

From Cycles of Harm to Cycles of Opportunity: Justice for Edna Mahan Correctional Facility and the State of New Jersey

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*“Your report may not solve the whole problem, but **if it could just help one person, it makes it worth it.**”*

- Rashida Smith, formerly incarcerated at Edna Mahan Correctional Facility

Introduction

Overview

The upcoming closure of the Edna Mahan Correctional Facility (EMCF), New Jersey’s sole state prison for women, presents an opportunity for the state to reimagine justice and change the narrative around incarceration from cycles of harm to **cycles of opportunity by repairing, reimagining, and reinvesting.**

Who will benefit from reading this report

All New Jerseyans — from community members to elected officials and legislators — and any person or organization that is interested in learning about the current situation at EMCF and/or those who are interested in alternatives to incarceration.

Community Partners

This report was made possible because of the contributions of time, insights, and expertise shared with us by formerly incarcerated people in New Jersey, community leaders, elected officials, and legislators. We are humbled by and grateful for their lived experiences, advocacy, and legislative efforts.

Centering Lived Experiences

First and foremost, **we are grateful to Jara Brown, Rashida Smith, and the other currently and formerly incarcerated women from Edna Mahan who shared their experiences with us.** For those who opted to speak with us privately, we respect their right to anonymity and offer our gratitude for the experiences and insights they shared with us.

Featured Community Partner



Women Who Never Give Up, Inc.

Gale Muhammad, Founder & President
Tisha Barnes, Executive Director

Women Who Never Give Up, Inc. (WWNG) is a New Jersey-based nonprofit dedicated to helping families get justice in our criminal justice system. Our team has had the privilege of collaborating with WWNG's Founder & President, Gale Muhammad, to understand the recent history of advocacy and justice reform efforts in New Jersey. This report would not have been possible without WWNG and Gale's tireless efforts in introducing us to key stakeholders in New Jersey's justice community. Thank you, Gale and WWNG.

Stakeholders Engaged¹



Justice Strategies



CGL Companies



The Moss Group



New Jersey State Legislature (Senator Sandra Cunningham & Assemblywoman Yvonne Lopez)



American Civil Liberties Union (ACLU) New Jersey



New Jersey Reentry Corporation (NJRC)

¹ In no particular order



Returning Citizens Support Group



Help Us Become Better (HUBB) Arts & Trauma Center



New Jersey Institute of Social Justice (NJISJ)



Durgana Law, LLC.



New Jersey Prison Justice Watch



New Jersey Department of Corrections (NJDOC or DOC)



Reimagining Justice New Jersey

Our Team

We are a team of graduate students enrolled in “Creating Justice in Real Time”, an advocacy-focused course hosted by the William Monroe Trotter Collaborative for Social Justice at the Harvard Kennedy School of Government. Our team has diverse experiences working in carceral settings, academia, and the private and public sectors. We have created this report over the course of a spring term semester.



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Executive Summary

In 2018, the Department of Justice's (DOJ) Civil Rights Division and the US Attorney's Office for the District of New Jersey launched an investigation into numerous accounts of sexual abuse at New Jersey's only women's prison. For decades, women incarcerated at Edna Mahan Correctional Facility (EMCF) suffered from systemic predation and sexual abuse that correctional officers and staff inflicted on them. DOJ found that the New Jersey Department of Corrections (NJDOC) likely violated the women's Eighth Amendment Right to be free from cruel and unusual punishment and the Civil Rights of Institutionalized Persons Act (CRIPA). DOJ's report painstakingly details EMCF's failures time and time again to protect women from sexual abuse from the facility's staff. Eventually, DOJ, NJDOC, and communities impacted by the abuse reached three agreements:

- **April 2020:** To resolve 22 pending civil litigations against NJDOC related to sexual abuse and harassment at EMCF, NJDOC agreed to pay \$20.8 million in damages and attorneys' fees to compensate women directly impacted.
- **July 2021:** New Jersey Governor Phil Murphy announced his intent to close EMCF entirely. Closure and relocation is expected to take multiple years.
- **August 2021:** To end DOJ's inquiry, the NJDOC and DOJ entered into a consent decree requiring EMCF to implement dozens of policies intended to create safer and more secure conditions. The decree required that an agreed monitor—serving a three year term— evaluate NJDOC's compliance with the consent decree. Every six months, the Monitor is required to file a Monitoring Report with the court.

Through interviews with NJDOC staff, women incarcerated at EMCF, community-based organizations, and grassroots advocates, we find that the process designed to deliver justice for women abused at EMCF is insufficient. It fails to include input from those harmed and imagine other long-term solutions that bring about transformative, cultural change. Based on our findings, we recommend the following:

Recommendation 1: Promote legislative and institutional pathways to reduce sentences that recognize the impact of trauma

Recommendation 2: Pursue gubernatorial commutations to provide justice for women with longer sentences who have endured trauma over a longer period of time

Recommendation 3: Create a commission to assess alternative solutions with greater transparency and civic engagement

Recommendation 4: Reinvest state dollars into reentry programs to reduce recidivism and ensure successful reintegration

Recommendation 5: Develop prevention programs that address the root causes of incarceration

The Problem of Incarceration

The purposes of incarceration

The earliest historical records of prison come from ancient civilizations of Egypt and Mesopotamia, where people guilty or suspected of committing misdeeds were placed in confinement awaiting a death sentence or enslavement. It was not until English royalty signed the *Magna Carta* in 1215 that a law codified the right to due process (receiving a trial before imprisonment). Then in the 17th century, English prisons became overcrowded, so incarcerated people were transported to penal colonies like North America and Australia, a practice followed by the Russians and French until the 1900s.²

These records provide clues to the foundations of a modern prison system built upon **five key objectives**: denunciation, deterrence, retribution, incapacitation, and rehabilitation.³

Denunciation identifies violators of criminal laws as those who contradict what a society represents. By registering disapproval of wrongful acts, society is reaffirming its values and demonstrating that its rules will be enforced.⁴

Deterrence has two applications: first, punishment for criminal acts is thought to prevent the specific perpetrator from committing the act again. Second, by publicizing the punishment, other potential offenders will be discouraged from committing the same act.⁵

Retribution stems from the Old Testament's concept of "an eye for an eye." In theory, retribution is meant to redistribute imbalanced burdens of suffering created by the offender.⁶ Retribution sanctioned by the state also deters vengeful inclinations or self-vigilantism from the public.

Incapacitation is believed to protect the public from people who have committed offenses considered to pose a danger to society. They are removed in order to protect society, typically through incarceration or forms of supervision like parole and probation.

Rehabilitation describes the re-education of someone who has committed an offense to equip them with new skills or capacities in order to re-enter society.

Starting in 1928, Edna Mahan served as one of the nation's first female superintendents at Clinton Farms in Clinton, New Jersey. Considering herself a reformer, Mahan pursued aspirational principles for the women sentenced to the facility leaving a legacy commemorated through the renaming of the facility in her honor. Over a century later, the body of evidence of incarceration in the facility, the state of New Jersey, and the US at large demonstrates that correctional institutions are highly effective at retribution and incapacitation. Lingering questions remain about their ability to denunciate, deter, and rehabilitate.

² "History of Prisons", *Prison History*, <http://www.prisonhistory.net/prison-history/history-of-prisons/>, April 22, 2022.

³ "Ruth Wilson Gilmore Makes the Case for Abolition," *The Intercept*, June 10, 2020
<https://theintercept.com/2020/06/10/ruth-wilson-gilmore-makes-the-case-for-abolition/>.

⁴ Ronald J. Rychlak. "Society's Moral Right to Punish: A Further Exploration of the Denunciation Theory of Punishment," *Tulane Law Review*, Vol. 65, No. 2, 1990, pg. 332

⁵ Valerie Wright, "Deterrence in criminal justice: Evaluating certainty vs severity of punishment," *The Sentencing Project*, November 2010, pg. 1-9

⁶ Rychlak, pg. 329

“No one comes to harm for the first time by committing it.”

- Mariame Kaba, educator and organizer

Case in Point: Edna Mahan Correctional Facility

What Incarceration Achieves: Learning from Jara and Rashida’s Stories

Jara grew up in the suburbs of Elizabeth, New Jersey. Her father moved in and out of her life because of his drug addiction. Despite the turbulence of her father’s illness, Jara was fascinated by the law and dreamed of becoming a judge. The price of this dream, however, was steep. In college, Jara sold drugs to pay tuition. Though Jara was not present when her kingpin was busted, she was charged and took a plea. Four years of college turned into five years at Edna Mahan.

When Jara entered EMCF, she was housed in a gymnasium. She slept in a bunk amongst 50 women. Toilets were in the center of the room, and showers were against the walls. Going to the bathroom or keeping clean meant being totally exposed, while male correctional officers (COs) looked on.

Jara’s permanent housing in A-Cottage seemed to have more privacy until one night the door to her room became ajar. Jara lay frozen in her bed as a CO sexually assaulted her roommate. Jara says, “Nobody was watching the guy that was watching. Someone should have been watching them.”

When **Rashida** was in her early twenties, she became pregnant. Her parents told her, “If you decide to keep the baby, you cannot come home.” Rashida began to sell drugs to support herself. By her son’s first birthday, she was facing a 15-year prison sentence at Edna Mahan Correctional Facility.

Regularly, Rashida was called a “hoe” and a “crackhead” by COs, but one day verbal abuse escalated to physical abuse. As Rashida left the dining hall, a sergeant instructed the women to “keep it moving.” Not thinking this order was directed at her, Rashida continued to leave the room with her friends. Suddenly, she was called out of the crowd by the sergeant, “Hey you, I know you hear me, get the fuck over here.” He grabbed Rashida by the back of the neck and slammed her into a metal detector, saying, “When I tell you to move, you better fucking move.”

“Get the fuck off me. What are you doing?” Rashida yelled back. A troop of correctional officers with sticks and shields flooded the mess hall. Rashida was sent to solitary confinement and charged with verbally assaulting an officer.

It was not always the COs who abused the women. Sometimes it was other incarcerated people. Jara remembers the sense of threat that she felt trying to survive within the facility with little protection from staff. Jara lamented, “Who do you tell if you have a problem? You can’t call an officer, they are not trained to help you, they are trained to control you”.

Interspersed with abuse was also boredom and negligence. Because Jara had some college, there was no educational programming for her to participate in. The highest degree you could earn while incarcerated was a GED. Rashida knew there was something wrong, so she went to see a psychiatrist. She wanted someone to talk to, but instead was diagnosed with being anti-social and put on medication. Rashida observed other women in need of mental health treatment receive nothing more than a question from a clinician: “How’s your mental health today?” No matter the answer, a Sudoku puzzle was then slid under their cell door.

As Rashida left prison, a correctional officer taunted: “You may be leaving, but you’ll be back.” Rashida rebuffed his comment, to which the officer replied, “Well, we’ll make room for your kids.”

Jara was in an intensive supervision program that required her to retain a residence, have a job within 30 days, maintain a 6:30pm curfew, and attend daily AA meetings even though she did not have an addiction. Stalled in traffic due to an accident on the highway and worried that she would arrive home in time for her curfew, Jara called her parole officer. She was violated for being 5 minutes late.

Rashida was in a halfway house with onerous rules like paying a percentage of her income as a waitress to the house or having to be escorted anywhere in public. With a small staff, this slowed the process of getting a government ID or registering for school.

Once released from state supervision, Rashida used her network to get a job at a construction company where she now works as a project manager. As a part of her company’s community outreach efforts, Rashida mentors young people to help them achieve their brightest futures. Her son is 28 years old and her daughter is 7. “I’m fortunate enough for this to be my outcome,” Rashida says, “but that’s not the outcome for a lot of people. Not everyone is strong enough to do this. I’ve seen plenty of inmates who broke. Some of them committed suicide. Some were so sedated that it messed them up and they didn’t come home the same.”

