relates to each person's circumstances (personal communications, January 2025).

Community members who are currently incarcerated in DOC facilities shared mixed feedback on criteria outlined in HB 1125. Some respondents found the language confusing and did not see their circumstances reflected in the criteria (personal communications, January 2025). Some respondents said they would appreciate understanding the why behind the tiered/phased structure (personal communications, January 2025). On the other hand, some people appreciated the different tiers in the criteria as it shows that everyone is not on the same journey and there are many ways to work toward resentencing (personal communications, January 2025). A large portion of community members who are currently incarcerated in a DOC facility wanted the criteria to prioritize elders who have been incarcerated the longest and present a low risk of reoffense (personal communications, January 2025). Some respondents expressed concern about provisions requiring someone to be terminal or severely ill to be considered for resentencing and stated that a lengthy resentencing process would not be efficient enough to get people who have severe medical conditions out in time to live their final days in community (personal communications, January 2025).

Almost all community members with lived experience of incarceration in DOC facilities said that a step-by-step guide or resource would be helpful for people to understand the resentencing process (e.g., clear concise dot points written in plain talk for people without a legal background) (personal communication, January 2025). Multiple people also said it would be helpful to have someone who understands the criteria help people walk through their individual situation to determine eligibility (personal communications, January 2025). For example, OPD was identified as one group that could provide workshops and seminars to help answer questions about the eligibility criteria (personal communications, January 2025). One person shared the importance of not making any assumptions about what an eligible person does or does not know about the law or petitioning process (personal communications, January 2025). Rather, the goal of sharing information about the law and process should be for people to walk away with an understanding of what is available and to give each person the information they need to decide whether to file a petition for resentencing (personal communications, January 2025).

Additionally, key informants also stated that determination of eligibility may be complicated by the type of sentence (e.g., single, multiple, concurrent, consecutive) (personal communication, DOC, June 2024), creating some nuances and challenges to determining eligibility based on time served. Evaluation of California's law also found that "self-referral can lead to [district attorneys' offices] receiving numerous unsolicited requests, with many cases not meeting the eligibility criteria."[13] Key informants in Washington State also noted that, under SB 6164, prosecuting attorneys' offices receive requests for resentencing from people who do not meet eligibility criteria (personal communication, WAPA, May 2024). Key informants stated that determining which court to petition or how to contact the court or prosecuting attorney may also be challenging (personal communications, June 2024). For example, in cases where a person has sentences from multiple courts, they would need to petition each court for which they're requesting resentencing separately (personal communication, RPW, July 2024).

If passed, people who do not meet specified criteria under HB 1125 would be allowed to petition the court at any time with the prosecuting attorney's consent. Key informants offered different interpretations of this provision. One interpretation indicated a prosecuting attorney must agree that the sentence no longer advances the interests of justice for a petition to be filed by someone who does not meet the time served criteria (personal communication, WAPA, May 2024). Another interpretation suggests a prosecuting attorney may not agree that the sentence no longer serves the interests of justice but that they agree to allow the petition to be filed with the court (personal communication, WAPA, May 2024). Based on these differing interpretations, it is not possible to know how consent from a prosecuting attorney may impact whether a person who does not meet the time served criteria may file a petition for resentencing if HB 1125 were to pass.

Community members with lived experience of incarceration in DOC facilities provided perspectives on what a person who is eligible under HB 1125 may consider when deciding whether to file a petition for resentencing. Community members shared many questions they would likely ask themselves when considering whether to file a petition, including questions related to their own feelings of worthiness and preparedness; questions about the process; and questions about potential impacts to their future, to their family, and to victims and survivors. For example, community members with lived experience of incarceration in DOC facilities shared the following considerations about whether to file a petition for resentencing:

- Have I served enough time to be considered for resentencing?
- Do I meet eligibility criteria?
- Have I done enough to be strongly considered for resentencing?
- What have I done to deserve resentencing above and beyond the eligibility criteria?
- Am I prepared to present everything I have achieved while in prison?
- What else do I need to do or what behaviors do I need to work on to be considered for resentencing?
- Who can help me in the resentencing process?
- Will I have access to a lawyer to represent my case?
- Can an advocate help me articulate how I have changed to put my best case forward?
- Am I in a good position to return to community?
- Am I mentally in a good place?

- Am I equipped with necessary skills and tools to be successful?
- Do I have social support through family, mentors, community?
- What is my reentry plan?
- What will my next chapter of life look like if I am resentenced?
- How will I be impactful and use my experience to educate and help prevent others from making the poor decisions that got me here?
- How will the possibility of hope affect my family if the petition is denied?
- Where are victims and survivors on their healing journey? (personal communications, January 2025)

Community members with lived experience of incarceration in DOC facilities shared that such reflection may prompt additional questions and stress about how to or whether to navigate the resentencing process (personal communications, January 2025).

Lastly, some community members with lived experience of incarceration in DOC facilities and key informants noted that some people who are incarcerated may choose not to file a petition for resentencing. For example, community members with lived experience of incarceration in DOC facilities shared that one way to protect yourself while incarcerated is by choosing not to participate and refusing to get your hopes up only to have them let down (personal communications, January 2025). Key informants previously stated that some people feel remorseful, believe they are undeserving of resentencing, or consider their original sentence just (personal communications, June 2024). Key informants also stated that some people may choose not to petition due to stigma associated with certain crimes and not wanting to revisit that part of their life (personal communications, June-July 2024). For example, one community member with lived experience of incarceration in DOC facilities shared that people may think about the crime for which they are incarcerated and whether it aligns with what they have told people they are incarcerated for (personal communications, January 2025).

Additionally, people shared that experiences with other resentencing options may influence someone's decision to file a petition for resentencing if HB 1125 were to pass. For example, under *State v. Blake* resentencing, some people have not wanted to go through the resentencing process because their current sentence allows them to access certain treatment programs (e.g., program access varies by DOC facility and custody level) (personal communication, Washington State Administrative Office of the Courts [AOC], June 2024). Multiple community members with lived experience of incarceration in DOC facilities noted that while someone may meet the minimum criteria outlined in HB 1125, based on other resentencing options and experiences, people may have a sense that decision-makers require something "exceptional or extraordinary" for someone to be considered for resentencing and may not believe their case would receive consideration (personal communications, January 2025). A few community members with lived experience of incarceration in DOC facilities also stated that negative experiences through the SB 6164-petitioning process may factor into people's decisions about whether to petition the court for resentencing if HB 1125 were to pass (personal communications, January 2025). For example, some counties have not reviewed any 6164 petitions and people stated this may cause some people to wonder whether a petition for resentencing will actually be considered or given a fair look (personal communications, January 2025). For these and other reasons, some people

who may become aware of their eligibility to petition for resentencing may choose not to petition.

People may also have limited access to legal counsel while compiling a petition for resentencing. HB 1125 would entitle people who are eligible to petition for resentencing and are unable to afford a lawyer to have counsel appointed through OPD at no cost to the person. The bill directs OPD, within available resources, to prioritize representation based on eligibility criteria and timelines established in the bill. However, access to legal counsel may not occur until after a person submits a petition for resentencing (personal communications, June-July 2024). Community members with lived experience of incarceration in DOC facilities shared that access to legal representation is critical for people eligible for resentencing, especially since most people cannot afford to pay for a lawyer (personal communications, January 2025). For example, one community member with lived experince shared that "your [defense attorney] is the only person who can talk to the judge and prosecuting attorney for you," so "there needs to be trust that they will show your best to those who have only seen your worst" (personal communications, January 2025).

People can also direct legal questions to the law librarian or outside entities (e.g., RPW) (personal communication, DOC, June 2024), though these resources may not provide individualized legal counsel (personal communications, January 2025). One key informant stated that there is not a separate pathway for people without legal counsel to file a petition with a court, and some key informants stated that it would be exceedingly difficult for someone who is incarcerated to file a successful petition without legal counsel or an advocate to help them navigate the process (personal communications, May-August 2024). Provisions of HB 1125 would allow any person who files a petition *pro se* and subsequently retains or is appointed counsel to amend their petition at least once with the assistance of counsel, and a judge may give permission for subsequent amendments.

Additionally, people who are incarcerated may have difficulty compiling and submitting their petition due to limited access to legal information, supporting documentation and records, and resources necessary to file their petition. First, access to legal information necessary to inform their petition may be limited. For example, key informants stated that resources in prison law libraries would likely include paper documents, information about who to contact with questions, and additional information about the law (personal communication, DOC, June 2024). However, law libraries are only located at DOC's main facilities and access to prison law libraries is often limited (e.g., duration, time of day) and may be restricted to people with a pending court date (i.e., once a court hearing has been granted) (personal communications, May-June 2024). Therefore, access to the law library may not be available for people compiling a petition for resentencing (personal communication, OPD, May 2024). Resources available in law libraries may also vary by DOC facility (personal communications, June-July 2024). While DOC-provided tablets include access to Lexis Nexis (a legal research database), not everyone who is incarcerated has access to a DOC tablet (personal communication, OCO, June 2024).

Second, people who are eligible to petition for resentencing may not have all the information they need to submit a petition (e.g., which court to petition, how to serve [i.e., provide notice to] the prosecuting attorney) and may have limited access to documentation and records that could

serve as supporting evidence in a petition for resentencing (personal communications, May-January 2025). People who are incarcerated may have difficulty accessing their own records and may need to submit a public records request for this information through the Public Disclosure Act process (personal communications, June 2024-January 2025). Key informants from DOC stated that people can request to review their central file or their medical file by submitting a form to the DOC facility (personal communication, DOC, June 2024). Central files include legal documents, admission documents, movement documents, classification documents, evaluation reports, and miscellaneous documents (personal communication, DOC, September 2024). Community members with lived experience of incarceration in DOC facilities stated that requesting records can be challenging because the requester needs to know how to ask, the right terminology to use, what date ranges to include in the request, and other important details (personal communications, January 2025). Without the right level of detail, the records request and data pull may miss important information that could contribute to a resentencing petition (personal communications, January 2025).

Central files do not include information about programming or certificates earned (personal communication, DOC, June 2024), which could be considered by a court in the resentencing process as evidence of positive, engaged, and productive behavior or rehabilitation. To access records outside the central file or medical file, people must submit a public records request in writing to the DOC Public Records Officer (personal communication, DOC, June 2024). Prosecuting and defense attorneys or other outside entities can also submit a public records request on behalf of a person who is incarcerated, but those requests may require additional releases of information (personal communication, DOC, June 2024). DOC staff shared that the agency developed a new form, with input from defense and prosecuting attorneys, for attorneys to complete and attach to their public records request to indicate what records are being requested (personal communication, DOC, January 2025). DOC staff are working to include the form on the public records portal so that when an attorney selects resentencing the form populates (personal communication, DOC, January 2025). This form is not currently available to people who are incarcerated (personal communication, DOC, January 2025).

HB 1125 requires that, upon request by the petitioner or the petitioner's counsel, DOC shall assist the petitioner or their counsel in compiling the petitioner's disciplinary record and record of rehabilitation at no cost to the petitioner. DOC staff stated that they would meet this requirement if legislation were to pass and would complete requests at no cost to the petitioner (personal communication, DOC, January 2025). However, DOC staff noted that it would be helpful to define what records (both disciplinary and rehabilitation) would need to be provided to the petitioner free of charge (personal communication, DOC, January 2025). For example, a definition would ensure both parties have a shared understanding of what records may be considered part of the rehabilitation record (e.g., programming records, treatment records, work history, classification) and would allow DOC to determine the workload impact based on the scope of the definition (personal communication, DOC, January 2025). See Additional Considerations beginning on page 72 for further discussion about how bill provisions may impact youth and emerging adults younger than age 25 years serving sentences in juvenile rehabilitation facilities.

Key informants shared that people may not know what records exist or what records to request unless they worked with a case manager and then filed a public records request for those files (personal communications, June 2024). However, DOC staff cannot provide legal advice (personal communication, DOC, July 2024), which may limit the type of information they could provide to people filing a petition for resentencing. Moreover, response times for public records requests vary depending on the nature of the request (e.g., type of information, level of complexity, location of records), total volume of requests, and DOC staff capacity (personal communication, DOC, June 2024). Typically, requests for disciplinary records or certificates are completed within 30 days (personal communication, DOC, June 2024). DOC staff stated that, depending on the number of people requesting records to file a petition for resentencing, there may be longer processing times to respond to records requests (personal communication, DOC, June 2024).

Third, people who are incarcerated may also have limited access to resources (e.g., funds) necessary to compile and submit their petition. For example, while there is no cost to file a public records request, there is a charge to receive physical copies of records ($0.15 per page for paper copies plus postage; electronic copies are provided free of charge) (personal communication, DOC, June 2024). Depending on how disciplinary records and rehabilitation records are understood or defined, petitioners may still need to pay for some records and other petition related costs. Prosecuting and defense attorneys can receive physical copies of records without charge as part of a court hearing for resentencing; however, people who are incarcerated would need to pay to receive physical copies of their records (personal communication, DOC, June 2024), which may be cost prohibitive for some people who are incarcerated. One key informant also noted that petitions filed in Superior Court generally require a filing fee (personal communication, DOC, July 2024). Filing fees and responsibility for paying the filing fee in Superior Court vary by case type (RCW 36.18.020); however, filing fees for petitions are generally about $250.00. HB 1125 does not specify whether a filing fee would be associated with filing a petition for resentencing directly with the court or who would be responsible for paying the filing fee. However, key informants with expertise in criminal court cases previously stated there would not be a filing fee associated with a resentencing petition, if the bill provisions were to pass (personal communications, August 2024).

Additionally, access to a computer or typewriter while incarcerated is limited, and people may need to handwrite communications, including petitions for resentencing (personal communications, June 2024).[13] This aligned with the records reviewed by UW researchers, in which approximately half of requests for resentencing under SB 6164 from people who are incarcerated were handwritten (personal communication, Katherine Beckett, UW, June 2024). People may also not have money to pay for copies of documents, envelopes, stamps, and other resources necessary to send their petition to the sentencing court and prosecuting attorney (personal communications, June 2024).

Overall, it is unknown how many people may seek resentencing if bill provisions were to pass.[86] In a fiscal note for legislation with similar provisions introduced during the 2024 Legislative Session (2SHB 2001), the Washington State Caseload Forecast Council (CFC) specifically noted there is no way to determine who may petition for resentencing.[86] However, HB 1125 would expand who can petition the court for resentencing to include people who are incarcerated,

evidence indicates SB 6164 petitions are often prompted by a request from someone who is incarcerated, and key informants generally agreed bill provisions would likely increase the number of resentencing petitions filed with the court (personal communications, June-August 2024). Therefore, we have made an informed assumption that HB 1125 may result in some people filing a petition for resentencing, either *pro se* or with the support of counsel, and increase the number of resentencing petitions filed.

Would some people filing a petition result in some people being granted a resentencing hearing by the court?

We have made the informed assumption that some people filing a petition may result in some people being granted a resentencing hearing by the court. This assumption is based on evidence from Prosecutor-Initiated Resentencing efforts in Washington State and California and information shared by community members with lived experience of incarceration in DOC facilities and key informants.

In Washington State, the volume of requests for resentencing under SB 6164 and the ways requests are received and considered vary by county (personal communication, WAPA, May 2024). For example, prosecuting attorneys' offices in less populous counties may receive a petition request via mail or email and decide whether to consider resentencing based on statute (personal communication, WAPA, May 2024). Whereas prosecuting attorneys' offices in more populous counties may receive a high-volume of requests under SB 6164 and may have a specific process to request a sentence review as well as prioritization criteria for selecting cases for review (personal communication, WAPA, May 2024).

For example, King County's Prosecuting Attorney's Office has a Sentence Review Unit (SRU) which considers requests for sentence review.[95] The SRU accepts requests by mail or email using the SRU Intake Form[50] or a cover letter with specific information.[95] The SRU does a preliminary review of cases to determine if they are a priority or non-priority case.[95] Priority case categories are subject to change and are listed on the county's public website.[95] In counties with a high volume of requests, the initial process of reviewing and responding to requests may take up to several months, depending on capacity (personal communication, WAPA, May 2024). Following a preliminary review, the King County Prosecuting Attorney's Office may decline to review the case or may select the case for an in-depth review.[95]

Under SB 6164, the prosecuting attorney is responsible for determining when an original sentence "no longer advances the interests of justice" and may be appropriate for resentencing (personal communication, WAPA, May 2024). "No longer advances the interests of justice" is intentionally broad and may include different sentencing elements (personal communications, May-August 2024). Generally, from a prosecuting attorney's perspective, this language allows for resentencing when: 1) the law has changed (i.e., a specific crime is no longer sentenced the same way) or 2) sentencing practices have shifted (e.g., shorter sentences for the same crime) (personal communication, WAPA, May 2024). Therefore, if a person currently incarcerated would have received a shorter sentence if they had been sentenced in the present rather than the past, then a prosecutor may decide that an original sentence is no longer in the interests of justice (personal communication, WAPA, May 2024). Additional individualized reasons may also prompt resentencing (e.g., resentencing of a co-defendant) (personal communication, WAPA,

May 2024). Prosecutors must use more discretion when reviewing requests for resentencing that do not relate to legislative changes or sentencing practice changes; therefore, in some cases, prosecutors may have more nuanced interpretations of "no longer advances the interests of justice" (personal communication, WAPA, May 2024).

Under current Washington State law, once a SB 6164 petition is filed by the prosecuting attorney's office, judges may use their discretion in determining which cases may receive a resentencing hearing,[3] and the court may grant or deny the petition for resentencing.[9] If the court grants the petition, the court is required to resentence as if the person had not previously been sentenced, the new sentence may not be greater than the original sentence, and credit shall be given for time served.[9] During the resentencing process, the court may consider factors such as the person's disciplinary record and record of rehabilitation during incarceration, evidence regarding whether the person is at a reduced risk of future violence (e.g., age, time served, diminished physical condition), and evidence that the sentence no longer serves the interests of justice.[9] During resentencing, the prosecuting attorney must make reasonable efforts to notify victims and survivors of the resentencing petition and hearing and provide access to victim services.[9] These procedures align with the resentencing process outlined in HB 1125.

If bill provisions were to pass, key informants have stated review of petitions and decisions whether to grant a resentencing hearing would likely vary by court jurisdiction and judicial discretion (personal communications, June-August 2024). Key informants stated that Superior Court judges may view and exercise discretion allowed under the bill provisions differently (personal communications, June-August 2024). For example, decisions may be influenced by court capacity to review petitions, resources available for resentencing hearings, political considerations, and judicial philosophy (personal communications, June-August 2024). Community members with lived experience of incarceration in DOC facilities expressed concern that the lack of guidelines or laws defining "in the interest of justice" could result in similar cases continuing to have disproportionate sentencing outcomes depending on the judge (personal communications, January 2025). Additional key informants stated there may be regional similarities in whether petitions are granted a resentencing hearing (personal communications, June-August 2024). Community members with lived experience of incarceration in DOC facilities shared concerns that such regional similarities may result in a pattern of some counties providing access to resentencing opportunities and other counties barring opportunities created by the Legislature, as has occurred with SB 6164 petitions (personal communications, January 2025). Despite anticipated variations, key informants generally expected that an increase in resentencing petitions would result in more petitions being granted a resentencing hearing (personal communication, Superior Court judicial officer, August 2024).

Petitioners would also be required to serve (i.e., deliver notice to) the prosecuting attorney with a copy of their resentencing petition. Key informants previously stated that prosecuting attorneys may review petitions for resentencing filed under bill provisions, including review of DOC records (e.g., disciplinary record, programming or training records, medical records), pre-sentencing information (e.g., substance use, counseling), and other non-criminal file work (personal communication, WAPA, May 2024). Prosecuting attorneys may also compile and provide judges with additional information to consider in determining whether to grant a

resentencing hearing (e.g., statutory requirements, criminal history, new evidence, victims' comments) (personal communications, June-August 2024).

While judges would make the final decision about whether to grant a resentencing hearing after reviewing the petition and additional information (personal communication, WAPA, June 2024), some key informants previously stated that some judges may consider a prosecuting attorney's recommendations in deciding whether to grant a resentencing hearing (personal communications, June-July 2024). A key informant with expertise in the Washington State Superior Court system stated it is likely, although not guaranteed, that the court would grant a resentencing hearing in instances where parties are in alignment (e.g., the petitioner and prosecuting attorney are in agreement about filing a resentencing petition) (personal communication, Superior Court judicial officer, August 2024). However, key informants noted that resentencing petitions filed by a person who is incarcerated may be contested by other parties (e.g., prosecuting attorneys, law enforcement, victims and survivors of victims) (personal communications, June-August 2024). It is not possible to know how the perspectives from various parties may impact different judges' decisions regarding whether a petition is granted a resentencing hearing if HB 1125 were to pass.

To receive a hearing, the petitioner would need to meet 1 or more of the following requirements: 1) demonstrated positive, engaged, and productive behavior while in DOC custody indicating substantial rehabilitation or 2) demonstrated a minimal risk of re-offense (e.g., medical frailty). Such information may be provided as part of the petition and may include affidavits, declarations, letters (e.g., from family, community, corrections officers), prison records, or other written or electronic materials. Community members with lived experience of incarceration in DOC facilities and key informants noted that access to counsel or an advocate with expertise in resentencing could help a person who is incarcerated determine how best to present themselves (e.g., how they have spent their time in custody, their plans following release) (personal communications, May 2024-January 2025). HB 1125 states if the court determines by a preponderance of the evidence that the petitioner meets 1 or more of these criteria, then the court shall grant a hearing to consider the petition (to be heard within 120 days).

Key informants provided insight into these requirements. For example, people with longer sentences typically have less access to programming during incarceration than people with shorter sentences (personal communications, June 2024-January 2025). People with longer sentences are not typically prioritized for programming unless space is available or they are nearing their release date (personal communications, June 2024-January 2025). For example, people who are more than 7 years from release are not prioritized for education classes (e.g., degree credits) or jobs (e.g., Correctional Industries [CI], work release) as such opportunities are generally reserved for people nearing their release date (personal communications, January 2025). Often the only option for people serving long or very long sentences are volunteer classes (i.e., self-taught curriculum, self-help classes) that do not count for educational credit (personal communications, January 2025). People who are incarcerated shared that they hope courts recognize and acknowledge participation in such curriculum as rehabilitative work (personal communications, January 2025). Community members who are currently incarcerated in a DOC facility also noted that people with long and very long sentences often rely on other incarcerated people to share information about available programs (e.g., GRE, work release, sober living

options) to start future planning as counselors cannot discuss options until closer to a person's release date (personal communications, January 2025).

Key informants also emphasized that programming is not consistent across DOC facilities (personal communications, June-July 2024). For example, staff at DOC's Women's Division noted that people in DOC's women's facilities have less access to programming, especially vocational programming, compared to people in other DOC facilities (personal communication, DOC, July 2024). Therefore, people who are serving longer sentences or are in certain facilities may not have access to programming that may help to demonstrate positive, engaged, and productive behavior while in DOC custody or to provide evidence of rehabilitation. Key informants suggested the type of programming completed may also be considered during the resentencing process. For example, a key informant with expertise in the Washington State Superior Court system stated that documentation verifying participation in rehabilitative programming related to the underlying offense (sex offense, domestic violence, etc.) would be useful in determining whether the petitioner has demonstrated substantial rehabilitation (personal communication, Superior Court judicial officer, August 2024).

Key informants have also stated that "medical frailty" is not defined in bill provisions and could be interpreted to include many things (personal communications, June 2024-January 2025). Key informants stated that HB 1125 does not include definitions related to medical conditions, which could introduce opportunities for people to challenge or question whether someone may be "sick enough" to be eligible to petition for resentencing (personal communication, OPD, January 2025). Key informants from DOC stated that, if the bill were to pass, they would likely create metrics specific to medical frailty that could include health conditions like comorbidities (e.g., cardiovascular disease, diabetes) and ability to complete activities of daily living (personal communication, DOC, June 2024). However, DOC noted that they do not have electronic health records and would not be able to run reports to determine who may be experiencing medical frailty (personal communication, DOC, June 2024).

In the agency's fiscal note for 2SHB 2001, Department of Commerce noted, "[i]t is assumed that not everyone who would petition for a sentence modification would be granted a hearing."[86] Some community members with lived experience of incarceration in DOC facilities stated HB 1125 does not guarantee resentencing for everyone; rather, it creates a mechanism for the court to consider a person for resentencing based on the time and effort they have put forward to grow and change for the better while incarcerated (personal communications, January 2025).

Evidence from Washington State's Prosecutor-Initiated Resentencing law may provide some insight into court decisions to grant resentencing hearings. Records obtained through 2 Public Disclosure Act requests show more than 1,000 people who were incarcerated requested prosecutors submit a petition for a resentencing hearing under SB 6164 between March 2020 and August 2023.[89] Researchers identified 42 documented petitions for resentencing submitted by prosecutors to the courts.[89] Of requests supported by prosecutors, 61.9% of petitioners had legal representation, indicating access to legal counsel was an important factor in whether prosecutors responded favorably to requests for resentencing under SB 6164.[89] Moreover, evidence indicated that when prosecutors petitioned the courts for resentencing under SB 6164, courts granted the petitions.[89] As of May 2024, 41 of 42 resentencing requests had been granted, with 1 court

hearing pending scheduling.[89] This suggests that access to legal representation and the support of the prosecuting attorney may be important factors in determining whether a petitioner is granted a resentencing hearing.

Similarly, under California's Prosecutor-Initiated Resentencing law, "[f]or a case to be considered by the court, it must have the [district attorney's] support, since the [district attorney] initiates the referral to the court"[13] regardless of who (district attorney, person who is incarcerated, etc.) initiated the review. The district attorney may consider evidence of rehabilitation, reentry plans, and victims' statements in deciding whether to refer a case to court.[13] If a case is referred to the court, a judge will evaluate the case to determine whether to grant a hearing.[13] In some California counties, potential cases are referred to multiple judges, who may have different relationships with the district attorney's office and different understanding of the law.[13] As a result, consideration by the court and whether a case is granted a hearing may differ by judge.[13] Out of the 684 cases reviewed by district attorneys' offices for resentencing in the first 18 months of the California County Resentencing Pilot Program, 321 cases (47%) were not referred by district attorneys' offices to the court for resentencing; 258 cases (38%) were still under review; and 105 cases (15%) were referred to the court for resentencing.[13] Of the 105 cases referred to the court for resentencing, 95 cases (13.9% of total cases reviewed by district attorneys' offices) received a court hearing.[13]

Although it is not possible to predict how many petitions for resentencing would be granted a hearing, key informants generally expected that an increase in resentencing petitions would result in more petitions being granted a resentencing hearing (personal communication, Superior Court judicial officer, August 2024). Therefore, we have made the informed assumption that some people filing a petition may result in some people being granted a resentencing hearing by the court.

Would some people being granted a resentencing hearing by the court result in some people's original sentences being modified?

We have made the informed assumption that some people being granted a resentencing hearing by the court may result in some people's original sentences being modified. This assumption is based on provisions in the bill, information from community members with lived experience of incarceration in DOC facilities and key informants, and evidence from Prosecutor-Initiated Resentencing efforts in Washington State and California.

HB 1125 specifies that any new, modified sentence imposed shall not be greater than the original sentence. Key informants previously stated that possible outcomes of a resentencing hearing under bill provisions may include no imposition of a new sentence (i.e., the original sentence would be retained) or imposition of a new, modified, and less restrictive sentence (personal communication, WAPA, June 2024). A modified sentence could include a person being given a new, earlier release date (i.e., a shortened sentence); a person being released from total confinement to partial confinement; or a person being released to community (personal communications, May-June 2024).

HB 1125 includes specific restrictions for any new sentence as well as a non-exhaustive list of other mitigating factors the court may consider when determining whether to modify the

petitioner's sentence. It also allows the court to impose an exceptional sentence below the standard range based on evidence of significant rehabilitation or other applicable factors. Additionally, if the original sentence included one or more mandatory enhancements (i.e., under RCW 9.94A.533) the court may impose a sentence below the mandatory minimum enhancement term. Finally, the bill also explicitly states that the court may consider an extraordinary adverse impact of the petitioner's release on the victim or survivors of the victim of the crime for which the petitioner is presently incarcerated.

Community members with lived experience of incarceration in DOC facilities shared mixed perspectives on judicial discretion. Some felt that sentencing judges' role as an impartial party would allow them to weigh all the circumstances and information shared to come to a decision (personal communications, January 2025). One person shared that returning to the original sentencing court could be beneficial for a petitioner in circumstances where the judge felt their hands were tied by the law (personal communications, January 2025). At the same time, petitioning the original sentencing court could be detrimental in other cases (personal communications, January 2025). Some community members who are currently incarcerated in DOC facilities expressed concern about how judicial discretion may play out by court jurisdiction. They shared:

> Long term incarceration disproportionately affects people with low-incomes and Black, Indigenous, and other people of color. In large part, the same sentencing judges who framed their implicit biases in legally acceptable terms and handed out disproportionately long sentences on a racial basis are the same people who would hold the power to reduce the sentence and make the focus restorative and not punitive (personal communications, January 2025).

A key informant representing WAPA stated that judges would continue to adhere to the SRA sentencing guidelines in determining a new sentence (personal communication, WAPA, June 2024). However, a key informant with expertise in the Washington State Superior Court system previously stated that, if passed, bill provisions may represent a broad shift from the Washington State Sentencing Reform Act (SRA) of 1981 (Chapter 9.94A RCW) (personal communication, Superior Court judicial officer, August 2024). The SRA "provides specific sentence ranges to allow for clear expectations to the parties and to the public at the time of sentencing" (personal communication, Superior Court judicial officer, August 2024). While the SRA is intended to allow for consistency in sentences across Washington State, sentences for similar conduct still vary under the SRA by prosecutor's charging decision or by judicial discretion (personal communication, Superior Court judicial officer, August 2024). The judicial officer expressed concern that bill provisions may introduce further uncertainty to eligible felony sentences (personal communication, Superior Court judicial officer, August 2024). For instance, parties, victims, and the public may believe that someone is "sentenced to 30 years and would serve 30 years, for example, but later learn the [person who is incarcerated] is eligible for release after 10 years" (personal communication, Superior Court judicial officer, August 2024).

The judicial officer also expected bill provisions, if passed, to inject uncertainty into plea negotiations (personal communication, Superior Court judicial officer, September 2024). Specifically, "[p]arties could negotiate a resolution to a case without knowing if that [resolution] will actually happen" (personal communication, Superior Court judicial officer, September 2024). For example, a person in court may agree to 30 years instead of 60 years, yet either way the minimum time served would be 10 years (by July 1, 2032) (personal communication,

Superior Court judicial officer, September 2024). The judicial officer noted that victims, whose input is often solicited, may be less likely to agree to a plea reduction (e.g., proposal to reduce from a life sentence to a specific sentence) if the minimum time served before being eligible to petition for resentencing under bill provisions would be standardized to 10 years for adults (by July 1, 2032) and 7 years for juveniles (effective July 1, 2026) (personal communication Superior Court judicial officer, September 2024). They stated, "[t]he certainty of any negotiated plea could be undermined" (personal communication, Superior Court judicial officer, September 2024).

In considering possible outcomes of a resentencing hearing, HB 1125 entitles the petitioner to a de novo review of the original sentence. A de novo review would allow judges to consider a case as if sentencing for the first time, with the exception that a judge may not increase the sentence (personal communications, January 2025). This would allow judges to consider additional information and circumstances as part of sentencing decisions, including rehabilitation/infraction records and input from victims and survivors (personal communications, January 2025). For example, a judge may consider perspectives of the petitioner and their counsel as well as the perspectives of the prosecuting attorney, law enforcement, and victims and survivors of victims (personal communications, June-August 2024). A judge may consider potential release supports shared by a petitioner and their counsel, including housing and employment plans, family and community supports, and connections to appropriate programming (personal communications, June-August 2024). Prosecuting attorneys would also be involved in resentencing hearings and in proposing sentence recommendations for judicial consideration in the resentencing process (personal communication, WAPA, June 2024). Finally, the court may hear from victims and survivors of victims about the potential impact of release of the petitioner. Key informants noted that cases with longer sentences may be more likely to include serious and violent offenses which often involve long and contentious original sentencing hearings (personal communications, June-August 2024). Some victims and survivors of victims may continue to experience significant trauma (personal communications, June-August 2024). A key informant with expertise in the Washington State Superior Court system shared that hearing victims and survivors' viewpoints along with those of the petitioner would be important in considering the resentencing hearing outcome (personal communication, Superior Court judicial officer, August 2024).

Evidence from Prosecutor-Initiated Resentencing in Washington provides some insight into how sentences may be modified by the courts. As of May 2024, researchers at UW found courts had granted 41 of 42 resentencing requests (1 petition was pending scheduling).[89] Of the 41 petitions granted, 4 people had an original sentence of life without the possibility of parole and were excluded from the analysis of prison term reductions.[89] The other 37 people had been resentenced and had an original known prison sentence.[89] Of those 37 people, resentencing under SB 6164 reduced the combined number of sentenced years in prison by 43.5% (from 731 years to 413 years).[89] Researchers found, "on average, the 37 [people] reflected in these aggregated figures were originally sentenced to 19.8 years. After resentencing, their average sentence was 11.2 years."[89] While not analyzed specifically, authors noted resentencing could also result in sentence modifications beyond time in custody (e.g., modified supervision) (personal communication, Katherine Beckett, UW, June 2024).

More generally, as of 2023, 900 people in the U.S. had been resentenced under Prosecutor-Initiated Resentencing laws.[2] In the first 18 months of the California County Resentencing Pilot Program, 94 cases (13.7% of total cases reviewed by district attorneys' offices) had been issued a decision from the court.[13] In cases where a decision has been issued by the court, 91 cases (13% of total cases reviewed) resulted in resentencing and 3 cases (0.4% of total cases reviewed) were denied resentencing.[13] Sixty-three cases (9.2% of total cases reviewed) resulted in release from prison, and 28 cases (4.1% of total cases reviewed) resulted in shorter sentences.[13] Generally, "indeterminate minimum sentence lengths were most commonly reduced by more than 15 years and up to 20 years" and often resentenced to be of determinate length.[13] Among determinate length sentences, most cases were reduced by 5 years or less, which correlated with the amount of time remaining in sentences.[13]

Therefore, based on provisions in the bill, information from community members with lived experience of incarceration in DOC facilities and key informants, and evidence from Prosecutor-Initiated Resentencing laws, we have made the informed assumption that some people being granted a resentencing hearing by the court may result in some people's original sentences being modified.

Would some people's original sentences being modified improve health outcomes?
There is very strong evidence that criminal legal system involvement is linked to poor health outcomes.[19-33] Criminal legal system contact can be measured by a number of indicators including, but not limited to, arrest, conviction, and incarceration.[28,96] While there has been limited research examining the impact of sentence length on health outcomes, a large body of evidence supports the association between incarceration and poor health outcomes.[19-33] Therefore, modifying sentences to be less restrictive would likely improve health outcomes for people whose original sentences are modified.

People who are incarcerated experience poor health outcomes, limited access to healthcare, and delay of care.[27] Systemic factors contribute to worse health outcomes for people who are incarcerated.[27] People who are incarcerated are more likely to be from communities negatively impacted by social determinants of health, like racism, high levels of financial poverty, and limited community healthcare resources,[32,33,97-100] which "contributes to social inequities […] that shape health behaviors, access to healthcare, and interactions with medical professionals."[76] Moreover, limited "community psychiatric resources may funnel people with mental [health conditions] into carceral settings."[27] Research has also found that the impacts of incarceration are cyclical[32,33,101] and "may have an indirect effect on health by influencing other social exposures and health risks such as economic opportunities, social relationships, and the development of health-protective behaviors."[29] For example, incarceration can fracture families and neighborhoods and can traumatize people who are incarcerated.[1,102] Evidence also shows, "[r]emoving large numbers of people, mostly men, from their communities […] destabilizes the neighborhoods they leave behind."[1] Removal of people from communities can lead to a loss of employees, neighborhood contributors, childcare support, intimate partners, etc.[1] As a result, crime may increase as a community tries to adjust to these losses.[1] A 2020 systematic review found that, "[Black people] and [people of color] consistently show lower life expectancies and worse mental health outcomes than [white people]. Health [inequities] persist, and are magnified, among the incarcerated population, where people of color are disproportionately represented."[103]

Other studies have found that health after first incarceration is worse for Black people than white people.[98]

An aging prison population and exposure to adverse prison conditions may also contribute to worsening health outcomes for people who are incarcerated.[27] Research has found that the lack of being able to function on one's own, being held in a place disconnected from society, and being held in a psychosocial state of being exposed to violence and experiencing constant hypervigilance contribute to "the chronic harm of incarceration."[30] Researchers stated this harm continues after return to community.[30,102] A 2023 qualitative study with people who are incarcerated in Washington State prisons framed incarceration as a chronic health condition where "living conditions can become chronic health conditions, especially in prisons…long-term imprisonment leads to 'chronic incapacitation' lasting a lifetime, even after release. This 'long tail of incarceration…essentially functions as a chronic disability.'"[30] More specifically, people who are incarcerated are more likely to experience chronic medical conditions (e.g., hypertension, asthma, arthritis, diabetes, cancer), infectious diseases, lower self-rated health, increased psychiatric disorders, and a greater risk of mortality upon release.[29,30,96,104-107] Research shows that people with a history of incarceration have a significantly greater likelihood of major depression, life dissatisfaction, and mood disorders compared to people who do not have a history of incarceration[28,105] and that effects persist after release. Research has also found that arrest and incarceration, but not conviction, are independently associated with poor mental health.[28]

People who are incarcerated experience acute and chronic stressors that may negatively impact health.[32] Acute stressors may include restrictive sleeping patterns, separation from family and community, and interpersonal conflict.[32] Chronic stressors may include exposure to violence, harsh living conditions, and loss of social support.[32,107] Carceral environments may also adversely impact health, including poor nutrition options, smoking, and poor ventilation and air quality.[107] Community members with lived experience of incarceration in DOC facilities stated that poor nutritional options (e.g., processed foods high in salt, sugar, and preservatives), lack of control over dietary choices, hard flooring, hard beds, mental stress, and anxiety about loved ones are also stressors that negatively impact health (personal communications, January 2025).