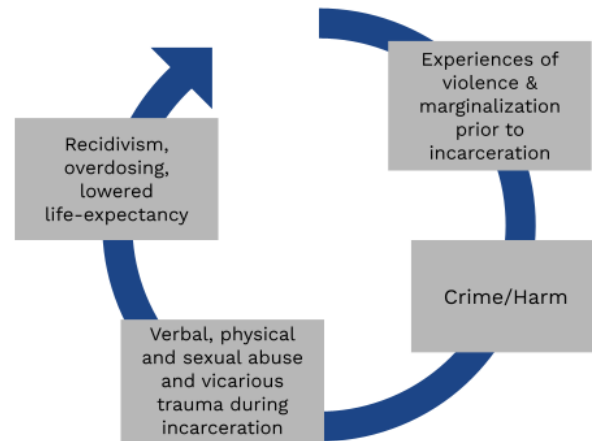
Jara opted to open a barbershop, knowing that her record could not impede her if she worked for herself. Now, she and her partner are successful business owners, but her incarceration follows her. Jara prefers to sleep during the day, knowing that her wife is watching out for her. Jara explains, “A lot of inmates suffer in silence, you call it reform, but you create a new trauma through incarceration” and “the trauma,” she says, “never goes away. I’m just fortunate to hide it well.”

Cycles of Harm

Jara and Rashida's stories illustrate that crime does not occur in a vacuum. Cultural narratives of people who cause harm portray them as monstrous and malicious, but in the majority of cases, violence and harm grow out of a history and context of violence, harm, and marginalization.

To fully understand the impact of the sexual abuse crisis at Edna Mahan, the cycle of harm — before, during, and after imprisonment — in which incarcerated women are trapped must first be examined.

Cycles of Harm Perpetuated by Incarceration



Before Incarceration

Women's pathways to incarceration are distinct, but what ties them together are histories of trauma and experiences of marginalization. Trauma comes in many forms, including witnessing violence, being the victim of abuse, the death of loved ones, childhood neglect and abandonment, and more.⁷ Interpersonal violence, including emotional, physical, and sexual abuse by family members and intimate partners, particularly men, is the most frequent form of trauma experienced by women who become incarcerated.⁸

Research has shown that between 50-90% of incarcerated women survived physical and/or sexual violence prior to their imprisonment and that their experiences of violence are more enduring than those of men.⁹ Whereas men's vulnerability to abuse declines after childhood, women's vulnerability persists into adulthood.¹⁰ These statistics do not impact all women equally. Black women and transgender women, especially transgender women of color, experience sexual violence at higher rates than other women.^{11 12}

Without support (e.g., long-term therapy, social support, financial stability), trauma results in mental health disorders, such as depression, bipolar disorder, post-traumatic stress disorder, and substance use disorders. Many of these illnesses are co-occurring. Amongst

⁷ Catherine Mitchell Fuentes, "Nobody's Child: The Role of Trauma and Interpersonal Violence in Women's Pathways to Incarceration and Resultant Service Needs", *Medical Anthropology Quarterly*, Vol. 28, Issue 1, pp. 85-104, <https://anthrosource-onlinelibrary-wiley-com.ezp-prod1.hul.harvard.edu/doi/pdfdirect/10.1111/maq.12058>.

⁸Ibid.

⁹ U.S. Commission on Civil Rights, "Women in Prison: Seeking Justice Behind Bars", *United States Commission on Civil Rights*, February 26, 2020, <https://www.usccr.gov/files/pubs/2020/02-26-Women-in-Prison.pdf>.

¹⁰ Ibid.

¹¹ Jameta Nicole Barlow, "Black women, the forgotten survivors of sexual assault", *American Psychological Association: In the Public Interest Newsletter*, February 2020, <https://www.apa.org/pi/about/newsletter/2020/02/black-women-sexual-assault>.

¹² National Sexual Violence Resource Center, "Sexual Violence and Transgender/Non-Binary Communities", 2019, https://www.nsvrc.org/sites/default/files/publications/2019-02/Transgender_infographic_508_0.pdf.

women entering jail, 32% have a serious mental illness, and 82% have a substance use disorder.¹³ Intersecting with trauma is women's economic marginalization, making them more vulnerable to exploitation and less likely to have access to the care they need to heal. 72% of women prior to their incarceration have an annual income below \$22,500.¹⁴ In 2014 dollars, the median annual income of white women before they became incarcerated was \$21,975, for Latinx women \$19,740, and for Black women \$17,625.¹⁵

Committing Harm

According to the Bureau of Justice Statistics 2016 report, 37% of incarcerated women committed crimes labeled violent, 26.9% committed property crimes, 24.9% committed drug crimes, and 10.2% committed crimes related to public order. In particular, at EMCF, the largest crime categories are violent and property offenses.¹⁶

What counts as a “violent” crime? Scholars have noted that labeling crimes “violent” is misleading. First, the definition of violence is not stable across jurisdictions. Second, prosecutors have broad discretion in their labeling of transgressions, and this categorization does not always comport with public notions of violence. For example, aggravated assault, but not simple assault — both involving bodily harm — is considered a violent offense. Third, 95% of cases end in plea bargains, which “further obscures any clear relationship between a conviction for a crime that has been labeled by the courts or legislature as violent and the action an individual engaged in.”¹⁷

Whatever the category of offense, women's victimization, and criminalization are “interrelated processes” fueled by trauma and abuse.¹⁸ The harm women commit is often an attempt to cope with trauma or escape from abuse. At the moment of trauma, the perpetrator overpowers the victim, rendering them helpless. This produces feelings of powerlessness, worthlessness, and alienation.¹⁹ To quell these painful feelings and symptoms of post-traumatic stress, women may use drugs and alcohol, turning to property crime to sustain their addiction.

¹³Elizabeth Swavola, Kristine Riley, and Ram Subramanian, “Overlooked: Women and Jails in an Era of Reform”, *Vera Institute of Justice*, 2016, <https://www.vera.org/downloads/publications/overlooked-women-and-jails-report-updated.pdf>.

¹⁴ Ibid.

¹⁵Bernadette Rabuy and Daniel Kopf, “Prisons of Poverty: Uncovering the pre-incarceration incomes of the imprisoned” *Prison Policy Initiative*, July 9, 2015, <https://www.prisonpolicy.org/reports/income.html>.

¹⁶New Jersey Department of Corrections, “Offenders in New Jersey Correctional Institutions”, January 4, 2022, https://www.state.nj.us/corrections/pdf/offender_statistics/2022/By%20Offense%202022.pdf.

¹⁷ Rebecca Stone, Susan Sered, Amanda Wilhoit, and Cherry Russell, “Women, Incarceration, and Violent Crime: A Briefing in Response to Plans for Building a New Women’s Prison in Massachusetts”, *Women and Incarceration Project at Suffolk University*, https://cpb-us-e1.wpmucdn.com/sites.suffolk.edu/dist/1/1933/files/2021/09/Women_Incarceration_and_Violent_Crime.pdf.

¹⁸ Dirks, Danielle. “Sexual revictimization and retraumatization of women in prison.” *Women’s Studies Quarterly* 32, no. 3/4 (2004): 102-115.

¹⁹ Ibid.

Survivors may rush into relationships to gain affirmation and rebuild their self-worth only to find that their partner is abusive. They may have a child with this partner to “fix” the unhealthy dynamic or gain unconditional love from the child. Within the context of an abusive relationship, where their partner is exerting coercive control, they may engage in illegal activity, committing a crime on their partner’s behalf to avoid further abuse, aid their partner’s addiction, and/or to support their child.²⁰

Sometimes, women are blamed for the brunt of the crime their partner committed. Seeing no way out of a relationship with escalating violence by her partner, she may engage in violence against them.²¹ “The New York State Department of Correctional Services found that 67% of women sent to prison in 2005 for killing someone close to them were abused by the victim of their crime... An earlier New York study reported that 93% of women convicted of killing intimate partners had been physically and/or sexually abused by an intimate partner during adulthood.”²²

“The courtroom is a show,” said one of the women at EMCF. During the arrest, trial, and sentencing, women, especially women of color, are often punished more harshly than men for crimes involving violence, because they are viewed as violating “conventional notions of proper femininity.”²³ Mandatory arrest laws instituted in the 1990s to ensure the arrest of perpetrators of domestic violence, who are largely men, have since been turned on victims, who are largely women.²⁴ For women of color, especially Black women, racist cultural narratives that portray them as “sexually deviant, hypersexual, and inviolable” undermine their claims to victimhood and self-defense, resulting in heavier sanctions.²⁵

For more information on what trauma and abuse are and looks like, please see Appendix Figure 1 & 2.

During Incarceration

Once incarcerated, women continue to experience the deprivation, dehumanization, and abuse that characterized their lives on the outside. Scholars have noted that the very structure of prison — beyond specific instances of physical and sexual assault — mirrors abusive dynamics. Within the prison, correctional staff have a monopoly on power and resources and dictate every aspect of women’s lives.²⁶ This environment “perpetuates feelings of powerlessness” and leads to retraumatization and revictimization.²⁷

²⁰ Wesely, Jennifer K., and Susan C. Dewey. “Confronting Gendered Pathways to Incarceration.” *Social Justice* 45, no. 1 (151 (2018): 57-82.

²¹ Rebecca Stone, Susan Sered, Amanda Wilhoit, and Cherry Russell, “Women, Incarceration, and Violent Crime: A Briefing in Response to Plans for Building a New Women’s Prison in Massachusetts”, *Women and Incarceration Project at Suffolk University*, https://cpb-us-e1.wpmucdn.com/sites.suffolk.edu/dist/1/1933/files/2021/09/Women_Incarceration_and_Violent_Crime.pdf.

²² Ibid.

²³ Ibid.

²⁴ Ibid.

²⁵ Richie, Andrea J. Issue brief. *EXPANDING OUR FRAME: DEEPENING OUR DEMANDS FOR SAFETY AND HEALING FOR BLACK SURVIVORS OF SEXUAL VIOLENCE*. National Black Women’s Justice Institute and Ms. Foundation for Women, February 2019. <https://www.andreajrichie.com/>.

²⁶ Dirks, Danielle. “Sexual revictimization and retraumatization of women in prison.” *Women’s Studies Quarterly* 32, no. 3/4 (2004): 102-115.

²⁷ Ibid.

Basic necessities such as toilet paper and sanitary products are rationed by the state.²⁸ Often, women have to ask male correctional officers for tampons and sanitary napkins.²⁹ Food is limited and lacks nutrition, and medical care is inadequate.³⁰

Nearly every hour and aspect of women's lives are dictated, from what they wear to where they have to be at certain times of the day. Lack of compliance results in disciplinary citations. This state of deprivation, combined with the correctional staff's unfettered power, creates the conditions for sexual abuse. Incarcerated people often trade sexual acts for basic necessities or are forced to engage in sexual acts under the threat of punishment. This sentiment was shared by a poster hung at EMCF reading, "Don't accept favors (with an image of a candy bar). In return, you may owe more than you're willing to pay."

In one study, 40% of incarcerated people reported experiencing physical or sexual assault by another incarcerated person or staff in the last 6 months.³¹ Even those who do not experience such abuse directly, including correctional officers, are traumatized by living under the threat of violence. The rate of suicide amongst COs is 39% higher than the rest of the working-age population.³²

Some sexual violations are routinized through pat-downs and strip searches — COs run their hands over women's bodies or examine their anal and vaginal cavities as a matter of security.³³ Due to a lack of female correctional officers, women are often monitored by male correctional officers in dormitory and bathroom areas while changing and showering, making voyeurism a banal aspect of prison life.³⁴

Incarcerated women face several barriers to reporting sexual abuse. Prison policies often place victims in solitary confinement after reporting, cutting off their access to visits and programming. This deters reporting and seemingly punishes the survivor.³⁵ Because incarcerated women are viewed as "perpetrators" or "bad girls," many correctional staff are unable to view them as victims, which leads to disbelieving their reports.³⁶ Other times, women face retaliation for their reporting, such as having their cell raided or being threatened with physical violence. When correctional staff collude to cover up their colleagues' sexual misconduct or do not have the expertise or capacity to conduct investigations, women come to believe that reporting is futile and that correctional staff can act with impunity.