Data from the U.S. Bureau of Justice Statistics' 2016 Survey of Prison Inmates is the most current nationally-representative survey of the health of people who are incarcerated in state or federal prisons in the U.S.[27] Of people who are incarcerated, 61.7% reported 1 or more chronic physical condition (e.g., obesity, hypertension, joint disease), 40% reported any mental health condition, 34.4% reported a substance use disorder, 26.7% reported 1 or more chronic mental health condition, and 13.3% reported severe psychological distress.[27]

Although people who are incarcerated are more likely to have chronic health conditions compared to people who are not incarcerated, they have limited access to healthcare services.[27,108] The 2016 Survey of Prison Inmates evaluated 6 measures of access to healthcare.[27] For all 6 measures, the study authors found that people who are incarcerated experience limited access to or delayed access to healthcare services.[27] Of people who reported 1 or more chronic physical conditions, 13.8% had not received medical care since incarceration (with 9.8% not receiving care after 1 or more years in prison).[27] About 42% of people who reported severe

psychological distress and 33% of people who reported a mental health condition had not received mental healthcare since incarceration (including 39.5% and 29.3%, respectively, not receiving care after 1 or more years in prison).[27] Studies have also found that arrest and incarceration are associated with lower odds of receiving preventive health services, including cholesterol, blood sugar, and blood pressure testing.[109]

Lack of access to care in carceral settings is due to "limited and fragmented oversight and regulation, a lack of commonly accepted standards of care, underfunding, and medical staffing shortages."[27] Research has shown that there is wide variation in the quality of healthcare, legal ambiguity in how treatment is provided, and inconsistencies in the ways in which prisons operate and the collaborative model of healthcare.[101] [101]Moreover, "[n]o federally recognized body establishes and enforces standards of care or accredits prison health facilities".[27] Instead, each of the 50 state corrections departments manages and sets standards of care in state prisons.[27] In Washington State, DOC provides healthcare to people who are incarcerated in DOC facilities.[110] DOC states that people who are incarcerated may access healthcare by going to a "Sick Call", sending a written request to Health Services, or reporting an emergency to staff.[110] The Washington DOC Health Plan outlines services that are considered medically necessary but does not guarantee these services.[110] For example, while the DOC Health Plan outlines preventive care, some services are only provided if deemed necessary and appropriate (e.g., periodic health maintenance evaluations, immunizations, certain diagnostic tests).[27]

The Washington State Legislature tasked the Washington Statewide Reentry Council (Reentry Council) with improving public safety and outcomes for people reentering community after incarceration. As part of that work, Reentry Council staff conducted surveys and listening circles with people who are incarcerated at every Washington State prison (personal communication, Reentry Council, June 2024). People who are incarcerated in Washington State reported mental healthcare as the greatest need and requested more access to peer-to-peer programing and health and human dignity focused programs, like the Washington Way (personal communication, Reentry Council, June 2024). Community members who are currently incarcerated in DOC facilities and additional key informants stated that most people who are incarcerated have experienced trauma and are not getting the care they need to address that trauma, including mental health services, while in DOC custody (personal communications, June 2024-January 2025).

People who are incarcerated may also have limited access to qualified healthcare providers. Research has found that carceral settings experience challenges in healthcare delivery related to "tighter funding constraints, understaffing, [and] vacant positions."[111] A 2020 investigative series reported on health in Washington State DOC facilities. It found, as a cost-saving measure, "prisons often 'downshift' work from properly qualified providers to those with lesser credentials," which has raised concerns related to safety and legal scope of license.[108] Additionally, recruiting and retaining skilled medical staff in prison settings; availability of correctional officers to escort people to community-based hospitals or monitor people in a mental health crisis; and prison administrators' determination of medical necessity all limit accessibility to health services for people who are incarcerated.[108] The investigative series stated, "[c]ommon debilitating ailments go unaddressed because treatment, by the prisons' standards, is not medically necessary."[108] Previous national-focused research has also shown that access to

healthcare may be dependent on corrections staff determination, and staff that serve as "gatekeepers" are often untrained in determining when medical attention is required, resulting in denied or delayed care.[31]

Available information indicates that access to timely, quality medical care has been a consistent area of concern for people who are incarcerated in Washington State and their families.[108,112-116] OCO's Fiscal Year 2023 Annual Report stated "[c]omplaints related to health care (medical, mental health, and dental) were the most frequently received type of concern in [Fiscal Year] 2023," with 855 investigative cases.[113] For example, OCO noted a "patient reported pain and delayed access care [*sic*] [and] was later diagnosed with cancer."[113] Community members with lived experience of incarceration in a DOC facility stated that healthcare may be delayed weeks or months and emphasized that people serving long or very long sentences are more likely to experience longer delays in care (personal communications, January 2025). People who are incarcerated stated that DOC staff may not take health concerns seriously, resulting in delayed care (personal communications, January 2025). People also explained that people serving long or very long sentences are often bumped from waitlists for care (e.g., dental care, surgeries) and people approaching their release date may be prioritized for care (personal communications, January 2025). For example, people talked about the extended timelines to receive dental care in DOC facilities and noted that cavities may worsen and result in a tooth extraction rather than a filling, which may result in further health impacts (risk of infection, pain, difficulty eating, lower self-esteem, depression, additional waitlists, etc.) (personal communications, January 2025). People who are incarcerated also stated that the aging prison population, lack of preventive care, and delay in care results in people dying in prison or dying upon release to community (personal communications, January 2025). Overall, the systemic delay in care results in worse health conditions and costlier healthcare (personal communications, January 2025).

Moreover, OCO publishes an annual report related to unexpected fatalities, or deaths while in DOC custody that are not the result of a diagnosed or documented terminal illness or other debilitating or deteriorating illness or condition where the death was anticipated (RCW 72.09.770). From July 1, 2023, to June 30, 2024, 57% of deaths in DOC custody (26 out of 46) were unexpected.[117] The causes of unexpected death were overdose (7 people), death by suicide (5 people), cancer (4 people), vascular disease (3 people), infection or sepsis (3 people), respiratory complications (3 people), and diabetes (1 person).[117] This aligns with previous investigative reporting pointing to "a pattern of delay that leaves [people in DOC custody] unable to access basic health services"[108] or specialty care (e.g., surgery, radiation treatment, chemotherapy) recommended by medical providers.[112] Delays in care (ranging from days to years) have resulted in instances of deteriorating health conditions and death in Washington State DOC facilities.[108,112,114-116]

There is also evidence that HB 1125 may improve health outcomes. Almost all community members with lived experience of incarceration in DOC facilities brought up hope and stated that resentencing opportunities may increase feelings of hope for people who are serving long or very long sentences (personal communications, January 2025). Multiple people shared two sides to hope—the harms of not having any hope and the benefits of having hope (personal communications, January 2025). Some people shared that a lack of hope (e.g., feeling that "there is no amount of good I can do while in prison to make a difference") contributes to poor

decision-making which can create a dangerous environment for peers and staff (personal communications, January 2025). Some people also noted the mental and physical impact of having no hope (personal communications, January 2025). On the other hand, people who were serving or had served long sentences highlighted that having hope gives people a reason to: do the hard work of introspection; understand the harm caused; learn how to handle stress differently and in healthier ways; take opportunities to heal and change actions; and better themselves for a future back in community (personal communications, January 2025). Having hope can shift how people interact with staff and peers, which can positively impact the culture of a prison (personal communications, January 2025). Moreover, some community members with lived experience of incarceration in DOC facilities noted that hope impacts opportunities people pursue to grow and give back, which in turn affects interactions with family (e.g., their children) and community (i.e., through volunteer programming) (personal communications, January 2025).

Emerging evidence suggests that hope may be a protective factor for health.[118-120] For example, research on hope and health has found that hope may protect against depression and death by suicide, and may be associated with disease prevention, improved coping, well-being, and engagement in healthy behaviors.[118,120] Hope has also been associated with better physical and mental health outcomes among adults and people "with higher hope can counter the adverse effects of mental health issues."[119] Specific to carceral settings, previous research has suggested that hope "is one potentially important concept for the treatment and prevention of substance [use disorder], criminal behaviors, and risk for reincarceration."[121] A 2012 longitudinal study examined the relationship between hope and reincarceration among 45 people who were recently (i.e., within the past 90 days) released to community and participating in a residential substance use recovery program.[121] The authors found that hope significantly predicted the odds of reincarceration such that, "[f]or each one-unit increase in hope scores, [people] were 10% less likely to be reincarcerated in the next year."[121] When the study authors looked only at measures of agency (i.e., a person's goal-directed determination), [people] were 24% less likely to be reincarcerated in the next year.[121] The authors concluded that the study "suggests that hopefulness was related to the risk of reincarceration."[121] This aligns with perspectives shared by some people serving long sentences in Washington State. For example, one person noted a shift in thinking from "how can I survive the time sentenced in prison" to "what can I do to change my actions, so I don't come back to prison" (personal communications, January 2025). As it is well-established that involvement in the criminal legal system is linked to poor health outcomes,[19-25] decreasing reincarceration and further criminal legal system involvement also has the potential to improve health outcomes.

Taken together, being incarcerated contributes to poor health outcomes due to a wide range of factors including criminal legal system contact, traumatization, social and systemic factors, prison conditions, limited access to healthcare services, and lack of access to timely, appropriate medical care. HB 1125 may also increase feelings of hope, which may improve health. Therefore, there is very strong evidence that some people's original sentences being modified would likely improve health outcomes.

Would some people's original sentences being modified impact recidivism and reincarceration?

It is not well researched how some people's original sentences being modified may impact recidivism and reincarceration.[o] Published literature uses the term 'recidivism' to refer to various measures, spanning from supervision revocations (i.e., technical violations like failing to meet with a supervision officer), rearrest, reconviction, to reincarceration.[34] In Washington State, "DOC defines recidivism as a non violator readmission to a Washington State facility within 36 months following a release from incarceration."[35] According to DOC, the 3-year "return to institutions" rate (based on 2020 releases, the most current data available) was 22.1%,[35] suggesting that approximately one-fifth of people who are released from DOC facilities are reincarcerated. Risk of recidivism, rearrest, reconviction, and reincarceration may be impacted by many factors, including age, criminal history, offense type, experiences while incarcerated (e.g., type of confinement, access to programming), and experiences after release to community (e.g., access to mental healthcare, social supports, employment).[36-38]

We did not find any current studies evaluating how modifying sentences to be less restrictive may impact recidivism and reincarceration. While there are some empirical studies on sentence length and recidivism and reincarceration, research is limited and much of the published literature on this topic is dated.[37-39] There are also methodological limitations present when examining sentence length and recidivism and reincarceration, including ethical considerations of study randomization among people who are incarcerated, the amount of time needed to study release and reincarceration, inconsistent measurement of reincarceration and recidivism, and difficulty controlling for external variables (e.g., state and federal policy changes, differential access to services while incarcerated).[34,37,38] Further, research institutions vary in how sentence length and recidivism are studied and framed, making it challenging to compare or draw conclusions across studies.

Available research is conflicting regarding how sentence length may impact recidivism and reincarceration. In a 1993 literature review on sentence length and recidivism, the Washington State Institute for Public Policy (WSIPP) concluded that the impact of sentence length on recidivism is complex.[38] WSIPP concluded that, "[f]or some [people], incarceration and longer confinement seem to increase the risk of recidivism. For other [people], the likelihood of reoffense will either be unaffected or reduced by longer terms of incarceration. Furthermore, early-release programs do not appear to affect overall recidivism rates."[38]

Generally, research has found evidence of 4 potential relationships between sentence length and recidivism: 1) some evidence indicates that longer sentences do not have an effect on future crime commission and recidivism; 2) some research has found that longer sentences are associated with low rates of future crime commission and recidivism; however, this relationship may be mediated by age and longer sentences may have diminishing returns; 3) some research

[o] In other Health Impact Reviews, we have used the term reincarceration to demonstrate the systemic nature in which people with fewer resources (e.g., people of color, those of low socioeconomic status) are more likely to become reincarcerated than people with greater access to resources. However, the published literature uses the term 'recidivism' to refer to various measures, spanning from supervision revocations (i.e., technical violations like failing to meet with a supervision officer), rearrest, reconviction, to reincarceration.[33] Research findings vary depending on which measures are evaluated.[33] Since the empirical research on this topic includes an array of measures, we have retained "recidivism" in this Health Impact Review for specificity and accuracy.

has found that incarceration is criminogenic, meaning that as the length of the sentence increases, the likelihood of future crime commission and recidivism also increases; and 4) some research has found no association between sentence length and recidivism.

First, some evidence indicates that more severe, lengthy sentences do not have an effect on future crime commission and recidivism.[1,2,4,40] Criminal legal research has suggested that deterrence theory is based on whether the certainty, severity, or swiftness of legal punishments will lower crime rates.[41] While some researchers have suggested that long periods of incarceration discourage people from committing additional crimes (specific deterrence), other researchers have found that *certainty* of punishment is more important than *duration* of punishment in deterring people from reoffending.[38] More recent research has also found that "people do not order their unlawful behavior around the harshness of sentences they may face, but around their perceived likelihood of being caught and facing any sentence."[1] Another researcher elaborated, "lengthy sentences do not have a significant deterrent effect on crime and divert resources from effective public safety programs."[2]

Second, some research has found incarceration and longer sentences are associated with low rates of committing future crimes and recidivism.[4,37,39,42,43] However, additional research has suggested this relationship may be mediated by external factors such as age.[1,34,38,40,44] For example, the U.S. Sentencing Commission conducted a study using Federal Bureau of Investigation (FBI) criminal history records to measure the rearrest rates of 25,431 people.[39] The study results showed that people who were incarcerated for more than 120 months (i.e., 10 years) were less likely to experience rearrest 8 years after release, compared to similar people who were incarcerated for less time.[39] A separate 2015 quasi-experimental study which evaluated cases in Seattle, Washington, found that a sentence with an extra month decreased the rate of recidivism by about 1 percentage point, "with possibly larger effects for those with limited criminal histories."[42] The study also found that decreases in recidivism "comes almost entirely in the first year of release."[42]

However, research has suggested lengthy sentences may have diminishing returns, people "age out" of violent crime, and that evidence indicating longer sentences lead to decreased reincarceration may be mediated by age.[1,34,38,40,44] Long sentences have been justified under the assumption that people who commit violent crimes are likely to continue to do so.[1] However, violent crime is more prevalent among younger people from their late teens to early twenties, then drastically decreases.[1,44] After this point, the rate of arrests for violent crimes decreases by more than half by the time a person enters their mid-thirties.[1] Similarly, trend analyses of recidivism in Washington State have found that recidivism rates have declined over time for all age groups, but the largest decline was among adults aged 31-50 years.[34] Further, older adults who are incarcerated are at a lower risk of recidivism than other groups.[26] One study found that only 3.2% of people convicted of crimes aged 55 years and older returned to prison after 1 year of release, compared to 45% of those age 18-19 years.[26] Researchers have also noted "not all lengthy sentences automatically result in safety, and even sometimes have diminishing returns, especially involving cases where people are kept in prison long after they pose a threat to public safety."[40]

Research has shown that people who are released from incarceration earlier than their original sentence have low rates of recidivism. One study examined the effect of sentencing reforms on people who were sentenced to life without parole in Philadelphia, Pennsylvania, for an offense committed as a youth.[4] The average age at the time of resentencing was 45 years, and the average age at the time of release was 51 years.[43] The study found a low (1%) recidivism rate among those who were released.[4] In addition, "studies that find extremely low rates of recidivism among released [people originally sentenced to life imprisonment] overwhelmingly include people who were convicted of serious violent crimes."[4]

Specific to Washington State, 1 report calculated the recidivism rate among people who received very long or life sentences for an offense they committed when they were younger than 18 years of age and were released after sentencing law changes.[4] Of the nearly 7,000 people who were serving a sentence of 10 or more years in Washington State in 2022, an estimated 637 had become potentially eligible for review by the Institutional Sentencing Review Board (ISRB) or criminal courts based on sentencing reforms.[4] Of those, 286 people had been released.[4] Authors found "the recidivism rate among people who returned home after receiving a very long or life sentence for a crime they committed as a [youth] and who subsequently became eligible for a 'second look' after serving [20] or more years [was] remarkably low [2.1% convicted of a new felony; 5.2% parole revoked for technical violations]."[4] Instances of recidivism often stemmed from unmanaged mental health issues.[4] This report also examined recidivism rates among people eligible for sentence review and release under the Washington State Miller fix legislation.[4] Data show 140 people became eligible for release before May 1, 2023, of which 98 were released.[4] Records indicate that 2.2% of those who were released had been convicted of a new felony offense as of January 2024.[4] Records also indicated that these offenses were related to untreated substance use disorder and mental health challenges.[4]

Taken together, evidence indicating that longer sentences are associated with low rates of future crime commission and recidivism may be mediated by external factors including the aging process of the person who is incarcerated.

Third, some research has found that incarceration is criminogenic, meaning that as the length of the sentence increases, the likelihood of future crime commission and reincarceration also increases. For example, research suggests that incarceration is a crime-creating environment, where being in prison and experiencing separation from community increases the likelihood of continued interaction with the criminal legal system.[1,38] A 2021 meta-analysis of 116 studies found custodial sentences (i.e., requiring incarceration) not only do not prevent future crime commission and recidivism, but they can also increase it, when compared to non-custodial sanctions such as probation.[1] Overall, "a substantial body of research demonstrates that incarceration of any length is developmentally harmful for young people and contradicts safety, increasing the risk of future involvement with the criminal legal system rather than reducing crime."[1]

Lastly, some research has found no association between sentence length and recidivism and reincarceration.[37] In the 1993 literature review, WSIPP examined studies published in the 1980s that showed, "[e]arly release (only a few months early in the studies reviewed) appears to neither increase nor decrease the overall recidivism rates."[38] More recently, results of the U.S.

Sentencing Commission's study showed no statistically significant criminogenic or deterrent effects for incarceration lengths of 60 months (i.e., 5 years) or less.[39] A separate 2009 review found similar results, where there was "little convincing evidence on the dose-response relationship between time spent in confinement and reoffending rate."[37] Similarly, 1 key informant stated that there is no research showing that punitive measures reduce reincarceration (personal communication, Reentry Council, June 2024).

We did not find any empirical studies evaluating how modifying sentences to be less restrictive may impact recidivism and reincarceration, and available research is conflicting on how sentence length may impact recidivism and reincarceration. Therefore, it is not well-researched how modifying sentences to be less restrictive may impact recidivism and reincarceration.

Would improving health outcomes impact equity?
There is unclear evidence how improving health outcomes for people whose original sentences are modified may impact equity.

Research is limited and emerging on how Prosecutor-Initiated Resentencing and sentence modification may affect different groups of people who are incarcerated. For example, researchers in Washington State have not evaluated Prosecutor-Initiated Resentencing cases by demographic factors (e.g., age, gender, race/ethnicity, sex), and evaluators of the California County Resentencing Pilot Program noted a need for future research to examine inequities in the distribution and outcomes of resentencing cases due to racism.[13] Moreover, HB 1125 may result in some people filing a resentencing petition, being granted a resentencing hearing, and receiving a modified, less restrictive sentence; however, it is unknown who may seek resentencing if the bill were to pass. HB 1125 does not address existing disproportionality or inequities in the Washington State criminal legal system. Additionally, implementation of HB 1125 may vary by court jurisdiction and due to judicial discretion, which could lead to bill provisions being applied differently across the state if the bill were to pass.

While there is limited research on how Prosecutor-Initiated Resentencing and sentence modification may impact different groups, it is well-documented that inequities exist at all steps in the criminal legal system, including by sentencing, and that people who are incarcerated are more likely to experience worse health outcomes. Inequities in sentencing exist due to racism and settler colonialism; for women, girls, and sexual and gender diverse people; by health status; for older adults; and for youth and emerging adults. Resentencing processes may result in similar inequities.

Lastly, HB 1125 would allow youth and emerging adults younger than age 25 years serving sentences in juvenile rehabilitation facilities before being transferred to DOC facilities to be eligible to petition for resentencing (personal communication, Washington State Department of Children, Youth, and Families [DCYF], January 2025). However, HB 1125 does not modify DCYF authority and DOC may not have authority to implement certain provisions of HB 1125 in juvenile rehabilitation facilities. See Additional Considerations (page 72) for further discussion. Since inequities in the juvenile criminal legal system are well-documented and since youth and emerging adults serving sentences in juvenile rehabilitation facilities may not receive implementation supports outlined in HB 1125, it is unclear how bill provisions may impact inequities by carceral system.

Inequities due to racism

It is well-documented that people of color are disproportionately represented in all steps of the criminal legal system. While some evidence suggests that people of color may benefit from resentencing if HB 1125 were to pass, the bill does not address existing disproportionality or inequities in the Washington State criminal legal system for people of color. In 2010, the Task Force on Race and the Criminal Justice System was convened to address racial inequities in Washington State's criminal legal system. Its 2012 report concluded that racial bias influences criminal legal system outcomes more than the rate at which crimes are committed (crime commission rates).[51] Specifically, "facially race-neutral policies that have a disparate impact on people of color contribute significantly to [inequities] in the criminal [legal] system", and "racial and ethnic bias distorts decision-making at various stages in the criminal [legal] system, contributing to [inequities]."[51] In a 2021 update, the Task Force built on previous work and evaluated data related to stops, searches, arrests, convictions, legal financial obligations (LFOs), incarceration, etc.[52] The 2021 Task Force's Research Working Group concluded that "race *still* matters in ways that are not fair, that do not advance legitimate public safety objectives, that produce racial [inequities] in the criminal [legal] system, and that undermine public confidence in our legal system."[51]

National data show that "[t]he percentage of people serving long sentences has grown over time for both Black and white people, and racial [inequities] in sentence length have widened."[40] Based on 2019 data, Black people were disproportionately more likely to receive and serve lengthy prison sentences.[18] Black people were 4% more likely to receive a lengthy sentence than white people.[18] Black men also received harsher sentences and served more time in prison compared to white men.[1] For example, in the federal prison system:

> [Black men's] sentences [were] 19.1[%] longer—even after controlling for factors like conviction history, education, and income. In the same system, Black people [were] also 21.2[%] less likely to receive a sentence shorter than advised by the sentencing guidelines than white people.[1]

In addition, "Black people represented 33% of the total prison population and 46% of the prison population who had already served 10 years or more."[18] People of color accounted for about 66% of people serving a life or virtual life sentence.[18] Similarly, a 2020 analysis of Washington State Superior Court Sentencing data (January 1986-June 2017) found that Black people were over-represented among those sentenced to long and life sentences.[8] Moreover, disproportionality increased as sentence length increased.[8] While an average of 3.5% of the Washington State population identified as Black through this time period, 19% of those sentenced to prison were Black.[8] Furthermore, approximately 21% of those who received long sentences (10-19.99 years), approximately 24% of those who received very long sentences (20-39.99 years), and 28% of those sentenced to life in prison were Black.[8]

Evaluations of second look laws in California and Washington, D.C., have found that a higher proportion of people of color may be eligible for resentencing compared to people in other racial groups, suggesting "people of color would be among the most likely candidates to benefit from [policies like Prosecutor-Initiated Resentencing]."[18] As part of the evaluation for the California County Resentencing Pilot Program, the evaluators examined demographic characteristics of people in cases reviewed and referred to the court for resentencing.[13] In cases reviewed by

district attorneys' offices for resentencing, 40% of people were non-Hispanic Black, 33% of people were Hispanic, 20% of people were non-Hispanic white, and 7% of people were another race.[13] For cases referred to the court for resentencing, about 41% of people were non-Hispanic Black, 33% of people were Hispanic, 18% of people were non-Hispanic white, and 8% of people were another race.[13] About 29% of the California prison population is Black,[13] suggesting that Black people may be overrepresented in cases reviewed by district attorneys' offices and referred to the court for resentencing. The evaluators noted that "discrepancy in the distribution of [race/ethnicity] between the [Prosecutor-Initiated Resentencing] cases and the full prison population requires additional investigation."[13] As part of the final evaluation, to further understand differences by race/ethnicity, the evaluators intend to examine inequities in initial sentencing, criteria district attorneys' offices are using to prioritize cases for review, and characteristics of the prison population in the 9 pilot program counties (rather than the total California prison population).[13] For example, the evaluators noted that some district attorneys' offices prioritized cases for review with a third-strike enhancement sentence and Black people are overrepresented in this sentencing group compared to the total California prison population.[13]

OPD looked at demographic information as part of estimates of the number of people who may be eligible to petition for resentencing based on the eligibility criteria outlined in HB 1125. Based on estimates of who would be eligible to petition in September 2024 if all eligibility categories were in place, 64.48% of people who may be eligible to petition were white, 23.00% were Black, 5.21% were American Indian/Alaska Native, 4.91% were Asian/Pacific Islander, 1.58% were of another race, and 0.82% were of unknown race (unpublished data, OPD, January 2025).[p] People who were Black were disproportionately represented among people who may be eligible to petition compared to the general prison population, suggesting that people who are Black may be more likely to be serving long or very long sentences in total confinement in a DOC facility and, therefore, more likely to be eligible for resentencing if HB 1125 were to pass. For example, 23% of people who may be eligible to petition were Black and about 18% of the DOC prison population is Black (unpublished data, OPD, January 2025).

Some community members who are currently incarcerated in DOC facilities expressed concern about how judicial discretion may play out by court jurisdiction. They shared:

> Long term incarceration disproportionately affects people with low-incomes and Black, Indigenous, and other people of color. In large part, the same sentencing judges who framed their implicit biases in legally acceptable terms and handed out disproportionately long sentences on a racial basis are the same people who would hold the power to reduce the sentence and make the focus restorative and not punitive (personal communications, January 2025).

Communities of color experience worse health outcomes than their white counterparts for many health measures. Poor health outcomes are not inherent to a person's race/ethnicity, rather they are influenced by determinants of health like racism, which "contributes to social inequities (e.g., poverty) that shape health behaviors, access to healthcare, and interactions with medical professionals."[76] Institutionalized racism results in differential access to resources, services, and opportunities, including access to healthcare, by race.[122] In Washington State, data indicate that American Indian and Alaska Native people and Black people had some of the highest age-adjusted death rates and shortest life expectancies at birth compared to other groups in the

[p] Data did not include ethnicity, and OPD noted that data did not identify Latino/Hispanic by race.

state.[123] Data also demonstrate that youth of color have worse health outcomes for many health measures compared to white youth.[77-79]

Key informants previously stated that it is unclear how bill provisions may impact inequities due to racism since they do not address existing inequities in the criminal legal system (personal communication, Superior Court judicial officer, August 2024). Therefore, based on existing inequities in the criminal legal system, including disproportionality in sentencing length; limited evaluation of how resentencing options impact inequities due to racism; and the potential for implementation of HB 1125 to vary by court jurisdiction and due to judicial discretion, there is unclear evidence how HB 1125 may impact inequities due to racism.

Inequities due to settler colonialism

The impacts of settler colonialism (e.g., generational trauma, root causes of poverty among American Indian and Alaska Native[q] peoples) have affected the ways in which people in the U.S. experience incarceration. For example:

> Native people have a long history of forced confinement resulting from government policies. Forms of confinement included removal and relocation from home territories, internment in forts and on reservations, forced placement of children in boarding schools and orphanages, commitments to 'insane asylums,' mental hospitals and incarceration in jails and prisons.[124]

It is well-documented that American Indian and Alaska Native people continue to be disproportionally impacted by the criminal legal system.[124] A U.S. Department of Justice (DOJ) report which analyzed 1992-2002 data found that "American Indian and Alaska Native people were incarcerated at a rate 38% higher than the national average and were overrepresented in the prison population in 19 states" compared to other groups.[124] In a separate 2016 report, data showed "22,744 Native [people] were incarcerated in state and federal facilities, and represented 2.1 to 3.7% of the federal [prison] population during 2019, despite only accounting for 1.7% of the [U.S.] population."[124] Lastly, "[a] study analyzing federal sentencing data found that [American Indian and Alaska Native people] are sentenced more harshly than [w]hite, [Black], and Hispanic [people who are incarcerated]."[124]

Governmental policies impact the ways American Indian and Alaska Native people experience incarceration and sentencing. For example, the Major Crimes Act of 1885 established federal jurisdiction over certain crimes that occur on Indian reservations, if the person accused of the crime is Native.[125] It is well-documented that cases heard in federal jurisdiction result in longer sentences than cases heard at the state-level, leading to longer sentences for American Indian and Alaska Native people.[124] However, approximately 71% of American Indian and Alaska Native people live in urban areas, not on Tribal land.[126] Crimes occurring outside of reservations are

[q] It is well-documented that there is a lack of robust data regarding American Indian and Alaska Native people. American Indian and Alaska Native people have been misclassified, under-counted, and misrepresented in data collection and research. American Indian and Alaska Native is first and foremost "a unique political status, and is only secondarily, and in specific contexts, a racial identity."[108] American Indian and Alaska Native identity is "typically defined by citizenship in a [T]ribe or Native [N]ation, regardless of an individual's racial background."[109] To retain accuracy, the language used to describe American Indian and Alaska Native people in this Health Impact Review reflects the language used by the cited source.

generally heard at the state level, regardless of Tribal status, political status, or demographic makeup of the person accused of the crime.[124]

For Fiscal Year 2022, the U.S. Sentencing Commission reported that the average sentence length for Native Americans across the U.S. incarcerated in federal prison was 64 months, which was higher than the national (51 months) and Washington State (45 months) average sentence length.[127] A 2020 analysis of Washington State Superior Court Sentencing data found that "[1.2%] of the state population [identified] as Native American, but 2.4[%] of those receiving long sentences, 2.5[%] of those receiving very long sentences, and 1.9[%] of those receiving life sentences [were] identified in the sentencing data as Native American."[8] Data are not available regarding how resentencing options impact American Indian and Alaska Native people.

It is well-documented that American Indian and Alaska Native people experience physical health and mental health inequities and that these inequities are the result of colonization and governmental policies.[128] Data show higher probability of chronic conditions, such as type 2 diabetes, asthma, and obesity among American Indian and Alaska Native people, compared to their non-Hispanic white counterparts.[129] Data also show that American Indian and Alaska Native people experience poor mental health outcomes and death by suicide, unintentional injury, liver disease, tuberculosis, and hepatitis.[130]

Overall, American Indian and Alaska Native people experience inequities among sentencing, incarceration, and health outcomes due to the impacts of settler colonialism. It is unclear how HB 1125 will impact inequities due to settler colonialism due to existing inequities in the criminal legal system, a lack of evidence regarding how resentencing options may impact inequities, and the potential for implementation of HB 1125 to vary by court jurisdiction and due to judicial discretion.

Inequities by court jurisdiction/geography

There are inequities in incarceration, sentencing, and health outcomes by region in Washington State. Data indicate rates of incarceration differ by geographical region and regional incarceration trends correlate with unemployment rates, commute times, household income, educational achievement, life expectancy, and health outcomes.[131] In Washington State, more populous cities (i.e., Seattle, Spokane, and Tacoma) have larger numbers of people who are incarcerated, but less populous, more rural counties have the highest imprisonment rates per 100,000 residents.[131]

Many key informants stated that implementation of bill provisions may vary by court jurisdiction and due to judicial discretion (personal communications, May-August 2024). For example, under SB 6164, the volume of requests for resentencing and the ways requests are received and considered vary by county (personal communication, WAPA, May 2024). Key informants stated that some prosecutors have not reviewed SB 6164 petitions due to lack of funding; lack of staffing or capacity; philosophy (i.e., whether a prosecuting attorney believes cases should be revisited for resentencing); expectations or beliefs of victims; or political pressure (i.e., county prosecuting attorneys are elected officials) (personal communications, May-June 2024). As of August 2023, prosecutors in 27 counties had not filed any petitions, despite having received requests for consideration.[89] Records showed 29 of the 42 (69%) petitions filed by prosecutors

were filed in 1 of 3 counties (Clark, King, or Pierce).[89] Evaluation of California's Prosecutor-Initiated Resentencing law found similar differences by counties participating in the pilot programming, including differences due to staffing or capacity and collaboration between district attorneys' offices and public defenders' offices.[13] Key informants anticipated that similar differences by geography or court jurisdiction may occur if bill provisions were to pass (personal communications, May-August 2024). Similarly, community members currently incarcerated in DOC facilities expressed concern that the judicial discretion allowed in the bill would continue to result in disproportionate sentencing outcomes by jurisdiction (personal communications, January 2025).

Health outcomes differ by geographic region of Washington State. According to the County Health Rankings and Roadmaps program, a product of the University of Wisconsin Population Health Institute and the Robert Wood Johnson Foundation, rural communities in Washington State experience health inequities due to limited access to social determinants of health such as lack of transportation to care, lack of available providers, and lack of affordable care options as well as data quality and access issues.[132,133] Research shows, "people living in rural counties in Washington State are 13% more likely to die from heart disease, 33% more likely to die from intentional self-harm, and 65% more likely to die from unintentional injuries or accidents than their urban counterparts."[133]

Overall, rural areas in Washington State have higher imprisonment rates and health inequities, compared to urban areas. In addition, if HB 1125 were to pass, implementation may vary by court jurisdiction and due to judicial discretion. However, it is not possible to determine how implementation may differ across the state. Therefore, it is unclear how HB 1125 may impact inequities due to geography and court jurisdiction.

Inequities by sex, gender, and sexual orientation

Although national data show women[r] typically receive shorter sentences than men, evidence indicates women, girls, and gender and sexually diverse people experience inequities within carceral settings. Washington State data for sentence length were not readily available by sex, gender, and sexual orientation. Key informants shared that, if passed, resentencing through HB 1125 may affect people incarcerated in DOC women's facilities differently than people in other DOC facilities. For example, the following may differ for people in DOC Women's Division custody: the likelihood to petition for resentencing, evidence available to support resentencing petitions, and circumstances surrounding the original sentence.

In Washington State, 6.3% (872 people) of people in DOC custody are female.[35] National evidence indicates that men who are incarcerated are more likely than women to be serving longer sentences.[134] Women in the U.S. are more likely to be serving a sentence for property or drug offenses and less likely to be serving a sentence for violent crime compared to men.[135] These differences contribute to shorter overall sentences for women.[135] The U.S. Sentencing Commission published a 2023 report on demographic differences in federal sentencing and

[r] Most demographic data on sex and gender related to incarceration outcomes is reported using binary male and female categorization. We recognize that more expansive gender identities are largely overlooked, and we include information on LGBTQ people where available. In this HIR, we retain the language used by each source to maintain accuracy.

found that on average, females received sentences that were 29.2% shorter than males.[134] The report also found that females of all races were 39.6% more likely to receive a probation sentence than males.[134] However, "there is little to no accessible Washington [State] data on whether gender and other demographic factors impact prosecutors' exercise of discretion in […] sentencing recommendations."[136]

Data also show inequities exist among women, girls, and sexual and gender diverse people who are incarcerated, and such inequities are compounded by intersectional factors such as systemic racism and homophobia. Between 1980 and 2019, the number of women and girls who were incarcerated in the U.S. increased more than 700%, "which was twice as fast as the male [incarcerated] population over that same period."[29] Data also show that 33% of women who are incarcerated identify as lesbian or bisexual and that lesbian and bisexual women are more likely to receive longer sentences than heterosexual people who are incarcerated.[135] Further, data from the National Inmate Survey found that lesbian, gay, and bisexual people are incarcerated at a rate 3 times as high as the general U.S. population.[137] Additionally, women of color experience inequities due to both racism and sexism. For example, Black women "are twice as likely as Hispanic/Latina women to be incarcerated, and fully [7] times more likely than [w]hite women to be sentenced to jail or prison."[29]

Key informants stated that if HB 1125 were to pass, women may be less likely to petition for resentencing and may have had limited access to programming that may support their petition as evidence of rehabilitation. Specifically, key informants previously shared that women may be less likely to believe they deserve to be resentenced than men and, therefore, may be less likely to petition for resentencing (personal communications, June-July 2024). Key informants also shared that stigma of certain crimes may affect whether women pursue resentencing (personal communications, June-July 2024). Furthermore, staff at DOC's Women's Division noted that people in DOC women's facilities do not have the same access to programming as people in other DOC facilities (personal communication, DOC, July 2024). Specifically, the amount and variety of programming available through DOC women's facilities are more limited (i.e., limited access to vocational programming, no access to the Strength in Families or Parenting Inside Out evidenced-based programming for parents offered through DOC) (personal communication, DOC, July 2024). Additionally, access to substance use disorder (SUD) treatment is inadequate for the population's needs (2 therapeutic communities serving a total of 125 people in DOC women's facilities) (personal communication, DOC, July 2024). Therefore, if a person in a DOC women's facility petitions for resentencing, they may have had limited access to programming to demonstrate positive, engaged, and productive behavior while in DOC custody or to provide evidence of rehabilitation to support their petition (personal communication, DOC, July 2024).

Key informants also noted resentencing may provide victims and survivors of domestic violence or intimate partner violence the opportunity for experiences to be taken into consideration that were not previously considered during original sentencing (personal communications, July 2024). For context, women are disproportionately victims and survivors of domestic violence and intimate partner violence,[138] which may affect sentencing and incarceration outcomes. Power dynamics and control are root factors of domestic violence and intimate partner violence and may influence how the person being abused is able to respond to their abuser, notify authorities, leave the scene of a crime, refuse to participate in certain activities, etc.[139]

Dynamics of domestic violence and intimate partner violence may also influence the ways in which women are sentenced. For example, women have been arrested for crimes where their behavior was in response to violence perpetrated against them by an intimate partner (commonly referred to as "victim defendants") (personal communications, July 2024). From these arrests, charges may result in a felony or violent offense sentence. Furthermore, RCW 9A.08.020 details that a person can be charged with a crime if they are an accomplice to the crime ("accomplice liability"). This law can result in victims and survivors being charged as co-defendants and/or accused of and sentenced for crimes they did not commit or did not have the autonomy to stop.[140] In a study of 72 women serving life sentences in Michigan, 60% were serving sentences for aiding and abetting someone else and 13% of cases were due to killing an abusive partner.[141] The Marshall Project, a nonpartisan, nonprofit journalism source stated, "[we] identified nearly 100 people across the country, nearly all of them women, who were convicted of assisting, supporting or failing to stop a crime by their alleged abuser. Some of the women showed clear signs of abuse at the time they were arrested."[140]

Women who are currently or have been formerly incarcerated are more likely to experience health inequities. The 2016 Survey of Prison Inmates also found inequities in access to preventive care.[27] The survey found that among pregnant people who are incarcerated, 50.6% had received no pregnancy education and 9.1% had received no obstetrical examination between incarceration and delivery.[27] A previous national survey with administrators and staff at state correctional facilities also found that facilities lacked opportunities for health education, preventive care, and women-specific health services.[142] For example, cancer screening rates are lower among women who are incarcerated and the rate of cervical cancer among women who are incarcerated is 4 to 5 times greater than the rate among women who are not incarcerated.[143,144] Furthermore, compared to their male counterparts, women who have been formerly incarcerated are "significantly more likely to be diagnosed with multiple health conditions" and "have more complex health concerns and histories often characterized by severe mental health conditions, drug use, victimization, and childhood trauma."[29] Moreover, the intersection of racism and sexism can further exacerbate inequities. For example, 1 study analyzed Health and Retirement Study data from 2012 and 2014 and applied an intersectionality framework to study how the intersection of racism and sexism impacts health outcomes following incarceration.[29] Compared to other groups in the study, incarcerated women, particularly women of color and older women of color, had more physical limitations and depressive symptoms.[29]

Overall, men receive longer sentences than women, and women, girls, and sexual and gender diverse people experience inequities related to health and incarceration outcomes. Since it is unknown who will petition for resentencing or how courts may consider more limited access to rehabilitative programming in DOC women's facilities, it is unclear how HB 1125 may affect inequities by sex, gender identity, and sexual orientation.

Inequities by health status

Health inequities are worsened among people who are incarcerated,[103] as "living conditions can become chronic health conditions, especially in prisons…long-term imprisonment leads to 'chronic incapacitation' lasting a lifetime, even after release. This 'long tail of incarceration…essentially functions as a chronic disability.'"[30] People with certain chronic conditions, such as mental health conditions, are also more likely to be incarcerated.[27,103] The

Bureau of Justice Statistics reported that about 60% of people who are incarcerated in state facilities have diagnosable mental health issues.[112] Of people who are incarcerated, 61.7% reported 1 or more chronic physical condition (e.g., obesity, hypertension, joint disease), 40% reported any mental health condition, 34.4% reported a substance use disorder, 26.7% reported 1 or more chronic mental health condition, and 13.3% reported severe psychological distress.[27] In addition, cancer is the leading cause of death among people who are incarcerated, and reports from OCO indicate many Washington State prisons do not provide adequate medical care for cancer diagnoses.[112] Community members with lived experience of incarceration in DOC facilities expressed concern about the rates of cancer in carceral settings and questioned if this reflects what is happening in community (personal communications, January 2025). Further, people who are incarcerated lack access to appropriate, timely, and quality healthcare.[112]

People with disabilities and people with serious or chronic health conditions also experience health inequities.[145] For example, people with disabilities may experience impaired mobility, cognition, and sensory processing difficulties.[146] However, "[h]aving a disability is not synonymous with poor health."[147] Systemic issues such as lack of access to care and marginalization contribute to health inequities among people with disabilities.[147] Data show that adults with disabilities in Washington State are more likely to have depression, obesity, diabetes, and heart disease and to smoke.[148] One study found that "people with multiple disabilities had worse health outcomes."[147] Additional research has found that "adults with intellectual disabilities or autism were more likely to report comorbidities, including poor mental health, than adults with other disabilities."[147]

Having more comorbidities is associated with poorer health outcomes and poorer healthcare experiences.[149] Research has found particularly negative healthcare experiences among people with long-standing conditions (e.g., mental health diagnoses and cancer) and for people reporting lower educational attainment levels.[149] Data show that the prevalence of adverse health outcomes such as hypertension, arthritis, and overall poor health are most common in low-resourced areas of the U.S.[145]

Key informants shared differing perspectives on how HB 1125 may affect people with disabilities and people with serious or chronic health conditions, including mental health conditions. Some key informants stated that people experiencing these health conditions may be less likely to become aware of changes to the section of law or to file a petition for resentencing and may experience greater challenges navigating the petition process and fully advocating for themselves throughout the resentencing process (personal communications, June-July 2024). Some key informants stated that expanding who may file a resentencing petition to include people who are incarcerated may benefit people with disabilities and serious or chronic health conditions by creating opportunities for the court to review their medical needs (personal communications, May-June 2024).

Overall, people with disabilities and serious or chronic health conditions, including mental health conditions, experience health inequities. However, it is unknown who may petition for resentencing and how judges may consider health conditions in resentencing petitions and hearings if HB 1125 were to pass. Therefore, there is unclear evidence how HB 1125 may impact inequities for people with disabilities and serious or chronic health conditions.

Inequities by age (older adults)
Nationally, people aged 55 years or older accounted for 20% of people serving lengthy prison sentences in 2019.[18] Older adults who are incarcerated make up the fastest growing group of people in the U.S. prison system.[150] The increase in older people among the U.S. incarcerated population is generally due to harsh sentences issued during the tough-on-crime era of the 1980's and 1990's.[26] Many key informants also noted that Washington State's prison population is aging (personal communications, May-June 2024). About 22% of people who are incarcerated in a DOC facility are older than 50 years of age.[35] Community members with lived experience of incarceration in DOC facilities also shared that legislation is generally not retroactive and that case law has left many people incarcerated for significantly longer terms than had they been sentenced today (personal communications, January 2025). For example, some elders have been incarcerated since they were youth and emerging adults (personal communications, January 2025).

As part of the California County Resentencing Pilot Program, the majority of initiated reviews (52%) and cases referred to the court for resentencing (55%) were for people aged 50 years or older at the time of review.[13] People older than age 65 years at the time of review accounted for 7% of the total California prison population but 13% of cases reviewed and 11% of cases referred to the court for resentencing.[48] The evaluators noted this implies "that this [older] age group is garnering considerable attention for [Prosecutor-Initiated Resentencing] relative to its size."[13]

The National Institute of Corrections considers people who are incarcerated and who are age 50 years or older to be elderly, due to the lack of access to healthcare during incarceration and the stress that comes with being incarcerated, which accelerates the aging process.[17] Research has also suggested that a person's life expectancy decreases by 1 year for every 2 years spent incarcerated.[17] Researchers have stated that as people age in prison, they may experience the following: inability to walk to meals, up the stairs, to the prison yard, etc.; inability to climb into a top bunk; inability to stand in line in the sun for a head count; health issues such as obesity, diabetes, and heart health issues resulting from poor nutrition and a lack of activity, which may then lead to poor joint health, arthritis, and high blood pressure.[26] A longitudinal study of older people in New Jersey found that "early-life incarceration was associated with unsuccessful aging (i.e., high levels of chronic conditions, impairment, and pain as well as subjective assessments of not aging well), even after controlling for midlife circumstances."[29]

Older adults who are incarcerated also have different medical and healthcare needs than younger people who are incarcerated due to increased comorbidities and physical and cognitive disabilities.[150] Approximately 64% of people who are incarcerated in a state or federal facility and are age 45 years or older "reported having a current medical problem. The most prevalent reported medical problems were arthritis (30.5%), hypertension (29.5%), heart problems (13.1%), tuberculosis (13.0%), diabetes (12.1%), and hepatitis (9.8%)."[150] In addition, about "37.5% of [people who are incarcerated] reported having a chronic impairment or condition, including the following: vision (17.4%), learning (13.3%), hearing (11.4%), mobility (6.1%), mental (5.0%), and/or speech (3.5%)."[150] A systematic review of 21 studies exploring health challenges facing the aging U.S. prison population found that, compared with younger people who are incarcerated, older adults:

> reported high rates of diabetes mellitus, cardiovascular conditions, and liver disease. Mental health problems were common, especially anxiety, fear of desire for death or suicide, and depression. Activities of daily living were challenging for up to one-fifth of the population.[150]

A few community members who are currently incarcerated shared that some elders serving long or very long sentences have expressed fear about leaving prison because they have learned of peers dying shortly after being released to community (personal communications, January 2025). Some elders have questions about what healthcare resources would be available to them in community if released (personal communications, 2025).

Since there is limited and emerging research on how sentence modification may affect people by age, there is unclear evidence how HB 1125 may impact inequities for older adults who are incarcerated.

Inequities by carceral system (youth and emerging adults)
It is unclear how HB 1125 may impact inequities for youth and emerging adults[s] younger than age 25 years serving a sentence in juvenile rehabilitation facilities before being transferred to DOC facilities. In Washington State, any youth younger than 18 years of age at the time of court proceedings (not at the time of the alleged crime), who is not subject to adult court, is in the jurisdiction of the juvenile criminal legal system.[151] Moreover, Chapter 322, Laws of 2019 states that emerging adults older than 18 years of age who committed a crime when younger than 18 years of age may serve their sentence at DCYF juvenile rehabilitation facilities until 25 years of age.[152] Based on data from December 2024, 145 youth and emerging adults were currently serving sentences in juvenile rehabilitation facilities who are expected to be transferred to DOC custody on their 25th birthday, including 61 youth and emerging adults who had received an initial sentence of more than 10 years and 4 youth and emerging adults who had received a sentence of life with the possibility of parole.[35] HB 1125 does not modify authority for DCYF and DOC may not have authority to implement certain provisions of HB 1125 in juvenile rehabilitation facilities. See Additional Considerations (page 72) for further discussion.

There is limited research for how resentencing may impact youth and emerging adults, and data are not available for how current resentencing pathways in Washington State (e.g., SB 6164) may impact youth and emerging adults. Key informants stated that resentencing does not often occur while people are incarcerated in juvenile rehabilitation facilities (personal communication, DCYF, June 2024).

It is well-documented that youth and emerging adults experience worse health outcomes due to involvement in the criminal legal system.[45-49] Inequities in the juvenile criminal legal system exist due to racism[47,50-56] and settler colonialism[57] and by foster care status,[58] gender,[59] geography,[47,54,55] housing status,[60] sexual orientation,[59] and socioeconomic status.[46,53] Many inequities in the juvenile criminal legal system are inter-related and exacerbated by racism.[50] Researchers have noted that, "the intricacies of racial [inequities] in the [juvenile criminal legal

[s] The term "juvenile" will be used in relation to specific laws or rules governing youth alleged of crimes through the juvenile criminal legal system. The term "youth" refers to people younger than 18 years of age, and "emerging adults" refers to people 18 through 25 years of age.

system] are difficult to study because of the close relationship between crime and many of the social factors affecting communities in which [youth of color] are likely to be raised."[53] Youth of color are more likely to experience higher financial poverty rates and lower socioeconomic status, to attend schools with zero-tolerance policies and law enforcement presence on campus, and to experience parental incarceration due to inequities in the larger criminal legal system.[50,53] Similarly, a report by U.S. DOJ's Office of Juvenile Justice and Delinquency Prevention concluded:

> [E]xacerbating the difficulty of addressing [disproportionality in the criminal legal system] is the fact that [inequities due to racism] exist well before contact with the juvenile [criminal legal] system has occurred—in child welfare, the foster care system, school readiness, school performance, and school suspensions and expulsions.[50]

Students who experience suspension or expulsion due to zero-tolerance or similar policies are "at higher risk for several negative outcomes, including academic failure, grade retention, negative school attitude, and, consequently, high school dropout, […] and incarceration."[39] The evidence that Black students are disproportionately suspended and expelled compared to students of any other race/ethnicity is well-documented.[62-72,153] Washington State Board of Education's 2016 Biennial Report found that Black students were twice as likely to be subject to exclusionary discipline in school when compared to all students in Washington State.[64]

It is also well-documented that youth and emerging adults of color, particularly those who are Black, experience disproportionate contact with the juvenile criminal legal system and adult criminal legal system across all age groups and at all stages of involvement.[47,50,53,55] Nationally, among youth who receive life sentences or 'virtual life' sentences of 50 years or more, more than 80% are youth of color and more than half are Black.[17] The Washington State juvenile criminal legal system has documented disproportionate minority contact[t] for all non-white racial/ethnic groups, with Black youth and emerging adults experiencing the greatest disproportionality.[47,51] For example, Black youth were 7 times more likely to be in Juvenile Rehabilitation Administration custody than white youth.[47] Black youth were also significantly more likely to be tried as adults compared to white youth.[54,57,73,74] Research has shown that Black youth are "more likely to be treated as adults much earlier than other youth and less likely than white youth to receive the benefits and special considerations of adolescence."[75] Therefore, the adultification of some youth may impact sentencing and resentencing processes and outcomes.

It is well-documented that youth experiencing marginalization have worse health outcomes[46,76-79] and that youth and emerging adults experience worse health outcomes due to involvement in the criminal legal system.[45-49] Youth who are incarcerated have higher morbidity and mortality compared to their counterparts who are not involved in the juvenile criminal legal system.[46] Youth who are incarcerated experience health inequities related to reproductive health, mental health, and exposure to violence and injury.[46] There is evidence that up to 70% of youth who are incarcerated meet the criteria for at least 1 mental health disorder,[80] and youth who are detained are 4 times more likely to die by suicide than youth who are not incarcerated.[46] Lastly, "juvenile

[t] "Disproportionate minority contact" is a measure required by the federal Juvenile Justice and Delinquency Prevention Act of 1974 and is defined as "rates of contact with the juvenile [criminal legal] system among juveniles of a specific [racial/ethnic] group that are significantly different from rates of contact for white non-Hispanic juveniles."[49]

incarceration itself is an important determinant of health […and] correlates with worse health and social functioning across the life course."[46] For example, data from the Washington State Office of Financial Management, Education Research & Data Center show that students who have been involved in the juvenile criminal legal system experience worse educational outcomes compared to students who have not experienced criminal legal system involvement.[49] Students who have experienced criminal legal system involvement are more likely to drop-out of high school and are less likely to graduate high school, earn a GED, or enroll in or complete post-secondary education.[49] Students who experience criminal legal system involvement also earn less and work fewer hours after high school graduation.[49]

Key informants stated that emerging adults experience anxiety about potential transfer from juvenile rehabilitation facilities to DOC facilities and noted the importance of resentencing opportunities prior to transfer to adult facilities (personal communication, DCYF, June 2024). There is evidence that emerging adults experience better health outcomes when they are incarcerated in juvenile facilities than when in adult correctional facilities.[81,82] For example, evidence indicates that youth and emerging adults incarcerated in adult facilities are more likely than those in juvenile facilities to be physically or sexually assaulted by other people who are incarcerated and staff, to experience depression and suicide ideation, and to die by suicide.[82] Evidence also indicates that emerging adults in adult correctional facilities have the greatest risk of being assaulted with 18 through 24 year olds being the most at risk for victimization.[81]

In addition, a large body of neuroscience literature has demonstrated that the human brain continues to develop well into a person's 20's and that "adult-quality" decision-making ability, self-regulation, and impulse control continues to develop into adulthood.[75,83] Researchers discuss what is known as the "maturity gap" in emerging adults aged 18 through 24 years where cognitive functioning develops faster than psychosocial capacities; because of this, emerging adults are more likely to engage in risk-seeking behavior, have difficulty moderating their responses to emotionally charged situations, have poor risk assessment skills, be more impulsive and emotional, and think about short-term rather than long-term consequences.[75,84,85] Psychosocial development is further disrupted by factors such as involvement in the criminal legal system, traumatic incidents, parental incarceration, poverty, foster care, substance use, mental health needs, and learning disabilities.[83]

Although there are limited data for how youth and emerging adults are impacted by resentencing in Washington State, a large body of literature demonstrates youth and emerging adults experience worse health outcomes due to involvement in the criminal legal system. While HB 1125 would create a resentencing pathway for people in total confinement (including juvenile rehabilitation facilities), youth and emerging adults serving sentences in juvenile rehabilitation facilities may not receive implementation supports outlined in HB 1125. Therefore, since implementation of the bill may vary by carceral system, it is unclear how HB 1125 may impact inequities for youth and emerging adults younger than age 25 years serving a sentence in juvenile rehabilitation facilities before being transferred to DOC facilities.

Overall, there is limited and emerging research on how sentence modification may affect different groups of people who are incarcerated; it is unknown who may petition for resentencing if HB 1125 were to pass; the bill provisions do not address existing disproportionality and

inequities in the criminal legal system; and there is the potential for implementation of the bill to vary by court jurisdiction and due to judicial discretion and by carceral system. Therefore, there is unclear evidence how improving health outcomes for people whose original sentences are modified may impact equity for people who may be eligible to petition for resentencing.

Additional considerations

This Health Impact Review focused on the most linear pathway between provisions in the bill and health outcomes and equity. Evidence for how HB 1125 may impact victims and survivors of victims affected by resentencing and youth and emerging adults younger than age 25 years serving sentences in juvenile rehabilitation facilities is discussed below. See Inequities by carceral system (youth and emerging adults) beginning on page 67 for further discussion.

Victims and survivors of victims affected by resentencing

Office of Crime Victims Advocacy (OCVA) currently provides grant funding for prosecuting attorneys' offices to provide victim[u] and survivor services. There are 39 Victim Witness Assistance Programs in Washington State located in each county's prosecuting attorney's office.[86] The intent of Victim Witness Assistance Programs is to provide "systems-based advocacy and support services for victims during investigation and prosecution of a crime."[91] Program staff "provide information, support, and advocacy services to victims, witnesses, and their families"; "act as a liaison for the victims as they interact with prosecutors, investigative staff, and court personnel"; and ensure that victims have the right to participate during prosecution.[91] Through grants, prosecuting attorneys' offices may offer various services, including (but not limited to) providing information about victim rights, criminal legal processes, and case status; notification of court proceedings, dates, and events; accompaniment to criminal court proceedings; assistance obtaining protection orders; assistance with impact statements and restitution; and referrals to resources, as appropriate.[91]

HB 1125 would direct OCVA to create a flexible fund to serve victims and survivors of victims impacted by resentencing. Funding could be used for various services, including (but not limited to) providing relocation assistance related to a change in safety planning associated with the petitioner's resentencing; traveling to and from court for resentencing hearings; and out-of-pocket expenses for psychotherapy associated with the original offense or resentencing. However, HB 1125 does not include a funding source for OCVA to create an additional flexible fund to serve victims and survivors of victims affected by resentencing. Therefore, it is unknown how much additional funding may be available for victim and survivor services outlined in the bill[86] or how this may change current conditions.

In addition, HB 1125 would direct OCVA to contract with prosecuting attorneys' offices to provide victim advocacy services including legal advocacy to understand the resentencing process and victims' rights; safety planning; options to participate in a restorative justice

[u] The terms "victim" and "survivor" are both used to describe people who have experienced violence. "Victim" is typically used more often in legal contexts, and "survivor" is used by some to convey a sense of empowerment. Key informants stated that different people prefer to use different terminology to describe their experiences of violence. The bill uses "victims and survivors of victims" which some key informants interpreted to mean victims and family and friends of crime victims. Throughout this HIR, we retain the language from the bill and the language used for each cited source to maintain accuracy.

program with the petitioner; and case management to address needs that may arise from resentencing. OCVA would also be allowed to contract with an entity with expertise in victim services to provide training for victim advocates in prosecuting attorneys' offices related to safety planning and case management.

Researchers and key informants provided some information related to victim and survivor services. Prior research has noted that retribution "is premised on the notion that punishment supposedly restores the moral balance that is disrupted by a criminal act and delivers some semblance of satisfaction and resolution to the person harmed by that crime."[1] In contrast, survivors of crime generally prefer prevention, healing, and repair over harsh punishments.[1,90,154,155] In 2016, the National Alliance for Safety and Justice conducted the first national survey with crime victims and survivors to understand their views on safety and justice.[154] The survey found that 61% of crime survivors preferred shorter prison sentences and that the majority of survivors felt the criminal legal system should focus on rehabilitation and accountability measures beyond prison.[40,154] More specifically, 60% of victims and survivors "preferred that prosecutors consider victims' opinions on what would help them recover from the crime, even when victims do not want long prison sentences."[154] A 2018 California version of the survey found that 80% of crime survivors "stated that they believed that incarceration increases a person's chance of committing future crimes, rather than helping rehabilitate a person."[155] Crime survivors "support[ed] replacing lengthy mandatory sentences with increased judicial discretion, including for people convicted of serious or violent crime that are a low risk to public safety."[155] Similarly, survivors of crime surveyed in 2022 preferred that the criminal legal system focus more on rehabilitation than punishment, preferred shorter sentences to long ones, and preferred holding people accountable through options beyond prison (e.g., drug and mental health treatment and restorative justice).[1,90]

Key informants in Washington State noted that victims and survivors of victims continue to experience trauma years after a crime (personal communications, June-August 2024). The 2022 survey with crime survivors also found that 70% of victims reported experiencing significant challenges in recovery and healing.[90] For example, 96% of victims of violent crime did not receive victim compensation to help recover, 87% of victims did not receive financial or economic assistance to help recover, and 74% of victims did not receive counseling or mental health support to aid their recovery after experiencing crime.[90] Of victims that did receive help in recovery, only 20% of victims reported receiving assistance from the criminal legal system, while 80% reported receiving help from family, friends, or the healthcare system.[90] Nationally, only about 6% of crime victims reported receiving assistance from prosecuting attorneys' offices.[90] Key informants previously noted that an intent of the legislation is to provide more services than are currently available to victims and survivors of victims (personal communications, May-June 2024). For example, bill provisions may allow prosecuting attorneys' offices to provide more substantial support related to relocation assistance and may expand relocation assistance to every court jurisdiction (personal communication, WAPA, May 2024). The 2022 survey found that about 36% of survivors want to relocate after experiencing crime, with almost half of survivors unable to do so.[90] Additional resources for victims and survivors of victims may allow prosecuting attorneys' offices and victim advocates to help victims and survivors of victims find resources and services they need during the resentencing process (personal communication, Katherine Beckett, UW, June 2024).

Researchers and key informants also stated that participation in a restorative justice program may also benefit participants. A 2019 meta-analysis of 35 U.S. community-based restorative justice programs found that "restorative program participants were 41.5[%] less likely to be rearrested than people who had been prosecuted and sentenced in the traditional criminal legal system."[1] A separate 2013 meta-analysis of 10 programs from 3 countries (including 1 program from the U.S.) used face-to-face restorative justice conferencing and found a decrease in frequency of new contact with the criminal legal system among that those who participated in the conferencing, compared to the control group.[1] These effects were more consistent among people who had committed serious or repeat offenses, rather than lesser offenses.[1]

Restorative justice approaches also appear to benefit survivors of crime. Survivors of crime who participated in a reparative experience, such as face-to-face facilitated conferencing reported a greater sense of safety for themselves and others.[1] Participants also reported feeling more satisfied after the program completion, compared to those who participated in traditional court processing and sentencing.[1] Key informants in Washington State noted that most victims and survivors are not in communication with the person who caused harm and are therefore unaware of any maturation or rehabilitation that has taken place, which may affect the resentencing process (personal communication, Katherine Beckett, UW, June 2024).

Key informants have stated that access to victim advocate supports would be important following any notification and throughout any resentencing processes (personal communications, July 2024). Key informants expressed concerns about expanding victim and survivor services without stable dedicated funding for currently available victim and survivor services and additional funds for expanded services (personal communications, June-July 2024). For example, federal funding for victim and survivor services has decreased significantly (more than 50%) over the last decade and state funding for currently available services is set to expire July 1, 2025 (personal communications, July 2024). In 2018, Washington was awarded more than $70 million in funding for victim services; in 2024, the state received less than $20 million in federal funding; and in the upcoming fiscal year the state expects to receive $17.8 million in federal funding.[156]

Since HB 1125 does not include a funding source for OCVA to create an additional flexible fund to serve victims and survivors of victims affected by resentencing[86] and it is unknown how contracting with prosecuting attorneys' offices may change services and resources for victims and survivors of victims, this pathway was not included in the logic model.

Youth and emerging adults younger than age 25 years serving sentences in juvenile rehabilitation facilities before being transferred to Department of Corrections (DOC) facilities
The Juvenile Justice Act of 1977 (Chapter 13.40 RCW) established the Washington State juvenile criminal legal system.[a,151] "Juvenile" is defined as any youth younger than 18 years of age at the time of court proceedings (not at the time of the alleged crime) who is not subject to adult court.[151] The intent of the juvenile criminal legal system is to focus equally on accountability and rehabilitation to prepare youth for adulthood.[151] At age 18 years, regardless of

[a] The term "juvenile" will be used in relation to specific laws or rules governing youth alleged of crimes through the juvenile criminal legal system. The term "youth" refers to people younger than 18 years of age and "emerging adults" refers to people 18 to 25 years of age.

the age at which the alleged crime was committed, a person is in the jurisdiction of adult court.[151] However, in 2019, the Washington State Legislature passed E2SHB 1646 (Chapter 322, Laws of 2019), which stated that emerging adults older than 18 years of age who committed a crime when younger than 18 years of age could serve at Department of Children, Youth, and Families (DCYF) juvenile rehabilitation facilities until 25 years of age.[152] Therefore, youth and emerging adults who committed a crime when they were younger than 18 years may serve a sentence in a juvenile rehabilitation facility until their 25th birthday.

HB 1125 amends Chapter 9.94A RCW. Specifically, the bill states that people are eligible to file a petition for resentencing if they are "under a term of total confinement for a felony conviction". RCW 9.94A.030 defines "total confinement" to mean "confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for 24 hours a day" or work or labor camps. Based on this definition, youth and emerging adults in juvenile rehabilitation facilities for 24 hours a day meet the definition of "total confinement" (personal communication, DCYF, January 2025). Therefore, youth and emerging adults in a juvenile rehabilitation facility who are serving a sentence for a felony offense committed at age 17 years or younger and who have served at least 7 years of their sentence would be eligible to petition for resentencing if HB 1125 were to pass (personal communication, DCYF, January 2025).

However, HB 1125 does not modify DCYF authority and DOC may not have authority to implement certain bill provisions to assist the petitioner in compiling records, provide notification of this section of law, or prepare reentry plans if the petitioner were in juvenile rehabilitation custody. For example, HB 1125 would require DOC to provide written notice of the petition process to certain people who are incarcerated and who are or will become eligible to petition as well as other relevant entities in the applicable judicial district. DOC does not have authority in juvenile rehabilitation facilities, which are under the authority of DCYF. Therefore, provisions do not require notification for youth and emerging adults serving a sentence in a juvenile rehabilitation facility, including for youth or emerging adults nearing their 25th birthday who may become eligible to petition upon transfer to DOC (personal communication, DCYF, June 2024). DCYF and DOC have a memorandum of understanding addressing time served for people serving sentences that will span DCYF and DOC custody (personal communication, DCYF, June 2024). DOC tracks time served for youth or emerging adults who are in a juvenile rehabilitation facility and are serving longer sentences and will be transferred to DOC on their 25th birthday (personal communication, DOC, June 2024). Therefore, DOC would be aware of the potential eligibility to petition for resentencing for emerging adults who are transferred to DOC (personal communication, DOC, June 2024). Based on data from December 2024, 145 youth and emerging adults were currently serving sentences in a juvenile rehabilitation facility who are expected to be transferred to DOC custody on their 25th birthday, including 61 youth and emerging adults who had received an initial sentence of more than 10 years and 4 youth and emerging adults who had received a sentence of life with the possibility of parole.[35]

Since HB 1125 does not modify DCYF authority and DOC may not have authority to implement certain provisions of HB 1125 in juvenile rehabilitation facilities, this pathway was not included in the logic model.

Annotated References

1. **Nelson M., Feineh, S., Mapolski, M. A New Paradigm for Sentencing in the United States.2023.**

The Vera Institute of Justice published this 2023 report on sentencing and incarceration in the United States. The report provides a review of incarceration and sentencing, summarizes research about the impacts of sentencing, shares recommendations for legislators, outlines sentencing reforms and models the impacts of those reforms, and suggests a "North Star" for sentencing policy toward community-based sentences. The U.S. history of the racialized criminal legal system is summarized in the report. The U.S. began developing methods of sentencing and incarceration during the Colonial Era, where "punishments frequently differed, depending on the race of both the person who committed the act and the person harmed." Data from the 1890's through the 1950's show that Black people received longer and harsher sentences than white people. By the early 20th Century, prisons started offering more visitation, recreation, external communication, education, and training to "people believed to be capable of redemption – by and large white people." During the 19th Century, a "rehabilitation" approach (enforced solitude and discipline, hard labor, corporal punishment, etc.) to sentencing began to emerge. In this era, reformers argued that "wrongful behavior was driven by social surroundings and instability, and overly harsh punishment as a response to crime undermined the perceived legitimacy of the law. By 1870, the rate of incarceration in the U.S. more than doubled, and systems of isolation and discipline shifted to "treatment". Inequities due to racism continue through this era; by 1890, Black people made up 12% percent of the population, but 30% of the incarcerated population in the U.S., "a statistic that that has remained more or less stable to this day." Crime began increasing in 1961 and peaked in 1980, which led to increased incarceration, expanded law enforcement, and the "War on Crime." In the 1950's, the federal Boggs Act set mandatory minimum sentences for certain drug convictions. However, most mandatory minimum sentences were repealed by the Comprehensive Drug Abuse Prevention and Control Act of 1970. Sentencing from the 1960's through 1980's took a "tough on crime" approach through legislation, such as The Anti-Drug Abuse Acts of 1986 and 1988 and the Violent Crime Control and Law Enforcement Act of 1994 (1994 Crime Bill), which led to disproportionate arrests and sentencing among people of color. By the end of the 20th Century, federal and state legislators created mandatory minimums, "truth in sentencing," new and longer enhancements based on prior criminal convictions, and laws that restricted parole release. Incarceration in the U.S. more than tripled from 1971 to 1999. From 2000 to present day, various sentencing reform legislation and initiatives have been introduced at the federal, state, and local levels. Despite these efforts, inequities due to racism persist, where "Black people are more than twice as likely to be arrested and 5.1 times as likely to be sentenced to prison than white people." The 7 recommended legislation strategies in the report include: capping prison sentences at 20 years for adults convicted of the most serious crimes and 15 years for people aged up to 25 years old; expanding "good-time" credit; removing prior conviction sentencing enhancements; removing mandatory minimums; allowing any conviction to be eligible for a community-based sentence; creating second look resentencing; and mandating racial impact assessments for crime-related bills. Regarding the modeling component, the report stated, if Congress had passed some of the recommended legislation 10 years ago, the federal prison population would be about 20% of what it is now. The report stated, 57% of incarcerated people in the U.S. were serving a sentence of 10 years or more, and 1 in 7 incarcerated people were serving a life sentence (more than the

U.S.' entire incarcerated population in 1970). Between 2005 and 2019, the percentage of people with sentences of 10 years or longer increased, reaching 57% of the total in 2019. Further, there are inequities present among incarcerated people, where people of color and people who experience poverty are incarcerated more often and serve longer sentences than others. For example, "Black and Latino people make up 58[%] of the U.S. prison population but just 31[%] of the nation's overall population. Among those serving life and "virtual life" sentences—sentences of 50 years or more—nearly half are Black, and another 16 [%] are Latino. One in five Black men in prison is serving a life sentence. Black men receive harsher sentences and serve more time in prison compared to white men—in the federal system, for example, their sentences are 19.1[%] longer—even after controlling for factors like conviction history, education, and income. In the same system, Black people are also 21.2[%] less likely to receive a sentence shorter than advised by the sentencing guidelines than white people." One 2021 meta-analysis of 116 studies found that custodial sentences do not prevent reincarceration and can increase it. For example, incarceration can fracture families and neighborhoods, and can traumatize incarcerated people. The report also describes the use of retribution, incapacitation, deterrence, and rehabilitation in sentencing and the use of incarceration in the U.S. and call for use of proportionality and parsimony to constrain sentences moving forward. Regarding evidence and research about sentencing, the report highlights the following and expands on each concept with data: more severe sentences do not deter crime, the drop in crime in the 1990's was due to several factors and not necessarily a result of rising incarceration between the 1970's to 2000's, young people "age out" of violent crime, incarceration leads to trauma and community fracturing, people convicted of violent crimes are overincarcerated, community-based sentences increase public safety, and survivors of crime support prevention, healing, and repair over harsh punishments. The report also includes appendices on major sentencing legislation, conviction histories by category, and methods for the modeling component of the report.

2. **Feldman B. The Second Look Movement: A Review of the Nation's Sentence Review Laws. The Sentencing Project; 5/14/2024 2024.**

The Sentencing Project is a research and advocacy organization working to center the voices and experiences of people who experience incarceration in creating systemic change. Among their strategic priorities, The Sentencing Project aims to end extreme sentences, "including advocating for a cap on punishments for serious offenses at 20 years and a universal 'second look' review process for all people who are incarcerated within a maximum of 10 years of imprisonment." In this report, The Sentencing Project provides an overview of second-look laws passed by state legislatures, including Washington State. The Sentencing Project also provides 10 recommendations for second look laws, including: "1. Increase the population of those eligible for sentence review; 2. Create fully retroactive provisions; 3. Include judicial discretion and authority to reduce mandatory and plea-bargained sentences; 4. Provide subsequent sentence reviews with shorter wait times in between reviews; 5. Provide a right to counsel for the petition and hearing; 6. Provide a right to a hearing; 7. List factors for court consideration; 8. Require written or oral court decisions addressing the factors; 9. Provide methods for crime survivor input; 10. Provide clear guidance about the court's authority to reduce the sentence, notwithstanding other parole or resentencing opportunities." The Sentencing Project also recommends an automatic sentence review at 10 years and monitoring and addressing inequities in sentencing. The report cites national data showing that about 33% of people (about 60,000 people) serving life sentences are age 55 or older and people of color, "particularly Black

Americans, are represented at a higher rate among those serving lengthy and extreme sentences than among the total prison population."

3. **About: Frequently Asked Questions. 2023; Available at: https://www.fortheppl.org/faqs. Accessed 5/6/2023.**
For The People is a national, non-partisan organization supporting prosecutors implementing Prosecutor-Initiated Resentencing laws. Since 2018, 6 states (i.e., California, Illinois, Louisiana, Minnesota, Oregon, and Washington) have passed Prosecutor-Initiated Resentencing laws. These laws allow prosecutors to evaluate past cases and "consider whether further confinement is in the interest of justice." Generally, these laws are discretionary, meaning that prosecutors and judges may use their discretion in determining who may be eligible for the resentencing process, which cases may be reviewed for resentencing, and which cases may receive a resentencing hearing.

4. **Beckett K., Goldberg, A. Sentencing Reform in Washington State: Progress and Pitfalls.Seattle, WA: University of Washington; 1/12/2024 2024.**
In this report, Beckett and Goldberg inventoried sentencing reforms in Washington State as well as gaps in reforms. Based on the analysis, authors conclude that many people who were serving long and life sentences at the time of the report had been denied a second look for sentencing for arbitrary reasons. Limited legal resources provided to people who were incarcerated and were potentially eligible for review exacerbated the problem. Of the nearly 7,000 people who were serving a sentence of 10 or more years in Washington State in 2022, an estimated 637 had become potentially eligible for review by the Institutional Sentencing Review Board (ISRB) or criminal courts based on sentencing reforms. Of those, 286 people had been released. Authors found "the recidivism rate among people who returned home after receiving a very long or life sentence for a crime they committed as a juvenile and who subsequently became eligible for a 'second look' after serving [20] or more years [was] remarkably low [2.1% convicted of a new felony; 5.2% parole revoked for technical violations]." Instances of recidivism often stemmed from unmanaged mental health issues. In addition to analyzing reasons potentially eligible people remained incarcerated and calculating the recidivism rate for this population, authors analyzed qualitative interviews with people who were released earlier than expected through sentencing reform efforts. Authors found that people who were released through second look processes reconnected with family and loved ones, and many had found full-time work, often in the non-profit sector contributing to work to promote healing, safety, and justice. Based on findings, authors offer policy recommendations to "mitigate the harm caused by excessive sentencing and ensure that appropriate remedies are available to all people whose continued incarceration serves no useful purpose."

5. **Indeterminate Sentence Review Board: Frequently Asked Questions. no date; Available at: https://doc.wa.gov/corrections/isrb/faq.htm#isrb-inmates. Accessed 6/20/2024.**
This Washington State Department of Corrections' webpage provides information about the Indeterminate Sentence Review Board, including frequently asked questions.

6. **Sentencing Reform Act of 1981, Chapter 9.94A RCW (1981).**
The Washington State Sentencing Reform Act (SRA) of 1981 established determinate sentencing for people who have been convicted of felony offenses. The SRA eliminated indeterminate

sentences and parole in Washington State, with some exceptions, and determines a specific sentence within the statutory maximum.

7. **RCW 9.94A.030 - Definitions, Revised Code of Washington(2022).**
This Washington State statute defines terms in Chapter 9.94A RCW. The term "determinate sentence" is defined in RCW 9.94A.030(18).

8. **Beckett K., Evans, H.D. About Time: How Long and Life Sentences Fuel Mass Incarceration in Washington State.A Report for ACLU of Washington. University of Washington; February 2020 2020.**
In this report, Beckett and Evans discussed Washington State sentencing law and policy since 1984; detailed the proliferation of and underlying factors contributing to long and life sentences; outlined the fiscal and human costs of long and life sentences in Washington; presented lived experiences of transformation of people sentenced to long or life sentences; and discussed policy options for reform. In their analysis, authors excluded data from the first half of 2017 when describing trends over time to avoid distorting findings related to longitudinal trends. They focused on 3 categories of sentences: 1) long sentences (10-19.99 years); 2) very long sentences (20-39.99 years); and life sentences (i.e., inclusive of life without the possibility of parole sentences and virtual life sentences, defined as 40 years or more in prison). The analysis found the number of long sentences in Washington State "more than quadrupled; the number of defendants who received a very long sentence […] increased more than fivefold; and the number of [life without parole] (official and virtual) sentences was nearly [5] times higher in 2016 than in 1986." Authors stated, "while the violent crime rate was 31 percent lower in 2016 than in 1986, the rate at which long and life sentences were imposed was 174 percent higher in 2016 than in 1986."

9. **Final Bill Report: SB 6164. Washington State Senate; 2020.**
In 2020, the Washington State legislature passed SB 6164, which permitted prosecutors of counties within Washington State to petition the sentencing court or the sentencing court's successor to resentence people who have been convicted of crimes if the sentence no longer advances the interests of justice. Once a petition is filed, the court may grant or deny the petition for resentencing. If the court grants the petition, they are required to resentence as if the person had not previously been sentenced, and the new sentence may not be greater than the original sentence. The final bill report associated with this legislation also includes relevant background information on the history of the Sentencing Reform Act and the sentencing grid.

10. **In re Pers. Restraint of Monschke In: Courts W, ed. Appellate Case Law of the State of Washington2021.**
In the Matter of the Personal Restraint of Kurtis William Monschke, in 2021, the Washington State Supreme Court ruled that persons aged 18 to 21 years of age may not receive automatic life sentences for murder.