²⁸ Ruth Delaney, Ram Subramian, Alison Shames, and Nicholas Turner, "Examining Prisons Today." *Vera Reimagining Prison Web Report*, September 2018, <https://www.vera.org/reimagining-prison-web-report/examining-prisons-today>.

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ *Ibid.*

³² National Institute of Corrections, "Correctional Officer Suicide," *NIC Information Center*, April 14, 2016, <https://s3.amazonaws.com/static.nicic.gov/Library/033237.pdf>.

³³ Dirks, Danielle. "Sexual revictimization and retraumatization of women in prison." *Women's Studies Quarterly* 32, no. 3/4 (2004): 102-115.

³⁴ United States Department of Justice Civil Rights Division, "Investigation of the Edna Mahan Correctional Facility for Women (Union Township, New Jersey)", United States Attorney's Office District of New Jersey, April 2020, <https://www.justice.gov/opa/press-release/file/1268391/download>.

³⁵ Surrell, April, and Ida M. Johnson. "An examination of women's experiences with reporting sexual victimization behind prison walls." *The Prison Journal* 100, no. 5 (2020): 559-580.

³⁶ Dirks, Danielle. "Sexual revictimization and retraumatization of women in prison." *Women's Studies Quarterly* 32, no. 3/4 (2004): 102-115.

One scholar noted that “women's experiences of sexual harassment and abuse, lack of privacy, and retaliation during incarceration may further increase women's risk for depression, anxiety, PTSD, and decreased overall well being before release from prison.”³⁷

After Incarceration

The harm of incarceration does not end once women exit the prison gates. It can be difficult to disentangle the impacts of pre-incarceration and during-incarceration traumas. However, researchers have hypothesized that pre and during incarceration, traumas compound to make reentry more difficult for formerly incarcerated people.³⁸ 40.1% of incarcerated women have post-traumatic stress disorder (PTSD), and one study showed a linkage between time in solitary confinement while incarcerated and PTSD upon release.³⁹ Researchers found that formerly incarcerated people, specifically those incarcerated for 15 years or more, experience a subtype of PTSD known as post-incarceration syndrome, which includes symptoms of spatial disorientation, difficulty trusting others, and a sense of not belonging.⁴⁰ Considering these health effects, it is no wonder that formerly incarcerated people lose 2 years of life expectancy for every year they are incarcerated.⁴¹

Coupled with the deleterious imprint of incarceration are the lasting effects of sexual abuse. Women with experiences of rape or violence by an intimate partner have a “higher reported prevalence of asthma, irritable bowel syndrome, diabetes, frequent headaches, chronic pain, difficulty sleeping, and activity limitations.”⁴² One year following sexual assault, 41% of survivors still deal with symptoms of post-traumatic stress.⁴³

Beyond the physiological and psychological health impacts of incarceration, formerly incarcerated people face structural barriers to reintegration because of discriminatory laws that impede access to housing and employment based on criminal records. As a result, formerly incarcerated people are 10 times more likely to be homeless than the general public.⁴⁴ The unemployment rate amongst formerly incarcerated people is 27%, which is “higher than the U.S. employment rate during any historical period including the Great Depression.”⁴⁵ Marginalization along the lines of race and gender further compound

³⁷ Ibid.

³⁸ Joi D. Anderson, Ronald O. Pitner & Nikki R. Wooten (2020) A gender-specific model of trauma and victimization in incarcerated women, *Journal of Human Behavior in the Social Environment*, 30:2, 191-212, DOI: 10.1080/10911359.2019.1673272. <https://www.tandfonline.com/doi/full/10.1080/10911359.2019.1673272>.

³⁹ Belet B, D'Hondt F, Horn M, Amad A, Carton F, Thomas P, Vaiva G, Fovet T. Trouble de stress post-traumatique en milieu pénitentiaire [Post-traumatic stress disorder in prison]. *Encephale*. 2020 Dec;46(6):493-499. French. doi: 10.1016/j.encep.2020.04.017. Epub 2020 Sep 10. PMID: 32921495. <https://pubmed.ncbi.nlm.nih.gov/32921495/#:~:text=Abstract.still%20widely%20underdiagnosed%20in%20jail.>; Hagan, Brian O et al. “History of Solitary Confinement Is Associated with Post-Traumatic Stress Disorder Symptoms among Individuals Recently Released from Prison.” *Journal of urban health : bulletin of the New York Academy of Medicine* vol. 95,2 (2018): 141-148.

⁴⁰ Liem, Marieke, and Maarten Kunst. “Is There a Recognizable Post-Incarceration Syndrome among Released ‘Lifers?’” *International Journal of Law and Psychiatry* 36 (April 30, 2013). <https://doi.org/10.1016/j.ijlp.2013.04.012>.

⁴¹ Initiative, Prison Policy. “Incarceration Shortens Life Expectancy.” Accessed May 15, 2022. https://www.prisonpolicy.org/blog/2017/06/26/life_expectancy/.

⁴² “National Intimate Partner and Sexual Violence Survey: 2010 Summary Report,” 2010, 124. https://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf.

⁴³ “75% of Sexual Assault Survivors Have PTSD One Month Later,” July 20, 2021. <https://newsroom.uw.edu/news/75-sexual-assault-survivors-have-ptsd-one-month-later>.

⁴⁴ Initiative, Prison Policy. “Nowhere to Go: Homelessness among Formerly Incarcerated People.” Accessed May 15, 2022. <https://www.prisonpolicy.org/reports/housing.html>.

⁴⁵ Initiative, Prison Policy. “Out of Prison & Out of Work.” Accessed May 15, 2022. <https://www.prisonpolicy.org/reports/outofwork.html>.

homelessness and unemployment, with Black women having the highest rates of sheltered homelessness and highest rates of unemployment (43%) amongst returning citizens.⁴⁶

Systemic Abuse at EMCF

Stories like Jara's and Rashida's are not unusual outliers. They are but a few among many that together represent systematic patterns of trauma inflicted on women incarcerated at EMCF. The harmful conditions within EMCF were exposed to the public after *New Jersey Advance Media* published a detailed article about the culture of rampant sexual violence at the prison, and the federal Department of Justice (DOJ) announced an investigation into the matter in April 2018.

Throughout the investigation period, 2016-2019, five EMCF correctional officers and one civilian employee were convicted of or plead guilty to charges related to the sexual abuse of more than 10 women they were assigned to watch. These included instances of rape and sexual assault, coerced fellatio, and requiring incarcerated women to undress and masturbate in their cells or perform sexual acts with other incarcerated women while staff watched. The incidents stemmed from, the DOJ observed, a pattern of EMCF staff leveraging violence, deprivation of privileges, fear of retaliation, and exchange of contraband.⁴⁷

During 2016 and 2017 alone, DOJ documented 97 and 145 complaints, respectively, of "staff-on-prisoner" sexual abuse reported to NJDOC. In 2017, 4.8% of allegations (7 of 145) were substantiated, a rate distinctively lower than the reported 8% rate of substantiated sexual victimization allegations in prisons and jails nationwide.⁴⁸ DOJ partially attributed the significant gap between NJDOC's rate and the national average to broader findings of persistently ineffective responses to allegations of sexual abuse. The investigation identified credible evidence of inadequate systems for preventing, detecting, and responding to sexual abuse at EMCF. In particular, DOJ accused NJDOC of deterring victims from reporting staff sexual abuse due to valid fears of retaliation, failing to respond with appropriate investigations when women did report abuse, failing to provide confidential reporting mechanisms, and inadequately supervising premises, creating opportunities for abuse to occur.⁴⁹

DOJ concluded its investigation in April 2020 and consolidated its findings into three claims about systematic predation at EMCF:⁵⁰

1. Sexual abuse perpetrated by staff at EMCF violated constitutional rights protected by the 8th Amendment's protections against cruel and unusual punishment.
2. Edna Mahan had inadequate systems for preventing, detecting, and responding to allegations of sexual abuse, exposing women incarcerated there to a substantial risk of ongoing harm.

⁴⁶ Ibid.

⁴⁷ "Investigation of the Edna Mahan Correctional Facility for Women (Union Township, New Jersey)", pg. 2

⁴⁸ "Investigation of the Edna Mahan Correctional Facility for Women (Union Township, New Jersey)", pg. 15

⁴⁹ "Investigation of the Edna Mahan Correctional Facility for Women (Union Township, New Jersey)", pg. 3

⁵⁰ "Investigation of the Edna Mahan Correctional Facility for Women (Union Township, New Jersey)", pg. 1

3. Officials at EMCF knew about these ongoing risks and disregarded them.

EMCF is not an Anomalous Correctional Facility

The culture of abuse at EMCF is, unfortunately, not an anomaly among correctional facilities. Other prisons have fostered environments that permit and cover up sexual and physical abuse of incarcerated people by staff. The federal and state women's prisons profiled below mirror the crisis at Edna Mahan, showing how vulnerable incarceration makes incarcerated people to sexual exploitation.

Federal Correctional Complex at Dublin (Dublin) | In September 2021, Ray J. Garcia, the warden of the Federal Correctional Complex in Dublin, California, a low-security women's prison, was charged with sexually abusing at least one incarcerated woman.⁵¹ As the warden, Garcia had "custodial, supervisory, and disciplinary authority" over the incarcerated women and was also responsible for staff training on the Prison Rape Elimination Act (PREA) standards. According to the complaint, Garcia digitally penetrated the survivor multiple times and placed her hand on his penis, despite her resistance. While on rounds, the warden requested that the survivor and another incarcerated woman strip naked as he took their photos. He also showed incarcerated women photos of his genitals. Garcia maintained these photos on a government-issued cell phone and computer. To prevent reporting, Garcia further leveraged his position by telling the victim that he was friends with the staff member who investigates sexual abuse and was immune from being fired.

Garcia was hardly alone in his predation within the facility and the Bureau of Prisons more broadly. The pattern of abuse was so blatant that both incarcerated women and staff refer to Dublin as "the rape club."⁵² The first complaints of staff abuse at FCI-Dublin date back to 2017, when one woman reported a sexual assault, but was told it would not be investigated because it was "he-said-she-said."⁵³ In the years that followed, more allegations of sexual assault accrued. In 2019, an incarcerated woman brought a suit against a foreman for allegedly raping her multiple times. When prison officials became aware of her allegations, she was placed in solitary confinement for three months before being transferred to a federal prison in Alabama. In 2020, an incarcerated person's report of staff abuse reached the FBI, which prompted the arrest of 4 employees including the warden. That same year, the Bureau of Prisons faced 422 reports of sexual abuse of incarcerated people by staff across their 150,000 prisoners amongst 122 facilities. In 2021 and the first half of 2022, more prison staff — including a recycling technician, safety administrator, and chaplain — have been arrested for or found guilty of sexual misconduct.

⁵¹"Warden Of Federal Corrections Institute In Dublin Charged With Sexual Abuse Of A Ward," September 29, 2021.

<https://www.justice.gov/usao-ndca/pr/warden-federal-corrections-institute-dublin-charged-sexual-abuse-ward>.

⁵²AP NEWS. "AP Investigation: Women's Prison Fostered Culture of Abuse," February 6, 2022.

<https://apnews.com/article/coronavirus-pandemic-health-california-united-states-prisons-00a711766f5f3d2bd3fe6402af1e0ff8>.