11. **McCloud G.J. . Majority Opinion: State of Washington v. Shannon B. Blake. In: Washington SCotSo, ed. 25 February 2021 ed. Olympia, WA2021.**
In this Washington Supreme Court ruling, the five-Justice majority invalidated the state's strict liability drug possession statute, RCW 69.50.4013. Specifically, the Majority Opinion concluded

that the statute: 1) exceeded the State's police power and 2) violated the due process clauses of the state and federal constitutions by prohibiting "unintentional, unknowing possession of a controlled substance."

12. **Center The William D. Ruckelshaus. Washington State Criminal Sentencing Task Force: December 30, 2022 Final Report.2022.**
The Washington State Criminal Sentencing Task Force was created by the Washington State Legislature to review state sentencing laws and provide recommendations to the Legislature and the Governor to 1) reduce sentencing implementation complexities and errors; 2) improve the effectiveness of the sentencing system; and 3) promote and improve public safety. The Task Force issued an initial report in 2019 and final reports in 2020 and 2022. In their 2022 report, the Task Force issued a non-consensus recommendation (meaning there is significant disagreement among Task Force members) that the Washington State Legislature "establish a new process for Second Chance review." The intent of the recommendation was to expand second-look legislation "beyond the legal processes that already exist" and "create a process for [people] sentenced to and who have served more than 20 years of confinement to be able to petition for review for release." The Criminal Sentencing Task Force also recommended requiring that the "process explicitly include the opportunity for victim input."

13. **Davis L.M., Mariano L.T., Labriola M.M., et al. Evaluation of the California County Resentencing Pilot Program: Year 2 Findings. The RAND Corporation;2023.**
In 2021, the California State Legislature established the California County Resentencing Pilot Program. The pilot program is an ongoing project that began September 1, 2021, and is scheduled to be completed on September 1, 2024. The intent of the pilot is "to support and evaluate a collaborative approach to exercising prosecutorial discretion in resentencing" in 9 California counties, including the counties of: Contra Costa, Humbolt, Los Angeles, Merced, Riverside, San Diego, San Francisco, Santa Clara, and Yolo. These 9 counties account for about half of the California prison population. In California, a prosecuting attorney is referred to as the District Attorney. The RAND Corporation is the independent evaluator of the pilot program and was directed by the California State Legislature to provide: 1) an analysis of quantitative data from the California Department of Corrections and Rehabilitation and the District Attorney offices; 2) a qualitative assessment of implementation, and 3) a cost study of implementation. Specifically, the RAND Corporation is determining key challenges to implementation; how prosecutors and public defenders overcome implementation barriers; characteristics and outcomes of cases identified for possible resentencing; the impact of resentencing on recidivism; and the costs of the program. In this report, the RAND Corporation provides a summary of findings from the second year of the pilot program (i.e., from September 2022 through July 2023). A final evaluation report is due to the California State Legislature on January 10, 2025. Based on evaluation of the second year of the pilot program (i.e., from September 2022 through July 2023), the RAND Corporation noted that each of the 9 counties developed unique criteria for identifying potential eligible cases for modification. However, criteria generally considered age of the person experiencing incarceration, the crime committed, and the length and details of the sentence. Implementation challenges included personnel shortages and cooperation between the Public Defender and District Attorney offices. California law allows resentencing cases to be initiated by the District Attorney, Public Defender, California Department of Corrections and Rehabilitation, community-based organizations, people who are incarcerated, and family

members or lawyers of people who are incarcerated. This report only evaluated district attorney-initiated resentencing. As of February 2023, (i.e., the first 18 months of the pilot program), 684 case reviews for resentencing were initiated. The majority of case reviews (453 cases or 66% of cases reviewed) were initiated by District Attorney offices. Another 196 cases (29%) were initiated by a people who are incarcerated or their family member or lawyer; 25 cases (4%) were initiated by a community-based organization; and 10 cases (1.5%) were initiated by a Public Defender. This report did not evaluate cases initiated by California Department of Corrections and Rehabilitation. Under California's Prosecutor-Initiated Resentencing law, "[f]or a case to be considered by the court, it must have the [District Attorney's] support, since the [District Attorney] initiates the referral to the court." The District Attorney may consider evidence of rehabilitation, reentry plans, and victims' statements in deciding whether to refer a case to court. Out of the 684 cases reviewed, 321 cases (47%) were not referred by the District Attorney offices to the court for resentencing; 258 cases (38%) were still under review; and 105 cases (15%) were referred to the court for resentencing. Of the 105 cases referred to the court for resentencing, 95 cases (13.9% of cases reviewed) received a court hearing, and 94 cases (13.7% of cases reviewed) have been issued a decision from the court. In cases where a decision has been issued by the court, 3 cases (0.4% of cases reviewed) were denied resentencing, and 91 cases (13% of cases reviewed) resulted in resentencing. Sixty-three cases (9.2% of cases reviewed) resulted in release from prison and 28 cases (4.1% of cases reviewed) resulted in shorter sentences. Generally, "indeterminate minimum sentence lengths were most commonly reduced by more than 15 years and up to 20 years" and often resentenced to be of determinate length. Among determinate length sentences, most cases were reduced by 5 years or less. The RAND Corporation also evaluated demographic characteristics of people in cases reviewed for resentencing, including by sex, race/ethnicity, and age. In cases reviewed, the majority of people (about 94%) were male and about 6% were female. About 4% of the California prison population is female. By race/ethnicity, for cases reviewed, 40% of people were non-Hispanic Black, 33% of people were Hispanic, 20% of people were non-Hispanic white, and 7% of people were another race. Similar percentages were referred to the court for resentencing. For cases referred to the court for resentencing, about 41% of people were Black, 33% of people were Hispanic, 18% of people were White, and 8% of people were another race. About 29% of the California prison population is Black and 45% is Hispanic. The RAND Corporation noted that "discrepancy in the distribution of [race/ethnicity] between the [Prosecutor-Initiated Resentencing] cases and the full prison population requires additional investigation." The evaluators intend to examine discrepancies based on characteristics of the prison populations in the 9 pilot program counties (rather than the total California prison population), criteria and decisions for review, and inequities in initial sentencing. For example, the RAND Corporation noted that some counties prioritized cases with a third-strike enhancement and Black people are overrepresented in cases with this sentencing compared to the total California prison population. About 9% of cases reviewed were for people who were younger than 18 years old and tried as an adult at initial sentencing, 52% were for people who were aged 18 through 35 years at initial sentencing, 30% were for people aged 36 through 50 years at initial sentencing, and about 9% were for people aged 51 through 65 years at initial sentencing. The majority of cases referred to the court for resentencing (61%) were for people aged 18 through 35 years at the time of initial sentencing. The majority of initiated reviews (52%) and cases referred to the court for resentencing (55%) were for people aged 50 years or older at the time of review. People over age 65 years at the time of review accounted for 7% of the total California prison population; 13% of cases reviewed; and

11% of cases referred to the court for resentencing. The evaluators noted this implies "that this [older] age group is garnering considerable attention for [Prosecutor-Initiated Resentencing] relative to its size." Of cases reviewed for resentencing, 74% relate to crimes against persons with "the most common types of crimes against persons considered […] robbery (161 cases), assault or battery (116 cases), and assault with a deadly weapon (95 cases). These [3] types of controlling offenses account for more than half of the [Prosecutor-Initiated Resentencing] cases initiated through the first 18 months of the pilot and have been consistently selected for [Prosecutor-Initiated Resentencing] review at a higher rate." For about 37% of cases reviewed and 50% of cases referred to the court for resentencing, people had served more than 20 years at the time the review was initiated. The report also provides information by sentence type, including by determinate and indeterminate cases; 2nd and 3rd strike cases; life without parole cases; sentence length; enhancements; time remaining; and risk of reconviction within 3 years of release. The RAND Corporation also summarized information about the amount of time the Prosecutor-Initiated Resentencing process has taken in the first 18 months. This evaluation includes information about implementation challenges and presents qualitative information from interviews with District Attorneys and Public Defenders.

14. **Second Look Act of 2019. 2019.**
In 2019, the U.S. Senate introduced S.2146 known as the "Second Look Act of 2019". The proposal would have allowed a person who had served at least 10 years in prison to petition a federal court for sentence reduction.

15. **Second Look Act of 2022. 2022.**
In 2022, the U.S. Senate introduced S.5193 known as the "Second Look Act of 2022". The proposal would have allowed a person who had served at least 10 years in prison to petition a federal court for sentence reduction.

16. **DC Council passes Second Look Amendment Act of 2019 [press release]. 2021.**
The District of Columbia Corrections Information Council issued a press release related to the Second Look Amendment Act of 2019, now known as the Omnibus Public Safety and Justice Act of 2020. The Act allows a person who committed a crime when they were younger than 18 years old to petition the court for resentencing after they have served at least 15 years.

17. **Association American Bar. Resolution 502. August 8-9, 2022 2022.**
In 2022, the American Bar Association put forth Resolution 502, which urges federal, state, local, territorial, and Tribal governments to authorize judicial decision-makers to hear petitions for "second look" resentencing. Second Look legislation provides people with the opportunity for resentencing or a sentence reduction after being incarcerated for a specific amount of time. The resolution states that resentencing should be brought by any incarcerated person who has served at least 10 continuous years of their sentence. The resolution also urges governments to create guidelines, ensure that incarcerated people are notified of their rights and receive adequate legal support, and develop procedures that guarantee fair processes throughout second look proceedings. The resolution provides an overview of incarceration in the United States. The report cites prior research which stated, since 1970, the number of incarcerated people in the United States has grown by 700%, and while the United States is home to less than 5% of the world's population, it holds almost 25% of the population of incarcerated people across the

world. The report stated that at the federal level, nearly 22,000 people are serving sentences of 20 years or more, and almost 4,000 people are serving a life sentence. There are approximately 162,000 people serving life sentences across the U.S., and 44,000 people are serving "virtual life" sentences of 50 years or more. Further, two-thirds of those serving life sentences are people of color. The report stated that there is no evidence that long sentences deter people from crime, and data show that 10 years is "more than sufficient as people age out of crime." Lengthy sentences have been shown to have little impact on a person's tendency to commit future crimes. Meanwhile, evidence indicates that while commission of crime increases throughout adolescence, it decreases over the remaining life course. One report from the Office of the Inspector General stated that people 50 years of age or older were the fastest growing age group of the federal prison population. Between 1999-2016, the number of incarcerated people aged 55 years and over increased by 280%. The National Institute of Corrections considers people who are incarcerated who are 50 years of age or older to be elderly, due to the lack of access to healthcare and stress that comes with being incarcerated, which accelerates the aging process. Prior research has indicated that "a person's life expectancy is decreased by one year for each two years behind bars." The resolution also stated that "[s]econd looks should not carve out people convicted of violent crime." Prior research has shown that people convicted of violent crimes who are older at release have lower reincarceration rates than other released people. The resolution also encourages second looks for people sentenced when they were young. Research shows that "certain brain systems and development of the prefrontal cortex that are involved in self-regulation and higher-order cognition, continue to develop into the mid-20s." One study found that among incarcerated youth and young adults who were originally sentenced to life in prison, then released, only 1% had new convictions. The resolution also highlighted racial inequities in life and long-term sentencing. For context, people of color are incarcerated at higher rates than their white counterparts, where Black people are incarcerated nearly 5 times as white people, and Latinx people are incarcerated 1.3 times the rate of white non-Latinx people. About 48% of people serving life and 'virtual life' sentences were Black, and two-thirds were Black among those serving life without parole. Further, among youth sentenced to life and 'virtual life', over 80% are youth of color and over half are Black. The resolution also points out the large financial costs of incarceration. The authors briefly discuss the roles of parole and clemency. The resolution named the weaknesses and barriers present in parole boards, where the American Law Institute has referred to parole as a "failed institution." Barriers and challenges are also present in clemency procedures, including that at the federal level, they are housed in the Department of Justice and depend on prosecutors, whereas at the state level, governors tend to grant clemency to those sentenced to non-violent, low-level drug crimes. Finally, the authors provide an overview of federal and state level second look efforts.

18. **Association American Bar. Resolution 504. August 7-8, 2023 2023.**

In 2023, the American Bar Association put forth Resolution 504, which builds upon Resolution 502 and urges federal, state, local, territorial, and Tribal governments to adopt Prosecutor-Initiated Resentencing laws. Prosecutor-Initiated Resentencing laws allows courts to modify a person's sentence to a lesser sentence upon recommendation of a prosecuting attorney. The Association recognized that "multiple pathways are needed to address the problem of overincarceration." The American Bar Association issued 5 recommendations to states adopting these laws: 1) allow sentence modification to further the interests of justice; 2) allocate resources for this work to prosecutor's officers, community-based organizations, and additional groups; 3)

identify and evaluate current sentences that are no longer in the interests of justice; 4) conduct outreach to victims and survivors of crime; and 5) establish eligibility criteria for sentences that should be considered for modification. The resolution provides background information, including data related to disproportionate sentencing, and justification for Prosecutor-Initiated Resentencing laws.

19. **London A, Myers N. Race, incarceration, and health. *Research on Aging.* 2006;28(3):409-422.**
London and Myers conducted a review of the literature around health and other outcomes for incarcerated individuals. They highlighted research that indicates that black Americans have worse health outcomes than other racial/ethnic groups and are disproportionately represented in the justice system. The authors also outlined data indicating the high rates of injury in jails and prison as well as the high rates of communicable disease among incarcerated and formerly incarcerated individuals. In addition, they highlight research that indicates that incarceration is associated with lower educational attainment, lower income, higher rates of unemployment, and higher involvement in jobs with high risk of injury or exposure to hazardous working conditions. Evidence also indicates that incarceration is associated with divorce and separation of families.

20. **Turney K, Wildeman C, Schnittker J. As fathers and felons: Explaining the effects of current and recent incarceration on major depression *Journal of Health and Social Behavior.* 2012;53(4):465-481.**
Turney et al. analyzed data from the longitudinal Fragile Families and Child Wellbeing study. The researchers found that currently and recently incarcerated fathers are more likely to report a change in employment status, separation from a child's mother, a change in relationship quality, and depression. The association between incarceration and depression remained significant even after controlling for variables such as demographic characteristics and history of depression.

21. **Wu E, El-Bassel N, Gilbert L. Prior incarceration and barriers to receipt of services among entrants to alternative incarceration programs: A gender-based disparity. *Journal of Urban Health: Bulletin of the New York Academy of Medicine.* 2012;89(2):384-395.**
Wu et al. collected data from a random sample of adults (N=322; 83 women and 239 men) entering alternative to incarceration programs in New York City. Researchers collected data though structured interviews including information on sociodemographics, substance use, prior incarcerations, and barriers that had prevented a participant from visiting or returning to a service provider. Less than half of the participants had earned a high school diploma or GED. When analyzing collapsed data for male and female participants, they found that a greater number of prior incarcerations were significantly associated with a greater number of barriers that prevented accessing a service provider. When they analyzed the data disaggregated by sex and controlling for sociodemographic and substance use indicators, researchers found that the relationship between a greater number of prior incarcerations and greater number of service barriers experienced remained significant only for men.

22. **Esposito Michael, Lee Hedwig, Hicken Margart, et al. The Consequences of Contact with the Criminal Justice System for Health in the Transition to Adulthood. *Longit Life Course Stud.* 2017;8(1):57-74.**

Esposito et al. examine the association between incarceration and health in the United States during the transition to adulthood. They applied the Bayesian Additive Regression Trees (BART) to data from The National Longitudinal Study of Adolescent to Adult Health dataset (n=10,785) to model incarceration's effect on health controlling for confounding variables (93 variables, and 36 covariates categorized as: demographic characteristics, prior health status behaviors, engagement in risky behavior, social connectedness, disposition characteristics, parental characteristics, and contextual residential characteristics). Authors examined three health outcomes: 1) an indicator for cardiovascular health (i.e. hypertension or raised blood pressure), 2) a measure of general health status (i.e. excellent/very good self-reported status), and 3) a measure of mental health status (i.e. depression). The analysis of two separate samples found individuals who had been incarcerated were more likely to suffer from depression, less likely to report being in excellent or very good health, and more likely to have hypertension than their peers with no history of incarceration. To examine if the health inequalities between previously incarcerated and never incarcerated individuals was a product of incarceration rather than a product of features that occurred prior to incarceration, they used the BART methodology to estimate how different the health of individuals who had experienced incarceration would be had they actually never experienced incarceration. Results suggest that elevated risk of depression among incarcerated individuals is largely a consequence of their incarceration (~5% both before and after accounting for confounders). Similarly, a prior history of incarceration appears to decrease the probability of reporting excellent/very good health (~10%), roughly half of the decrease in probability before accounting for confounders. Results show no adverse effects of incarceration on hypertension.

23. **Massoglia M., Pridemore W.A. Incarceration and Health.** ***Annual Reviews of Sociology.*** **2015;41:291-310.**

Massoglia and Pridemore conducted a review of literature to evaluate the impact of incarceration on a range of health outcomes, including chronic health conditions and mortality, for individuals who are incarcerated, family members, and communities. Specific to length of incarceration, the authors cite previous research suggesting that "the impact of the length of incarceration on health appears to be less important than the fact of incarceration itself." As part of their agenda for future research, the authors state that more research should be done related to the "different types and lengths of correctional confinement."

24. **Murray J, Farrington DP, Sekol I. Children's antisocial behavior, mental health, drug use, and educational performance after parental incarceration: A systematic review and meta-analysis.** ***Psychological Bulletin.*** **2012;138(2):175-210.**

Murray et al. conducted a systematic review and meta-analysis of the literature on parental incarceration and impacts on children's later mental, emotional, and social health. They identified 40 studies that met their strict inclusion criteria. The researchers pooled the odds ratios across all samples in order to determine if children with incarcerated parents had a greater risk of each outcome than children in the control group who did not have an incarcerated parent or parents. These pooled odds ratios indicated that parental incarceration was significantly associated with antisocial behavior among their children even after controlling for covariates. In some subpopulations parental incarceration was significantly associated with children's poor academic performance, poor mental health, and drug use, but this association was not significant for every subpopulation and did not always remain significant after controlling for covariates.

25. **Swisher RR, Roettger ME. Father's incarceration and youth delinquency and depression: Examining differences by race and ethnicity. *Journal of Research on Adolescence.* 2012;22(4):597-603.**
Swisher and Roettger analyzed data from the in-home portion of the National Longitudinal Study of Adolescent Health. Due to insufficient sample size for other racial/ethnic groups, only white, Black, and Hispanic respondents were included in this study. The researchers found that among all racial/ethnic groups father's incarceration is associated with increased depression and delinquency for the children, even after controlling for other variables such as demographics and family background measures. In addition, when considering these results by race/ethnicity, the data indicate that among Hispanic respondents, having their father incarcerated is associated with a higher propensity for delinquency than among white and Black respondents.

26. **Bor J. S. The Aging Of The US Prison Population: A Public Health Crisis. *Health Aff (Millwood).* 2022;41(5):622-627.**
This article cites prior research and outlines the policy landscape regarding the aging population in U.S. prison systems. Prior research shows that adults aged 50 years and older accounted for 10% of the U.S. prison population in 2012 and 20% in 2017. The proportion of older adults in prison increased from 3% to 11% between 199-2016. The increase in elderly incarcerated people is generally due to harsh sentences issued during the tough on crime era in the 1980's and 1990's. The article highlights stories of lived experience from older adults in prison. Anecdotes include inability to walk to meals, up stairs, to the prison yard, etc.; inability to climb into a top bunk; inability to stand in line in the sun for a head count; health issues such as obesity, diabetes, and heart health issues resulting from poor nutrition and a lack of activity in prison, which then lead to poor joint health and arthritis and high blood pressure. In addition, many of those who serve long sentences experience "accelerated aging", where people experience medical and physical problems and disabilities that typically surface later in life. Further, costs of incarcerating older adults are higher than incarceration of younger people, due to healthcare costs. "Columbia University's Center for Justice reported in 2015 that the "best estimate" for elderly prisoners was $69,000 annually, which was about twice the average annual cost of incarceration in 2013." The paper points to evidence indicating that older prisoners are at a lower risk of recidivism than other groups. One study found that only 3.2% of people convicted of crimes aged 55 and older returned to prison after 1 year of release, compared to 45% of those aged 18-19. The paper also advocates for sentencing reform and summarizes various policy efforts across the U.S.

27. **Lupez E.L., Woolhandler S., Himmelstein D.U. , et al. Health, Access to Care, and Financial Barriers to Care Among People Incarcerated in US Prisons. *JAMA Internal Medicine.* 2024.**
Lupez et al. analyzed data from the U.S. Bureau of Justice Statistics' 2016 Survey of Prison Inmates, which was released in 2021 and is the most current, publicly available national survey on prison health. The most recent prior survey was completed in 2004. The Survey of Prison Inmates is a nationally representative sample of adults aged 18 years or older housed in state or federal prisons and includes information from 24,848 people who are incarcerated in the U.S. The authors analyzed the data "to evaluate the prevalence (and changes since 2004) of health conditions likely to require care, receipt of care among prison residents with such conditions, and

the association between co-pays and failure to receive care." While the authors examined access to care by co-pay requirements, people who are incarcerated in Washington State were excluded from the analysis as the 2016 prison minimum wage or co-pay value was unknown. Overall, based on the national sample, of people who are incarcerated, 61.7% reported 1 or more chronic physical condition, 40% reported any mental health condition, about 33% reported a substance use disorder, 26.7% reported 1 or more chronic mental health condition, and 13.3% reported severe psychological distress. The percentage of people reporting physical health conditions increased from 2004 to 2016. For all mental health outcomes, the percentage of people reporting outcomes were higher in 2016 than 2004. The authors noted several systemic factors that contribute to worsening health outcomes for people who are incarcerated, including that: 1) People who are incarcerated disproportionately come from communities with high poverty and poor health; 2) Limited community psychiatric resources may funnel people with mental health conditions into carceral settings; 3) An aging prison population; 4) Society-wide increases in some conditions (e.g., substance use and mental health); and 5) exposure to adverse prison conditions. The authors evaluated 6 access to care measures: 1) Pregnancy education from health personnel among pregnant people who are incarcerated; 2) Obstetrical examination between incarceration and delivery among pregnant people who are incarcerated; 3) Medical clinician visit since incarceration among people with chronic physical conditions; 4) Mental health treatment since incarceration among people with chronic mental health conditions; 5) Mental health treatment of any kind among people experience severe psychological distress; and 6) Mental health medication continuation among people receiving mental health pharmacotherapy at the time of offense. For all 6 measures of access to care, people who are incarcerated experienced not receiving care since incarceration. For example, among pregnant people who are incarcerated, 50.6% had received no pregnancy education and 9.1% had received no obstetrical examination between incarceration and delivery. Of people who reported 1 or more chronic physical condition, 13.8% had not received medical care since incarceration. About 42% of people who reported severe psychological distress and 33% of people who reported a chronic mental health condition had not received mental healthcare since incarceration. For all measures, people who had been incarcerated for less than 1 year reported less access to care than people who had been incarcerated for more than 1 year. For example, of people who reported 1 or more physical condition, 21% of people who had been incarcerated less than 1 year reported not receiving care compared to 9.8% of people who had been incarcerated longer than 1 year. The authors stated that lack of access to care in carceral settings is due to "limited and fragmented oversight and regulation, a lack of commonly accepted standards of care, underfunding, and medical staffing shortages." Moreover, "[n]o federally recognized body establishes and enforces standards of care or accredits prison health facilities". Rather, each of the 50 state corrections departments manages and sets standards of care in state prisons.

28. **Sugie Naomi F., Turney Kristin. Beyond Incarceration: Criminal Justice Contact and Mental Health. *American Sociological Review.* 2017;82(4):719-743.**

The authors examined associations between criminal justice contact and mental health using data from the National Longitudinal Survey of Youth (NLSY97). The nationally representative survey of a contemporary cohort includes information about criminal justice contact (including arrest, conviction, and incarceration) and mental health over time. Analysis showed arrest and incarceration—but not conviction—are independently associated with poor mental health. Arrests accounted for nearly half of the association between incarceration and mental health.

Authors propose uncertainty and anticipatory stress are primary mechanisms that worsen mental health and deserve further study. Researchers document that criminal justice contact is socially patterned and is more common among non-Hispanic Blacks than non-Hispanic whites and Hispanics. However, the associations between criminal justice contact and mental health are similar across racial/ethnic groups. Researchers found respondents' previous exposure to disadvantaged ecological contexts (i.e. counties with high proportions of residents with incomes below the poverty, unemployed civilians, female-headed households, and households receiving public assistance income) had negative consequences for mental health. The authors assert the importance of mental health for other life course outcomes (e.g. physical health, socioeconomic status, children's wellbeing) and conclude that the consequences of criminal justice contact may extend beyond mental health and have broad intra- and inter-generational consequences.

29. **Latham-Mintus K., Deck M. M., Nelson E. Aging With Incarceration Histories: An Intersectional Examination of Incarceration and Health Outcomes Among Older Adults. *J Gerontol B Psychol Sci Soc Sci.* 2023;78(5):853-865.**
Latham-Mintus et al. used 2012 and 2014 data from the Health and Retirement Study to analyze differences in health by incarceration history, gender/sex, and race/ethnicity. The researchers examined the number of depressive symptoms and physical limitations to study physical and mental health. The results show that experiences with incarceration are associated with more physical limitations and more depressive symptoms among older adults, even after adjusting for social exposures. In addition, formerly incarcerated women, particularly women of color had more physical limitations and depressive symptoms compared to other groups. The authors include ideas for future practice and research, as well as study limitations.

30. **Crane J. T., Pascoe K. Becoming Institutionalized: Incarceration as a Chronic Health Condition. *Medical Anthropology Quarterly.* 2021;35(3):307-326.**
Crane and Pascoe examined incarceration through the lens of "institutionalization" and as a chronic condition with social, biological, and psychological elements. The researchers conducted interviews with 26 people incarcerated in Washington State prisons and examined the relationship between health and incarceration. The researchers cite prior research to provide statistics on incarceration in the U.S. Approximately 1.3 million people are held in state prisons, 226,000 in federal prisons, and 600,000 in county jails. Further, incarceration of Black people happens 5 times as high as the rate of incarceration of white people, and the incarceration of Latinx people happens 1.4 times the rate of white people. In Washington State, approximately 19,000 people are incarcerated in state prisons and 12,000 in local jails. The authors also point out that the number of people over age 55 experiencing incarceration has grown more than 5 times since 1990. Further, "[i]n Washington State, over 40% of people in prison are serving at least 10 years, and 30% are over age 45." The authors cite prior research to describe how long-term imprisonment leads to chronic incapacitation and essentially functions as a chronic disability. The authors frame the research on health impacts by stating "[i]ncarceration is a political problem with political solutions, not a health problem with medical solutions." The authors point out that people experiencing poor health outcomes are more likely to become incarcerated due to social determinants of health, and that incarceration worsens poor health outcomes. The authors cite prior research to describe a 2009 study which "found incarcerated people had higher odds of hypertension, arthritis, cervical cancer, and hepatitis than the nonincarcerated population." Further, 40% of people in prison and jail have self-reported having

at least one chronic medical condition. In addition, people in prison have shown sharp increases in high blood pressure and diabetes, and incarceration has been shown to increase body mass index (BMI). Further, although people in prison have a constitutional right to health care, there are many barriers to receiving care, including understaffing, poor quality care, and co-payments to see a provider. Large bodies of research indicate that incarceration worsens physical and mental health overall, while some research states that "overall health probably improves during incarceration in some ways but deteriorates in others." Chronic experiences of incarceration are also exacerbated by legal financial obligations (LFOs) in prisons, where incarcerated people may be responsible for paying certain fees and are often released from prison with financial debts. For this study, the researchers collaborated with a Washington State Department of Corrections (DOC) health educator to gain permission to interview people experiencing incarceration. At the time of the research, the educator was facilitating a workshop called "Living Longer, Living Stronger: The Chronic Disease Self-Management Program" (CDSMP) which teaches "strategies for self-management of chronic illnesses, including decision-making techniques, goal setting, communication skills, medication adherence, exercise, and nutrition." The researchers noted that the workshop focused on elements of self-efficacy, which are inappropriate for people experiencing incarceration, as their actions and choices are by default, constrained due to being imprisoned. The researchers conducted interviews with 23 men and 3 women incarcerated at 3 medium-security prisons who completed CDSMP as a participant (n=15) or a peer facilitator (n=8). The majority of interviewees were white. Participants described incarceration as a chronic experience, in the ways that people may become reincarcerated over time, and in the ways that incarceration leads to certain adaptations (i.e., behaviors, habits, norms) for prison that contribute to poor health and chronic conditions over time. Participants also discussed the ways that incarceration wears on people over time and contributes to an accelerated aging process, with worse difficulties among people experiencing lengthy sentences where they have experienced more of their lives in prison than not in prison. For example, "Incarcerated people and their advocates have long argued that lengthy sentences, in particular life without parole, constitute a form of death by incarceration. But the erosive nature of institutionalization and slow death suggest that even those who are released suffer the after-effects of years spent behind bars. Research shows that formerly incarcerated people suffer ongoing health problems associated with their imprisonment even after release. In other words, even those who don't die in prison may die because of prison." In sum, the researchers found, "[d]aily dehumanization and resistance to it contribute to the chronic harm of incarceration. The people [the researchers] spoke with described this chronic harm as a pathology called 'institutionalization'." Being institutionalized includes the lack of being able to function on one's own, being held in a place disconnected from society, and held in a psychosocial state of being exposed to violence and experiencing constant hypervigilance. The researchers also explained that racism in prisons reflects racism in society, but racism in prison exacerbates community racism. Participants explained that the experience of being institutionalized from incarceration continues after release. For example, people experiencing release are not provided with tools to adjust to society and succeed in community, particularly when there is less structure than what they experienced in prison.

31. **Sufrin C. B., Kolbi-Molinas A., Roth R. Reproductive Justice, Health Disparities, And Incarcerated Women in the United States. *Perspectives on Sexual and Reproductive Health.* 2015;47(4):213-219.**

In this commentary, Sufrin et al. discuss reproductive health outcomes for incarcerated women in the U.S. In general, the number of women incarcerated is increasing faster than then number of men incarcerated (e.g. number of women incarcerated increased by 30% versus 13% for men between 2000 and 2013), women of color are incarcerated at rates higher than white women (e.g. black women are incarcerated at a rate 2.3 times that of white women), and the majority of incarcerated women (70%) are convicted of non-violent crimes. 74% of incarcerated women are of reproductive age and between 3% and 5% are pregnant. Incarcerated pregnant women have a high risk for poor birth outcomes, including preterm labor, low birth weight babies, and stillbirth. Women who are incarcerated have high rates of sexually transmitted diseases (STDs), unintended pregnancy, abortion, histories of trauma and physical and sexual abuse, substance use, and mental health disorders than the general public. Incarceration puts women at increased risk for violence, sexual assault, injury, communicable disease, poor nutrition, and poor living conditions. They explain that "imprisonment infringes on women's constitutionally protected reproductive rights by confining them during their reproductive years, denying them access to necessary medical care, subjecting them to substandard medical care and separating them from their children." They also note that incarceration provides an opportunity for individuals to receive health care and the U.S. constitution "prohibits correctional officials and staff from 'intentionally denying or delaying access to medical care or intentionally interfering with treatment once prescribed.'" Barriers to care for incarcerated women include, lack of required, national standards for medical care in prisons (standards developed by the American Public Health Association and National Commission on Correctional Health Care are optional); inconsistent care related to pregnancy care, contraception services, and abortion; policies restricting direct access to care (e.g. requiring a court order from a judge to authorize release for treatment); cost of care (e.g. some facilities require women to pay for care up front, pay for procedure, transportation, and staff time); transportation; state laws (e.g. one third of state prison systems lack a written abortion policy, state requirements on waiting periods for abortions, use of restraints and shackling); reliance on correctional facility staff as "gatekeepers" to access care; untrained staff (e.g. relying on untrained guards to determine when medical attention is required); geography (e.g. 89% of US counties lack an abortion provider); inflexible schedules (e.g. rest periods, mealtimes); lack of data (e.g. no national data about how many women are pregnant or give birth while incarcerated); and fragmented care (upon entry, during incarceration, and upon release). The authors also note that these barriers are aggravated by "unique power dynamics, limited autonomy, and coercive conditions that are inherent in the prison and jail environment." For example, "more than 100 women in California's prison system were unlawfully sterilized from 2006 to 2010" and communities of color have experienced histories of eugenics. Incarcerated women also experience reproductive coercion by being "prevented from having abortions, pressured into using birth control or shackled to the rail of a hospital bed during childbirth." Recommendations to reduce barriers to care include implementing community-based alternatives for women in the criminal justice system who are pregnant or postpartum and providing family planning counseling and access to contraception for women who are interested prior to release.

32. **Massoglia M., Remster B. Linkages Between Incarceration and Health. *Public Health Rep.* 2019;134(1_suppl):8S-14S.**

Massoglia and Remster provided this overview of literature on the associations between incarceration and physical health, including health functioning, infectious disease, chronic

conditions, and mortality. The researchers pointed out that, compared to the general population, people who are incarcerated experience higher levels of poverty, lower levels of educational attainment and vocational skills, and may have higher levels of behavioral risk factors like drug and alcohol or violence exposure. These factors make it challenging to distinguish the effects of incarceration from the effects from other risk factors. The researchers also pointed out that incarceration may cause certain people to become more aware of their health status, which could contribute to the high rates of reported poor health among this group. To mitigate such causal inference, the authors call for, in addition to self-report questions, standardized measures of health (i.e., blood pressure, cortisol levels) to be tracked among people experiencing incarceration. Research also shows that incarceration is associated with high levels of self-reported chronic conditions, and that experiencing incarceration has a greater effect on health than the length of incarceration. A study of incarcerated men in North Carolina that examined 1995-2005 data showed that white men experiencing incarceration had higher rates of mortality than white men who were not experiencing incarceration, and that the leading causes of death were cardiovascular disease, cancer, and infections. Research has also found worse health outcomes among formerly incarcerated people than people who have not experienced incarceration. Due to social inequities and structural racism and sexism, there are differences in health outcomes among certain groups. Research shows that health outcomes are worse among women than men, and among white people than Black people. For example, some evidence shows that access to basic health care and decreased accidental deaths due to being imprisoned may protect young Black men from certain mortality experienced in community. Studies show that incarceration may remove some women from challenging or violent relationships or provide access to medical care, which can lead to improved health outcomes for certain groups. People experiencing incarceration also experience increased rates of communicable diseases. For example, "[c]ompared with the general population, incarcerated populations have elevated rates of infection with tuberculosis, HIV/AIDS, hepatitis, sexually transmitted diseases, and Staphylococcus aureus." The researchers also discuss potential explanations for the associations, including stress, contagion, social integration, and reentry challenges. Overall, "[i]ncarceration can act as both an acute stressor (i.e., a sudden life-changing event, such as divorce or job loss) and a chronic stressor (i.e., a lasting source of hardship, such as deficits in skill or education), each of which has potentially negative health consequences." Acute stressors include restrictive sleeping patterns, separation from loved ones, interpersonal conflict, loss of personal freedom, and the disappearance of rigid structures and routines. Chronic stressors can include experiencing or witnessing violence, navigating the social hierarchy with other people experiencing incarceration and staff, harsh living conditions, systematic overcrowding, and loss of social support. The authors also stated, "a well-established literature finds that currently incarcerated persons have higher rates of divorce, lower rates of marriage, and a greater likelihood of damaged or strained relationships with their children than non-incarcerated persons." During reentry, incarcerated people experience challenges accessing housing and employment and reestablishing relationships with family and friends. Discriminatory laws and employers lead to difficulty accessing employment, and formerly incarcerated people tend to work in low-wage manual jobs that are unstable and offer few benefits. Certain laws also prohibit formerly incarcerated people from fully engaging in their communities (i.e., restricted from voting, serving on a jury, running for public office, or volunteering for community organizations). These intersecting factors of social disadvantage lead to unstable health care and poor health. For example, "reintegration challenges have linkages to health because of the

economic marginalization incarcerated persons face when released from prison and because of the stress and challenges to social integration caused by this economic marginalization." The authors conclude with recommendations on ways to improve prison conditions and medical care in an effort to decrease the negative impacts of incarceration. The authors call for more precise data collection and integrating research from social sciences and medicine. The researchers also stated that providing better medical care during incarceration and reentry and reducing collateral consequences may improve health.

33. **Favril L., Rich J. D., Hard J., et al. Mental and physical health morbidity among people in prisons: an umbrella review. *Lancet Public Health.* 2024;9(4):e250-e260.**
Favril, Rich, Hard, and Fazel conducted an umbrella review to identify meta-analyses that examined the prevalence of mental and physical health conditions in general prison populations. The authors cite prior research which shows that people experiencing incarceration often also experience poor educational attainment, unemployment, unstable housing, poverty, and trauma. Further, people experiencing incarceration disproportionately experience mental health problems, substance misuse, infectious diseases, and chronic conditions. Studies that examined estimates of mental and physical health conditions among people living in prisons, jails, and juvenile detention facilities were included in this review. The search included articles published through October 31, 2023, and resulted in 29 meta-analyses eligible for inclusion, where the authors ultimately included data from 17 analyses published between 2002-2023. Data were gathered from publications and from additional information from study authors. The authors synthesized data and stratified by age, sex, and country income level. The authors assessed the findings in terms of heterogeneity, excess significance bias, small study effects, and review quality. The researchers found that upon arrival to prison, 23.8% of people had alcohol use disorder, 38.9% had drug use disorder, and half of those with major depression or psychotic illness had a comorbid substance use disorder. Further, 17.7% were positive for Hepatitis C, with lower estimates of Hepatitis B, HIV, and tuberculosis. The results also showed significant differences in prevalence by sex and country income level, but not consistently across health conditions. In addition, "[f]or meta- analyses that stratified analyses by sex, the prevalence of most mental disorders was higher in women than in men." Further, "meta-regression [indicated] significantly higher prevalences in women than in men for [bacterial sexually transmitted infections]." Also, "the prevalence of most mental disorders was found to be largely similar for adolescents and adults, except for ADHD which was more common in adolescents." The authors stated, "[i]n the only two meta-analyses that compared samples from both [low-income and middle-income countries (LMICs) and high-income countries (HICs)], meta-regression indicated a significantly higher prevalence of psychotic illness and major depression in LMICs compared with HICs, whereas PTSD was more common in HICs than in LMICs." Overall, most mental and physical health conditions were higher among people in prisons. However, the quality of the evidence was limited by high heterogeneity and small study effects. For example, "around two-thirds of meta-analyses included in [the] review had moderate or high risk of bias, with common limitations including insufficient consideration of heterogeneity and bias in primary studies." The authors also point out that results may not be generalizable to selected and high-risk groups. The authors provide evidence on the ways in which incarceration experiences and health are complex. For example, people experiencing incarceration experience poor social determinants of health, which can lead to incarceration; and incarceration exacerbates poor health. In addition, prison environments may be the only access to healthcare people experiencing incarceration may

experience, and living conditions (shelter and regular meals) could be an improvement for some people compared to their environment before experiencing incarceration. The authors concluded that people in prisons have specific patterns of morbidity and called for additional research and "integrating prison health with the national public health system adequately resourcing primary care and mental health services and improving linkage with post-release health services." For example, health improvements might be best achieved through models that integrate prison health into the public health system, rather than under the jurisdiction of justice organizations.

34. **Knoth L., Wanner P., He L. Washington State Adult and Juvenile Recidivism Trends: FY 1995-FY 2014. Washington State Institute for Public Policy;2019.**
The Washington State Institute for Public Policy (WSIPP) analyzed data from the Washington Department of Corrections to summarize statewide recidivism trends from July 1995 through June 2015 (FY 1995-FY 2014). This report is an update to a report published in 2011. Overall, WSIPP found gradual declines in recidivism from FY 1995 through FY 2014. This report also provides information about measuring recidivism. WSIPP states that "recidivism is broadly understood as a return to criminal behavior after a sanction for a prior offense has been imposed and served." They note that recidivism may be defined to include "an arrest for a criminal offense, a conviction (or formal court legal action) for a criminal offense, or a return to incarceration." In Washington State, "recidivism reporting standards recommend the use of reconviction (or formal court legal action)." WSIPP states that "measures of rearrest, reconviction, and reincarceration will likely produce different estimates of recidivism."

35. **Agency Fact Card-- Expanded, December 2024. In: Corrections WSDo, ed2024.**
The Washington State Department of Corrections (DOC) publishes a quarterly Agency Fact Card, which includes data related to the current prison population. The most current available Agency Fact Card is from December 2024. As of December 2024, there was an average of 14,373 people held in total or partial confinement under DOC custody, including in state prisons, reentry centers, community parenting alternative programs, and graduated reentry programs. About 91% of people (13,075) were held in a state prison. Of people who are actively incarcerated, 54.9% of people are white, 17.8% of people are Black, 5.4% of people are American Indian or Alaska Native, 4.9% of people are Asian or Pacific Islander, 0.5% of people are another race, and 0.6% of people are of unknown race. About 15.9% of people are Hispanic. About 22.5% of people who are actively incarcerated are over 50 years of age. Approximately 6% of the active incarcerated population (872 people) were female. Of people who are actively incarcerated, 28.0% of people received an initial sentence of over 10 years in total confinement, 16.5% of people received a sentence of life with the possibility of parole, and 3.8% of people received a sentence of life without parole. The DOC Agency Fact Card also includes data by facility, including for youth and emerging adults currently serving their sentence in a juvenile rehabilitation facility (i.e., youth and emerging adults younger than 25 years) before being transferred to DOC custody on their 25th birthday. As of December 31, 2024, there were 145 youth and emerging adults currently serving their sentence in a juvenile rehabilitation facility, including 61 youth and emerging adults that had received an initial sentence of over 10 years and 4 youth and emerging adults that had received a sentence of life with the possibility of parole.

36. **Clark Valerie A., Duwe Grant. From Solitary to the Streets: The Effect of Restrictive Housing on Recidivism. *Corrections.* 2018;4(4):302-318.**

Clark and Duwe evaluated the impact of solitary confinement (across all levels of security for 30 days or more) on recidivism for 6,502 individuals who were held in solitary confinement in Minnesota Department of Corrections and released to community in 2014. The authors noted that, "many returns to prison can come as the result of rule-breaking, and not law-breaking behaviors." Therefore, they used three measures of recidivism: supervision revocations (i.e., technical violations) (e.g., failing to meet with supervision officer, failing to maintain employment, breaking curfew), new arrests, and new felony convictions within 3 years after release. They noted that studies use various measures of recidivism and "have found varying main effects depending on which recidivism measure was used." Of the 6,502 individuals, 40% had supervision revoked, 48% were rearrested, and 20% experienced a new felony conviction within 3 years of release. The authors also stated that, "restrictive housing [i.e., solitary confinement] is sometimes required for the sake of safety and institutional order." However, solitary confinement has been shown to increase risk of recidivism for three primary reasons. First, solitary confinement is associated with worse mental health outcomes and "untreated mental health conditions can disrupt the prisoner reentry process, presumably leading to increased risk of recidivism." Second, solitary confinement is associated with past offending behaviors and rule infractions which may "signal chronic behavioral problems that can lead to increased risk of recidivism." Third, solitary confinement may increase the risk of recidivism due to the lack of access to evidence-based programming shown to reduce recidivism. The authors evaluated the impacts of the proportion of time spent in solitary confinement as well as whether individuals were released directly to community or returned to the general prison population before release. Of individuals who were held in solitary confinement for at least one day, they spent an average of 15% of their total time in confinement in solitary confinement. Approximately 7% of individuals held in solitary confinement were released directly from solitary confinement to community. The authors controlled for sex, age at release, race/ethnicity, education level, new commitment, total length of confinement, type of offense, post release supervision, mental health status, prior criminal history, and participation in programming. Overall, "there were many significant differences between [people] who spent any time in [solitary confinement] and [people] that did not." Generally, individuals held in solitary confinement were significantly more likely to be male; younger; people of color; lack high school equivalency; have new commitments; have longer average length of confinement; have drug, DWI, and criminal sexual conduct convictions (rather than release violations); experience intensive supervised release; have a mental health condition; experience discipline convictions; be identified as a part of a security threat group (e.g. gang); and participate in a higher average number of effective interventions. Of individuals who spent any time in solitary confinement, "they had [statistically significant] higher rates of supervision revocations, new arrests, and new convictions compared to [people] who spent no time in [solitary confinement]." Specifically 46% of individuals "who spent as little as one day in [solitary confinement] were revoked from supervision, compared to just 33% of [individuals] who did not spend any time in [solitary confinement]"; 53% of individuals who were held in solitary confinement were rearrested, compared to 46% of individuals who were not held in solitary confinement; and 22% of individuals held in solitary confinement were convicted of a new felony, compared to 19% of individuals who were not held in solitary confinement. Individuals who were released directly to community from solitary confinement had significantly higher rates of all three measures of recidivism than people who first returned to the general prison population. In addition, "an increase in the proportion of an [individual's] confinement time spent in [solitary confinement]

more than doubled the expected incidence of supervision revocations...That is even after controlling for several other factors, including mental health, prior behavior, and participation in programming." The authors concluded that solitary confinement "has a limited effect on recidivism. Time spent in [solitary confinement] increased the risk of supervision violations but did not significantly affect the risk of rearrest or reconviction."

37. **Berger E., Scheidegger, K. Sentence Length and Recidivism: A Review of the Research. *Criminal Justice Legal Foundation.* 2021.**
Berger and Scheidegger reviewed literature on the impact of incarceration lengths on recidivism. This working paper was published by the Criminal Justice Legal Foundation. The researchers summarized available research on reincarceration and sentence length. The authors found that overall, the literature is limited and there are inconsistent findings across studies. In addition, the research shows that deterrent effects may vary slightly for different people experiencing incarceration. Overall, the researchers concluded that the effects of the length of the sentence is too mixed to make conclusions.

38. **Song L., Lieb R. Recidivism: The Effect of Incarceration and Length of Time Served. Washington State Institute for Public Policy;1993.**
The Washington State Institute for Public Policy (WSIPP), at the direction of the Washington State Legislature, completed a literature review in 1993 to evaluate the impact of incarceration and sentence length on recidivism. While this report is dated, it is specific to the research question and Washington State. WSIPP found that the impact of incarceration and sentence length on recidivism is complex and likely to be person-specific. WSIPP concluded that, "[f]or some [people], incarceration and longer confinement seem to increase the risk of recidivism. For other [people], the likelihood of reoffense will either be unaffected or reduced by longer terms of incarceration. Furthermore, early-release programs do not appear to affect overall recidivism rates." The report summaries previously published research.

39. **Cotter R. Length of Incarceration and Recidivism.2020.**
The US Sentencing Commission began working on a multi-publication recidivism series in 2016. This study is the seventh in the series and focuses on the relationship between length of incarceration and recidivism. A former report found that people sentenced to less than six months of imprisonment had a lower recidivism rate than people who served longer sentences. People “sentenced to less than six months had a recidivism rate of 37.5[%] while offenders serving longer sentences had relatively stable recidivism rates ranging from 50.8[%] to 55.5[%].” This study did not control for “type of instant federal offense of conviction, criminal history of the offender, or age of the offender at the time of release.” In a separate report, the Commission found little apparent association between the length of the sentence and the recidivism rate. This report outlines that there are three potential relationships between the length of the sentence and reincarceration: 1) incarceration is a specific deterrent, 2) incarceration is criminogenic, and 3) no effect. The report states that empirical research on sentence length and reincarceration is limited and insufficient for development of federal sentencing policy. This study used Federal Bureau of Investigation criminal history records to measure the recidivism rates of 25,431 people across 5 ordered study groups in three models. The research controlled for age at release, gender, race, criminal history category, instant offense type, high school completion, violent offense, weapons offense, substantial assistance departure, and safety valve adjustment. The study results

shows that incarceration lengths of greater than 120 months had a deterrent effect and were less likely to experience rearrest 8 years after release, compared to similar people who were incarcerated for less time. Results also showed that for incarceration lengths of 60 months or less, there were no statistically significant criminogenic or deterrent effects.

40. **Blout H.M., Reisig J. Understanding Prosecutor-Initiated Resentencing: How and Why Prosecutors are Using a New Tool to Expand Justice. American Bar Association;2023.**
This summary from the American Bar Association discusses Prosecutor-Initiated Resentencing. Blout and Reisig summarize some national trends in sentencing and incarceration and provide an overview of current Prosecutor-Initiated Resentencing laws (including Washington State). They cite national statistics showing that, "[t]he percentage of people serving long sentences has grown over time for both Black and white people, and racial disparities in sentence length have widened. […] As of 2019, 57 percent of people in prison were serving sentences of 10 years or more." The authors cite previous research demonstrating that "not all lengthy sentences automatically result in safety, and even sometimes have diminishing returns, especially involving cases where people are kept in prison long after they pose a threat to public safety." They note that costs related to "incarceration displaces critical resources that could be spent on [substance use] or mental health treatment, education, and other activities to promote public safety. Many people serving excessively long sentences can be safely released, with savings directed back into the community to prevent incarceration in the first place and combat racial [inequities]." The articles also summarize research suggesting that victims of crime do not uniformly support long sentences. They cite evidence from a national survey of crime survivors showing that the majority of survivors felt the criminal legal system should focus more on rehabilitation and accountability measures beyond prison. They also cited a California study showing that 80% of crime survivors "stated that they believed that incarceration increases a person's chance of committing future crimes, rather than helping rehabilitate a person." Blout and Reisig noted, "crime survivors may play a critical role [in resentencing] by participating in dialogue with prosecutors during their review and evaluation of past sentences. While some victims may choose not to participate in the [Prosecutor-Initiated Review] process, which can potentially open old wounds, others may see resentencing as an opportunity for greater healing, closure, and support."

41. **Paternoster Raymond. How much do we really know about criminal deterrence? *The Journal of Criminal Law and Criminology.* 2010;100(3):765-824.**
Paternoster summarized the current body of evidence related to deterring crime through sanctions (e.g. fines, probation, imprisonment). The author notes that, while "empirical evidence leads to the conclusion that there is a marginal deterrent effect for legal sanctions…it is difficult to state with any precision how strong a deterrent effect the criminal justice system provides." The author also noted that even less is known about relative or marginal deterrent effects (e.g. "does adding three years to a prison sentence for the use of a gun deter firearm-related felonies?"). Previous research has suggested that deterrence theory is based on whether the certainty, severity, or swiftness of legal punishments will lower crime rates. Laws that have increased sentencing for firearms have sought to increase the severity of punishments, but may not have changed certainty or swiftness, which could reduce the effectiveness of the change. The perception of punishment also matters. For example, increasing penalties for firearm possession only matters if the increased punishment is "recognized by the public, including would-be

felons." In summary, "evidence does not suggest that either imprisonment itself or the length of imprisonment is effective in deterring crime for those who experience it." Lastly, the author concluded, "there is greater confidence that non-legal factors are more effective in securing compliance than legal threats."

42. **Roach M., Schanzenbach, M. The Effect of Prison Sentence Length on Recidivism: Evidence from Random Judicial Assignment.** ***Northwestern Law & Econ Research Paper.*** **2015;16-08.**

Roach and Schanzenbach examined the length of prison sentence and recidivism. The researchers used a quasi-experimental design on adult sentences issued in Seattle, Washington. The paper summarizes background on prior research, deterrence, and Washington State sentencing guidelines People who pled guilty were randomly assigned to a sentencing judge, which leads to random differences in judicial jurisdiction. The results showed that an additional month in prison led to a decrease in the rate of recidivism by about 1 percentage point. The results showed a larger effect for people with limited criminal histories. However, the decreased recidivism rates were almost completely observed within the first year of release. The researchers attributed effects to rehabilitation programming that was accessible to those experiencing incarceration.

43. **Daftary-Kapur T., Zottoli, T. Resentencing of Juvenile Lifers: The Philadelphia Experience. Montclair State University 2020.**

Daftary-Kapur and Zottoli reviewed 269 Philadelphia cases of juveniles sentenced to life without parole and conducted semi-structured interviews with four members of the Philadelphia Lifer Committee. The authors sought to understand the process by which the Lifer Committee arrives at resentencing offers, to quantify recidivism and potential cost savings, and to identify and quantify differences between the prior and current administrations considered by the Committee. Philadelphia District Attorney's Office data and public records were analyzed to evaluate resentence offers and rates of recidivism. The researchers used regression analyses "to identify the case factors that best predicted resentence offer lengths for each administration." Key findings are included in the report and include rates of recidivism.

44. **Mauer Marc. Long-Term Sentences: Time to reconsider the scale of punishment.** ***UMKC Law Review.*** **2018;87(1):113-131.**

Mauer published this law review article outlining the history of mass incarceration in the U.S., movements to end mass incarceration, decarceration strategies, evidence regarding the ways in which long and harsh sentences are counterproductive to public safety, and examples of strategies from countries outside the U.S. The author also includes reform recommendations. Mauer points to previously published research to highlight the ways in which increases in incarceration are due to policy changes over time, rather than increases in crime. Research has found that half of the growth in the prison population between 1980 and 2010 was due to an increase in prison admissions, and the other half was due to greater time served in prison. The federal prison population expanded from 20,000 in 1980 to 189,000 in 2016. Further, of the 44 states with complete data, all showed an increase in time served between 2000 to 2014. The average length of stay for released federal prisoners increased from 17.9 months to 37.5 months between 1988-2012. The author states, "[t]his rise is largely attributed to policy changes, including the implementation of the sentencing Guidelines, elimination of parole, and advent of a

new generation of mandatory sentencing laws." Studies have shown that increases in incarceration may have contributed to only about 5-25% of the decline in crime that has occurred since the early 1990s. In contrast, New Jersey, Alaska, New York, Vermont, Connecticut, California, and Michigan have considerably reduced their prison population, and have done so "without adverse effects on public safety." For example, a 2014 analysis of reductions in New Jersey, New York, and California found that the decrease in the prison population by 23-26% came alongside decreases in crime "that outpaced national declines in most categories." Among the history of sentencing reform policies, President Obama issues sentence commutations to 1,715 people convicted of a drug offense. About 25% of these people had a prior conviction for a violent offense, and 86% had a "significant" criminal history. The author also provides context on the U.S. Sentencing Commission, where, when they established the Guidelines grid, they 1) did not account for the directive for assuring nonviolent, first-time convicted people receive non-prison sentences, 2) did not account for available bed space to prevent overcrowding, and 3) relied on sentencing practices data that did not include data on probation, leading to increases in prison terms. This paper also showcases the ways in which long sentences are counterproductive. For example, "long-term sentences produce diminishing returns for public safety as individuals 'age out' of the high-crime years; such sentences are particularly ineffective for drug crimes as drug sellers are easily replaced in the community; increasingly punitive sentences add little to the deterrent effect of the criminal justice system; and mass incarceration diverts resources from program and policy initiatives that hold the potential for greater impact on public safety." The paper also discussed differences in crime rates among different age groups. For example, research shows that crime begins in the mid-teen years and rises sharply, then declines by one's early to mid-twenties and continues to decrease over time. Meanwhile, the median age of people in prison is 36-40 years old. The author points out that long sentences have diminishing returns for public safety. Costs associated with incarceration mean less funding is available for prevention resources. Further, incarcerating older people is more expensive, as people require additional healthcare as they age, and people age faster in prison. The cost of incarceration can easily double for elderly people. The paper also explains deterrence, where deterrence is a function of the certainty of punishment, not of the severity of punishment. Danial Nagin, who studies deterrence stated, "[t]he evidence in support of the deterrent effect of the certainty of punishment is far more consistent and convincing than for the severity of punishment" and "the effect of certainty rather than severity of punishment reflect[s] a response to the certainty of apprehension." The paper also points out the ways sentences can be reduced without harming public safety. For example, Proposition 47 in California reclassified 6 property and drug crimes as misdemeanors rather than felonies and required local supervision rather than incarceration of those convicted. As a result, since 2017, about 4,700 people have been released from prison, and there have been no changes on overall crime rates or violent crime. Another example is when the U.S. Sentencing Commission changed their Guidelines for crack cocaine convictions, and 16,000 people had their sentences reduced by about two years. A study examined recidivism rates and compared with people convicted of similar crimes, those released showed no statistically significant differences in reincarceration. A separate study examined the impact of the Fair Sentencing Act, which decreased time served by about 20% and found no differences in recidivism rates for this group compared to those who served their full sentence before the passage of the act. Lastly, the "drugs minus two" decision in 2014 reduced all drug offense sentences by two levels and resulted in a reduction from 12 to 10 years. About 31,000 people were approved for a sentence reduction. The paper also includes additional information on

international comparisons. Most European countries do not prescribe sentences longer than 20 years, and most do not serve life sentences. The paper concludes with recommendations for reform.

45. **Pediatrics American Academy of. Health Care for Youth in Juvenile Justice System. *Pediatrics.* 2011;128(6):1219-1235.**

This policy statement from the American Academy of Pediatrics identified youth in the juvenile correctional system as a high-risk population, many of whom, "have unmet physical developmental, and mental health needs." Data from 2008 indicate that females comprise about one-third of juvenile arrests in the U.S. Additionally, "although minority youth represent only 39% of the US juvenile population, they represented 65% of the national juvenile custody population in 2006." Authors cite evidence that "overall, poverty is likely to be the underlying factor that most influences trends in juvenile crime." Moreover, "poorer health status is related to lower [socioeconomic status] SES, and lower SES is more likely to be found among minority youth." While AAP reported the categories of health needs are similar for both youth in the correctional system and their peers in the community, they note that "high-risk behaviors such as violence, substance abuse, and sexual activity, which may be more prevalent than those of their peers in the general population" influence certain health categories. Authors cited a 1991 study by the National Commission on Correctional Health Care (NCCHC). "The study included 1801 youth from 39 short-term or long-term correctional facilities in the United States. These youth had higher rates of substance abuse, trauma, unprotected sexual activity, history of sexually transmitted infections (STIs), suicidal ideation, and reported violence than those in a general high school population." As of 2012, the NCCHC study remained one of the best nationally representative samples evaluating sexual activity and contraceptive use among incarcerated youth. Overall, incarcerated youth reported higher rates of sexual activity, were more likely to report 4 or more lifetime sexual partners, and had much lower self-reported use of contraception or condoms at their most recent sexual intercourse. Data from the Centers for Disease Control and Prevention's (CDC) 2009 Sexually Transmitted Disease Surveillance Report demonstrated that youth ages 12 to 18 years in juvenile detention have high rates of STIs (e.g., Chlamydia: 14.8% of females and 6.6% of males; Gonorrhea: 3.9% of females and 1.0% of males). Additionally, the 2003 Survey of Youth in Residential Placement (SYRP) found that one-fifth of incarcerated youth were currently a parent (14%) or expecting a child (12%). "Males (15%) were more likely to have father a child compared with 9% of females who reported having a child." These rates are disproportionately higher than those of the general population of 12- to 20-year-olds, "in which 2% of males and 6% of females have children." Additionally, national data show incarcerated teens "report higher pregnancy rates than those in the general adolescent population; more than one-third of females report ever having been pregnant." The statement also discusses general physical health issues (i.e., dental, injury, and tuberculosis), mental health, and behavioral health issues. For example, "although [males and females] experience sexual (10-24%) and physical (11-58%) abuse, all forms of abuse, including emotional abuse, are more common in girls." Such abuse contributes to diagnoses of posttraumatic stress disorder in females, more common than males. Long term outcomes for judicially-involved adolescent females "reveal greater persistence of emotional problems and worse outcomes complicated by relationship and parenting issues, drug problems, and suicidality." SYRP results show that about 20% of youth surveyed reported that they were not enrolled in school at the time they entered

custody, which is 4 times higher than the rate for the general population. AAP provided recommendations to address the needs of youth in juvenile detention settings.

46. **Barnert Elizabeth S., Perry Raymond, Morris Robert E. Juvenile Incarceration and Health.** ***Academic Pediatrics.*** **2016;16(2):99-110.**
This perspective by pediatricians Barnert, Perry, and Morris addresses the health status and needs of incarcerated youth. Authors identify reproductive health as one of three areas of particularly high need, "likely as a result of lower access to care, engagement in high-risk behaviors, and underlying health disparities." Additionally, authors note significant disparities by race/ethnicity and class. For example, they cite evidence that "African American adolescents are 5 times more likely and Latino and American Indian youth 3 times more likely to be incarcerated compared to white adolescents." Incarcerated youth often come from marginalized backgrounds, have high rates of adverse childhood experiences, (ACEs) and have limited financial resources. Additionally, many live in high-crime neighborhoods, which "increases incarceration risk and creates a socioeconomic disparity that is accentuated for black and Hispanic youth." Within this context, "compared to nonincarcerated adolescents, incarcerated youth report high rates of sexual activity and sexually transmitted infections, more lifetime partners, and lower use of condoms and other forms of contraception." In 2011, the Centers for Disease Control and Prevention (CDC) reported "prevalence of chlamydia infection among detained girls and boys as 13.5% and 6.7% respectively, compared to rates of 3.3% in the general adolescent female population and 0.7% in the general adolescent male population." Additionally, "youth victims of sex trafficking or commercial sexual exploitation have a higher incarceration risk and higher risks of contracting HIV or hepatitis C."

47. **Sussman N. I., Lee T.G., Hallgren K.A. Use of Manifest Injustice in the Washington State Juvenile Rehabilitation Administration.** ***Journal of the American Academy of Psychiatry and the Law.*** **2019;47:42-47.**
Sussman, Lee, and Hallgren examine the use of manifest injustice in the Washington State Juvenile Rehabilitation Administration, for youth aged 15-19 years old and in custody as of January 2016. The Washington State juvenile justice system has disproportionate minority contact for all minority groups, which is consistent with previous and national research. For example, African American youth were seven times more likely, multi-racial youth were three times more likely, and Hispanic youth were 1.5 times more likely to be in Juvenile Rehabilitation Administration custody than white youth in the state. Washington State Juvenile Code includes a "manifest injustice provision" allows judges to sentence youth outside standard sentencing guidelines. The provision states that, "if the standard sentencing guidelines yield a sentence that would be an injustice to the offender or risk the safety of the public, the judge can use [manifest injustice] to impose an alternative disposition" that results in either a shorter or longer sentencing range or in institutionalization to a residential detention facility. The authors hypothesized that judges would be more likely to use the provision to decrease sentences of white youth and to increase sentences of minority youth. The authors note that low numbers decreased the statistical power of their analyses and required that they examine the impacts across five racial/ethnic groups: Caucasian, African American, Hispanic, multiracial, and "all minorities." Although not statistically significant, the authors found that African American youth had manifest injustice used less frequently to decrease their sentences than white youth. However, the authors also found that African American and multiracial youth were less likely to have manifest injustice

used to increase their sentences than white youth (i.e. white youth were more likely to have their sentences increased or intensified than minority youth). The authors hypothesize that this is likely due to the fact that "African American youth reside in urban and liberal parts of the state where judges may be more progressive and less likely to use [manifest injustice] to intensify sentences. More diversion programs targeting minority youth exist in urban areas of Washington, and more African American youth are transferred to adult court; both reduce the likelihood of minority youth receiving [manifest injustice]. Judges in rural areas of the state, which have fewer treatment resources, may be using [manifest injustice] to access services only available to court-involved youth." The authors noted that 71.2 percent of the African American population in Washington State reside in King and Pierce Counties. They note that the King County Juvenile Detention Alternative Initiative has also focused efforts to reduce racial disparities by implementing restorative principles and expanding diversion programs. The authors also state that, [Manifest injustice up or manifest injustice institutionalization] are used more often with Caucasian youth, which effectively means they have services in the community for longer periods of time or their placements at residential facilities are extended. These outcomes both restrict freedom while also allowing for critical interventions." The authors also state that it the intent of judges in using manifest injustice is unclear; it is uncertain whether they use it for punishment or rehabilitation. However, when the authors looked at all youth residing in Washington State (including those not residing in juvenile justice facilities), "each of the minority groups had an increased risk of being adjudicated with [manifest injustice] to increase or intensify their sentence...This finding was greatest for African American youth, who were almost four times more likely than Caucasian youth to be sentenced with [manifest injustice intensified or manifest injustice institutionalization]." The article also notes that youth involved in the juvenile justice system have higher rates of mental illness compared to their peers.

48. **Barnert E. S., Abrams L. S., Tesema L., et al. Child incarceration and long-term adult health outcomes: a longitudinal study. *International Journal of Prison Health.* 2018;14(1):26-33.**

Barnert et al. conducted a longitudinal study to determine the impacts of youth incarceration on adult health outcomes. Using data from the National Longitudinal Study of Adolescent to Adult Health, they compared the health outcomes of youth incarcerated between 7 and 13 years of age; youth incarcerated at 14 years of age or older; and youth who were never incarcerated. The study included 14,689 individuals. Four waves of data were collected between 1994 and 2008, including Wave I with youth in grades 7-12 and Wave IV with adults aged 24-34 years. Survey questions included demographic information, experience with the juvenile justice system, and adult health outcomes, including self-reported general health, ability to climb stairs, depression, and suicidality. Approximately 16% of the sample identified as ever being incarcerated, with 0.5% (56 individuals) being 7 to 13 years of age at first incarceration. Individuals who were 7 to 13 years of age at first incarceration were disproportionately male (84.3%), Black (33.1%) or Hispanic (22.4%) compared to individuals incarcerated at an older age. These youth were also more likely to be from families of lower socioeconomic status (48%) or raised in a single parent household (35.8%). Overall, they found that individuals who were ever incarcerated had worse health outcomes than individuals who had not experienced incarceration. In addition, “history of child incarceration [at ages 7 to 13 years] was associated with the highest rates of subsequent poor adult health across all four health variables.” These differences were significantly significant. For example, 21.1% of individuals aged 7 to 13 years at first incarceration reported

poor general health, compared to 13% at 14 years of age or older and 8.4% never incarcerated. Further analysis also found that rates of suicidality were more pronounced for children 7 to 12 than for children 13 to 14 at age of first incarceration. The authors noted that this is the first study to examine the longitudinal health impacts of youth incarceration on adults, especially for youth with an age of first arrest younger than 14 years.

49. **Juvenile Justice Dashboard. In: Washington State Office of Financial Management ERDC, ed2021.**
The Washington State Office of Financial Management (OFM), Education Research & Data Center provides information about students involved with the criminal legal system in Washington State, including educational and employment outcomes.

50. **U.S. Department of Justice Office of Juvenile Justice and Delinquency Prevention. Disproportionate Minority Contact: Literature Review, A product of the Model Programs Guide.2014.**
The U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention published definitions and a summary of literature related to "Disproportionate Minority Contact" in the juvenile criminal legal system. Amendments to the Juvenile Justice and Delinquency Program Act of 1974 defined "Disproportionate Minority Contact" as "the rates of contact with the juvenile justice system among juveniles of a specific minority group that are significantly different from rates of contact for white non-Hispanic juveniles." States that receive federal funding from the Office must present data by the following race/ethnicities: white (non-Hispanic), Black and African American (non-Hispanic), Hispanic or Latinx, Asian (non-Hispanic), Native Hawaiian or other Pacific Islander (non-Hispanic), American Indian/Alaska Native (non-Hispanic), and Other/Multi-racial. They define "'minority' as youth who are American Indian/Alaska Native, Asian, Black or African American, Hispanic or Latino, or Native Hawaiian or other Pacific Islander." Disproportionality must be reported for nine points of contact, including arrest, referral to court, diversion, secure detention, charges, adjudication, probation supervision, secure confinement, and transfer to adult court. They state that youth of color are more likely to have contact with the juvenile system than white, non-Hispanic youth. There are two main theories for disproportionate contact, including differential offending/involvement (e.g. differences in youth behavior, neighborhood factors) and differential treatment/selection (e.g. structure of criminal legal system decision-making). The report provides an overview of reasons for disproportionate contact and discusses differential opportunities available for prevention and treatment.

51. **Research Working Group Task Force on Race and the Criminal Justice System. Preliminary Report on Race and Washington's Criminal Justice System. *Washington Law Review.* 2012;87(1).**
The Research Working Group, Task Force on Race and Criminal Justice System was Research Working Group, Task Force on Race and the Criminal Justice System convened in 2010 to address racial inequities in Washington's criminal legal system. The creation of the group was prompted by remarks of justices on the Washington Supreme Court that there was racial bias in the state's criminal legal system. Members of the Research Working Group include individuals from Washington State's schools of law. The larger Task Force includes representatives from a range of professional, legal, and community associations (e.g., Bar Association, Washington

State Commission on Minority and Justice, prosecuting attorneys, advocacy organizations, etc.). In this report, the Research Working Group, Task Force on Race and the Criminal Justice System reports on disproportionality in Washington State's court, prison, and jail populations by race/ethnicity. The report concluded that, "Washington State criminal justice practices and institutions find that race and ethnicity influence criminal justice outcomes over and above [crime] commission rates." The Task Force found that the disproportionality in Washington State's criminal justice system, "is explained by facially neutral policies that have racially disparate effects...facially race-neutral policies that have a disparate impact on people of color contribute significantly to disparities in the criminal justice system. We find that racial and ethnic bias distorts decision-making at various stages in the criminal justice system, contributing to disparities." Lastly, "race and racial bias matter in ways that are not fair, that do not advance legitimate public safety objectives, and that undermine public confidence in our legal system."

52. **Race and the Criminal Justice System Task Force 2.0. Commons SUSoLD.Race and Washington's Criminal Justice System: 2021 Report to the Washington Supreme Court. Fred T. Korematsu Center for Law and Equality;2021.**
This 2021 report was authored by the Research Working Group of the Task Force 2.0: Race and Washington's Criminal Justice System, a follow-up to the previous Task Force on Race and the Criminal Justice System (2010-2012). The Research Working Group was charged with updating the work of the previous Task Force and investigating disproportionalities in the criminal justice system and possible causes, where disproportionalities existed. The Research Working Group designed its approach to inform "recommendations for change in order to promote fairness, reduce disparity, ensure legitimate public safety objectives, and instill public confidence in [Washington State's] criminal justice system." The report focused on the treatment and experience of adults in the criminal justice system as well as race. However, it does not consider the intersection of race and gender, which, authors note, may obscure the experience of women of color in the criminal justice system and may underestimate the severity of experiences by certain men of color (e.g., Black men). The report included available data on stops, searches, use of force, arrests, convictions, legal financial obligations (LFOs), incarceration sentences, death penalty sentences, and disproportionate incarceration. Wherever possible, authors provide data documenting disproportionality. Specifically, evidence showed that both Black Americans and Indigenous people "encounter racialized policing and overrepresentation in every stage of [Washington State's] criminal justice system." However, lack of accurate, consistent, and/or complete data collection prevented a clear picture of racialized policing and overrepresentation of Latino/as at some stages of the criminal justice system. Similarly, inconsistent and/or incomplete data collection or reporting made it impossible to provide a full picture of the representation of Native Hawaiians and Other Pacific Islanders in the criminal justice system. Authors concluded, "Our examination of the data leads us to repeat the conclusions we reached ten years ago. In 2021, race *still* matters in ways that are not fair, that do not advance legitimate public safety objectives, that produce racial disparities in the criminal justice system, and that undermine public confidence in our legal system."

53. **Robles-Ramamurthy B., Watson C. Examining Racial Disparities in Juvenile Justice. *Journal of American Academy of Psychiatry and the Law.* 2019;47(1):48-52.**
Robles-Ramamurthy and Watson provided commentary on research focusing on racial inequities in the juvenile justice system. Disproportionate minority contact and racial disparities are present

at every level of processing within the juvenile justice system, including at arrest, referral, diversion, detention, filings, findings, probation, confinement, and transfer to adult court. The authors summarize data from Washington State, as well as provide discussion of theories used to explain racial disparities within the criminal justice selection. The "differential offending" theory suggests that minority youth commit crimes at greater rates than white youth. However, studies have found that "this difference would not explain the full picture of minority overrepresentation throughout the justice system." The "selection" theory suggests differential contact. For example, the National Longitudinal Survey of Youth found that Black youth were more likely to be arrested and arrested multiple times compared to white youth. The authors also cite evidence from a systematic review of 72 studies that found differential treatment of minority youth in 82% of studies and at 9 different decision points in the juvenile justice system. They summarize that, "evidence of a race effect was greater at the earlier stages of the process, including arrest, referral to court, and placement in secure detention." Robles-Ramamurthy and Watson state that, "the intricacies of racial disparities in the juvenile justice system are difficult to study because of the close relationship between crime and many of the social factors affecting communities in which minority youth are likely to be raised." Youth of color are more likely to experience higher poverty rates and lower socioeconomic status, to attend schools with zero-tolerance policies and law enforcement presence on campus, and to experience parental incarceration due to disparities in the larger criminal justice system. The authors also summarized long-term impacts of juvenile justice contact on youth, including lower high school graduation rates, higher rates of unemployment, higher rates of eviction and homelessness, and increased rates of recidivism. Overall, the authors concluded that, "addressing social factors that are at the root of disproportionate minority contact will result in significant benefit in reducing racial disparities within the juvenile justice system."

54. **Services Washington State Department of Social and Health, Justice Washington State Partnership Council on Juvenile. Washington State Partnership on Juvenile Justice 2017 Annual Report to the Governor and State Legislature.2017.**

The Washington State Partnership Council on Juvenile Justice, the Office of Juvenile Justice (Department of Children, Youth, and Families), and the Center for the Study and Advancement of Justice Effectiveness provided an annual report to the Governor and Legislature. In this 2017 Annual Report, they highlighted major accomplishments, summarized key findings of the juvenile criminal legal system, and provided recommendations. The report found that, from 2007 to 2015, juvenile arrests, referrals to court services, and detention use declined by 55% in Washington State, and the juvenile arrest rate in Washington State (23 per 1000 youth aged 12 to 17) was lower than the national average (28 per 1000 youth aged 12 to 17). However, these declines did not happen proportionally and contact for youth of color increased over the same time period, with data showing that disparities have doubled in the last six years. Black youth were 3 times as likely and American Indian/Alaskan Native youth were 4 times as likely to be referred to juvenile court as white youth. These disparities were greatest at arrest and referral. The report notes, "while disparities in [juvenile criminal legal system] contact are the highest at the point of referral, they also persist at each decision point of system involvement." For example, Black youth are 40% less likely to receive a diversion or deferred disposition as white youth; Black youth are less likely to receive an evidence-based practice program; and Black and African American youth are significantly more likely to be tried as adults compared to white youth. In addition, rates of juvenile arrest and use of diversion and detention varied widely by

court jurisdiction and "the large majority of [youth involved in the criminal justice system] are managed by local courts (94%) and there are large differences in court process, diversion options, and program availability across sites." The report notes, "a fundamental attribute of the juvenile [criminal legal] system in Washington State is the division of responsibility between the county-run system of juvenile courts and the state-run system intended to serve higher risk youth who have been found responsible for more serious offending behavior. There are 35 independent, locally funded and locally administered juvenile courts serving Washington's 39 counties." The report notes that, in 2016, there were 19,234 misdemeanor and felony referrals to juvenile courts and 12,131 juvenile court dispositions involving 10,553 youth. Of these youth, 647 (6%) were admitted to Juvenile Rehabilitation. Once youth are cited or arrested by police, they may be referred to the county prosecutor and may then be referred to diversion, be assigned to a capacity or competency hearing, have their case filed in adult court, or be dismissed. The rate of juvenile violent index offenses (i.e. murder, non-negligent homicide, rape, robbery, aggravated assault) was approximately 1.5 per 1000 in 2015. In 2016, approximately 70% of juvenile court referrals were for males and 30% for females. By race/ethnicity, 51% of juvenile court referrals were for white youth, 24.8% for Hispanic youth, 14.8% for Black youth, 4% for American Indian/Alaskan Native youth, 3.4% for Asian/Pacific Islander youth. and 1.8% for youth whose race/ethnicity is other or unknown.

55. **Project The Sentencing. Policy Brief: Disproportionate Minority Contact in the Juvenile Justice System.2018.**

This policy brief discusses Disproportionate Minority Contact, which "reflects both racial biases woven into the justice system ("differential selection") and differences in the actual offending patterns among [racial/ethnic] groups ("differential involvement")." Federally, juvenile justice system contact is defined as, "arrest, referral to court, diversion, secure detention, petition (i.e. charges filed), delinquent findings (i.e. guilt), probation, confinement in secure correctional facilities, and/or transfer to criminal/adult jurisdiction." The authors noted that disproportionate minority contact in the juvenile justice system is well-documented and the U.S. Justice Department has stated that juvenile disproportionate minority contact "is evident at nearly all contact points on the juvenile justice system continuum." Black youth are more likely to be arrested, referred to juvenile court, processed, sent to secure confinement, and transferred to adult facilities than white youth. Nationally, African American youth are twice as likely to be arrested than white youth. However, this disproportionality changes depending on the crime. For example, in 2011, Black youth were 269 percent more likely to be arrested for violating curfew laws than white youth. This disproportionality has also grown for some crimes (e.g. property crimes). In addition, "youth of color are overrepresented at many stages of the juvenile justice system as compared with their presence in the general population." For example, African American youth comprise 14% of the general population, but account for 40% of secure placement. The authors also present data showing that most juvenile arrests are for non-violent, low- level, or non-criminal acts. Violent crimes account for only 5% of juvenile arrests. Property crimes are the most common offenses for juveniles, and account for 25% of arrests. The authors also note the intersectionality with geography. They state that, "given the realities of residential patterns by race, [differences in arrest rates by race for the same behaviors] may be reflected in higher arrest rates of minority youth than white youth for some offenses. As a result, juveniles behaving in the same way- for example, hanging out late at night- will be treated differently based on where they live, not on how they behave." This brief also outlines how policy choices

can worse disparities, including police presence in schools and the "criminalization of misbehavior," valid court orders that lead to detention, and policies impacting population density and segregated housing.