⁵³ Ibid

Coffee Creek Correctional Facility, Wilsonville, Oregon (Coffee Creek) | Since Coffee Creek Correctional Facility, Oregon's only women's prison, opened in 2001, it has been plagued by sexual abuse cases. Four of these cases, in which the terms of the settlement could be identified, cost the state \$3.5M. Most recently, in March 2022, a nurse who worked at Coffee Creek was indicted by federal prosecutors on 21 counts of depriving incarcerated women of their constitutional right to be free from cruel and unusual punishment by sexually assaulting them.⁵⁴

This spring's federal criminal indictment followed a civil lawsuit in which 10 women accused the nurse of inappropriate sexual conduct. One of the alleged victims, who had a history of being sexually abused prior to her incarceration, described the nurse as helpful and caring, which was a welcome contrast to other staff's treatment which made her feel like "nothing."⁵⁵

It was this environment of degradation that made her trust the nurse, until one day in the infirmary he told her, "You make me want to fuck you so bad" and molested her.⁵⁶ Another one of his alleged victims disclosed the incident and the distress to her counselor⁵⁷ and the counselor refused to discuss the matter. Instead, she was put on enhanced sleep medication.

Some survivors declined to report to the Oregon Department of Corrections (ODOC), knowing that others who had reported sexual abuse were placed in solitary confinement and lost privileges and visitation. In these ways, the ODOC's policies and practices for responding to sexual assault actually deter women from reporting and do not provide them with adequate support when they do come forward, prompting one survivor to say that "the response from the Department of Corrections was the scariest part of the whole situation."⁵⁸

It is of particular note that federal prosecutors stepped in because the local district attorney declined to bring charges against the nurse in 2018.⁵⁹ The same year the chief prosecutor did not charge the nurse, Coffee Creek completed a Prison Rape Elimination Act (PREA) audit in which the facility was found to be in compliance with or to have exceeded compliance with all of its standards.⁶⁰ The allegations against the nurse along with the facility's history of sexual abuse contradict the successful PREA audit, calling into question the utility of audits as a metric of facility safety.

Viewing the problem of sexual abuse at Coffee Creek as systemic rather than individual, the lawsuit requested the appointment of a "special master", who would oversee court-ordered

⁵⁴"Former Oregon Corrections Official Indicted for Sexually Assaulting a Dozen Female Inmates While Serving as a Nurse," March 14, 2022. <https://www.justice.gov/opa/pr/former-oregon-corrections-official-indicted-sexually-assaulting-dozen-female-inmates-while>.

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ opb. "Questions Hang over Sexual Assault Claims Involving Former Nurse in Oregon Women's Prison." Accessed May 15, 2022. <https://www.opb.org/article/2022/03/08/sexual-assault-claims-oregon-womens-prison-coffee-creek/>.

⁶⁰"Coffee Creek Prison: Former Inmates Allege Years of Sex Abuse, Sue." Accessed May 15, 2022. <https://www.statesmanjournal.com/story/news/crime/2019/02/28/oregon-department-of-corrections-lawsuit-former-coffee-creek-inmates-sex-abuse-rape/2733694002/>.

changes within the facility. Despite the long history of sexual abuse cases at the women's prison, the state settled the case for \$1.72M.⁶¹

Between 2004 and 2016, at least nine prison employees were found guilty of criminal sexual misconduct against incarcerated women, including a grounds keeper who was convicted in 2012 of sexually assaulting at least 17 victims in what came to be known as the "rape shed."⁶² Litigating the case cost the state \$415,000.⁶³ The year prior to this conviction, the state hired a security expert to review the grounds of the facility, but never shared the findings of the report with Coffee Creek officials, failing to take steps to prevent opportunities for abuse.⁶⁴ *Specific information about Coffee Creek staff accused and/or convicted of sexual abuse can be found in the Appendix of this report.*

Carceral Environments Perpetuate Injustice

In 1971, Professor Philip G. Zimbardo organized a study called The Stanford Prison Experiment, aiming to observe the effects of specific environments on participants' behaviors. Zimbardo conducted a two-week simulation of a prison environment, and recruited volunteers from the community who were randomly assigned to play the role of a "prisoner" or "prison guard". Guards were given uniforms to de-individuate themselves and were instructed to maintain order within the makeshift prison.

Within days, the volunteers assigned to be "prisoners" began to experience physical and emotional distress from their confinement. As they began to rebel, the "prison guards" sought to maintain control over the "prisoners" by deploying increasingly sadistic psychological abuse.⁶⁵ Within just six days, the experiment was shut down due to substantiated concerns about ethical violations, yet an indelible impression had been made. Social environments, even simulated ones, can distort personal identities, values, and morality, as volunteers internalize their situated carceral identities. In this respect, the systemic abuse that emerges in the carceral environment may be considered an expected outcome of a fundamentally broken system rather than the one-off behavior of a few bad correctional officers or poorly-managed facilities.

⁶¹ Ibid.

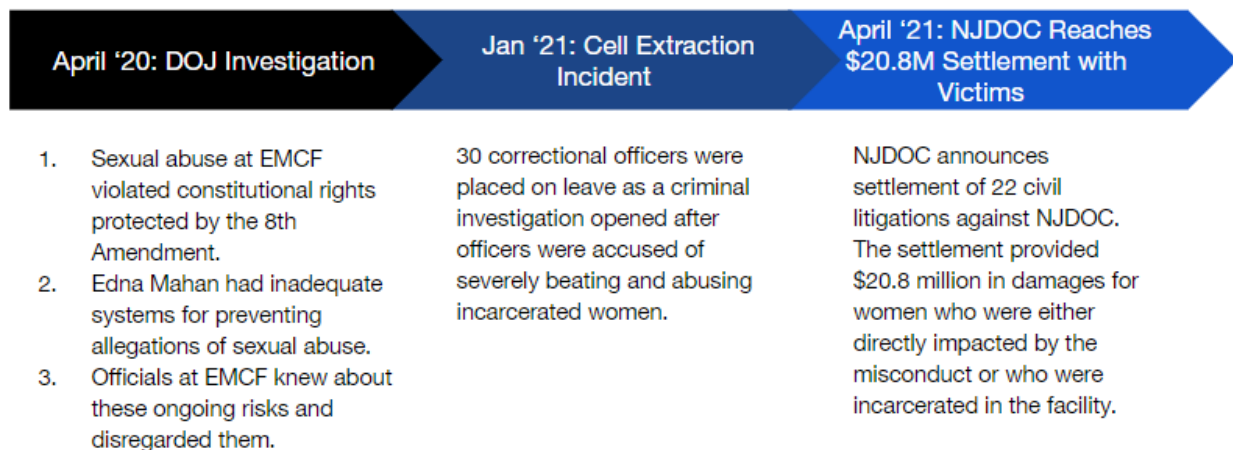
⁶² Ibid.

⁶³ "Abuse of Women Inmates at Oregon's Coffee Creek Prison Goes on for Years - Oregonlive.Com." Accessed May 15, 2022. https://www.oregonlive.com/politics/2012/04/abuse_of_women_inmates_at_oreg.html.

⁶⁴ Ibid.

⁶⁵ Phillip G. Zimbardo, "The Stanford Prison Experiment: A Simulation on the Psychology of Imprisonment", *Social Psychology Network*, <https://www.prisonexp.org/>

The State's Response to the Crisis at Edna Mahan



DOJ Investigation

In August 2020, the Department of Justice concluded its investigation into EMCF. DOJ found that there was reasonable cause to believe that Edna Mahan failed to protect women from sexual abuse at the hands of the facility's staff. The investigation set forth 19 "minimal remedial measures" designed to address the facility's inadequate protection from sexual abuse, ranging from "ending the practice of automatically transferring [women who are incarcerated] who report sexual abuse" to mental health care and emotional support services to installing and maintaining cameras.⁶⁶ DOJ warned NJDOC that it would file suit in 49 days if officials did not address the problems identified in its report.

Cell Extraction Incident

On January 25, 2021, NJDOC put over 30 correctional officers and supervisors at EMCF on administrative leave after they severely beat several incarcerated women during a midnight cell extraction earlier that month. As a result, Attorney General Gurbir Grewal filed criminal charges ranging from assault to misconduct against 10 officers involved in the attacks. The charges came in the middle of an ongoing DOJ investigation.⁶⁷

NJDOC Reaches Settlement

In April 2021, NJDOC reached a global resolution of 22 civil lawsuits concerning sexual abuse allegations against it. The settlement provided over \$20.8 million in damages (and attorneys' fees) for women who were either directly impacted by the misconduct or incarcerated in the facility during the seven-year period. The settlement also required that all correctional staff that regularly contact women at Edna Mahan wear body cameras.⁶⁸

⁶⁶Investigation of the Edna Mahan Correctional Facility for Women (Union Township, New Jersey), U.S. Department of Justice Civil Rights Division (April 2020).

⁶⁷ Lowenstein Sandler LLP, "January 11, 2021 Cell Extractions at the Edna Mahan Correctional Facility for Women"

⁶⁸ Governor Philip D. Murphy, Lt. Governor Sheila Y. Oliver, and Commissioner Marcus O. Hicks, "NJDOC REACHES SETTLEMENT WITH PLAINTIFFS ON EDNA MAHAN SEXUAL ASSAULT MISCONDUCT LITIGATION STEMMING FROM 2014", New Jersey Department of Corrections, April 7, 2021, https://www.state.nj.us/corrections/pdf/PressRelease_PS/210407_NJDOC_REACHES_SETTLEMENT.pdf

June '21: Gov. Murphy
Announces Closure

Aug '21: DOJ & NJDOC Enter Into
Consent Decree

April '22: Federal
Monitor Issues First
Progress Report

Women's Prison Plagued by Sexual Violence Will Close, Governor Says

Gov. Philip D. Murphy said that he would shut down Edna Mahan, New Jersey's only women's prison, because of a "long history of abusive incidents."

The New York Times

Consent decree avoids further litigation if Edna Mahan implements dozens of policies articulated twelve categories including supervision & prevention of retaliation

Monitor's report identifies 45 provisions meeting substantial compliance but demonstrates minimal consideration of incarcerated women's perspectives or experiences

Governor Murphy Announces Closure

In June 2021, former New Jersey State Comptroller Matt Boxer and the private law firm Lowenstein Sandler published the results of its investigation into the cell extraction incident. On this same day, Governor Murphy issued a press release deriding EMCF's long history of abuse and his intent to break "this pattern of misconduct to better serve incarcerated women entrusted to the State's care."⁶⁹ He considered EMCF beyond repair and announced that the facility would close. The next steps presupposed relocating the women at EMCF to another facility or a newly constructed facility, which would take many years and millions of dollars to construct.

Consent Decree

In August 2021, the DOJ and NJDOC entered into a consent decree. The decree outlined numerous substantive provisions that EMCF must follow. EMCF is required to:

1. Adopt written policies and procedures surrounding sexual assault and harassment;
2. Ensure adequate supervision of the facility;
3. Develop a camera plan to ensure that cameras are strategically placed to maximize supervision;
4. Develop a staffing plan based on gender-responsive principles;
5. Ensure staff have adequate knowledge, skill, and ability to prevent, detect, and respond to asexual abuse and sexual harassment;
6. Educate women at Edna Mahan about their right to be free from sexual abuse and reporting programs;
7. Ensure a woman's right to privacy;
8. Develop and ensure several different methods of reporting sexual abuse and harassment;
9. Take immediate action to protect women from imminent sexual abuse and provide timely and unimpeded access to crisis intervention services;
10. Ensure prompt, thorough, and objective investigations into allegations of sexual abuse and sexual harassment;

⁶⁹ Governor Philip D. Murphy, "Governor Murphy Announces Intention to Close the Edna Mahan Correctional Facility for Women", *Official Site of the State of New Jersey*, June 7, 2021, <https://nj.gov/governor/news/news/562021/approved/20210607a.shtml>.