56. **WA Juvenile Justice Data Dashboard. In: Washington State Department of Children Y, and Families, Office of Juvenile Justice, ed2023.**
In 2023, Washington State Department of Children, Youth, and Families launched the WA Juvenile Justice Data Dashboard. The intent of the dashboard is to compare "decision point data in order to understand where [inequities] increase and decrease." Currently, the dashboard includes Law Enforcement Data Analysis, including information about juvenile arrests, and represents the first "single, accessible source to examine [inequities] in Washington State juvenile arrest data." The dashboard will be built out over time to include additional data about juvenile criminal legal system involvement. Juvenile arrest data is based on information local law enforcement agencies report to the National Incident Based Reporting System (NIBRS), which is compiled by the Washington Association of Sheriffs and Police Chiefs (WASPC). Previous national studies of NIBRS data suggest that data matches 84.1% of summons data nationally. The data includes arrest information from 2017 through 2020 for youth aged 12 to 17 years and does not include information for 8 through 11-year-olds.

57. **Puzzanchera C., Sladky A., Kang W. Easy access to juvenile populations: 1990-2015. 2016.**
Washington state data indicate that about 20% of the population ages 18-24 in Washington were Native Americans and youth of color in 2015. These data indicate that in 2015 the age 12-20 population was 6.8.% black, 2.9% Native American, and 10.3% Asian. These figures are derived from data collected by the U.S. Census Bureau and modified by the National Centers for Health Statistics.

58. **Cutuli J. J., Goerge Robert M., Coulton Claudia, et al. From foster care to juvenile justice: Exploring characteristics of youth in three cities. *Children and Youth Services Review.* 2016;67:84-94.**
Cutuli et. al. conducted a prospective, longitudinal cohort study to estimate the rate of criminal legal system involvement for youth involved in foster care. They estimated that 7% to 24% of youth involved in the foster care system are dually-involved in the juvenile criminal legal system.

59. **U.S. Department of Justice Office of Juvenile Justice and Delinquency Prevention. LGBTQ Youths in the Juvenile Justice System: Literature Review, A product of the Model Programs Guide.2014.**
The U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention summarized literature pertaining to youth who identify as LGBTQ and the juvenile criminal legal system. They found that youth who identify as LGBTQ are twice as likely to be arrested and detained for status offenses compared to youth who identify as heterosexual. The report noted that, "available research has estimated that LGBT youths represent 5 percent to 7 percent of the nation's overall youth population, but they compose 13 percent to 15 percent of those currently in the juvenile [criminal legal] system."

60. **Justice Coalition for Juvenile. Youth Homelessness and Juvenile Justice: Opportunities for Collaboration and Impact.Issue Brief. 2016.**
This report cites research finding that 44% of youth experiencing homelessness had "stayed in a jail, prison, or juvenile detention center, nearly 78% have had at least one interaction with police, and nearly 62% had been arrested at some point in their lives." These interactions may be due to the criminalization of homelessness. In addition, youth who have been involved with the juvenile system are at greater risk of homelessness as "families [may be] unwilling to let young people return due to family discord or because of restrictions imposed by landlords or public housing authorities."

61. **Use and Implementation of Prosecutor Initiated Resentencing (SB 6164) in Washington State. Redemption Project of Washington; 2/26/24 2024.**
This report from the Redemption Project of Washington assessed the use and implementation of Prosecutor Initiated Resentencing (SB 6164) in Washington State. Findings are based on data obtained through Public Records Act (PRA) requests sent to each of Washington State's 39 counties for the period from March 27, 2020 (the date the Governor signed SB 6164 into law) through August 22 or 23, 2023. As of February 26, 2024, 38 of 39 Washington State counties responded to the PRA request with full or partial records. Prosecutors in 16 of 39 counties shared or reported creating any written standards, protocols, policies, or priorities for implementation of 6164 resentencing requests. Authors noted the review of letters sent to prosecutors' offices demonstrated a lack of information and understanding about the 6164 process among both the incarcerated community and the public. Authors also noted "[i]nconsistent record keeping for Prosecutor Initiated Resentencing complicated gathering and summarizing the data on use of this procedure statewide." Therefore, results represent an estimate of potential number of cases involving Prosecutor Initiated Resentencing. Data indicate prosecutors across the state received 1,292 inquiries about 6164 policies, procedures, or standards or requests for resentencing. Evidence indicates that prosecutors' offices have inconsistent and varied systems of tracking 6164 requests and outcomes (i.e., no system/reported from memory, charts to document requests, documents or folders for each request with detailed information). Prosecutors in 12 of Washington State's 39 counties may have used Prosecutor Initiated Resentencing to resentence 43 people. Data are likely more accurate for the number of requests granted that resulted in resentencing hearings. In some cases, resentencing occurred pursuant to another legal pathway after the person requested Prosecutor Initiated Resentencing. Data indicate few people had assistance from an attorney in preparing their request for resentencing, and people with attorneys were more likely to be granted relief. Prosecutors in at least 26 counties filed 0 petitions for resentencing. One county prosecutor reported not reviewing any requests for resentencing deeming SB 6164 unconstitutional. Among those prosecutors that granted resentencing pursuant to RCW 36.27.130, various reasons were provided (e.g., consideration of mitigating qualities of youth, rehabilitation, victim not opposed to resentencing).

62. **Gilliam Walter S. Prekindergarteners Left Behind: Expulsion rates in state prekindergarten systems. Yale University Child Study Center;2005.**
Gilliam analyzed data from a study of 3,898 prekindergarten classrooms across the United States. These classrooms represent 81% of all 52 state-funded prekindergarten systems operating across 40 different states. This study found that 6.67 preschoolers per 1,000 prekindergarten

students were expelled, which is 3.2 times the rate of expulsion for all students in grades K-12. Rates of expulsion were highest for African American students and boys.

63. **Iselin Anne-Marie. Research on School Suspension. Duke University, Center for Child and Family Policy;No date.**
This research brief was prepared by Duke University's Center for Child and Family Policy as part of the 2010 North Carolina Family Impact Seminar, which provides educational briefings for state policymakers. The brief summarizes the research on school suspension, the impact of suspension on students, and the effectiveness of alternatives to suspension. Based on a review of available literature, the author states that suspension may be effective in removing a problematic student from school, providing temporary relief to frustrated school personnel, and raising parental attention about student misconduct. However, zero-tolerance policies do not improve overall school safety and are associated with lower academic performance, higher dropout rates, decreased likelihood of graduating on time, and further disciplinary action. Male students, students with disabilities, and Black or African American students are more likely to be suspended than other students.

64. **Education The Washington State Board of. Statewide Indicators of Education System Health.2016.**
In this 2016 Biennial Report the Washington State Board of Education (Board) recommends the Legislature add exclusionary discipline rates to the list of indicators evaluated to determine the system's health. The recommended indicator addresses disproportionality in discipline practices. The report states, "[t]his indicator focuses on the lost educational opportunity caused by exclusionary discipline practices, which likely contributes to opportunity and achievement gaps." According to the SBE, the goal for this indicator would be the "alignment of discipline events and rates and enrollment rates for each student group." The Board indicates that it will continue to engage the Accountability and Achievement Workgroup (AAW) to determine whether of Office of Superintendent of Public Instruction's (OSPI) Disproportionality Composition Index (CI) is the most appropriate indicator measure. CI is a measure of whether students assigned to a student group are suspended at a rate proportionate to their representation in the total student population. A [CI] greater than 1.00 indicates the group makes up more of the suspensions and expulsions than their representation in the student population generally. Conversely, a CI less than 1.00 indicates the group makes up less of the suspensions and expulsions than their representation in the population generally. A CI of 1.00 for all student groups means that "no group is being subjected to suspensions and expulsions at a disproportionately high or low rate. Authors cite OSPI data from the three most recent years ending with the 2014-15 school year, which show Black/African American, Native American/Alaskan, Hispanic/Latino, Hawaiian/Pacific Islander, and Two or More Races students experience disproportionally high suspension and expulsion rates. Additionally, students with a disability and students participating in the Free and Reduced Price Lunch program are also experiencing disproportionally high suspension and expulsion rates. For example, Black students and students with a disability are more than twice as likely to be subject to exclusionary disciple in school when compared to all students in Washington State.

65. **Noltemeyer A.L., Mcloughlin C.S. Patterns of Exclusionary Discipline by School Typology, Ethnicity, and their Interaction. *Perspectives on Urban Education.* 2010;Summer:27.**
This study used 2007-2008 school year data (disciplinary incidents) from 326 Ohio school districts (55% of all school districts in the state) to examine patterns of exclusionary discipline by school typology (i.e., urban, suburban, rural), student ethnicity, and their interaction. Analyses revealed significant differences in the use of exclusionary discipline (i.e., suspensions, expulsions, and other disciplinary actions) based on ethnicity. The average rate of both suspension and expulsion was over two and a half times greater among African American students as compared to white students. Researchers found that ethnicity accounted for 16.6% of the variability in disciplinary actions. Meanwhile, school typology accounted for 4% of the variability in exclusionary discipline. Researchers found the mean number of expulsions per 100 students was significantly greater among Major Urban—Very-high-poverty schools than that for all other school types. Results indicate that when controlling for student poverty level (an identified covariate): "(a) African American students are disproportionately represented as recipients of exclusionary discipline; (b) major urban very-high-poverty schools utilize these practices most frequently; and (c) disciplinary disproportionality was most evident in major urban districts with very-high-poverty and was least evident in rural districts with a small student population and low poverty."

66. **Force American Psychological Association Zero Tolerance Task. Are Zero Tolerance Policies Effective in the Schools?2008.**
The American Psychological Association convened a Zero Tolerance Task Force to examine the effectiveness of zero tolerance policies on school discipline. They looked at 20 years' worth of literature and provided recommendations for future policy directions. They explain that zero tolerance policies gained widespread use in schools in the 1990's with the assumption that removing disruptive students from classrooms would improve the overall learning environment. They state that the policies were "intended to be applied regardless of the gravity of behavior, mitigating circumstances, or situational context. The task force found that zero tolerance policies disproportionately impact students of color and students with disabilities. They state, "overrepresentation in suspension and expulsion has been found consistently for African American students...The evidence shows that such disproportionality is not due entirely to economic disadvantage, nor are there any data supporting the assumption that African American students exhibit higher rates of disruption or violence that would warrant higher rates of discipline." The task force also found that zero tolerance in schools resulted in more referrals to the juvenile justice system, and that policies do not align with best practices for adolescent development.

67. **Achilles Georgianna M., McLaughlin Margaret J., Croninger Robert G. Sociocultural Correlates of Disciplinary Exclusion Among Students With Emotional, Behavioral, and Learning Disabilities in the SEELS National Dataset. *Journal of Emotional and Behavioral Disorders.* 2007;15(1):33-45.**
Researchers analyzed selected participant data (n=1,824) from the Special Education Elementary Longitudinal Study (SEELS) to identify factors associated with higher likelihood of exclusion (HLE) among students (ages 7 to 14 years) in three high-exclusion disability groups: emotional/behavioral disorders (EBD), other health impairment (OHI) with a diagnosis of

attention-deficit/hyperactivity disorder (ADHD) and learning disability (LD). The researchers cite evidence that disciplinary exclusion disproportionately affects students with disabilities despite protections afforded students with disabilities under the Individuals with Disabilities Education Improvement Act (IDEIA; 1997 and 2004). One study reported suspension rates of approximately 20% for special education students compared to 10% for the overall student population. State and national studies indicate that "students with EBD and LD are suspended or expelled at rates that double or even triple rates for the school population as a whole." Authors found HLE was more likely among students with EBD and ADHD compared to students with LD. HLE was also associated with African American ethnicity, older age, male gender, lower socioeconomic status, multiple school changes, urban schooling, and having parents who expressed low satisfaction. When socioeconomic status and family-structure (i.e., lived with two parents or did not) were controlled for, Hispanic ethnicity was no longer a statistically significant predictor of HLE. Researchers found that "later age of disability onset, shorter lapse in time from disability onset to service initiation, and receipt of early intervention or Head Start were unrelated to exclusion history."

68. **Lamont J. H., Devore C. D., Allison M., et al. Out-of-school suspension and expulsion. *American Academy of Pediatrics.* 2013;131(3):e1000-e1007.**
This Policy Statement from the American Academy of Pediatrics (AAP) examines the rationale for out-of-school suspension and expulsion, discusses prevention strategies and alternatives to such exclusionary forms of discipline, and recommends physicians play a role in guiding school districts to find more effective and appropriate alternatives to these policies. Traditionally, the goals for out-of-school suspension and expulsion were to promote a safe environment for students and discourage inappropriate, violent behavior by removing those who participated in such behavior. However, research has demonstrated that "schools with higher rates of out-of-school suspension and expulsion are not safer for students or faculty." AAP notes that zero-tolerance policies gained recognition with the passage of the *Gun-Free Schools Act* (1994), which was "prompted by violent acts perpetrated by white students." Yet, many school districts use these policies to address a variety of infractions, including nonviolent offenses, and the vast majority of out-of-school suspensions and expulsions involve black or Hispanic students. Authors cite data that suggest that "students who are involved in the juvenile justice system are likely to have been suspended or expelled." Additionally, students who experience out-of-school suspension and expulsion are as much as 10 times more likely to drop out of high school than those who do not. Dropping out of high school can have lasting consequences for an individual's earning potential (reduce lifetime earnings by an average $400,000 females and $485,000 for males). Compared to the average high school graduate, the average high school dropout experiences worse health outcomes and has a life expectancy that is 6 to 9 years shorter. Furthermore, exclusionary discipline policies have collateral consequences beyond those students suspended. "Research indicates a negative relationship between the use of suspension and expulsion and school-wide academic achievement, even when controlling for demographics such as socioeconomic status." Authors conclude that research demonstrates that out-of-school suspension and expulsion are used too readily, are ineffective deterrents to inappropriate behavior, and are harmful and counterproductive to the student, the family, the school district, and the community as a whole, both short- and long-term. AAP maintains that these exclusionary disciplinary practices "should not be considered as appropriate discipline in any but the most

extreme and dangerous circumstances, as determined on an individual bases rather than as a blanket policy."

69. **Morris Edward W., Perry Brea L. The Punishment Gap: School Suspension and Racial Disparities in Achievement. *Social Problems.* 2016;63(1):68-86.**
Authors propose that school punishment is a logical explanation for achievement differences between black and white students for three reasons: 1) punishment varies widely by race, which suggests it may be related to racial variation in achievement; 2) suspension and expulsion exclude students from the learning environment, which can impede academic progress; and 3) "school suspensions increased markedly beginning in the 1990's at the same time that progress on narrowing the achievement gap waned." Researchers used longitudinal data from the Kentucky School District Disciple Study (KSDS). The sample of students grades 6 through 10 with complete records (n=16,248) includes children identified as white (59%), black (25%), Latino (10%), Asian (4%), and self-reported other race (3%). The sample population is comprised of 51% boys and 49% girls. The rates of out-of-school suspension in the KSDS and nationally representative National Household Education Surveys (NHES 2007) are the same with 22% reported as ever been suspended. Findings from the 17 schools indicate that black students are estimated to be 7.57 times as likely to be suspended as white students ($p<.001$), and Latinos are over twice as likely as whites (OR=2.39; $p<.001$). Additionally, students of other races are estimated to be 2.61 times more likely to be suspended than whites ($p<.001$), while Asians are less likely than whites (OR=.20; $p<.001$). Furthermore, when school-level differences are controlled for, black students are still estimated to be nearly six times as likely to be suspended as their white peers (OR=5.91; $p<.001$), Latinos are about twice as likely (OR=1.87; $p<.001$), and students of other races are 2.47 times more likely ($p<.001$). Asian students are less likely to be suspended than white students (OR=.23; $p<.001$). These findings suggest that "racial segregation into different schools explains about 12% of the effect of being black on the odds of suspension, and supplemental analyses confirm that schools with larger concentration of black students have significantly higher rates of out-of-school suspension." Analyses of covariates found: 1) Students who qualify for free/reduced lunch are predicted to be 6.36 times more likely to be suspended as those who do not ($p<.001$); 2) students who receive special education services are estimated to be 3.19 times more likely than those who do not ($p<.001$); and girls are less likely to be suspended than boys (OR=.36; $p<.001$). Controlling for each of these and family structure (one parent or two parent household), black students are predicted to have nearly 2.46 times the odds of suspension compared to white students (OR=4.46; $p<.001$). Students of other races are 57% more likely than whites to be suspended ($p<.05$). However, the association becomes non-significant for all other races or ethnicities when controlling for all other factors suggesting that the elevated risk of suspension can be entirely explained by groups' lower levels of socioeconomic status and family structure. Analyses of the effect of suspension on academic achievement in reading and math suggest that "20% of the effect of being black on reading achievement (b=-2.07; $p<.001$) and 17% on math achievement (b=-2.24; $p<.001$) works indirectly through inequalities in exclusionary discipline experiences." Therefore, findings suggest disproportionate rates of suspension experienced by black students in public schools contribute to the racial achievement gap.

70. **Perry Brea L., Morris Edward W. Suspending Progress. *American Sociological Review.* 2014;79(6):1067-1087.**

This multivariate analysis of longitudinal data collected as part of the Kentucky School Discipline Study (KSDS) assesses the effects of high use of suspension on reading and math achievement. Authors note prior research focuses on students who experience suspension and expulsion but does not evaluate the effects on other students in the learning environment. The sample includes students in grades 6 through 10 (middle and high school) enrolled in a district public school during the study period from August 2008 to June 2011. Authors found exclusionary discipline patterns in the KSDS data are representative of national trends (e.g., race and ethnicity and gender). For example, 42% of Black students in the sample had ever been suspended compared to 43% in the nationally representative sample (a non-significant difference). In order to provide an estimate of school-level effects on individual achievement, researchers excluded 749 students with out-of-school suspensions from the analysis sample (n=16,148 students). Consistent with national trends, students with suspensions were disproportionately male, Black, Hispanic, and eligible for free/reduced lunch. Results indicate a statistically significant, curvilinear relationship between school-level out of school suspension over time and student academic achievement. Researchers found low levels of school suspensions (below the mean = 93.97) do not affect non-suspended students' reading or math achievement. However, in schools with low levels of violence (one standard deviation below the mean) high levels of out-of-school suspension has a strong negative effect on predicted reading scores for non-suspended students (54th percentile at mean level of suspension; 28th percentile at very high levels of suspension [two standard deviations above mean]). Analyses of the association between suspension and math achievement follow the same trend. The effect is less pronounced in disorganized and violent school environments. This relationship is unaffected by the addition of demographic student- and school-level characteristics, and the time-ordered nature of the variable (suspensions occurred before or during the testing period) suggests a causal relationship. Findings suggest that higher levels of exclusionary discipline within schools over time negatively affect the academic achievement of non-suspended students in punitive contexts.

71. **Petras Hanno, Masyn Katherine E., Buckley Jacquelyn A., et al. Who is most at risk for school removal? A multilevel discrete-time survival analysis of individual- and context-level influences. *Journal of Educational Psychology.* 2011;103(1):223-237.**
This study uses an advanced longitudinal modeling technique, multilevel discrete-time survival analysis, to examine the occurrence and the timing (i.e., grade) of school removal (i.e., suspension and expulsion), while "accounting for clustering of students within the classroom and explicitly incorporating the estimate of covariate effects at both the student level and classroom level on the event history process." Authors cite evidence that students who are removed from school are "at higher risk for several negative outcomes, including academic failure, grade retention, negative school attitude, and consequently, high school dropout, juvenile delinquency, and incarceration." Researchers use data from a larger randomized prevention trial study of preventive interventions targeting early learning and aggression in first and second graders in Baltimore City public schools. The analysis includes participants from the control group who had complete records of variables of interest. The sample (n=1,169) is representative of all students entering first grade in the 1986-1987 school year in urban areas comprised of neighborhoods at high risk (due to high rates of financial poverty and crime) for many negative outcomes. The majority of the sample is African American (65.1%) and Caucasian (33.6%). Results may not be generalizable to other racial and ethnic groups. Overall, the study shows that race and ethnicity, sex, financial poverty level, and early individual levels of aggression all have strong

relationships to school removal. Additionally, researchers found risk differences remain when controlling for early individual levels of aggressive/disruptive behavior. For example, "African American students had 2.02 times the hazard odds of first school removal at any given grade compared with White students, controlling for the effects of SES, sex, and aggression." Similarly, students on free or reduced lunch had "1.68 times the hazard odds of first school removal at any grade compared with students of higher SES levels, holding the effects of race, sex, age, and aggression constant." Authors conclude that "boys compared with girls, African-American students compared to Caucasian students, and students living in financial poverty compared with those not living in poverty are at much greater risk for school removal, and this phenomenon is not fully accounted for by differences in students' initial levels of aggression."

72. **Rausch M.K., Skiba R.J. The Academic Cost of Discipline: The Relationship Between Suspension/Expulsion and School Achievement. Indiana University, Center for Evaluation and Education Policy;2005.**

The author summarizes past research suggesting that zero-tolerance policies were implemented to deter future misconduct for students and their peers, and to improve the learning environment for students that are not suspended or expelled. This study looked at two related hypotheses: 1. Does student suspension and expulsion increase academic achievement for students that are not suspended or expelled? And 2. Does student suspension and expulsion decrease academic achievement for students that are disciplined? The author states that there is “little available research and no published evidence in peer reviewed journals that has demonstrate a positive impact of student removal on student learning or academic achievement.” The author analyzed school-level suspension and expulsion data for all public elementary and secondary schools in a Midwestern state to look at the relationship between academic achievement, race, and discipline. They controlled for other sociodemographic variables, including socioeconomic status, race, and grade level. At the elementary school level, after controlling for poverty, they found that African American students were significantly more likely to be expelled than another other racial group and that White students scored significantly higher on standardized tests. The author concluded that, after controlling for sociodemographic factors, out-of-school suspension significantly predicted school achievement. The author states that, “after accounting for the influence of a school’s poverty rate, out-of-school suspension is the next strongest predictor of achievement, even stronger than a schools percent minority enrollment and level (elementary vs. secondary).”

73. **Juvenile Justice and Racial Disproportionality.Washington State: The Task Force on Race and the Criminal Justice System;2012.**

This report by Washington’s Task Force on Race and the Criminal Justice System highlights data which indicate that youth of color in Washington are over-represented at every stage of the juvenile justice system. For example, youth of color are more likely than their white peers to be arrested, referred to court, prosecuted, adjudicated guilty, incarcerated, and transferred to the adult system. Further, data from statewide court records for 2009 show that except for Asian/Pacific Islander youth, youth of color are less likely to receive a diversion, such as a Special Sex Offender Disposition Alternative (SSODA), relative to White youth.

74. **Legislature Washington State. Chapter 13.50.050 RCW: Records relating to commission of juvenile offenses-- Maintenance of, access to, and destruction. 2014.**

RCW 13.50.050 outlines the keeping, release, and destruction of records by the Washington State juvenile justice system.

75. **Henning K. The Reasonable Black Child: Race, Adolescence, and the Fourth Amendment. *American University Law Review.* 2018;67(5):1513-1576.**
In this law review, Henning presented arguments that the juvenile court system should modify the standard of "reasonable juvenile" that determines when law enforcement is justified to arrest youth under Fourth Amendment jurisprudence (search and seizure doctrine). The author argues that racial inequities in the criminal legal system, implicit racial bias, adolescent brain development, and current relationships between youth and law enforcement requires changes in the "reasonable juvenile" standard. They argue that there is a unique interplay between race and adolescence and that "race and age affect every critical decision in the Fourth Amendment inquiry." The article examines, "To what extent does the child's race affect the objective assessment of whether a police-youth encounter ventures from a 'contact' to a seizure? To what extent does the child's race affect the voluntariness of consent? To what extent should the child's race affect the officer's interpretation of a child's behavior in the reasonable articulate suspicion or probable cause analysis?" The article summarizes research and court case law for each of these sections.

76. **Prather Cynthia, Fuller Taleria R., William L. Jeffries IV, et al. Racism, African American Women, and Their Sexual and Reproductive Health: A Review of Historical and Contemporary Evidence and Implications for Health Equity. *Health Equity.* 2018;2.1:249-259.**
Prather et al. examined how historical racism negatively influences present-day health outcomes of African American women. racism is a fundamental determinant of health status, contributing to "social inequalities (e.g., poverty) that shape health behavior, access to healthcare, and interactions with medical professionals." Authors conducted a literature review of peer-reviewed sources and books (English only) to characterize the link between historical and current experiences of racism and sexual and reproductive health outcomes. Specifically, authors looked at Slavery (1619-1865), Black Codes/Jim Crow (1865-1965), Civil Rights (1955-1975), and Post-Civil Rights (1975-2018) eras. Results indicate "[t]he legacy of medical experimentation and inadequate healthcare coupled with social determinants has exacerbated African American women's complex relationship with healthcare systems." Additionally, authors found social determinants of health associated with institutionalized and interpersonal racism "may make African American women more vulnerable to disparate sexual and reproductive health outcomes." They conclude that historical and enduring legacy of racism in the U.S. should inform the development of culturally appropriate programs, research, and treatment efforts to achieve health equity.

77. **Centers for Disease Control and Prevention. Behavioral Risk Factor Surveillance System Prevalence And Trends Data: Washington-2014. 2014; Available at: http://apps.nccd.cdc.gov/brfss/page.asp?cat=XX&yr=2014&state=WA#XX. Accessed August 16, 2016.**
Behavioral Risk Factor Surveillance System (BRFSS) 2014 data from Washington state show significant correlations between lower income and a number of health indicators including: worse overall self-reported health, depression, asthma, arthritis, stroke, oral health, tobacco use,

women's health indicators, health screening rates, physical activity, and diabetes. Data also show that as educational attainment increases income level also increases.

78. **QxQ Analysis. 2016. http://www.askhys.net/Analyzer. Accessed January 18, 2018.**
Washington State Healthy Youth Survey data from 2016 indicate that youth of color experience worse health outcomes than their peers. Data suggest that in Washington State, American Indian/Alaska Native and Black youth have disparately high rates of cigarette use across all grades. For example, among 12th graders, AI/AN youth (18.3% [95% CI 12-24.6%]) and Black youth (15% [95% CI 8.9-21.1%]) reported higher smoking rates than their peers with 11.9% (95% CI 10-13.8%) of white youth smoking. Data also show that 8th, 10th, and 12th graders who identified as AI/AN or Hispanic were also significantly more likely than their White peers to report symptoms of depression.

79. **Matthews S., Schiraldi V., Chester L. Youth Justice in Europe: Experience of Germany, the Netherlands, and Croatia in Providing Developmentally Appropriate Responses to Emerging Adults in the Criminal Justice System. *Justice Evaluation Journal.* 2018;1(1).**
Multiple U.S. states are considering extending juvenile courts' jurisdiction beyond age 18 years. This article explores three European examples of nations (i.e., Germany, the Netherlands, and Croatia) which allow youth over age 18 years "to be sanctioned in the same manner as younger youth in the juvenile justice system." In contrast to the United States, European countries generally have a history and practice of providing more developmentally appropriate responses to emerging adults involved in the justice system. Twenty-eight of 35 European countries have special legal provisions for youth over age 18 years. Common policies include: "(1) greater reliance on informal approaches to offending by juveniles and emerging adults; (2) higher minimum ages at which juvenile laws can be applied to children; (3) greater reliance on "educational" – or rehabilitative – approaches to youth found involved in delinquent or criminal behavior; (4) greater confidentiality protections for youth and young adults; and (5) less reliance on incarceration, either in adult or juvenile facilities, as a sanction for criminal behavior." For example, Germany's youth justice system prioritizes diversion and nonpunitive and rehabilitative responses, referred to in Europe as "educational measures." Under Germany's strict model, juveniles under 18 years of age cannot be prosecuted in the adult criminal court or receive adult criminal sanctions, even in the case of very serious offenses. Reforms in 1953 allowed sanctions in Youth Court Law to apply to 18-, 19-, and 20-year-old young adults in place of the general criminal law. Germany's specialized youth court has jurisdiction over juveniles between the ages of 14 and 21 years. "Young adults from 18 up to (but not including) 21 can receive a sentence according to juvenile law or a (mitigated) sentence according to adult criminal law." The judge is required to apply a juvenile sanction to young adults up to age 21 if 1) "the moral psychological, and social maturity of the offender is that of a juvenile" or 2) "the type, circumstances, or motives of the offense were typical of juvenile misconduct." In 2012, two-thirds of young adults were sentenced as juveniles across Germany. Generally, more serious cases are retained by the juvenile jurisdiction, and minor offenses that require less justice-involvement (e.g., traffic infractions) are handled by the adult courts. For example, in 2012, "over 90% of young adults were sentenced under the juvenile law for homicide, rape, and other serious bodily injury crimes, reflecting the confidence in the ability of the juvenile system to appropriately hand the most serious offenses." More than one-third of juvenile and young adult cases are disposed of using

restorative sanctions (e.g., victim-offender-reconciliation or community service). The German youth court system uses imprisonment as a last resort—"approximately 70% of the juvenile and system-involved youth adults are diverted, with youth imprisonment used only rarely (2% of all cases involving juveniles and young adults)." Youth imprisonment requires "one of two preconditions be met: either the 'dangerous tendencies' of the youth exclude community sanctions as appropriate or there is 'gravity of guilt' concerning particularly serious crimes such as murder or aggravated robbery." For those who are incarcerated, the sentence is served in a juvenile facility for every young adult up to age 24 years of age who receives a juvenile sentence. Conditions of confinement are focused on building a youth's sense of self respect, providing educational opportunities, and developing the youth's ability to overcome difficulties which contributed to the criminal offense. Therefore, youth prisons offer extensive vocational programs (e.g., professional woodworking, culinary instruction, farming), "with no use of solitary confinement or strip searching." Authors recommend U.S. states learn from European approaches that recognize sanctioning youth and emerging adults like fully mature adults can have life-long consequences that harm the youth, communities, and public safety.

80. **Reducing Recidivism and Improving Other Outcomes for Young Adults in the Juvenile and Adult Criminal Justice Systems.New York: The Council of State Governments Justice Center;2015.**
In this report, the authors present a literature review about young adults in the justice system, research on brain and adolescent development and the impacts this has on education, employment, mental health, substance use, child welfare, and reentry. The literature review focused on young adults aged 18-24. Only the most relevant conclusions are discussed here. Data presented show that in 2013, 10% of the United States population was aged 18-24 but this age group accounted for nearly 30% of arrests for serious and non-serious crimes. Further, black males in this age category comprised nearly 40% of all young adults admitted to an adult state or federal prison in 2012. One study that the authors reported on found that 76% of young adults under the age of 25 released from prison were rearrested within 3 years and 84% were rearrested within 5 years. The authors recommend that the juvenile justice system should focus on tailoring services to address the needs of young adults and reduce barriers across service systems.

81. **Felson RB, Cundiff P, Painter-Davis N. Age and sexual assault in correctional facilities: A blocked opportunity approach. *Criminology.* 2012;50(4):887-911.**
Felson et al. cite five studies which indicate that younger inmates in adult facilities are at greater risk than older inmates in these facilities of being sexually assaulted by staff and other inmates. The authors evaluated how age impacted the risk of being a victim of sexual and physical assaults in prisons and jails using 2000 to 2007 National Incident Based Reporting System (NIBRS) data. NIBRS data is compiled by multiple law enforcement agencies across the nation and only captures crimes reported by prison authorities. The authors only included male-on-male offenses in their analysis. The analysis included 12,188 incidents of assault, 674 of which were sexual assaults. The authors found that teenagers had the greatest risk of being assaulted with 18-19-year-olds being 7.7 times more likely to be victimized than 30-34-year-olds. The age category with the second highest risk of being a victim of sexual assault is ages 20-24. When considering sexual assault only, the data also show that offenders of all ages target young victims (under age 25). Assaults involving victims younger than 25 (particularly teenage victims) are the most likely to be sexual assaults. The odds that an assault is sexual is 390% higher for teenage assault

victims than victims over 40. Assaults committed by older perpetrators are also more likely to be sexual than those committed by younger perpetrators.

82. **Ng IY, Shen X, Sim H, et al. Incarcerating juveniles in adult prisons as a factor in depression. *Criminal Behavior and Mental Health.* 2011;21(1):21-34.**
Ng et al. compared rates of depression among four groups in Michigan: youth incarcerated for serious offenses in adult facilities (n=47), those incarcerated for serious offenses in juvenile facilities (n=45), youth incarcerated for less serious offences (n=69), and non-incarcerated and non-offending youth (n=676). They controlled for nature of the offence, public assistance history, caregiver incarceration, sex, age, and race/ethnicity. The authors analyzed interview data from a previous study and longitudinal data from the Panel Study of Income Dynamics. Ng et al. found that youth who had been placed in adult facilities were significantly more likely to be depressed than youth incarcerated in juvenile facilities or youth in the community after controlling for confounding factors. For example, youth in adult facilities had 64 times higher odds of being depressed than youth in the community, 22 times higher odds than minor offenders, and 37 times higher odds than serious offenders placed in juvenile facilities.

83. **V Schiraldi, B Western, K Bradner. Community-Based Responses to Justice-Involved Young Adults. Harvard Kennedy School and National Institute of Justice;2015.**
This report aimed to present criminal justice and young adult development research as well as to present recommendations that focus on making the criminal justice system more developmentally appropriate for young adults. The authors refer to "young adults" as those ages 18-24. A robust body of evidence has suggested that the human brain continues to develop well into a person's 20's and that "adult-quality" decision-making ability continues to develop into adulthood. Researchers discuss what is known as the "maturity gap" where cognitive functioning develops faster than psychosocial capacities and because of this, young adults are more likely to, "...engage in risk-seeking behavior, have difficulty moderating their responses to emotionally charged situations, or have not developed a future-oriented method of decision-making." The authors further discuss that psychosocial development is further disrupted by additional factors such as involvement in the justice system, traumatic incidents, parental incarceration, poverty, foster care, substance abuse, mental health needs, and learning disabilities. Next, the authors present data regarding the current landscape in the United States for young adults in the justice system. In 2012, about 130,000 young adults were admitted to a state or federal prison (21% of all admissions) and another 97,500 were released back to their communities (15% of all releases). Among this population of young adults released from prison, rates of recidivism were significantly higher than the total prison releasee population and researchers estimate that 78% of young adults released will be rearrested within 3 years.

84. **Serafin M. Health of Washington State Report: Self-reported Health Status. Data Update 2016. Washington State Department of Health;2016.**
Serafin presents data from Washington state on self-reported health status. The data show that after accounting for age, education, race and ethnicity, household income was a strong predictor of self-reported health status. Health status varied by race and ethnicity, with close to 35% of Hispanics, 30% of American Indian/Alaska Natives, and 20% of Native Hawaiian/Other Pacific Islanders reporting fair or poor health. Washington Behavioral Risk Factor Surveillance System

(BRFSS) data from 2012-2014 also show that education was a strong predictor of self-reported fair or poor health after adjusting for age.

85. **Legislators National Conference of State. Juvenile Justice Guide Book for Legislators.2011.**
This report presents an overview of the state and federal landscape surrounding juvenile rehabilitation as well as the current research that demonstrates areas for improvement within the juvenile justice system. The authors discuss neuroscience research that demonstrates that the average human brain is not fully developed until age 25, which means that young adults tend to have poor risk assessment skills, are vulnerable to peer influence, are more impulsive and emotional, and think about short-term rather than long-term consequences. The authors also report that young adults who were adjudicated as adults in New York were more likely to be re-arrested more often and for more serious offenses than those they were compared to in neighboring states.

86. **Management Washington State Office of Financial. Multiple Agency Fiscal Note: 2SHB 2001 (Sentence modification). 2024.**
A Multiple Agency Fiscal Note for 2SHB 2001 (Sentence modification) was submitted during the 2024 Legislative Session. The final fiscal note includes information and cost estimates from the Washington State Administrative Office of the Courts, Office of Public Defense, Caseload Forecast Council, Department of Commerce, and Department of Corrections as well as local government courts and local school districts. Combined, Washington State agencies estimate a cost of about $14 million per biennium were 2SHB 2001 to pass.

87. **Director--Duties--Limitations, RCW 2.70.020 Revised Code of Washington(2024).**
RCW 2.70.010 outlines the duties and limitations of the Washington State Office of Public Defense (OPD). Effective January 1, 2024, OPD shall, "[s]ubject to the availability of funds appropriated for this specific purpose, appoint counsel to petition the sentencing court if the legislature creates an ability to petition the sentencing court, or appoint counsel to challenge a conviction or sentence if a final decision of an appellate court creates the ability to challenge a conviction or sentence. Nothing in this subsection creates an entitlement to counsel at state expense to petition the sentencing court".

88. **Felony resentencing, RCW 36.27.130(2020).**
RCW 36.27.130 details felony resentencing, including requirements for prosecutors and courts.

89. **Beckett K., Goldberg, A. Prosecutor-Initiated Resentencing in Washington: The Impact of SB 6164.Seattle, WA: University of Washington; 6/5/2024 2024.**
This report assessed the impact of SB 6164, which established Washington State's Prosecutor-Initiated Resentencing process in 2020. Authors noted that no government entity in Washington "is tracking the extent to which defendants are requesting, prosecutors are petitioning for, and courts are granting resentencing hearings as authorized under SB 6164." Researchers submitted Public Disclosure Act (PDA) requests to prosecutor offices in all 39 Washington State counties in November 2022. They requested "any and all documents related to all 6164 petitions your office has submitted, or been asked to submit, to the courts [e.g., letters or memoranda requesting submission of a petition, petitions and associated materials submitted]." Researchers reviewed

documents received and documented each individual request including whether the request was made *pro se* or with the assistance of counsel; whether prosecutors denied the request or supported it by petitioning the court for resentencing; and whether decisions were pending or unclear. Of the 39 prosecutor offices, 35 counties fulfilled the initial request, 3 counties (King, Pierce, and Snohomish) fulfilled an amended request to include only 6164 resentencing petitions filed, and 1 county (Stevens) had yet to fulfill either the original or amended PDA request. In February and March of 2024, researchers compared records received with records received by the Washington Defender's Association in response to WDA's own PDA request (submitted in August 2023) of all counties for 6164 decisions. Comparison of the records indicated that "the number of resentencings prosecutors reported to WDA included resentencing hearings that occurred as a result of a reform other than SB 6164 [e.g., removal of Robbery II, *In re Domingo-Cornelio and In re: Ali*]." Results presented reflected the number of 6164 petitions filed by prosecutors through at least the end of August 2023. Based on records from the 2 PDA requests, more than 1,000 people who were incarcerated requested that prosecutors submit a petition for a resentencing hearing under 6164. Of the 893 requests with full documentation, 94 (10.5%) were submitted by attorneys on behalf of people experiencing incarceration. Evidence indicated, "[d]efendants with attorneys seemed to get more thorough explanations from prosecutors regarding the reasons for the denial of the request." Request records did not enable analysis of defendant characteristics such as race, gender, or offense type. In response to the more than 1,000 requests submitted by imprisoned people to prosecutors, researchers "were able to document a total of 42 petitions for resentencing submitted by prosecutors to the courts under SB 6164." Prosecutors in 27 counties had not filed any petitions, despite having received requests for consideration. Overall, 69% of the petitions filed by prosecutors were filed in 1 of 3 counties (Pierce, King, or Clark). Researchers found that prosecutors were more likely to support requests for petitions that were submitted by attorneys. Of requests supported by prosecutors, 61.9% of petitioners had legal representation, indicating access to legal counsel was an important factor in whether prosecutors responded favorably to requests for resentencing under SB 6164. Evidence indicated that when prosecutors petition the courts for resentencing under SB 6164, courts grant them. As of May 2024, 41 of 42 resentencing requests had been granted, with 1 court hearing pending scheduling. Of the 37 people who had been resentenced and had an original known prison sentence (excluding 4 people who had an original sentence of life without the possibility of parole and 1 person who had not yet been resentenced), resentencing reduced the aggregate number of sentenced years in prison by 43.5% (from over 700 years to just over 400 years). Researchers found that "on average, the 37 [people] reflected in these aggregated figures were originally sentenced to 19.8 years. After resentencing, their average sentence was 11.2 years." Researchers noted that differential access to legal counsel raises questions about justice and equity as records show the likelihood that a prosecutor submits a 6164 petition depends on the identity of the requester. Additionally, differential use of 6164 petitions by counties raises concerns about "justice by geography". Authors also provided recommendations related to implementation of 6164 resentencing.

90. **Justice Alliance for Safety and. Crime Survivors Speak 2022: National survey of victims' views on safety and justice.2022.**

In 2022, the National Alliance for Safety and Justice conducted a second national survey with crime victims and survivors to understand their views on safety and justice. The 2022 survey was a nationally representative survey of 1,527 people across the U.S.; twice as many as the 2016

survey. The 2022 survey found that most crime survivors do not receive the services they need and most prefer the criminal legal system focus on rehabilitation rather than punishment.

91. **Crime Victim and Witness Program. 2023; Available at: https://www.commerce.wa.gov/serving-communities/crime-victims-advocacy/victim-witness-assistance-program-overview/. Accessed 6/13/2024.**
This Washington State Department of Commerce webpage provides information about the Crime Victim and Witness Program.

92. **Who We Are. Available at: https://www.redemptionwa.org/about. Accessed 8/08/2024.**
This webpage provides an overview of the Redemption Project of Washington.

93. **One Pager--Prosecutor-Initiated Resentencing (6164 Petitions). 2024; Available at: https://www.redemptionwa.org/news-updates/rpw-quick-facts-prosecutor-initiated-resentencing-6164-petitions#:~:text=In%202020%2C%20the%20Washington%20Legislature,after%20the%20bill%20number%20that. Accessed 5/6/2024.**
This one-pager provides an overview of Prosecutor-Initiated Resentencing in Washington State. In 2020, the Washington State Legislature passed SB 6164, Concerning prosecutorial discretion to seek resentencing (Chapter 203, Laws of 2020). This law "allows prosecutors to seek resentencing for a felony 'if the original sentence no longer serves the interests of justice.'" The Redemption Project of Washington has noted "[t]here are no statewide criteria or policies to use when considering [Prosecutor-Initiated Resentencing in Washington State]. Prosecutor's approaches and criteria vary from county to county."

94. **SB 6164 Relating to prosecutorial discretion to seek resentencing, Chapter 203, Laws of 2020 (2020).**
In 2020 the Legislature passed Senate Bill 6164 creating a Prosecutor-Initiated Resentencing option in Washington State.

95. **Sentence Review process. 2024; Available at: https://kingcounty.gov/en/dept/pao/courts-jails-legal-system/adult-defendant-resources/sentence-review. Accessed 5/29/2024, 2024.**
This King County Prosecuting Attorney's webpage describes eligibility for and the process of applying for sentence review or early release.

96. **Natapoff Alexandra. Misdemeanor Decriminalization. *Vanderbilt Law Review.* 2015;68(4):63.**
This law review found that full decriminalization, defined as reclassification of misdemeanors as civil infractions, of non-violent offences may reduce arrests, days of incarceration, and fines associated with offenses like driving while license suspended in the third degree (DWLS 3). However, Natapoff noted outcomes may vary dependent on how local jurisdictions apply the provisions. Defendants with the resources to pay fines can terminate contact with criminal justice system quickly and without the lasting effects of a criminal record. However, because Washington State incarcerates defendants for failure to pay fines, a fine-only model may

translate into jail time for indigent individuals through the use of contempt proceedings (pay or appear). Incarceration due to failure to appear may exacerbate disparities in incarceration rates by disproportionately affecting people with low-incomes and people of color who may be less likely to find the time and transportation required to appear than offenders with more time and resources. Failure to pay may also negatively impact an individual's credit rating and their ability to rent an apartment, buy a car, or secure employment. An individual's records (arrest and criminal) and/or inability to reinstate their driver's license may also negatively affect employment (current and future prospects). Jurisdictional use of citations to measure performance or fines to fund the criminal justice systems and general budgets could exacerbate disparities by further racializing enforcement and serving as a regressive tax.

97. **Reimer S., Pearce N., Marek A., et al. The Impact of Incarceration on Health and Health Care Utilization: a System Perspective.** ***J Health Care Poor Underserved.*** **2021;32(3):1403-1414.**

Reimer et al. matched Wisconsin incarceration data and health systems data over 10 years to examine the incidence of chronic disease and health care utilization among people recently incarcerated, compared to those not recently incarcerated. The authors cite prior research, stating that people with experiences of incarceration report more risk factors for cardiovascular diseases and other chronic conditions and long-lasting effects on health, and people with a history of recent incarceration were more likely to have uncontrolled hypertension than those without a history of incarceration. The authors point out that health inequities are worsened by poorer access to health care. In this study, the researchers examined 2008-2018 data from the health care system's electronic medical record, Milwaukee County jail records from the Milwaukee County Sheriff's Department, and incarceration records from the Wisconsin Department of Corrections. The total dataset included 437,053 people, 192,488 of whom were male, with an average age of 40 years. The researchers used geographical data to determine neighborhood disadvantage of the people included in the study. The health variables examined included substance use and chronic conditions, and the utilization variables included total clinical, outpatient, inpatient, emergency department, and behavioral health visits and whether the patient was categorized as a super-utilizer of health care. The researchers controlled for neighborhood socio-economic status. Study results show incarceration was associated with being male and living in poverty. The likelihood of being recently incarcerated increased with increased geographic area deprivation. The effect of incarceration on the prevalence of chronic disease (diabetes, COPD and several cardiovascular diseases) was minimal, even though there were statistically significant differences between the recently incarcerated group and the not recently incarcerated group. Results also showed incarceration had a significant but small effect on emergency department and behavioral health utilization. Study results also showed differences by gender and socioeconomic status. Differences in utilization were larger in areas of low socioeconomic deprivation, where access to health care is generally better than areas of higher deprivation. There was higher emergency department usage among women than men, regardless of SES. The authors discuss study limitations and call for future research.

98. **Kuper Julie L., Turanovic Jillian J. The Consequences Are Black and White: Race and Poor Health Following Incarceration.** ***Race and Justice.*** **2021;13(3):324-345.**

Kuper and Turanovic examined whether the negative health effects of incarceration are more pronounced for Black than white people. The researchers cite prior research, stating that nearly

half of people living in the U.S. have had an immediate family member experience incarceration. Incarceration negatively affects health through exposure to disease, stress, and harmful stigma. For example, experiencing incarceration exposes people to HIV, tuberculosis, Hepatitis C, and sexually transmitted infections, and exacerbates chronic conditions like diabetes, hypertension, and asthma. Further, exposure to violence and isolation from loved ones, and restricted autonomy worsens health outcomes. Experiencing incarceration also affects continuity of care upon reentry into community upon release. Stigma and lost social capital, including challenges securing employment contribute to challenges accessing adequate health care after experiencing incarceration. Due to the impacts of racism, people of color experience more incarceration, and negative health outcomes are worsened among incarcerated people of color. For example, about 1% of the total US population experiences incarceration, but this group comprises about 11% Black men aged 20-34 years. Black people also experience harsher treatment in prison, are at greater risk of discrimination, segregation, and are barred program access more often. Further, upon reentry into community, people of color are often returning to communities with less medical access and more social disadvantage than their white counterparts. Some research has stated that some people experiencing incarceration may experience more healthcare access than what is accessible in their home communities; however, "some of the strongest negative health consequences emerge after release, often in communities that cannot provide continuous care." Social and economic inequities create additional barriers to people of color upon reentry. The data for this study included Waves I through IV data from the National Longitudinal Study of Adolescent to Adult Health. This data was gathered through self-reported health measures following first experiences of incarceration. The researchers used data from an ongoing, longitudinal study of a nationally representative sample of adolescents in grades 7 -12 during the 1994-1995 school year. Participants were followed through their school years and into emerging adulthood (average age of 28 years). Wave I data collection consisted of more than 20,000 students selected through stratified random sampling to participate in an in-home interview, with a survey of over 17,000 parents who reported on family, school and community details. Wave II was collected one year later with a subset of Wave I respondents; Waves III and IV data were collected on the full Wave I sample at emerging adulthood and early adulthood. The total study sample present across all Waves with the parent survey that was included in this study was 5,833 Black and white respondents. The dependent variable was poor health, and the independent variables were first incarceration and race. The study's time-varying control variables were criminal offending, depressive symptoms, and problem drinking. The study's time-stable control variables were sex, verbal intelligence, multiple measures of socioeconomic status and childhood experiences, neighborhood disorder, and early residential mobility. The researchers used hierarchical generalized linear models to estimate within-person changes. The study results show that incarceration worsens health, which is consistent with previously published literature. The data also showed that Black respondents reported better health generally, but that that poor health after first incarceration is worse among Black people than white people. Health declines were more substantial for Black than white people, and differences were greater among Black males. Results also indicated that, "overall, Black respondents were less likely to receive care for a perceived medical issue than Whites and that first incarceration lessened the likelihood of receiving needed medical care. However, there were no race differences in the tendency to receive care after incarceration for a perceived medical need." The authors conclude with recommendations for future research and program implementation and stated, "broader interventions that seek to reduce structural racism,

segregation, poverty, and resource-deprived social institutions may exhibit positive effects on the health and well-being of Black individuals."

99. **Zhao J., Han X., Zheng Z., et al. Incarceration History and Health Insurance and Coverage Changes in the U.S. *Am J Prev Med.* 2023;64(3):334-342.**

Zhao et al. examined the association of incarceration history and health insurance coverage changes in the U.S. using data from the National Longitudinal Survey of Youth 1997 with follow-up through 2017-2018. The authors cite prior research stating the U.S. has the highest incarceration rate in the world, with approximately 420 people in prison per 100,000 people in 2019. Incarceration rates are highest among people who are Black and Hispanic and among those with lower socioeconomic status. Further, people who experience incarceration are "at higher risk of developing communicable diseases; chronic medical conditions, such as cancer and cardiovascular disease; mental disorders; and premature mortality." While rates of uninsured people in the U.S. decreased after passage of the Affordable Care Act, people with a history of incarceration still experience uninsurance at higher rates than people without a history of incarceration. In this study, respondents' (n= 7417) measures of incarceration and health insurance coverage status were self-reported. The researchers used descriptive statistics and the Wald chi-square test to compare sociodemographic characteristics by incarceration history. Study "incarceration frequency was measured as the total times of incarceration, and any incarceration in successive months was considered as one incarceration." The researchers used inverse probability weighting to account for the sequence of events studied, measured changes over time, and included people with loss to follow-up. This method accounted for potential bias in loss to follow-up rates by incarceration history and potential confounders of past health insurance coverage. The authors also accounted for the longitudinal study design by using generalized estimating equations. In addition, the analysis was stratified by race/ethnicity to account for racist policies and practices in incarceration. Potential mediators, such as employment and educational attainment were not included as covariates. In addition to studying incarceration history and health, the researchers used Splines regression to analyze variation in associations by incarceration duration, frequency, and recency and reoffence history. Study results showed that incarceration was more frequent among males and non-Hispanic Black and Hispanic people than among female and white people. Results also show that compared to people without a history of incarceration, people with a history of incarceration were more likely to be uninsured (more than 2.5 times higher odds, and 1.5 times higher after adjusting for sociodemographic characteristics), to experience year-long uninsurance, and less likely to have stable health insurance coverage. The study showed a "dose–response relationship for the association between past incarceration frequency and health insurance coverage." In addition, longer periods of incarceration and more frequent incarceration were associated with a higher likelihood of a lack of and unstable insurance coverage and year-long uninsurance. Overall, people with a youth incarceration history were more likely to report being uninsured, have unstable coverage, and year-long uninsurance. The authors name the following policies as potential avenues for increasing healthcare access among formerly incarcerated people: Affordable Care Act, Medicaid expansion, the Second Chance Act, and the 2018 Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act. The authors conclude by stating that a history of incarceration may be a barrier to health care access and that specific programs to improve health insurance coverage may reduce inequities.

100. **Western Bruce. Inside the Box: Safety, Health, and Isolation in Prison. *Journal of Economic Perspectives.* 2021;35(4):97-122.**

Western wrote this essay on safety, health, and isolation in prison and harsh conditions of imprisonment in the U.S. Western cites prior research outlining the high rates of incarceration in the U.S. and the disproportionate impacts on Black men. The author attributes high rates of incarceration to policy changes over time that led to longer prison sentences and overall mass incarceration that is unique to the U.S. The author cites prior research to highlight various negative outcomes of incarceration. For example, several health and social impacts have been observed among currently and recently incarcerated people, including high risks of mortality, including related to drug overdose, higher levels of depression and mood disorders, and increased likelihood of divorce or separation. Impacts extend to the family of the person experiencing incarceration. For example, "[c]hildren whose fathers were incarcerated are at high risk of school suspension, health problems, homelessness, and perhaps criminal involvement." Prior research shows that employers are reluctant to hire people with a criminal record and that formerly incarcerated people earn very low wages. Further, research also shows that increased incarceration rates across the U.S. have not reduced violent crime. The author provides a history and evolution of incarceration in the U.S., including the colonial penal code, slavery, forced labor, rehabilitation, and work and education programs in prisons. This paper focuses on the exceptionalism of the U.S. prison system by focusing on overcrowding, reductions in programming, safety of prisons, health issues, and extreme isolation of solitary confinement. Information on the focus of deterrence and incapacitation as guiding frameworks for incarceration in the U.S. is presented. The author comments on deterrence theory, stating, "[m]eta-analysis consistently finds that deterrence is less effective than rehabilitation at reducing recidivism: 'Interventions that are punitive—that emphasize deterrence, discipline, or surveillance—have weak . . . effects on recidivism'." Research has found that access to educational programming, drug and alcohol treatment, case management, post-incarceration support, cognitive behavioral therapy, and motivational interviewing during imprisonment lead to decreased rates of recidivism. Between the 1980s and 2010's, this type of programming decreased across the U.S. Meanwhile, overcrowding among U.S. prisons increased during this same period. Overcrowding of California's state prison system led to federal litigation stating that the entire state system was unconstitutional, which precipitated the release of many people incarcerated in California. After this wave of release, crime did not increase greatly, suggesting that imprisonment does not necessarily decrease crime. In addition, violence in prison contributes to negative outcomes. People experiencing incarceration may also experience threats, assaults, rapes and other sexual assaults, and homicide. The lack of safety in prison is associated with later drug use, emotional distress, depression, and future crime commission. In general, reports of violence in prison are under-reported. People experiencing incarceration experience worse health than the general population, particularly when observing rates of chronic conditions, infectious disease, and mental illness. For example, "[r]ates of chronic conditions like hypertension, asthma, and arthritis are about 50 percent higher in prison than in the community." In addition, rates of serious mental illness are about 5 times higher. The author presents information showing that the mortality rate among Black men experiencing incarceration is lower than the mortality rate of Black men in community. Researchers have found that causes may be due to receiving some baseline health care access in prison, and that correctional health care may improve treatment of chronic conditions, including cardiovascular disease and cancer.

However, "[e]vidence that prison protects against mortality for Black men reflects the health risks and inadequacy of care in their home communities." Meanwhile, mortality risk is higher in prison for white people, indicating overall adverse effects may be compounded by racism in community. Further, prison worsens transmission of infectious disease, such as HIV and hepatitis B and C. Overall, "one in five incarcerated people may be physically or sexually assaulted, two in five may go to solitary confinement, and one in ten may acquire tuberculosis, hepatitis, or other infectious disease." Outbreaks of the COVID-19 virus in prisons during the pandemic showcased the high transmission of infectious disease in prison settings. The author also discusses the use of solitary confinement in the U.S. The use of solitary confinement has increased from 3.0% to 5.7% from 1979 to 2005. Data from 2016 showed that 4.4% of people incarcerated in the U.S. were held in solitary confinement. People housed in solitary confinement experience mental fog, obsessive thoughts, perceptual distortions, hallucinations, and additional forms of distress. Outcomes are worsened among those who are in strict isolation for long periods of time, as well as for those who have a history of mental illness. Men are more likely than women to be placed in solitary confinement and to be held repeatedly in solitary confinement. In addition, "[a]mong men with serious mental illness, 51[%] are in solitary confinement at some point during their prison sentence, compared to 32[%] for men with no mental illness." Further, those with mental illness are placed repeatedly in solitary confinement and placed for longer periods of time. For example, "[m]en with no history of mental illness who are ever sent to solitary confinement spend 37 days on average in isolation; in contrast, men with serious mental illness accumulate a total of 55 days on average in solitary confinement." Placement in solitary confinement is associated with subsequent unemployment, recidivism, and mortality after release. U.S. health organizations have advocated for limiting or removing solitary confinement due to the negative impacts on health, and the United Nations considers prolonged solitary confinement a type of torture. The author compares the U.S. system of incarceration to systems in Western Europe, where institutions seek to close the gap between institutional conditions and conditions outside of prison through "normalization" and "re-socialization". Incarceration in Europe is shorter and often includes furloughs to visit family and work a job in society. These models also show higher rates of employment, earnings, and health after release. The author concludes that mass incarceration has been shaped by policy that "is suspicious of the moral worth of poor people, and poor people of color in particular." Further, the author stated, "mass incarceration doesn't just influence crime and life chances, but forms part of a moral landscape in which the struggle for dignity follows the contours of poverty and racial [inequity]."

101. **Uggen C., Schnittker J., Shannon S., et al. The contingent effect of incarceration on state health outcomes. *SSM Popul Health.* 2023;21:101322.**

Uggen, Schnittker, Shannon, and Massoglia examined how populations of people who are formerly incarcerated affected communicable disease in the U.S. between 1987-2010. During this time period, the state and federal prison population more than doubled. The authors cite prior research, stating that prisons are well-suited for the spread of infectious disease and contribute to spreading these diseases into the community. For example, "[i]ncarceration exposes people to stress and infectious disease and, after release, increases the risk of chronic conditions stemming from discrimination and the difficulties of reentry and reintegration." According to the U.S. Supreme Court mandate of Estelle, prisons in the U.S. "are legally obligated to provide care for 'serious medical need' and must not act with 'deliberate indifference' that could constitute cruel

and unusual punishment." Due to the cyclical impacts of racism and poverty, for some people experiencing incarceration, health care in prison settings may comprise greater health care access than what was accessible in community prior to incarceration. However, prior research shows that prison contributes to poor health overall, there is wide variation in the quality of care, there is legal ambiguity in how treatment is provided, and that there are inconsistencies between the ways in which prisons operate and the collaborative model of health care. Further, the authors stated that increased access to health care through the Affordable Care Act could mean that entering the prison system "might no longer represent an improvement in access to care, and infectious disease might be detected before incarceration." Regarding legal ambiguity, "serious" medical need is difficult to define, but generally includes "conditions that, in absence of timely treatment, deteriorate and result in unnecessary pain, death, or risk to public health." The researchers point out that this definition limits care to only diseases of significant effect and diseases for which there are treatments available. In addition, the definition "does not necessitate testing or treatment for conditions deemed inconsequential to "public" health within the confines of a custodial setting." The diseases examined in this study include tuberculosis, syphilis, chlamydia, and HIV. Each of these diseases receive very different treatment in prison settings. The researchers estimated state-level fixed effects count models to investigate the relationships between incarceration and disease outcomes. The data on people experiencing incarceration were adjusted for recidivism, mortality, mobility, and deportation each year. The researchers also adjusted for state-specific shifts in economic conditions and racial demographics. While data were not available to track treatment availability in prison, the researchers used prison healthcare spending to examine response to infections. The study results show varying outcomes based on the type of disease. For example, diseases that are poorly addressed in prison, such as chlamydia, increase as the rate of formerly incarcerated people increases; however, diseases that are routinely tested and treated, such as tuberculosis, decrease as the rate of formerly incarcerated people increases. Regarding HIV, the relationship changed with treatment mandates and protocols. The researchers attribute variation to the different institutional responses to different diseases and the ambivalence of the mandate of Estelle and the intersection of incarceration with additional inequities. The authors discussed limitations and calls to future research, including examining race-specific and intersectional effects on health in prison settings. The authors conclude that improving the health of incarcerated people can improve both the health of people experiencing incarceration, as well as the health of communities throughout the reentry process.

102. **Williams J. M., Wilson S. K., Bergeson C. Health Implications of Incarceration and Reentry on Returning Citizens: A Qualitative Examination of Black Men's Experiences in a Northeastern City. *Am J Mens Health.* 2020;14(4):1557988320937211.**
Williams, Wilson, and Bergeson conducted this qualitative study to examine the health implications of incarceration and reentry of Black men. The researchers also explored divergent masculinity within the study group. The authors cite prior research to describe the inequities present in the criminal legal system and disproportionate impacts on Black men and families. For example, data show that "[o]ne in three Black men will be imprisoned in their lifetime, while half of Black women will have an immediate or extended family member in prison during their lifetime." Data also show that Black men are less likely to have access to quality affordable healthcare and, due to the impacts of inequities due to racism, are less likely to trust the healthcare system. Prisons limit dietary options, physical activity and place people in restricted housing units, which contributes to poor physical health. People experiencing incarceration

experience mental illness and severe mental illness at higher rates than people who do not experience incarceration. Research also shows that incarceration worsens general health and depressive symptoms throughout the life course. The authors stated, "[o]vercrowding, limited access to healthcare services, and inhumane attitudes and practices by custodial staff can contribute to negative mental and physical health outcomes for incarcerated persons." Approximately 10-20% of people experiencing incarceration experience physical victimization in prison which can lead to negative health outcomes. Research from 2013 showed that among people in New York on parole, "for every year an individual is in prison, their odds of death increased by 15.6 years, which equals a 2-year decrease in life expectancy." In the current study, the researchers utilized Critical Race Theory to guide the analysis. The authors stated, Critical Race Theory "is a framework that allows deep contextual, intersectional analyses at multiple axes; for instance, how one's social-political positionality intersects with their experiences with society's legal institutions." The researchers conceptualize this study within New Jim Crow Laws, the War on Drugs, and the criminalization of communities of color in the U.S. The researchers also contextualize Black masculinity within repressive and oppressive experiences (slavery, colonialism, Jim Crow Laws, etc.), which can lead to low self-esteem for Black men and lifelong negative effects on communities of color. This study sample (n=20) is part of a study examining reentry in a Northeastern U.S. town. There was a range of ages and socioeconomic status among participants. The researchers used a "gatekeeper" and snowball sampling to reach the population of interest. Participants completed a 30-minute interview and observational data was collected through ride-a-longs with the gatekeeper. Analysts coded the data and controlled for inter-rater reliability. Study results were organized into two main themes: masculinity and mental health. Participants believed both their race and gender contributed to their experiences with incarceration. Participants shared ways their Black masculinity played a role in their reintegration and their experience being incarcerated. The ways in which Black men are policed and "unforgiven" were named as contributing factors to difficulty in integration. Disproportionate financial stresses experienced by Black men were also named as connected to their masculinity and incarceration experience. Participants named the importance of protecting loved ones, and the ways this is connected to masculinity, but being unable to do so because of their experience with racism and incarceration. The authors wrote, "The prison culture promotes the disconnecting of Black men from their families according to most of the men in this study." Further, participants described experiencing learned hopelessness and helplessness that occurred during incarceration, which was attached to their masculinity and race. Participants also stated that they feel they must hide their feelings and experiences of violence from others. In addition, participants also reported a divergent pathway to masculinity "(an unconventional cycle in which many Black men navigate to build one's manhood through an unpredictable, risky, and often painful continuum ripe with structural inequality and racism (among other factors)." Some participants shared that prison made them stronger or made them a better father; the authors stated that participants embraced self-responsibility for their conditions, rather than challenging systems of oppression that contribute to mass incarceration. Regarding mental health, participants described experiences of poor mental health before incarceration, as well as compounded negative impacts of incarceration and racism on mental health. For example, people experiencing incarceration are socialized to adapt to violence and a lack of health care. Participants shared mixed information regarding access to in-prison programing and some participants demonstrated mental strain during the study interviews when recounting their understanding their experience with incarceration. Many participants shared difficulties gaining

and maintaining employment and housing after incarceration. The authors provide context to these results by stating, “the experiences participants report are the direct result of legal institutions colluding and colliding in ways that created these harsh outcomes for the men in this study. Had it not been for the manufactured, life-changing hardships inherent in the criminal legal system (namely in jails/prisons) many participants would not be profoundly impaired.” The authors conclude with a call to researchers to consider historical and critical frameworks when exploring Black male health and wellbeing, for additional research to explore impacts on communities, for policy changes that address inequities among Black male incarceration and policing, and for adjusting frameworks to account for the systemic impacts on mental health issues.

103. **Strong J. D., Reiter K., Gonzalez G., et al. The body in isolation: The physical health impacts of incarceration in solitary confinement. *PLoS One.* 2020;15(10):e0238510.**
Strong et al. examined "how solitary confinement correlates with self-reported adverse physical health outcomes, and how such outcomes extend the understanding of the health disparities associated with incarceration." Researchers used a mixed methods approach, conducting semi-structured, in-depth interviews; Brief Psychiatric Rating Scale (BPRS) assessments; and systematic reviews of medical and disciplinary files for subjects. The study sample consisted of a random sample of prisoners (n = 106) in long-term solitary confinement in the Washington State Department of Corrections (DOC) in 2017. In total, 225 individuals incarcerated in IMU (62%), responded to the in-person paper survey, and 106 participated in a random sample for in-depth interviews. Sixty-seven of those approached (n=173) refused to participate in an initial interview, resulting in a 39% refused rate which was comparable to similar studies of people experiencing incarceration. Twenty-five percent of the sample was lost at one-year follow-up (i.e., 4 participant refusals; 21 institutional, out-of-state, and parole transfers precluding follow-up; and one death). The random sample had a mean age of 35 years; mean stay of 14.5 months in IMU; mean of 5 prior convictions resulting in prison sentences; and was 42% white, 12% African American, 23% Latino, and 23% "Other." The interview sample did not significantly differ from the total population held in IMU at the time of the sampling. Researchers also analyzed administrative data for the entire population of prisoners in the state in 2017 (n = 17,943). “In the initial 2017 assessment, all study subjects were housed in IMU. At the time of re-interview in 2018, 52 respondents had moved into the general prison population, while 28 remained in IMU. Of those who were still in IMU in 2018, 21% (6 of 28) reported clinically significant somatic concerns, compared to just 8% of those housed in the general prison population (4 of 52). While the descriptive data appear to demonstrate higher proportions of somatic concern in IMU settings, the difference was not statistically significant at the 95% confidence Level ($p = 0.09$; Fisher’s exact test).” Results of the broader survey of people in IMU showed, “Of the 225 survey respondents, 63% expressed health concerns; 48% were taking medication; 17% had arthritis; and 8% had experienced a fall in solitary confinement. Importantly for the analysis of emerging symptoms, 82% replied ‘yes’ to the question ‘Have you experienced any changes in yourself?’ while in the IMU.” Physical symptoms experienced in solitary confinement included "(1) skin irritations and weight fluctuation associated with the restrictive conditions of solitary confinement; (2) un-treated and mis-treated chronic conditions associated with the restrictive policies of solitary confinement; (3) musculoskeletal pain exacerbated by both restrictive conditions and policies."

104. **Turney Kristin. Stress Proliferation across Generations? Examining the Relationship between Parental Incarceration and Childhood Health.** ***Journal of Health and Social Behavior.*** **2014;55(3):302-319.**
Turney conducted a multivariate analysis that incorporates children into the stress process paradigm to examine the relationship between parental incarceration and children's health. The author used data collected through the 2011-2012 National Survey of Children's Health (NSCH), a cross-sectional probability sample of non-institutionalized children ages 0-17 years in the U.S. Adjusted for demographic, socioeconomic, and familial characteristics, the analyses show parental incarceration is independently associated with 5 of 19 health conditions considered: learning disabilities, Attention Deficit Disorder/Attention Deficit Hyperactivity Disorder, behavioral or conduct problems, developmental delays, and speech or language problems. Results suggest parental incarceration is more detrimental to behavioral or conduct problems and developmental delays than parental divorce or separations. Findings add to the literature that children's health disadvantages may be an unintended consequence of mass incarceration. In addition, household member mental health problems are associated with 15 of 19 indicators of children's health. The use of a cross-sectional dataset made it impossible to determine whether the association is due to shared genetics, shared environments, or some combination of the two. Further research is needed to determine how mental health, incarceration, and children's mental health are associated.

105. **Yi Youngmin, Turney Kristin, Wildeman Christopher. Mental Health Among Jail and Prison Inmates.** ***American Journal of Men's Health.*** **2017;11(4):900-910.**
Yi et al. analyzed a sample (n = 3,139) from the Fragile Families and Child Wellbeing Study (FFCWS), a longitudinal survey commonly used to study the individual and spillover consequences of incarceration, to assess how the relationship between current incarceration and self-reported mental health varies across jail incarceration and prison incarceration. Researchers found fathers incarcerated in jails "...have higher odds of depression (OR=5.06), life dissatisfaction (OR = 3.59), and recent illicit drug use (OR=4.03)" compared to those not incarcerated. While fathers incarcerated in prisons "...have higher odds of life dissatisfaction (OR=3.88) and lower odds of heavy drinking (OR=0.32) compared with those not incarcerated." Results confirm the negative associations between incarceration and mental health and provide new insight into between-facility differences in mental health of currently incarcerated fathers. Authors conclude that further research is needed to better understand the effects of incarceration in jails and the implications for the well-being of current and former inmates' children and families.

106. **2030 Healthy People. Incarceration: Social Determinants of Health Literature Summaries. Office of Disease Prevention and Health Promotion, Office of the Assistant Secretary for Health, Office of the Secretary, U.S. Department of Health and Human Services;no date.**
Healthy People 2030 included Literature Summaries as snapshots of research on specific social determinants of health. The summary of literature on Incarceration was narrowly defined and may not have addressed all dimensions of the issue. Authors cited evidence that between 1980 and 2014, the incarceration rate in the U.S. increased by 220%, “which can be linked to state and federal policy changes that enacted harsher sentencing rules.” Incarceration has been shown to affect the health and well-being of people who are or have been incarcerated, their families, and

their communities. Certain racial and ethnic groups and people with lower levels of educational attainment often experience higher rates of incarceration. Evidence indicates Black and Hispanic people are disproportionately arrested and convicted of offenses, with one study showing the "imprisonment rate for Black adults was nearly 6 times the imprisonment rate for [w]hite adults and nearly double the rate for Hispanic adults." Data for women who are incarcerated show similar disparities due to racism. For example, a 2020 analysis found "the imprisonment rate to be over 48 per 100,000 for [w]hite women, 83 per 100,000 for Black women, and 63 per 100,000 for Latina women." Evidence indicates state and federal policies (e.g., "three strikes" and mandatory minimum sentences) may contribute to some of the racial disparities in the U.S. incarceration rate. Additionally, data show that "people without high school diplomas or GEDs have a greater likelihood of being incarcerated than their more educated peers." For example, among "[w]hite men ages 20 to 34 years, the rate of incarceration was only 1 in 57; however, the rate was 1 in 8 for [w]hite men in the same age group who did not have a high school diploma or GED." People with a history of incarceration experience worse mental and physical health than the general population. For example, "studies have shown that when compared to the general population, people of both sexes who are incarcerated are more likely to have high blood pressure, asthma, cancer, arthritis, and infectious diseases, such as tuberculosis, hepatitis C, and HIV." Moreover, "[w]omen with a history of incarceration face a greater burden of disease than men with a history of incarceration." For example, women with a history of incarceration and drug misuse were more likely than their male counterparts to suffer from tuberculosis, hepatitis, and high blood pressure. Authors cited evidence from several studies showing women with a history of incarceration are at greater risk for several diseases (e.g., HIV/AIDS, HPV, and other sexually transmitted diseases) compared to their male peers. Compared to women who are not justice involved, women with a history of incarceration are more likely to have experienced childhood trauma and physical and sexual abuse, which may contribute to the high levels of physical and mental health concerns among women who are incarcerated. Additionally, authors identified the growing population of older adults (ages 50 years and older) in U.S. prisons and cited concerns that some older adults do not receive adequate treatment for their ailments (e.g., mental health conditions) while incarcerated. Older adults with a history of incarceration are also more likely to experience "abuse and neglect due to lack of family support when compared to their younger counterparts." The Literature Summary also discusses the negative impacts for children and families of people who are incarcerated. Children of incarcerated parents may be more likely to: live in poverty, be homeless, witness domestic violence or substance abuse by a parent, reside with a person who has a mental illness or suicidal thoughts. Additionally, evidence shows that children whose parents are incarcerated "often have higher rates of learning disabilities, developmental delays, speech/language problems, attention disorders, and aggressive behaviors." Finally, children whose parents are incarcerated have been found to be up to 5 times more likely to enter the criminal justice system than children of parents who are not incarcerated. Authors also discussed obstacles faced by people as they reintegrate into society following their release: challenges with family, employment, housing, health, and other new circumstances. Some studies have shown high risk of death (due to opioid overdose or by suicide) shortly after release. Authors suggested "front-end" programs and strategies to improve services for people and communities impacted by incarceration.

107. **(NIHCM) National Institute for Health Care Management. Incarceration: A Public Health Crisis.no date.**

This Data Insight infographic from the National Institute for Health care Management (NIHCM) focuses on Incarceration. It provides information on the total population (5.5 million people) on probation, in jail, in prison, or on parole in the U.S. It documents racial/ethnic disproportionality, stating that Black Americans are incarcerated in state prisons at nearly 5 times the rate of white Americans, and Latino Americans are incarcerated at 1.3 times the rate of white Americans. Additionally, women comprise roughly 10% of the total incarcerated population, and in recent decades women's incarceration has grown at twice the pace of men's incarceration. Data show women are disproportionately held in local jails. The infographic depicts conditions of correctional environments which can adversely affect health, including poor nutrition options, smoking, poor ventilation, overcrowding, isolation units, excessive use of force, violence, and sexual abuse. Regarding healthcare, it compares copays required of people who are incarcerated ($2-$3) and earn $0.14-$0.63 per hour to people in community (~$100s equivalent for people making minimum wage). It notes that people who are incarcerated are the one group in the U.S. that has a constitutional right to health care. However, jail and prison health systems were primarily designed for males and often fail to meet basic needs (reproductive healthcare and prenatal care) of female people who are incarcerated. They noted, 4% and 3% of females entering U.S. prisons and jails, respectively, were pregnant. Data from 2011-2012 show that people with a history of incarceration have poorer physical health compared to the general population (i.e., high blood pressure, asthma, heart-related problems, diabetes/high blood sugar, stroke-related problems, cirrhosis of the liver). Similarly, people with a history of incarceration have a higher chance of getting an infectious disease than the general population. For example, HIV/AIDS is 2-7 times more prevalent among individuals in correctional facilities; Hepatitis C is 8-21 times higher among people who are incarcerated; tuberculosis is more than 4 times as prevalent among people who are incarcerated, and commonly sexually transmitted diseases are more prevalent, particularly among women in correctional environments. A 2015 study suggests that "each year spent in prison corresponds with a two-year reduction in life expectancy." Compared to the general population, people who are incarcerated have higher rates of mental health concerns and substance use disorders (SUDs). Data from 2016 show, women in state (68.7%) and federal prisons (51.9%) were more likely than men (40.9% and 21.3%, respectively) to have a history of mental health concerns. It presents prevalence of a history of major depressive disorder, bipolar disorder, anxiety disorder, post-traumatic stress disorder, and personality disorder. Some research shows that an estimated 65% of the U.S. prison population has an active SUD. Evidence indicates that people with a history of mental illness and SUD have higher recidivism rates. Finally, on average, "adults are released from correctional facilities with more chronic medical problems than they had before admission." Specifically, the reentry population has disproportionate rates of mental health issues, suicide, disabilities, chronic physical disorders, and SUDs. Moreover, "emerging evidence suggests that negative health consequences of incarceration are felt not only by those who have experienced it but also by their families and individuals in their communities." The infographic provides suggestions of how to improve the health during and after incarceration and indicates areas where additional independent research is needed.