11. Secure physical safety of the facility; and
12. Provide access to language interpretation services.

EMCF was also required to assess quality improvement and collect outlined data relating to harassment. EMCF and NJDOC were required to draft an Implementation Plan that would outline the policies the consent decree requires and how EMCF and NJDOC intended to accomplish those requirements. The Monitor would assess NJDOC's compliance.

Federal Monitor Issues First Progress Report on Consent Decree Implementation

In April 2022, the Monitor filed her first Monitoring Report evaluating NJDOC's compliance with the consent decree and Implementation Plan. The Monitor's Report evaluated 61 provisions, finding that 45 provisions achieved "substantial compliance." The remainder were awarded either in "partial compliance," "noncompliance," or were not required to be in full compliance until May 2022.⁷⁰

For the provisions not attaining substantial compliance, the report assigns NJDOC little to no culpability for any challenges it is facing in adhering to the consent decree. The Report mentions external impositions like staff shortages stemming from New Jersey state laws that prohibit hiring state employees from out of state (EMCF is located near Pennsylvania and in the report, NJDOC management expresses a belief that it could hire more easily if allowed to recruit from across the border).⁷¹

Most strikingly, the report reflects minimal consideration for the women at EMCF. Of the 83 meetings over 13 days documented in the report between the monitor and stakeholders of the prison, only four of them included incarcerated women (<5%). The rest were with correctional officials, administrative staff, and consultants. The report mostly attributes the incarcerated population's limited involvement in the assessment to COVID-19 outbreaks that hindered the monitor's ability to meet with incarcerated women directly.

When asked why video or teleconferencing could not be provided to give incarcerated women more of a voice, Assistant Commissioner Helena Tome and Executive Director of External Affairs Dan Sperrazza explained the challenges of bringing internet connectivity to support video conferencing in the facility. They also cited a preference to introduce the monitor to the women in-person rather than virtually and ample remaining opportunities to build the relationship between the population and the monitor over the coming years of the consent decree's implementation.

⁷⁰ Jane Parnell, "First Monitor's Report", *U.S. Department of Justice*, April 29, 2022.

⁷¹ Jane Parnell, "First Monitor's Report", *U.S. Department of Justice*, April 29, 2022, pg. 12.

Student Team Visit to EMCF

For over three months, we (the student team) issued numerous requests to visit EMCF or speak virtually with NJDOC staff, correctional officers, and women incarcerated. During a field visit in March, we sought to gain access to EMCF but were denied. Instead, we met with several community-based organizations. After additional backchanneling and an interview with Acting Commissioner Kuhn, a visit was approved in May during the final week of the course after the academic semester formally concluded. Thus, our overview is limited by what was relevant to previously established research and does not encompass additional issues identified by the women that fall beyond the scope of this report.⁷²

During our team's in-person visit to EMCF on May 13, 2022, we asked several incarcerated women whether they felt NJDOC and the Moss Group – the consultant the state hired to manage the closure and culture change at Edna Mahan – were listening to their concerns regarding the implementation of the consent decree, the next steps post-closure, and other prison matters. They replied that they did not.⁷³ Throughout our interviews with stakeholders and during the visit, a culture of silence was consistently identified as a root cause of systemic violence.

With respect to specific provisions of the settlement, incarcerated women identified new challenges that had been created by the camera management system. Specifically, women described a sense of complacency among correctional staff created by the technology. “The cameras are only as good as the officers who watch them,” one woman remarked, citing a lack of vigilance from staff. Another woman was more emphatic: “Despite five million dollars worth of cameras, we have never felt less safe.”⁷⁴ Throughout the visit, women noted rising tensions and fears for safety stemming from a separate settlement concluded in June 2021 that mandated NJ house incarcerated people based on their gender identity.⁷⁵

Concerning mental health services, the women with whom we met expressed frustration with what NJDOC was providing. We heard that counselors and therapists are unavailable to meet with patients who do not have diagnosed mental illness. Patients who were diagnosed felt overmedicated, and incarcerated women with prior professional backgrounds in medicine made allegations ranging from misdiagnoses to malpractice from NJDOC medical staff.⁷⁶

These accounts must be understood through the specific context in which they were shared. The incarcerated women with whom we met at EMCF were “tier reps” elected by

⁷² Upon request, we can provide evidence supporting our exhaustive efforts to visit the facility. Please contact the student team for details around the additional concerns noted by the women incarcerated.

⁷³ Interviews were conducted with incarcerated women at EMCF on May 13, 2022. Anonymized to protect privacy. Note, that we were also unable to formally interview any correctional officers despite numerous requests made to the NJDOC.

⁷⁴ Ibid.

⁷⁵ “Settlement of NJ Civil Rights Suit Promises Necessary Reform Affirming Transgender, Intersex, and Non-Binary People in Prison,” ACLU of New Jersey, January 24, 2022, <https://www.aclu-nj.org/en/press-releases/settlement-nj-civil-rights-suit-promises-necessary-reform-affirming-transgender>.

⁷⁶ Ibid.

their peers to represent their concerns to the administration. These women represent a subgroup of all the women incarcerated within the maximum security block at EMCF. NJDOC staff even noted that these women were considered the “most tame” among those incarcerated in the maximum security block.

The comments these women shared about their experience were made in the presence of NJDOC staff who also attended our group discussion. Their honesty illustrates legitimate progress in overcoming a documented culture of repression at the facility. Indeed, the women noted their appreciation of check-ins between this group and Commissioner Kuhn and/or Assistant Commissioner Tome.

However, the forum for our exchange with the women also provokes questions about how forthcoming they could realistically be. We are strangers these women had just met that day. What would they share with trusted confidantes? Perhaps there were other accounts – more gruesome or charitable – that the women did not feel comfortable sharing in the presence of NJDOC staff. We also wondered what we would have learned from women who were not in the room with us that day. When asked to share observations on changes in recent months since the implementation of the consent decree, one woman unambiguously stated, “In the decades I’ve been here, it’s never been as volatile as the last six to nine months.” So, in addition to what we did hear, we must consider what we did not hear.

A New Paradigm of Justice

From implementing the consent decree to visioning sessions for what comes next for EMCF, the state's response to the crisis has been insufficiently inclusive of impacted communities and unimaginative of what justice could be. Closing EMCF and building a newer, more normative facility closer to major metros that are home to most incarcerated women in New Jersey is unlikely to bring about transformative, cultural change to break the pattern of abuse and trauma suffered at EMCF. To ameliorate these injustices, we must get to the root by investing in policies that stop cycles of harm exacerbated by incarceration. We recommend that the state carefully consider decarceration policies that remove qualifying women from the carceral environment and provide them with services to restart their lives. We also recommend reinvestment into preventative services, such as restorative and transformative justice programs and universal basic income pilots, that can break the cycle of harm.

“The worst thing you can do is establish a criminal record. Avoid it at all costs.”

- Wall poster, family visitation room, Edna Mahan Correctional Facility

When entering the Edna Mahan minimum security educational building, inspirational posters, photos of role models, and art projects show women's resilience and hope for the future. However, there is no sense of hope in the gymnasium where children, family, and friends are invited to visit their loved ones. The first sign those entering the room see: “The worst thing you can do is establish a criminal record. Avoid it at all costs.” Regardless of how many rehabilitative programs, vocational certificates, and trauma groups they attend — the women are reduced to their criminal record in a space that is theoretically designed to foster connection and joy, these words underlie the thesis that EMCF has never been a rehabilitative space.

New Jersey is a leading state in decarceration, taking steps to address punitive policies that have led to mass incarceration and racial disparities in sentencing that have impacted Black and Hispanic people across the US. The state's prison population peaked in 1999 and has steadily decreased, dropping 40.9% between 2005 and 2019.⁷⁷ More recently, the state has shown a commitment to shepherding a new era of justice by passing the

⁷⁷ “These 10 States Are Recording the Largest Drops in Prisoner Populations,” US News & World Report, [//www.usnews.com/news/best-states/articles/2021-01-25/states-with-the-largest-declines-in-prisoner-populations](https://www.usnews.com/news/best-states/articles/2021-01-25/states-with-the-largest-declines-in-prisoner-populations).

Public Health Emergency Credits Law (PHEC). Two years after NJ had the highest COVID-19 death rates in prisons (2020), NJ responded by passing PHEC, which awarded qualifying incarcerated people with public health emergency credits that reduced sentences, leading to thousands of people being released in stages.⁷⁸

Due to PHEC, NJ's prison population has been further reduced by 42%, with 8,251 people released since March 2020.⁷⁹ When the number released hit 5,343 people, advocates noted the impact of NJ's decarceration efforts returned 2,759 years of life to released people, and more than 1 million days with family, friends, and opportunity to build a future.⁸⁰ Further illustrating the state's commitments to justice, Governor Phil Murphy signed Senate Bill 758, ending prison gerrymandering.⁸¹ Incarcerated individuals will now be counted for political representation at their home addresses instead of the address of their incarceration. Prior to this measure, districts with prisons had inflated political power, as incarcerated people were counted as constituents without having the right to vote.⁸²

New Jersey has been at the forefront of decarcerating for years and has an opportunity to build upon its progress. Carceral spaces have proven to be violent and retributive in nature. It is time to reimagine a system that does not address violent acts with violence. We must design systems conducive to repairing and healing harm and representative of the values we desire for all of society.

The cost of operating and remedying the harm at Edna Mahan has been significant. The Governor and legislators owe it to their constituents to explore whether running a women's correctional facility, where abuse is endemic, is the best return on investment for keeping New Jerseyans safe. Using a combination of gubernatorial budget proposals and other publicly reported expenses, we estimate the state has spent \$132M to operate the facility since January 2021.⁸³ The fiscal year 2023 budget request data and the projected estimate for opening a new facility sum to an aggregate cost of \$220M over three years calculated below.

⁷⁸ "Releasing People From Prison Is About Humanity," ACLU of New Jersey, March 14, 2022, <https://www.aclu-nj.org/en/news/releasing-people-prison-about-humanity>.

⁷⁹ Ibid.

⁸⁰ Star-Ledger Guest Columnist, "Prison Populations Are down in New Jersey. Let's Keep It That Way. | Opinion," nj, November 8, 2021, <https://www.nj.com/opinion/2021/11/prison-populations-are-down-in-new-jersey-lets-keep-it-that-way-opinion.html>.

⁸¹ Aleks Kajstura, "New Jersey Governor Signs Bill Ending Prison Gerrymandering," <https://www.prisonersofthecensus.org/news/2020/01/21/nj-signed/>.

⁸² Ibid.

⁸³ The prison raid occurred in January 2021 thus, FY2021 was selected as a beginning point to understand the costs associated before and after the event.

2021-2023 Projected Cost of Operating EMCF	
Description	Estimated Cost
2021 settlement amount	\$21,000,000 ⁸⁴
The Moss Group consultation fee	\$1,300,000 ⁸⁵
FY2021 annual operating cost	51,800,000 ⁸⁶
FY2022 annual operating cost	51,800,000 ⁸⁷
Annual federal monitor salary	\$180,000 ⁸⁸
Body camera pilot cost	\$250,000 ⁸⁹
Body camera annual license cost	\$90,350 ⁹⁰
Facility cameras	\$6,200,000 ⁹¹
Total cost to date	\$132,620,350
Estimated cost for 2023 Repairs	\$7,000,000 ⁹²
FY2023 annual operating cost	\$51,800,000 ⁹³
Projected cost of new facility	\$28,300,000 ⁹⁴
Projected total	\$219,720,350

⁸⁴ "Edna Mahan Sexual Abuse Victims in Class Action Settlement Speak Out,"

<https://www.mycentraljersey.com/story/news/local/courts/2021/10/18/edna-mahan-sex-abuse-inmates-class-action-settlement/8472438002/>.

⁸⁵ "On Reforms at NJ Women's Prison, Advocates Skeptical," NJ Spotlight News, May 10, 2021,

<https://www.njspotlightnews.org/2021/05/edna-mahan-correctional-facility-hunterdon-county-nj-womens-prison-years-sexual-assaults-harassment-prison-officers-scathing-doj-report-violent-extraction-prisoners/>.

⁸⁶ Office of Management and Budget, "The Governor's FY2022 Budget," February 23, 2021,

<https://www.ni.gov/treasury/omb/publications/22budget/pdf/FY22GBM.pdf>.

⁸⁷ Ibid.

⁸⁸ "On Reforms at NJ Women's Prison, Advocates Skeptical," NJ Spotlight News, May 10, 2021,

<https://www.njspotlightnews.org/2021/05/edna-mahan-correctional-facility-hunterdon-county-nj-womens-prison-years-sexual-assaults-harassment-prison-officers-scathing-doj-report-violent-extraction-prisoners/>.

⁸⁹ "A5039 FISCAL ESTIMATE," https://pub.njleg.gov/bills/2020/A9999/5039_E1.HTM.

⁹⁰ The estimated annual licensing maintenance cost for NJDOC body-worn cameras is \$4.4 million. 200 body-worn cameras were purchased for EMCF in FY2022. There are an estimated 9,740 officers fitted with body-worn cameras. Thus, 200 out of the \$4.4M budget for 9,740 officers would cost roughly \$90,349 rounded to 90,350.

⁹¹ "LEGISLATIVE FISCAL ESTIMATE ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 5039 STATE OF NEW JERSEY 219th LEGISLATURE," March 25, 2021, https://pub.njleg.gov/bills/2020/A9999/5039_E2.PDF.

⁹² On Reforms at NJ Women's Prison, Advocates Skeptical," NJ Spotlight News, May 10, 2021,

<https://www.njspotlightnews.org/2021/05/edna-mahan-correctional-facility-hunterdon-county-nj-womens-prison-years-sexual-assaults-harassment-prison-officers-scathing-doj-report-violent-extraction-prisoners/>.

⁹³ Office of Management and Budget, "The Governor's FY2022 Budget," February 23, 2021,

<https://www.ni.gov/treasury/omb/publications/22budget/pdf/FY22GBM.pdf>.

⁹⁴ This estimate was informed by data from "CGL | An Overview," <https://studylib.net/doc/18201729/cgl--an-overview>, pg. 13. In this document, CGL provides 10 of their adult detention projects and their costs. These estimates are based on varying levels of programs, "ranging from \$5 million to \$500 million" and are not directly correlated to the number of beds. For example, a PA jail with 470 beds cost \$27M while a Montana detention center with 160 beds cost \$28M. To come up with our projection for EMCF, we used the \$170M cost for a 2,400-bed jail in Essex County, NJ as a point of comparison. Using data from footnote 88, we know the population at EMCF has been roughly under 400 women for the last two years. Considering the consistent decline of the incarcerated population in NJ, we estimated 400 beds would be projected for a future facility. Thus, proportionately, the projected cost of the facility would be \$28.3M (in line with the PA example referenced previously). However, we note that the number of beds projected and the cost offered in the above table was not confirmed by CGL.

It is undeniable that EMCF needs improvements to make the facility safe and habitable for its current residents. However, the high costs of operating such a facility, paired with the rampant accounts of violence in correctional facilities, new and old across the country, beg the question of whether the status quo is working. **Defaulting to building a new facility with physical improvements is a familiar choice, but it may not be the most effective at reducing costs, ensuring public safety, mitigating over-incarceration, or reducing recidivism.**

The EMCF settlement sets a precedent for legal remedy in the future, and there continue to be new cases spurring from the January 2021 raid alone. If the abuses outlined persist at a new facility, NJDOC could continually be taken to court and forced to pay remuneration. We believe there is a significant and known risk in allocating over \$28M to build a new facility without exploring alternatives to traditional methods of punitive incarceration. There is no established case history to prove a new facility will produce the desired “culture shift,” and moving to this solution is premature.

Considering New Jersey’s trend of decarceration, Governor Murphy’s proposed 2023 DOC budget increase, which would increase correctional spending by 3.7% for a total corrections budget of \$1.03B, has been met with skepticism.⁹⁵ This increase is driven mainly by an increase in staff compensation to address ongoing staffing shortages and attrition challenges.⁹⁶ However, this increased spending is not congruent with the falling prison population and the closure of three prisons in recent years.⁹⁷

Prisons across the country are struggling to recruit new correctional officers, citing poor wages, benefits, and risky working conditions as key challenges.⁹⁸ At EMCF, these staff shortages were apparent as one CO told us they regularly worked 16-hour shifts. Additionally, stakeholders, including the DOC, women inside EMCF, and community-based organizations, noted the enduring trauma and stress COs experienced due to the compounding impact of witnessing abuse prior to the DOJ investigation, increased oversight, and media attention. The inability to properly staff and maintain safe conditions highlights the unsustainable conditions associated with opening a new facility.

As previously noted, community stakeholders and incarcerated women have had minimal input around the future of EMCF, and it is crucial that NJ’s leadership not repeat previous missteps and prematurely invest in a solution the community does not support. In 2018, following the “150 Years in Enough” campaign to end youth incarceration, former Governor Chris Christie announced the closure of Jamesburg, the largest youth prison for boys, and

⁹⁵ Dana DiFilippo, New Jersey Monitor March 9, and 2022, “Murphy Budget Proposal Boosts Criminal Justice Spending,” *New Jersey Monitor* (blog), <https://newjerseymonitor.com/2022/03/09/murphy-budget-proposal-boosts-criminal-justice-spending/>.

⁹⁶ “No Timeline Set for Closing N.J.’s Troubled Women’s Prison, DOC Head Says - Nj.Com,” <https://www.nj.com/news/2022/05/no-timeline-for-closing-njs-troubled-womens-prison-doc-head-says.html>

⁹⁷ *Ibid.*

⁹⁸ Associated Press, “US Prisons Face Staff Shortages as Officers Quit amid COVID,” *New York Post* (blog), November 1, 2021, <https://nypost.com/2021/11/01/us-prisons-face-staff-shortages-as-officers-quit-amid-covid/>.

Hayes, the girl's youth prison.⁹⁹ Three years later, these facilities remain open, with taxpayers expressing frustration around the constant drain of millions of dollars into these facilities.¹⁰⁰ Part of the issue is that advocates argue that the cost of building a new facility does not match the number of youth. Moreover, when cities and municipalities were selected for new facility construction, community members expressed opposition.¹⁰¹ To address these concerns, the state created a task force to evaluate potential solutions. When visiting EMCF, DOC representatives noted that the appeal of a new facility in a different location could attract candidates to fill the vacant correctional officer positions. Nonetheless, the dispute around the location of a new facility will likely be a challenge for EMCF as well and could lead to a similar stalled process.

The Governor should consider supporting Acting Commissioner Kuhn's vision to lift the veil of silence, taking "a bit of time to do it right."¹⁰² Responding to constituent concerns around the closure of the juvenile facilities, the Governor should proactively commission a task force to understand the desires of the women and community at present and explore alternatives that respond to them. The LA County's Alternatives to Incarceration task force can serve as a model, including representatives from the community.¹⁰³ This task force should have a detailed timeline with resources allocated to explore gender-specific solutions.¹⁰⁴ There should also be explicit inclusion and consultation from the women at EMCF every step of the way.

The sober reality of the carceral environment was recently captured in comments made by Acting Commissioner Kuhn. She acknowledged that as reform efforts continue, "there is a chance that other negative stories may come out of the prison due to the nature of the work", which Kuhn confessed were "challenging even in the best of circumstances."¹⁰⁵ This admission portrays a resignation that corrections will always be harmful despite hundreds of millions of dollars that have been invested in operating correctional environments. While it will always be difficult, we argue that corrections need not always be harmful, and New Jersey owes its constituents a good-faith assessment of safer, juster choices.

⁹⁹NJISJ, "150_Years_is_Enough_Report_Comm_Eng_FIN.Pdf," accessed May 15, 2022, https://d3n8a8pro7vhmx.cloudfront.net/njisi/pages/1426/attachments/original/1578425962/150_Years_is_Enough_Report_Comm_Eng_FIN.pdf?1578425962.

¹⁰⁰ Dana DiFilippo, New Jersey Monitor March 16, and 2022, "Jail's Roof Repair a Reminder of NJ's Stalled Reforms on Youth Incarceration," *New Jersey Monitor* (blog), March 16, 2022, <https://newjerseymonitor.com/2022/03/16/jails-roof-repair-a-reminder-of-n-j-s-stalled-reforms-on-youth-incarceration/>.

¹⁰¹ Ibid.

¹⁰²"No Timeline Set for Closing N.J.'s Troubled Women's Prison, DOC Head Says - Nj.Com," <https://www.nj.com/news/2022/05/no-timeline-for-closing-njs-troubled-womens-prison-doc-head-says.html>.

¹⁰³ Further details can be found in Recommendation#3, starting on pg. 36.

¹⁰⁴ Ibid.

¹⁰⁵ Ibid.

“It’s time to start a new beginning for those housed at Edna. But we also want to do it right and that is going to take a bit of time.”¹⁰⁶

- Victoria Kuhn, Acting Commissioner, NJDOC

Recommendations at a Glance

- 1.** Promote legislative and institutional pathways to reduced sentences that honor the impact of trauma
- 2.** Pursue gubernatorial commutations to provide justice for women with longer sentences who have endured trauma over a longer period of time
- 3.** Create a commission to assess alternative solutions with greater transparency and civic engagement
- 4.** Reinvest state dollars into reentry programs to reduce recidivism and ensure successful reintegration
- 5.** Develop prevention programs that address the root causes of incarceration

¹⁰⁶ “No Timeline Set for Closing N.J.’s Troubled Women’s Prison, DOC Head Says - Nj.Com,” <https://www.nj.com/news/2022/05/no-timeline-for-closing-njs-troubled-womens-prison-doc-head-says.html>.

Recommendation #1: Promote legislative and institutional pathways to reduce sentences and honor the impact of trauma

Why Resentencing?

When someone is incarcerated, they enter into a social contract in which the incarcerated person agrees to serve a sentence to honor the crime they committed. The government agrees to maintain a basic standard of care in the 8th Amendment's protection against cruel and unusual punishment. The trauma suffered at EMCF displays a gross violation of that contract on behalf of the state. Thus, the state's responsibility is to remediate that violation by exploring avenues to reduce sentences.

Recommendation Specifications

Trauma Relief Bill:

One mechanism for decarceration is S3935, a trauma relief bill drafted by the American Civil Liberties Union of New Jersey (ACLU) and introduced by Assemblymembers Nellie Pou and Vin Gopal in June 2021.¹⁰⁷ Though the bill failed to pass in the last session, we suggest an expansion of its provisions that have the potential to fairly reduce sentences.

The bill was modeled after COVID relief legislation passed in New Jersey that reduced sentences of incarcerated people based on time served to reduce the spread of COVID-19 during the deadly pandemic. This legislation resulted in a 30% reduction of the New Jersey prison population as of 2021, affirming the possibility of pursuing compassionate release for women at Edna based upon this precedent.¹⁰⁸

The Pou and Gopal bill, whose text's entirety can be found in Appendix Figure 4, calls for a half year sentence reduction for each year incarcerated during the Department of Justice Investigation at Edna Mahan (April 2018 to April 2020) with a maximum reduction of one year per eligible person.¹⁰⁹

Given that a majority of women at Edna Mahan are serving longer-term sentences, a one year sentence reduction has a marginal impact and does not fully honor the harm to their health and wellbeing that was unlawfully inflicted as a result of their incarceration. Further, the "period of review" does not include the reparations for the violence that occurred beyond the DOJ investigation. For example, the brutal cell extraction of January 2021 occurred after the period covered by the parameters of the DOJ's formal investigation. It is critical that women who came to the facility beyond that period in 2020 and were subjected to horrific acts also be eligible for resentencing.