108. **Pulkkinen Levi. Health care in WA prisons leaves inmates waiting months or years for help. *Crosscut.* 4 August 2020, 2020.**

This news article was the first in a three-part series on prison health in Washington State. It presented evidence from lawsuits, investigations, and internal Department of Corrections

documents that indicates a "pattern of delay that leaves [people incarcerated in DOC custody] unable to access basic health services." It reports, in Washington 9 out of 10 prisoners who die in custody fall to illness.

109. **Widdowson A. O., Fisher B. W. Mass Incarceration and Subsequent Preventive Health Care: Mechanisms and Racial/Ethnic Disparities. *Am J Public Health.* 2020;110(S1):S145-S151.**

Widdowson and Fisher examined the associations and mechanisms between arrest and incarceration and preventative health care use and explored whether these associations are moderated by race/ethnicity. The authors cite prior research, stating that mass incarceration has more than tripled between 1978 and 2017, and approximately 25% of the adult population in the U.S. has had some form of criminal justice contact. This study examines preventative health, which "refers to 'efforts to stop illness before it begins' and differs from illness-related or custodial care that are responses to detected illness." Mass incarceration and decreased access to preventative care may be due to criminal justice involvement blocking healthcare access (increased background checks among employers leads to decreased employment and health insurance). Also, criminal justice involvement is associated with lower educational attainment, employment, and income, which may limit the ability to access care after reentry. The researchers used data from the U.S. National Longitudinal Survey of Youth (1997 to 2015-2016) to examine changes at ages 18 to 27 years and age 29 years (n=7740). The researchers examined 2 measures of mass incarceration (arrest and incarceration), 3 indicators of access to preventative health care (cholesterol, blood sugar, and blood pressure tests), and 5 measures of potential blocked access and economic mechanisms between criminal justice involvement and care (health care coverage, medical checkup, education, employment, and income). The study also examines Black, white, and Hispanic differences across associations. Study "covariates included demographic, socioeconomic, health, and behavioral characteristics that research has linked to both criminal justice contact and health care access." The researchers also conducted sensitivity checks on the data. The data show that arrest was associated with lower odds of getting blood cholesterol, blood sugar, and blood pressure tests. The results also show that incarceration was associated with lower odds of getting cholesterol and blood sugar tests, where blocked access and economic factors mediated 42-125% of these associations. The authors stated, this "indicates that mass incarceration negatively influences preventive care use—in part, by reducing formerly arrested and incarcerated individuals' access to health care coverage and medical services and their ability to afford those services. In this way, criminal justice contact functions both as a social determinant of health itself and as a predictor of other important social determinants of health." The analysis also suggests "that the associations between criminal justice contact and preventive care were mostly consistent across race/ethnicity, but in a few instances, there were better outcomes associated with groups other than non-Hispanic [w]hite." The authors conclude that mass incarceration contributes to decreases in preventative health care use, which may increase the prevalence of disease and the associated costs of treatment.

110. **Corrections Washington State Department of. Washington DOC Health Plan. In: Corrections WSDo, ed2022.**

The Washington DOC Health Plan outlines the provision of healthcare in Washington State Department of Corrections facilities.

111. **Blackaby J., Byrne J., Bellass S., et al. Interventions to improve the implementation of evidence-based healthcare in prisons: a scoping review. *Health Justice.* 2023;11(1):1.** Blackaby et al. conducted a scoping literature review to identify and describe evaluations of interventions to implement evidence-based primary care practices in prison settings. Evidence-based healthcare is the translation of high-quality research into clinical practice, and it is internationally accepted as critical for quality improvement. However, gaps between recommended and actual health care disproportionately affect marginalized groups or those with lower socio-economic status (e.g., people who are incarcerated). For example, authors cite evidence that "despite reported higher rates of cardiovascular disease [among people who are incarcerated] compared to community populations, the availability of prescription medication, exercise and low salt diets are often out of an incarcerated person's control." Additionally, while evidence-based clinical guidelines are necessary, they are generally not sufficient to significantly improve healthcare delivery. Challenges are compounded in custodial settings where "adherence to guideline-recommended practice is generally lower than for the wider population" due in part to tighter funding constraints, understaffing, vacant positions, and other contributing factors which compromise safety and effectiveness. Moreover, the focus on security can delay access and reduce patient autonomy. The equivalence principle indicates "prisons should aim to provide a standard of care at least equivalent to that available in the wider community"; however, evidence suggests that "the equivalence principle is often not achieved, compounding existing health inequities." Authors reviewed published and grey literature up to August 2021 that included "any quantitative evaluations [including quantitative results from mixed-method evaluations] of interventions to improve the uptake of evidence-based practice or recommended healthcare in detention settings." Exclusion criteria (e.g., exclusion of evaluations of clinical interventions) enabled reviewers to focus on "systematic changes in the prison healthcare system rather than the [behavior] of [people who are incarcerated]." Two reviewers independently selected studies for inclusion, and data reviewed included study populations, study design, outcomes, and author conclusions. Searches yielded 4,449 citations, authors screened 259 abstracts and 43 full texts, and they identified 15 studies (1 randomized controlled trial, one controlled interrupted time series analysis, and 13 uncontrolled before and after studies) for inclusion. Studies were conducted between 2004 and 2021, and findings were reported across 17 papers. Researchers did not exclude papers on the basis of poor methodology as they aimed to describe and summarize currently available evidence. Of included studies 8 were conducted in the U.S. (3 in jails, 3 juvenile detention facilities, 1 in prison, and 1 in paired prisons or jails), 4 in the U.K., and 1 each in France, Ireland, and Canada. Additionally, 12 studies involved adult custodial settings (7 holding males only, 3 exclusively females, 2 did not specify gender of the people who were incarcerated. Three studies were conducted in custodial settings for juveniles (2 holding both male and female juveniles, 1 exclusively female juveniles). Twelve studies evaluated interventions that concentrated on professional behavior change and 3 evaluated patient-mediated interventions involving patient education or empowerment. Ten studies evaluated combined interventions (e.g., including education for staff or patients), and interventions most commonly focused on communicable diseases, mental health, and screening uptake. Studies evaluated a variety of interventions including educational meetings (8 studies), local opinion leaders (3 studies), printed educational materials (2 studies), and system alerts (2 studies). Of studies focused on specific healthcare conditions, 4 studies focused on prevention and management of communicable disease, 4 studies concerned mental health, 4 focused on screening or health promotion, 2 studies looked at long-term conditions, and 1 focused on

contraception. Thirteen studies reported adherence to processes of care (e.g., testing, prescribing, and referrals). Authors concluded there is a lack of high-quality evidence to "inform strategies to implement evidence-based health care in prisons, and an over-reliance on weak evaluation designs which may over-estimate effectiveness." Only 2 studies used rigorous study designs, indicating that "any drives to improve care will either depend on a weak evidence base or need to draw upon rigorous evidence generated in settings that may not be generalizable to prisons." Researchers found, "the majority of studies used uncontrolled before and after designs and reported improvements in care. Such designs are prone to major biases [e.g., maturation effects, selection bias]." Authors also noted that defining and describing interventions was challenging due to a lack of standardized descriptive terminology. Overall, limitations in the literature (e.g., lack of detailed specificity for successful interventions) make it challenging for others to adopt or adapt evaluated interventions. Most available evaluations focused on recognized priorities for people who are incarcerated, but there has been little attention for long-term conditions core to primary care delivery or conditions associated with aging populations. For example, conditions like hypertension, asthma, atrial fibrillation, and dementia are "often amendable to treatment or management strategies that can improve quality of life and longevity." Finally, few studies identified focused on women's healthcare needs, which may be greater than their male counterparts; research published in 2019 and 2021 found that females who are incarcerated are more likely to experience mental health problems and suffer from long-term physical health conditions than males who are incarcerated. Study limitations include: 1) failure to exclude on the basis of study quality, 2) uncertainty about the extent of publication bias and evaluations with favorable findings, and 3) focus on assessing effectiveness of implementation strategies (more to gain from why strategies did or did not succeed). Authors concluded, "policymakers have little empirical basis for selecting and applying interventions to improve the uptake of evidence-based health care in prisons," as such, "initiatives to close gaps between evidence and practice in prison primary care need a stronger evidence base." Growing bodies of literature for other implementation interventions (e.g., audits, feedback, computerized clinical decision support systems) in other healthcare settings are not available for carceral settings, which "present unique challenges to implementation […] which undermine [generalizability] of the wider evidence base."

112. **Pulkkinen Levi. Cancer treatment in WA prisons often too little, too late. *Crosscut.* 5 August 2020, 2020.**

This news article was the second in a three-part series on prison health in Washington State. It focused on the conditions contributing to cancers as a growing cause of death for an aging prison population.

113. **Ombuds Office of the Corrections. Annual Report Fiscal Year 2023 of the Office of the Corrections**
Ombuds.Olympia, WA: Office of the Corrections Ombuds; 1 November 2023 2023.

The Fiscal Year 2023 Annual Report of the Office of the Corrections Ombuds (OCO) provides an account of the agency's activities from July 1, 2022, through June 30, 2023. During the reporting period, OCO opened 3,657 cases representing complaints from approximately 1,779 people who are incarcerated. The most commonly received complaints during Fiscal Year 2023 related to healthcare (medical, mental health, and dental).

114. **Pulkkinen Levi. Deaths in WA prisons draw scrutiny from state Legislature. *Crosscut.* 6 August 2020, 2020.**
This news article was the third in a three-part series on prison health in Washington State. Medical issues accounted for 89% of the 677 deaths of people who are incarcerated recorded in Washington State from 2001 to 2019. The article noted concerns about transparency and oversight.

115. **Office of the Corrections Ombuds (OCO) Investigative Report Olympia, WA: Washington State Office of the Corrections Ombuds; March 8, 2020 2020.**
The Washington State Office of Corrections Ombuds received a complaint on August 8, 2019, alleging: 1) the complaintant was diagnosed with cancer and did not receive the necessary and recommended cancer treatment; 2) the Washington State Department of Corrections (DOC) failed to follow medically necessary and recommended treatment; and 3) lack of response to his medical complaints when following DOC's kite and grievance policy. OCO's investigation found, "[a] series of bureaucratic delays resulted in the [complaintant] not receiving care for [5] months while waiting on a transfer to a facility closer to where staff determined that his treatment would be provided; meanwhile, he was not provided treatment at his current facility." Moreover, "[e]ven after transfer to the new facility, treatment was not provided and soon thereafter it was determined that his cancer had progressed too far for chemotherapy." Finally, OCO found, "the kite and grievance procedures failed to do exactly what they are designed to do: communicate concerns with the medical provider for follow up and ensure the complainant was receiving necessary treatment." The complaintant died prior to completion of the OCO investigation. OCO provided a series of recommendations to DOC to which DOC responded.

116. **OCO Death Review.Olympia, WA: Washington State Office of the Corrections Ombuds;2020.**
The Washington State Office of Corrections Ombuds received a complaint on May 17, 2019, alleging: 1) a deceased incarcerated individual had reported having a severe and persistent headache that did not resolve with medication, and 2) that the individual continued to deteriorate but received no medical care for her medical emergency until it was too late. The OCO investigation found, "According to the records, the headache persisted and evolved to include numbness and weakness in the extremities, blurred vision, and difficulty walking; however, she never underwent a comprehensive evaluation by a physician or advanced practitioner." A second medical emergency for a headache on 3/6/2016 should have resulted in her being "sent directly to the emergency department when she was noted to be slow to respond and possibly exhibiting seizure activity [...] instead, she was sent to the WCCW clinic - approximately 40 minutes away - via state care." A CT on 3/7/2016 showed a large brain hemorrhage and an aneurysm. Despite emergency care, she died on 3/14/2016. OCO concluded "the care the [person] received at the [Mission Creek Correctional Center for Women] MCCCW did not meet community healthcare standards, and her death could have been prevented." Overall, key findings included delayed access to care, inadequate evaluation, poor emergency response, inappropriate level of decision making, lack of staff accountability. OCO provided a series of recommendations to DOC to which DOC responded.

117. **Ombuds Washington State Office of the Corrections. Unexpected Fatalities in Washington State DOC Custody: Fiscal Year 2024 Annual Review of Unexpected Fatality Review Reports, Committee Recommendations, and Corrective Action Plans.2025.**
This annual report published by the Washington State Office of the Corrections Ombuds (OCO) summarizes unexpected fatalities in DOC facilities for State Fiscal Year 2024 (FY 2024; July 1, 2023 to June 30, 2024). In FY 2024, 46 people died in DOC custody. Of these deaths, 26 (about 57%) were identified as unexpected. RCW 72.09.770 defines a death as unexpected if the death "was not the result of a diagnosed or documented terminal illness or other debilitating or deteriorating illness or condition where the death was anticipated." The causes of unexpected death were overdose (7 people), death by suicide (5 people), cancer (4 people), vascular disease (3 people), infection or sepsis (3 people), respiratory complications (3 people), and diabetes (1 person).

118. **Stern A.P. Hope: Why it matters. 2021. https://www.health.harvard.edu/blog/hope-why-it-matters-202107162547. Accessed 1/14/2025.**
This article by Harvard Medical School's Harvard Health Publishing discusses the connection between hope and health. The article states that hope is "an aspirational feeling that circumstances can improve." The article provides a brief summary of emerging research suggesting that hope is a protective factor for health and may protect against depression and death by suicide. Research related to young adults with chronic illness has also found that greater degrees of hope are associated with improved coping, well-being, and engagement in healthy behaviors and linked to quality of life, self-esteem, and a sense of purpose.

119. **Ozturk B., Pharris A., Munoz R. , et al. The Importance of Hope to Resilience in Criminal Justice Diversion Programs. *Criminology, Criminal Justice, Law & Society.* 2022;23(2):56-68.**
As part of a larger study examining hope and resilience among people participating in a pre-trial diversion program, Ozturk et al. summarized research evaluating the relationship between health and hope. They stated that hope has been associated with better physical and mental health outcomes in adults. Specifically, people "with higher hope can counter the adverse effects of mental health issues." The authors state that hope theory consists of 3 main constructs: goals, pathways, and agency. Agency "reflects a mental assessment of one's ability to initiate and sustain action toward the desired goal ("I can do it" or "I am ready")." Pathways "involves the identification of viable routes to goals ("I can think of new strategies").

120. **Rasmussen H.N., England E., Cole B.P. Hope and Physical Health. *Current Opinion in Psychology.* 2023;49(10).**
Rasmussen et al. summarized literature evaluating the relationship between hope and physical health (i.e., pain, cancer, chronic illness) and health behaviors. Hope "has been defined as the perceived ability to pursue future desired goals, as well the pathways and motivation to achieve the goals. Rasmussen noted that the most cited theory of hope was developed by Snyder and colleagues, which is based on the premise that human behavior is goal-directed. This theory of hope uses 2 primary constructs: agency (i.e., the perception that you can achieve your goal) and pathways (i.e., there are workable routes to achieve your goal). The authors state that, "[h]igh hope individuals are likely to take actions in the present to ensure a healthy future" and higher levels of hope have been linked to fruit and vegetable consumption, not smoking, physical

activity, portion control, and limiting fat intake. Hope is also a protective factor for health, and has been linked to disease prevention, coping or adjusting to illness (e.g., reduced pain severity), improved quality of life, and coping with mental health concerns (e.g., stress, anxiety, depression).

121. **Dekhtyar M., Beasley C., Jason L.A., et al. Hope as a predictor of reincarceration among mutual-help recovery residents. *Journal of Offender Rehabilitation.* 2012;51(7):474-483.**

Dekhytar et al. evaluated longitudinal survey data collected between 2001 and 2003 examining the relationship between hope and reincarceration among 45 people who were formerly incarcerated (i.e., had been housed in a jail or prison within 90 days prior to the first survey), who experienced substance use disorders, and who were placed in "self-governed recovery homes". Of the 45 people who participated in the first survey, 13 experienced reincarceration during the study period. Dekhytar cited previous research suggesting that hope "is one potentially important concept for the treatment and prevention of substance [use], criminal behaviors, and risk for reincarceration." Moreover, hope has been shown to be related to self-competency, resistance to impulsivity, self-liking, and self-confidence. Researchers have measured hope through various constructs (agency, pathway, push to complete goals, coping mechanism, self-perceived control, willingness to take action to meet a goal, etc.). Dekhytar et al. used "the Hope Scale" to measure hope among study participants during the first survey. The Hope Scale is a self-report series of Likert scales that measure 3 components of "global hope", including agency (i.e., a person's goal-directed determination)(e.g., "I energetically pursue my goals") and pathways (i.e., a person's plan to meet their goals)(e.g., "I can think of many ways to get out of a jam"). The study authors also collected self-reported incarceration information and measured reincarceration (not recidivism because authors did not collect data about whether participants committed new crimes). The authors controlled for demographic variables (i.e., age, gender, race/ethnicity) and whether study participants were awaiting new charges, trial for existing charges, or sentencing for existing charges. The authors predicted that lower levels of global hope at baseline would predict reincarceration. The authors found that "[g]lobal hope significantly predicted the odds of reincarceration. This suggests that hopefulness was related to the risk of reincarceration. For each one-unit increase in hope scores, recently incarcerated residents were 10% less likely to be reincarcerated in the next year." The authors found a larger effect when looking only at measures of agency such that, "[f]or each one-unit increase in agency, recently incarcerated residents were 24% less likely to be reincarcerated in the next year." The authors stated that "[p]resuemably, individuals hold goals that would advance their personal growth upon leaving jail or prison" and discussed the importance of providing people opportunities to build feelings of agency to "promote prosocial behavior".

122. **Alhusen J. L., Bower K. M., Epstein E., et al. Racial Discrimination and Adverse Birth Outcomes: An Integrative Review. *J Midwifery Womens Health.* 2016;61(6):707-720.**

Alhusen et al. conducted an integrative review of literature published from 2009 to 2015 examining the relationship between racial discrimination and adverse birth outcomes. Fifteen studies met the inclusion criteria (4 qualitative, descriptive studies; 11 quantitative studies - 8 convenience samples, 3 population-based studies using quota sampling and stratified sampling), and articles were assessed using the Preferred Reporting Items for Systematic Review and Meta-Analyses (PRISMA) 2009 framework. The majority of studies were conducted to assess the

relationship between racial discrimination and adverse birth outcomes in African Americans. Three studies discussed experiences of institutionalized racism in both accessing and receiving prenatal care, and two studies examined racial discrimination during prenatal care and racial discrimination as a barrier to accessing prenatal care. African American women in one qualitative study described experiencing both interpersonal level (e.g., racial slurs directed at them) and institutionalized racism during prenatal care (e.g., differential treatment based on receipt of public assistance). One study reviewed used a biological marker to examine the effects of race and racial discrimination. Results indicate that at every point, African American women exhibited higher antibody titers than white women (P<.001). "The effect was most pronounced among African American women who reported experiencing higher levels of racial discrimination in the first and second trimesters (P=.03 and P=.04, respectively), supporting a role that chronic stress is related to this association." Authors conclude there is a significant need for the development and testing of interventions addressing racial discrimination at the provider level (i.e., students and professionals). They recommend interventions adapt a community-based participatory research framework to establish mutually respectful relationships grounded in learning, shared responsibilities, and capacity building. Additionally, relationship-based services like home visiting may be beneficial for individuals who experienced delayed access to prenatal care.

123. **Poel A. Health of Washington State Report: Mortality and Life Expectancy. Data Update 2015. Washington State Department of Health;2015.**
Poel presents Washington state data on mortality and life expectancy. The data show that age-adjusted death rates were higher in Washington census tracks with higher poverty rates. The state data also show that American Indian/Alaska Natives, Native Hawaiian/Other Pacific Islanders, and black residents had the highest age-adjusted death rate and shortest life expectancy at birth compared to other groups in the state.

124. **Fox D., Hansen, C., Miller, A. Over-Incarceration of Native Americans: Roots, Inequities, and Solutions.Safety and Justice Challenge. 2023.**
Fox, Hansen, and Miller published this report on incarceration of Native American people with support from the John D. and Catherine T. MacArthur Foundation as part of the Safety and Justice Challenge. The report includes historical context, an overview of jurisdiction issues among American Indian and Alaska Native people, and proposed solutions including holistic defense.

125. **The Major Crimes Act, 18 U.S.C. § 1153(1885).**
The Major Crimes Act of 1885 established federal jurisdiction over certain crimes that occur on Indian reservations, if the defendant is Native.

126. **Urban Indian Health. Available at. Accessed Dec. 16, 2022.**
The Urban Indian Health Institute (UIHI), a Division of the Seattle Indian Health Board, reports on the history, health, and resilience of urban Indians. This website highlights that urban Indians experience health disparities at disproportionate rates compared to other ethnic groups. The UIHI provides health and community information to other urban Indian-serving organizations through this website.

127. **Commission United States Sentencing. Quick Facts: Native American Federal Offenders. 2022.**
The United States Sentencing Commission publishes data on federal incarceration rates. This sheet includes Fiscal Year 2022 data on Native American people experiencing federal incarceration.

128. **Unal D. Sovereignty and social justice: how the concepts affect federal American Indian policy and American Indian health. *Social Work in Public Health.* 2018;33(4):259-270.**
Unal published this journal article that outlines the history of settler colonialism that has contributed to health inequities among American Indian and Alaska Native people. The researcher points to social determinants as core reasons for health outcomes.

129. **Small-Rodriguez D., Akee, R. Identifying Disparities in Health Outcomes and Mortality for American Indian and Alaska Native Populations Using Tribally Disaggregated Vital Statistics and Health Survey Data. *American Journal of Public Health* 2021;111.**
Small-Rodriguez and Akee conducted a systematic review of American Indian and Alaska Native subpopulations using 2017-2018 California Health Interview Survey data. The researchers conducted bivariate and multivariate analyses to assess inequities among Tribally enrolled and non-Tribally enrolled people compared with non-Hispanic white people. Study results showed that there was no standard data collection on death certificates across all 50 U.S. states, and that there were inequities in health and chronic disease outcomes across all groups. The authors advocate for the collection of Tribal enrollment data in vital statistics and health surveillance.

130. **American Indian/Alaska Native Health. Available at: https://minorityhealth.hhs.gov/american-indianalaska-native-health#:~:text=American%20Indians%2FAlaska%20Natives%20also,%2C%20liver%20disease%2C%20and%20hepatitis. Accessed August 5, 2024.**
The U.S. Department of Health and Human Services, Office of Minority Health published this overview of American Indian and Alaska Native health in the U.S. The webpage includes statistics from the Centers for Disease Control and Prevention and Census reports.

131. **Widra E., Cole, C. Where people in prison come from: The geography of mass incarceration in Washington.2022.**
The Prison Policy Initiative published this brief of the geographical and regional differences in incarceration in Washington State. The brief links several datasets and covers inequities and differences found nationally and within Washington State.

132. **Health Washington State Department of. Rural Washington: Closing Health Disparities. 2017.**
The Washington State Department of Health published this report on health inequities across rural regions of Washington State. The data included are based on census 2010 RUCA codes.

133. **Bekemeir B., Park, S., Backonja, U., Ornelas, I., Turner, A. Data, capacity-building, and training needs to address rural health inequities in the Northwest United States: a qualitative study. *Journal of the American Medical Informatics Association.* 2019;26(8-9):825-834.**
Bekemeier et al. published this qualitative analysis of interviews with people in Alaska, Idaho, Oregon, and Washington with people expected to use population data in rural communities. The study objective was to determine rural public health system leaders' data access, capacity, and training needs. The results included the following themes: 1) challenges in accessing or using data to monitor and address health disparities and (2) needs for training in data use to address health inequities. Participants faced challenges accessing or using data to address rural disparities due to (a) limited availability or access to data, (b) data quality issues, (c) limited staff with expertise and resources for analyzing data, and (d) the diversity within rural jurisdictions. Participants also expressed opportunities for filling capacity gaps through training—particularly for displaying and communicating data." The authors stated informatics solutions could address several data challenges.

134. **Commission United States Sentencing. Demographic Differences in Federal Sentencing.2023.**
The U.S. Sentencing Commission utilized a multiple regression model to examine federal sentencing practices in fiscal years 2017 to 2021. This report highlights demographic differences found in the data. "When compared to White males, males from all other racial groups received longer sentences, on average. Specifically, Black males received sentences 13.4 percent longer than White males. Hispanic males received sentences approximately 11.2 percent longer than White males." The analysis also found that females received 29.2% shorter sentences than males, after controlling for all other factors. The report also details additional analyses in the appendices.

135. **Kajstura A., Sawyer, W. Women's Mass Incarceration: The Whole Pie 2024.2024.**
The Prison Policy Initiative compiled this report on women's mass incarceration. Data included in the report are from a number of government agencies and break down the number of women and girls held by each correctional system, by specific offense, in 446 state prisons, 27 federal prisons, 3,116 local jails, 1,323 juvenile correctional facilities, 80 Indian country jails, and 80 immigration detention facilities, as well as in military prisons, civil commitment centers, and prisons in the U.S. territories.

136. **McCloud S. G., Raigrodski, D., Rotakhina, S., Amburgey-Richardson, K. 2021 Gender Justice Study. Washington State Administrative Office of the Courts;2021.**
The Washington State Gender and Justice Commission published this 2021 report covering their Gender Justice Study. The report includes study results on gender, the legal community, barriers to accessing the courts; civil justice; violence, youth and exploitation; gendered impacts of the increase in convictions and incarceration; as well as goals, recommendations, and study methods and limitations.

137. **Jones A. Visualizing the unequal treatment of LGBTQ people in the criminal justice system.2021.**

The Prison Policy Initiative published this compilation of data on experiences of incarceration among LGBTQ people. The briefing includes data from several sources and includes recommendations. Data from the National Inmate Survey found that lesbian, gay, and bisexual people are incarcerated at a rate 3 times as high as the general population. A separate survey of 1,118 Lesbian, Gay, Bisexual, Trans, and Queer (LGBTQ) incarcerated people found that 85% of respondents had been held in solitary confinement during their sentence.

138. **Domestic abuse is a gendered crime. 2024; Available at: https://www.womensaid.org.uk/information-support/what-is-domestic-abuse/domestic-abuse-is-a-gendered-crime/. Accessed July 17, 2024.**
Women's Aid is a national organization that works to end domestic violence and provides services in England. This webpage includes several cited key statistics about women and domestic violence.

139. **Hulley S. Defending 'Co-offending' Women: Recognising Domestic Abuse and Coercive Control in 'Joint Enterprise' Cases Involving Women and their Intimate Partners. *The Howard Journal of Crime and Justice.* 2021;60(4):580-603.**
Hulley outlines the role of domestic violence and abusive relationships in women being associated with certain crimes. The author describes coercive control in these relationships and urges legal practice to acknowledge these nuances during sentencing and throughout the legal process.

140. **Serving Time for Their Abusers' Crimes. 2024; Available at: https://www.themarshallproject.org/2024/06/13/abuse-domestic-violence-survivors-liability-prison. Accessed July 17, 2024.**
The Marshall Project is a nonpartisan nonprofit news source. This article includes information about ways people experiencing domestic violence experience criminalization through laws like accomplice liability and failure to protect laws.

141. **Leverentz A. Lora Bex Lempert, Women Doing Life: Gender, Punishment, and the Struggle for Identity. *Punishment & Society.* 2019;21:387-389.**
Leverentz published this book review of Women Doing Life: Gender, Punishment, and the Struggle for Identity. The review includes key findings and summarizes data included in the book.

142. **Gynecologists American College of Obstetricians and. Reproductive Health Care for Incarcerated Women and Adolescent Females: Committee Opinion, Committee on HealthCare for Underserved Women.2012.**
This report by the American College of Obstetricians and Gynecologists, Committee on Health Care for Underserved Women presents information about reproductive health outcomes and access to care for incarcerated women and adolescent females. ACOG states that incarcerated women and adolescent females disproportionately experience sexually transmitted infections (STIs), including chlamydia, gonorrhea, and human immunodeficiency virus (HIV). In addition, previous research has found that approximately 6% to 10% of incarcerated women are pregnant. Both STIs and pregnancies may result from sexual assault and violence during incarceration by other inmates or staff, with rates of sexual victimization between 5.1% to 10.8% at some prisons.

ACOG reports that "although most state and federal prisons provide some level of care to prisoners, availability and access to medical care in jails is variable." Barriers to care include lack of care continuity (especially in jails and at release), preventive care and health education, care tailored to women, funding (e.g. Medicaid funding cannot be used to provide care to adults or adolescents in secure confinement), and federal or state accreditation for correctional health facilities or mandatory standards for prisons. They state that "care for incarcerated women and adolescent females should be provided using the same guidelines as those for women and adolescent females who are not incarcerated." To improve access to and quality of care for incarcerated women and adolescent females, AGOC recommends training medical students and correctional facility staff in appropriate care for inmates, providing preventive care services, ensuring access to qualified health care providers, providing a continuum of care (between initial screenings, in-house services, referrals, and release), providing appropriate and adequate care (e.g. promoting breastfeeding), and ensuring protection from sexual abuse while incarcerated.

143. **Ramaswamy M., Lee J., Wickliffe J., et al. Impact of a brief intervention on cervical health literacy: A waitlist control study with jailed women. *Prev Med Rep.* 2017;6:314-321.**
Ramaswamy et al. conducted a waitlist control study with 188 incarcerated women in three Kansas City jails aimed at improving health literacy related to cancer screening. In general, incarcerated women have higher rates of cervical cancer and abnormal pap smears and lower rates of pap screening compared to women without criminal justice histories. Incarcerated women have cervical cancer rates four to five times higher than the general population and are at greater risk due to low socioeconomic status, low education, tobacco use, early sexual initiation, sexual and physical trauma, and high rates of Human Papillomavirus (HPV) and other sexually transmitted infections (STIs). Prior research by Ramaswamy found that "women's long trauma histories tend to impact on their beliefs about Pap screening- that is, an expectation of fear, discomfort, and questionable safety during gynecological exams" and self-efficacy for screening or follow-up "may be compromised by drug use; mental health problems; trading sex for money, drugs or shelter; and a lifetime of cycling in and out of the criminal justice system." The authors also found that women experienced trauma, drug use, sex work, poverty, lack of health insurance, stigma, and on-going criminal justice involvement. Based on pre- and post-intervention surveys, the authors found only 38.8% of women that completed the survey had health insurance. The authors recommended expanding Medicaid coverage so that women can access health insurance upon release from jail.

144. **Kelly P. J., Hunter J., Daily E. B., et al. Challenges to Pap Smear Follow-up among Women in the Criminal Justice System. *J Community Health.* 2017;42(1):15-20.**
Kelly et al. completed 44 qualitative, in-depth interviews with women in a county jail in Kansas to understand barriers and facilitators to following-up on abnormal pap smear tests. The rate of cervical cancer among women in the criminal justice system is four to five times greater than the rate among non-incarcerated women. Less than 50% of incarcerated women who receive abnormal pap smear results get recommended follow-up tests. The authors identified a number of barriers to receiving follow-up tests, including unstable lives upon release from jail (e.g. renegotiating housing, relationships, and employment, unstable housing, changing contact information, unstable financial situations, substance use, recidivism), cost of care (actual and perceived cost of care), lack of health insurance (1 of 44 women interviewed had health insurance), cost of transportation, childcare, and other competing priorities (e.g. not focusing or

prioritizing personal health). The authors note that, "the Medicaid structure [of only being able to get Medicaid when they were pregnant] also sets up a potential motivation to get pregnant in order to get coverage, despite already overwhelming financial stress." In addition, "while a variety of publicly supported programs are available for the initial screening for cervical cancer, these same programs are rarely available for follow-up tests for definitive diagnosis and treatment." They also discuss the "breakpoint of illness" phenomenon which has been described as, "in cultures of poverty, it is common to wait until symptoms are significant, while in cultures of abundance (including health insurance), one often goes to the doctor for conditions just short of perfect health." The authors suggest that, since many women who receive an abnormal pap smear are asymptomatic, they prioritize follow-up care and treatment lower due to competing demands and cost of care. The authors recommend ensuring coverage to screening and treatment through Medicaid expansion, ensuring case management to provide support to women they transition out of incarceration, and improving health literacy about gynecological health and pelvic exams. They also recommend "considering incarceration as an opportunity to intervene with a very vulnerable population...to improve health at multiple levels."

145. **Shaw KM Theis KA, SelfBrown S, Roblin DW, Barker L. Chronic Disease Disparities by County Economic Status and Metropolitan Classification, Behavioral Risk Factor Surveillance System, 2013. *Prevention Chronic Disease.* 2016;13(E119).**
Shaw et al. examined 2013 Behavioral Risk Factor Surveillance System data to examine 1) the disparity in chronic disease prevalence in the United States by county economic status and metropolitan classification and 2) the social gradient by economic status. The association of hypertension, arthritis, and poor health with county economic status was also explored. The researchers used multivariable logistic regression to evaluate the study data. Results showed that the prevalence of hypertension, arthritis, and poor health in the poorest counties was 9%, 13%, and 15% higher, respectively, than in the most affluent counties. The authors call for specific public health interventions, better access to health care services and improved food and built environments.

146. **Dhanani Z., Huynh N., Tan L., et al. Deconstructing Ableism in Health Care Settings Through Case-Based Learning. *MedEdPORTAL.* 2022;18:11253.**
Dhanani et al. created and evaluated modules on disability and ableism from patient and provider perspectives. The modules were rated for educational value, professional growth contribution, and interactive/engaging design. Results indicate, "the modules can contribute to professional growth, understandings of ableism, and participants' disability advocacy tool kit."

147. **Mitra M., Long-Bellil, L., Moura, I., Miles, A., Kaye, S. Advancing Health Equity And Reducing Health Disparities For People With Disabilities In The United States. *Health Affairs.* 2022;41(10).**
Mitra et al. published this overview paper to explain health inequities among people with disabilities. The authors review disability prevalence, and inequities among those with disabilities. The researchers suggest policy recommendations to advance the health and well-being of those with disabilities living in the U.S.

148. **Disability & Health U.S. State Profile Data for Washington (Adults 18+ years of age). 2023; Available at: https://www.cdc.gov/ncbddd/disabilityandhealth/impacts/washington.html. Accessed, 2023.**
The Centers for Disease Control and Prevention publishes Washington State-specific data regarding disability status. Data are compiled from the 2021 Behavioral Risk Factor Surveillance System (BRFSS).

149. **Nuño-Solínis R.; Urtaran-Laresgoiti, M.; Lázaro, E.; Ponce, S.; Orueta, J.F.; Errea Rodríguez, M. Inequalities in Health Care Experience of Patients with Chronic Conditions: Results from a Population-Based Study. *Healthcare.* 2021;9(1005).**
Nuno-Salinas et al. evaluated data from the 2018 Basque Healthy Survey to explore the differences in healthcare experience among patients with chronic conditions according to individual sociodemographic and health-related variables. Patient experience was assessed using the Instrument for Evaluation of the Experience of Chronic Patients questionnaire. The study sample included 3981 people living in the Basque Country area of Spain. The researchers used descriptive and regression analyses and estimated linear regression models. Results of several analyses of the survey data are described.

150. **Skarupski K. A., Gross A., Schrack J. A., et al. The Health of America's Aging Prison Population. *Epidemiol Rev.* 2018;40(1):157-165.**
Skarupski et al. conducted this systematic review of epidemiologic literature on the health challenges facing the aging U.S. prison population. The researchers cite prior research to highlight statistics on the aging prison population. The review included 21 studies published between 2007-2017, and focused on the following health outcomes: diseases, comorbid conditions, mental health, cognition, and mobility. Study sample sizes varied from 25 to 14,499 incarcerated people. In comparison with younger incarcerated people, older adults "reported high rates of diabetes mellitus, cardiovascular conditions, and liver disease. Mental health problems were common, especially anxiety, fear of desire for death or suicide, and depression. Activities of daily living were challenging for up to one-fifth of the population." The researchers also provide recommendations for policy and practice to address health issues for this group of people.

151. **Dowell T. The Juvenile Offender System in Washington State, 2020 Edition.2020.**
Todd Dowell, Deputy Prosecuting Attorney, Kitsap County is a foremost expert in Washington State juvenile law. The intent of this resource is to provide an overview and explanation of the juvenile justice system in Washington State, and to serve as a resource and teaching tool for prosecutors, defenders, judges, students and others. This resource details the history of the Washington State juvenile justice system, describes how a juvenile may be brought to court, explains juvenile jurisdiction, defines a "juvenile," describes juvenile capacity and competency, outlines juvenile court arraignment, and describes adjudication, disposition, and post-disposition.

152. **JR to 25 Youth Transfer Update. 2020; Available at: https://dcyf.wa.gov/news/jr-25-youth-transfer-update. Accessed.**
This Department of Children, Youth, and Families webpage provides information about juvenile rehabilitation to age 25.

153. **US Department of Education Office for Civil Rights. Civil Rights Data Collection Data Snapshot: School Discipline, Restraint, & Seclulsion Highlights.2014.**
A report from the U.S. Department of Education (2014) found that Black children and boys were more likely to be expelled from preschool than other students. For example, Black children represent 18% of preschool enrollment, but 48% of preschool children receiving more than one out-of-school suspension. Conversely, white students represent 43% of preschool enrollment but 26% of preschool children receiving more than one out-of-school suspension. Overall, students of color and students with disabilities are more likely to be suspended from school. With the exception of Latino and Asian-American students with disabilities, children of color with disabilities experience higher rates of out-of-school suspensions (more than one out of four boys and nearly one in five girls). However, preschool students with limited English proficiency do not receive out-of-school suspensions at disproportionately high rates.

154. **Justice Alliance for Safety and. Crime Survivors Speak: The first-ever national survey of victims' views on safety and justice.2016.**
In 2016, the National Alliance for Safety and Justice conducted the first national survey with crime victims and survivors to understand their views on safety and justice. Overall, the survey found that "victims overwhelmingly prefer criminal [legal] approaches that prioritize rehabilitation over punishment and strongly prefer investments in crime prevention and treatment to more spending on prisons and jails."

155. **Justice Californians for Safety and. California Crime Survivors Speak: A statewide survey of California victims' views on safety and justice.2019.**
In 2019, Californians for Safety and Justice conducted a state-version of the National Alliance for Safety and Justice's 2016 survey with crime victims and survivors. Specific to this survey, the authors found that "victims support alternatives to incarceration for people with mental illness in the criminal [legal] system and support replacing lengthy mandatory sentences with increased judicial discretion, including for people convicted of serious or violent crime that are a low risk to public safety."

156. **Burbank M. Federal cuts threaten Washington Crime Victims' Advocacy Programs. *The Wenatchee World*2025.**
This news article discusses federal and state funding for Crime Victims' Advocacy Programs in Washington State.