Due to the life expectancy reduction associated with PTSD and incarceration, we propose

¹⁰⁷ Senator Nellie Pou, "SENATE, No. 3935", *State of New Jersey 219th Legislature*, June 15, 2021. <https://legiscan.com/NJ/text/S3935/2020>

¹⁰⁸ Peter Treitler, MSW, Madeline H. Bono, PsyM, Brendan Saloner, PhD, Stephen Crystal, PhD, "Large-Scale New Jersey Prison Releases During COVID-19: Experiences of Released Prisoners with Substance Use Disorders", *Rutgers Institute for Health, Health Care Policy and Aging Research*, 2021 https://ifh.rutgers.edu/recent_publications/large-scale-new-jersey-prison-releases-during-covid-19-experiences-of-released-prisoners-with-substance-use-disorders/.

¹⁰⁹ Senator Nellie Pou, "SENATE, No. 3935", *State of New Jersey 219th Legislature*, June 15, 2021. <https://legiscan.com/NJ/text/S3935/2020>

an expansion of the ACLU legislation that provides a one-year reduction for every half year served between April 2018 and April 2022, with a maximum reduction of 8 years.

Women's Sentencing Commission:

In a conversation with Acting Commissioner Victoria Kuhn regarding resentencing and decarceration policy, particularly for women with longer sentences that have endured trauma, Kuhn shared:

*"I support it. I always have. Along the same lines, I recently pitched a request to the sentencing commission in New Jersey to take a deep dive into women and trauma and **whether or not trauma should be a consideration during sentencing...I think that this is an area that we really need to be focused on.** I asked research institutes if they would be willing to look at a project for women with long sentences and the trauma that preceded their incarceration and are there alternatives to a life in prison. **Their situations are so specific and so intertwined with trauma, so the chances of their crimes happening again is highly unlikely.**"*

- Victoria Kuhn, Acting Commissioner, NJ DOC

The women we spoke with at Edna Mahan also expressed a dire need for re-evaluating sentences for women with trauma who are first-time offenders of violent crime. A commission to address re-sentencing and to codify new sentencing guidelines into law is especially important considering that incarcerated women face many barriers to accessing the legal counsel necessary to file appeals, which at present, is the only path to release for those serving lengthy sentences.

We recommend that the **New Jersey Sentencing Commission create a working group to re-evaluate the sentences of women who have experienced trauma, are first-time offenders, and have already served 20 years of their sentence.**

[A Look at Case Studies](#)

Washington, DC

In 2017, DC passed the Incarceration Reduction Amendment Act, which allowed youth offenders to seek a sentence reduction if they were younger than 18 at the time of their crimes and had served in excess of 15 years. These individuals further had to document that they experienced trauma or some form of mental illness due to their incarceration. As of 2020, 53 incarcerated individuals, many of whom were convicted of murder, had been

released due to this legislation, and none of them have reoffended.¹¹⁰

In 2020, DC passed the Second Look Amendment, which raised the age of eligibility for the Incarceration Reduction Amendment Act to include those who were younger than 25 at the time of their crimes, given that the brain does not fully develop before this age.¹¹¹ This bill made up to 29% of people imprisoned within DC eventually eligible for resentencing.¹¹² The precedent established in DC shows that it is possible to reduce the sentences of incarcerated people to honor the exploitation and trauma of imprisonment without negative consequences for public safety and it affirms that sentence reduction is a viable pathway for justice.

In addition, legislators in 25 states, including Minnesota, Vermont, West Virginia, and Florida, have recently introduced second look bills. A federal bill providing resentencing for youth crimes has obtained bipartisan support. Meanwhile, over 60 elected prosecutors and law enforcement leaders have called for **second look legislation**, with several prosecutors' offices having launched sentence review units.¹¹³ Though second look legislation would require legislative rather than executive action, the premise follows that many states are reevaluating the convictions of those with longer sentences.

California's Assembly Bill 2942¹¹⁴

California's 2018 law (Assembly Bill 2942) allows district attorneys to initiate resentencing. California prosecutors are now using AB2943 to undo excessively long sentences. Lawmakers have also advanced legislation to enable all who have served at least 15 years to directly petition for resentencing. California's experience demonstrates the potential of reaching a bipartisan consensus among prosecutors on the principle that some are serving unjust prison sentences.

New York State's Elder Parole Bill¹¹⁵

New York State's Elder Parole bill would allow people aged 55 and older who have served 15 or more years in prison to receive a parole hearing. This ongoing campaign, led by Release Aging People in Prison and allies, became especially urgent amidst the state's reluctance to use medical parole or commutations to release people at risk of COVID-19. Brooklyn District Attorney Eric Gonzalez supports the bill, explaining: "If someone has gone through the process of changing themselves ... there should be a mechanism for them to then appear before a parole board that will fully vet them."

¹¹⁰ Keith Alexander, "D.C. Council weighs controversial measure", *The Washington Post*, November 27, 2020 https://www.washingtonpost.com/local/public-safety/prison-reform-early-release/2020/11/27/39b75184-30bc-11eb-bae0-50bb17126614_story.html.

¹¹¹ The Sentencing Project. "A Second Look at Injustice." Accessed May 13, 2022. <https://www.sentencingproject.org/publications/a-second-look-at-injustice/>.

¹¹² Ibid.

¹¹³ Ibid.

¹¹⁴ Ibid.

¹¹⁵ The Sentencing Project. "A Second Look at Injustice." Accessed May 13, 2022. <https://www.sentencingproject.org/publications/a-second-look-at-injustice/>.

Recommendation #2: Pursue gubernatorial commutations to provide justice for women with longer sentences who have endured trauma over a longer period of time

Why Commutations?

Following the publication of a report on the January 11th attack, Governor Murphy acted quickly to announce the closure of EMCF, which communicated his desire to take drastic action to end the abuse the incarcerated women experienced. As the chief executive of the state, there are other mechanisms at his disposal to make reparation, including commutations.

Commutations should be considered as another mechanism for delivering justice to the women at Edna Mahan for a number of reasons. It is unclear how long it will take to pass the Trauma Relief Bill and resentencing guidelines, but typically, legislation is not passed in the cycle that is introduced. As aforementioned, women with longer sentences may be precluded from relief through the trauma relief bill. Finally, commutations, which only the governor can execute, would symbolize his commitment to change.

“We have made great progress on remaking our criminal justice system into one that reforms people instead of breaking them, but there is still much to be done.”¹¹⁶

- Governor Phil Murphy

Entering prison, 86% of incarcerated women are survivors of sexual violence, and 77% are survivors of intimate partner violence.¹¹⁷ Yet, the women at Edna Mahan continue to endure violence in a place that is supposed to “rehabilitate” them, suggesting that the system is “breaking them,” and repairs need to be made.

Those released by commutation have been shown to be no more likely to recidivate than those released via the traditional process^{118 119}. Additionally, according to The Sentencing Project, “long prison sentences are counterproductive to public safety. Many people serving long sentences, including for a violent crime, no longer pose a public safety risk

¹¹⁶ “Office of the Governor | Governor Murphy Signs Sentencing Reform Legislation.” Accessed May 13, 2022. <https://nj.gov/governor/news/news/562020/approved/20201019d.shtml>.

¹¹⁷ Swavola, Elizabeth, Kristine Riley, and Ram Subramanian. “Overlooked: Women and Jails in an Era of Reform,” n.d., 11.

¹¹⁸ Corrections1. “Study of 200 Released Elderly Lifers Reveals 3 Percent Recidivism Rate.” Accessed May 13, 2022.

<https://www.corrections1.com/elderly-inmates/articles/study-of-200-released-elderly-lifers-reveals-3-percent-recidivism-rate-kwgboHRBMJog8N8T/>.

¹¹⁹ State of Oregon, Oregon Criminal Justice Commission. “Recidivating Patterns of Individuals Commuted in 2020”. Accessed May 13, 2022. <https://www.oregon.gov/cjc/CJC%20Document%20Library/Recidivating%20Patterns%20of%20Individuals%20Committed%20in%202020.pdf>.

when they have aged out of crime. Long sentences are of limited deterrent value and are costly, because of the higher cost of imprisoning the elderly. These sentences also put upward pressure on the entire sentencing structure, diverting resources from better investments to promote public safety.”¹²⁰ **Essentially, the more that is spent on keeping people incarcerated for long sentences – and the cost of incarceration only increases as people in prison age – the less money there is available for crime prevention.**

Recommendation Specifications

Though data on the years remaining on women’s sentences at EMCF is not readily available, we do have data on the total term from the admission of those incarcerated there (i.e., the length of the sentence when admitted to Edna Mahan).¹²¹ According to the New Jersey Department of Corrections, the total population of women at Edna Mahan serving sentences of 21+ years is 21% (~85 women). **We recommend that the Governor establish a process distinct from parole to evaluate the fitness of release via commutation for every long-term once they have reached 20 years.**

A Look at Case Studies

Maryland - A study from the Justice Policy Institute, a Washington, DC-based nonprofit, found that of 200 released elderly people serving life sentences, only 3% recidivated after five years, drastically lower than the national average of 67%.¹²²

Oregon - Governor Kate Brown “commuted the sentences of 963 people during the COVID-19 pandemic between July 2020 and October 2021.”¹²³ A preliminary report released in March 2022 by the Oregon Criminal Justice Commission found that those released due to commutation were no more likely to recidivate than others released in the year prior through traditional prison release regulations.¹²⁴

¹²⁰ Ibid.

¹²¹ State of New Jersey Department of Corrections. “TOTAL OFFENDERS 12,492,” 4 January 2022., 1.

https://www.state.nj.us/corrections/pdf/offender_statistics/2022/By%20Total%20Term%202022.pdf.

¹²² Corrections1. “Study of 200 Released Elderly Lifers Reveals 3 Percent Recidivism Rate.” Accessed May 13, 2022.

<https://www.corrections1.com/elderly-inmates/articles/study-of-200-released-elderly-lifers-reveals-3-percent-recidivism-rate-kwgboHRBMJog8N8T/>.

¹²³ opb. “Preliminary Report Shows No Spike in Recidivism for Prisoners Released Early by Oregon Governor.” Accessed May 13, 2022.

<https://www.opb.org/article/2022/03/28/report-no-spike-in-recidivism-prisoners-released-early-by-oregon-governor-kate-brown/>.

¹²⁴ State of Oregon, Oregon Criminal Justice Commission. “Recidivating Patterns of Individuals Commuted in 2020”. Accessed May 13, 2022.

<https://www.oregon.gov/cjc/CJC%20Document%20Library/Recidivating%20Patterns%20of%20Individuals%20Committed%20in%202020.pdf>.

Recommendation #3: Create a commission to assess alternative solutions with greater transparency and civic engagement

Why a Commission on Alternatives?

Crises offer an opportunity to reflect and consider how such egregious events, like the sexual abuse scandal at EMCF, were allowed to occur. After due reflection, solutions can be developed to prevent such crises from recurring in the future. The state's assessments of the crisis - from the report on the January 11th raid to the federal monitor's report on the consent decree - have all positioned the construction of a new facility as the primary solution to addressing this scandal. This pre-ordained outcome has failed to recognize the role that incarceration itself played in facilitating the crisis, has clouded the objective assessment of how to approach the closing of Edna Mahan, and has ignored stakeholders' concerns that moving incarcerated women to a new facility will simply be moving the problems of EMCF to a new location. The DOC continues to highlight that incarcerated women - and by extension, their communities - are a "forgotten population."

Still, their voices have been forgotten in devising a response to this crisis. An objective assessment of the state's options for responding to this crisis should include these voices and a consideration of alternatives to incarceration.

The state is already building alternatives to youth incarceration through the "Restorative and Transformative Justice for Youths and Communities Pilot Program" and such programs should be explored for adults, especially women.¹²⁵ An assessment of alternatives to incarceration and how the state could operationalize them should be taken up by a commission composed of currently and formerly incarcerated women, directly impacted communities, scholars of criminology, gender studies, and sociology, and relevant government actors, including DOC staff, legislators, and executive office staff. This commission does not preclude the state from building a new facility; rather, it offers the state an opportunity to consider all of its options for responding to the EMCF crisis, which we contend could be more fiscally responsible and more aligned with the state's trend towards decarceration and innovation within the criminal legal system.

Recommendation Specifications

The commission could be headed by the Governor's Office and could be chaired by the Commissioner of the Department of Health and Human Services. For the structure and timeline of the commission, we recommend following the example set by the Los Angeles Alternatives to Incarceration (ATI) Work Group, profiled below. For the composition of the commission, we recommend the following members and that each is given equal voting authority in the commission's decision-making process:

¹²⁵ "Acting Governor Oliver Signs Legislation Establishing Juvenile Justice Pilot Program." Office of the Governor. State of New Jersey, August 11, 2021. <https://www.nj.gov/governor/news/news/562021/20210811a.shtml>.

1. Currently incarcerated women (3 at minimum)
 - a. A woman from minimum housing
 - b. A woman from maximum housing
 - c. A transwoman to address the unique needs of that specific population that recently joined the facility
 - d. Other populations deemed “vulnerable” by DOC should also be considered
2. Formerly incarcerated women (2)
 - a. A woman from South Jersey
 - b. A woman from North Jersey
3. University professors whose research focuses on the following areas (4):
 - a. Criminology focusing on the criminogenic effects of incarceration
 - b. Public health focusing on trauma
 - c. Gender studies focusing on women’s incarceration
 - d. Sociology focusing on the structural conditions that lead to incarceration
 - e. Conflict resolution studies focusing on restorative justice
4. Leaders of community-based organizations, focused on violence prevention, diversion, and wrap-around services (3)
5. Residents from districts 29, 12, 1, 3, and 15, which are the most incarcerated districts in the state¹²⁶ (1 from each district)
6. Government actors:
 - a. Members of the assembly who sit on the following committees:
 - i. Women and Children
 - ii. Law and Public Safety
 - iii. Human Services
 - iv. Budget
 - b. Members of the senate who sit on the following committees:
 - i. Law and Public Safety
 - ii. Health and Human Services
 - iii. Budget
 - c. The DOC
 - i. The Commissioner
 - ii. One Assistant Commissioner
 - d. Commissioner of the Department of Human Services

A Look at Case Studies

In this section, efforts to develop alternatives to incarceration in California, Massachusetts, New York, and Arizona are profiled. A case study from LA County offers insight into the structure and process of a working group composed of government and community actors who developed a continuum of services to divert individuals away from jail and to care. In Massachusetts, a grassroots organization partnered with legislators to introduce a prison moratorium bill that would halt the construction of a new women’s prison in order to

¹²⁶ <https://www.njpp.org/publications/report/redistricting-where-do-incarcerated-people-count/>

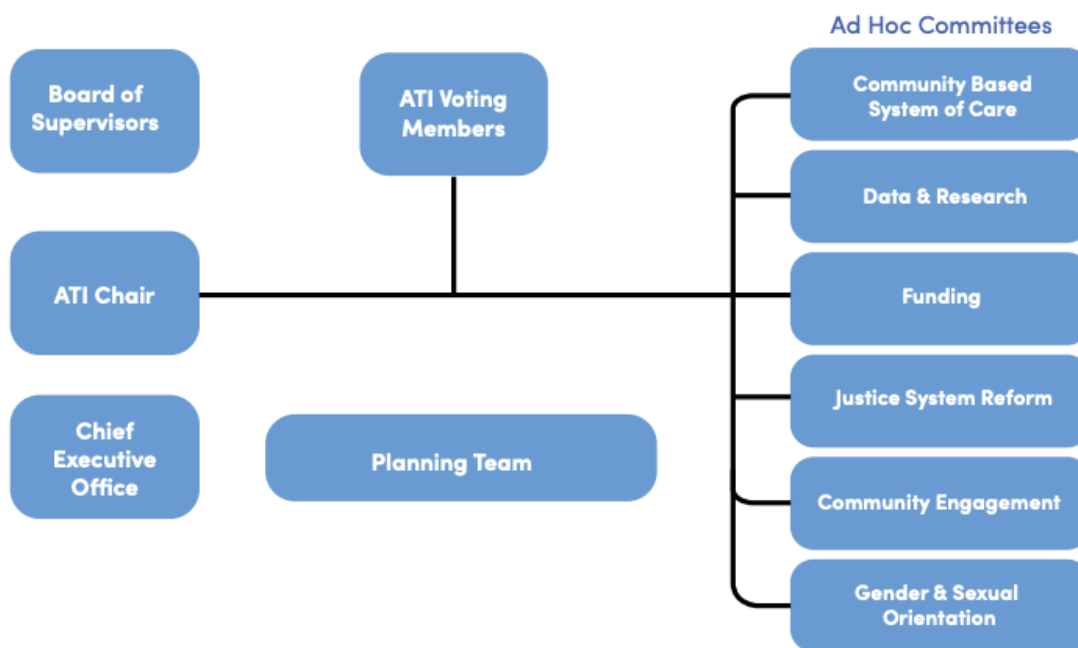
implement alternative responses to harm. In New York, youth prisons have been closed, and youth who commit harm now receive services in residential homes close to their families and communities. Innovative programs for adults who commit violent crimes, like Common Justice, are also being developed in the state. Finally, a restorative justice program for survivors and perpetrators of violent crimes from Arizona is reviewed.

Los Angeles County Alternatives to Incarceration (ATI)

In place of constructing new jails and prisons, local officials can instead collaborate to implement roadmaps for diverting individuals from incarceration to care. In February 2019, the Los Angeles County Board of Supervisors passed a motion to bring together a blended group of 25 county officials, civic leaders, and community representatives to disrupt the status quo of “arrest, incarcerate, and repeat”.¹²⁷ This group formed the Alternatives to Incarceration (ATI) Work Group.

The ATI Work Group consisted of the following structure:

Alternatives to Incarceration Work Group Structure



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- **ATI Chair:** Dr. Robert Ross, President and CEO of The California Endowment, guided the large external work group meetings and supported the work group’s direction. He also facilitated discussion between the Board of Supervisors, CEO’s

¹²⁷ Sawyer, Wendy, and Alexi Jones. “Arrest, Release, Repeat: How Police and Jails Are Misused to Respond to Social Problems.” Prison Policy Initiative, August 2019.

<https://www.prisonpolicy.org/reports/repeatarrests.html#:~:text=Our%20analysis%20finds%20that%2027,to%20jail%20within%20a%20year.>

¹²⁸ *Work Group Structure*. Los Angeles County Alternatives to Incarceration Work Group. Retrieved May 15, 2022, from <https://lacialternatives.org/work-group-structure/>

office, ATI voting members, and community stakeholders.¹²⁹

- **Planning Team:** The planning team consisted of Corrin Buchanan (DHS-ODR), Peter Espinoza (DHS-ODR), Maiya Guillory (DHS-ODR), Tamu Jones (CA Endowment), Mayra Ramirez (DHS-WPC), Rigo Rodriguez (Facilitator), Shoshanna Scholar (DHS-ODR), Karen Tamis (DHS Contractor), Kiwon Yoo (DHS-WPC), and Diana Zuñiga (DHS-WPC).¹³⁰ This team oversaw the work group ad hoc committees and coordinated with related county efforts.
- **ATI Voting Members:** The voting bloc consisted of 25 individuals from county government departments (15) and community stakeholders (10). They served as the core members of the group, co-chairing Ad Hoc Committees and participating in the voting process. The group segmented into the following Ad Hoc Committees:
 - Community Based System of Care
 - Data and Research
 - Funding
 - Justice System Reform
 - Community Engagement
 - Gender & Sexual Orientation

With collaboration from community stakeholders, the ATI Work Group developed a comprehensive report of 114 recommendations spanning five overarching strategies to provide treatment and services, rather than jail and prison, to those in need.¹³¹ In March 2020, the LA County Board of Supervisors adopted the five overarching strategies and created the LA County Alternatives to Incarceration (ATI) Unit, charged with implementing the “care first, jails last” approach put forth by the ATI Work Group. Over one year, ATI conducted an intensive consensus-building process with modiscussions000 government and community stakeholders through 56 meetings.

The work group’s efforts unfolded in two phases:

- **Phase 1:** Development of Work Group Structure, Mission, Guiding Values, and Interim Report (March - July 2019)
 - Over 270 participants engaged in ATI process
 - 5 Work Group convenings
 - 18 Ad Hoc Committee meetings
 - 26 government departments and programs
 - 28 advocacy organizations
 - 21 community-based organizations
 - April 2019: ATI first retreat to discuss racial equity
 - June 2019: ATI interim report delivered to the Board

¹²⁹ “The L.A. County Alternatives to Incarceration Initiative.” Chief Executive Office, County of Los Angeles , January 20, 2022.

<https://ceo.lacounty.gov/ati/>.

¹³⁰ DHS refers to LA County’s Department of Health Services, ODR refers to the Office of Diversion and Reentry, WPC refers to Whole Person Care (LA County program that helps Medi-Cal enrollees get health and social services)

¹³¹ *Care First, Jails Last*. Los Angeles County Alternatives to Incarceration Work Group. Retrieved May 15, 2022, from https://lacialternatives.org/wp-content/uploads/2020/03/ATI_Full_Report_single_pages.pdf

- **Phase 2:** Expanded Scope, Community Engagement, Implementation Planning, and Final Report (July 2019 - March 2020)
 - 1,300 participants engaged in ATI process
 - 8 Work Group convenings
 - 38 Ad Hoc Committee meetings and community engagement workshops
 - 47 government departments
 - 106 community-based organizations
 - September 2019: ATI second retreat to discuss voices of survivors and victors of harm
 - March 2020: Final report delivered to the Board

The ATI rallied around a vision of “Care First, Jail Last” that aims to reallocate resources from local law enforcement agencies, divert people away from jails, and reallocate resources to rehabilitative services instead. The guidance from ATI led the LA County Board of Supervisors to vote to close a men’s jail in July 2021, and the working group is continuing to push forward other recommendations such as expanding supportive and transitional housing capacity, supporting and delivering meaningful pretrial release and diversion services, providing effective treatment services in alternative placements, and scaling community-based holistic care and services.

Massachusetts Prison Moratorium¹³²

In 2021, two community-based organizations, Families for Justice as Healing and the National Council for Incarcerated and Formerly Incarcerated Women and Girls, proposed a 5-year moratorium bill (S. 2030 and H. 1905) to halt new jail and prison expansion, such as the planned construction of a new women’s prison that could cost up to \$50M. Filed by Rep. Chynah Tyler and Sen. Jo Comerford, these bills provide a “pause” that would allow the legislature to instead invest in evidence-based community-based alternatives. By pausing new construction and preventing drastic increases in incarceration, this prison construction bill would allow communities to focus efforts on solutions that address the root causes of incarceration, shift energy and focus to implementing criminal justice reforms, and reallocate capital to other efforts that are more effective at reducing recidivism rates. Fundamentally, these solutions help the community imagine what criminal justice without prisons might look like. The reporting date for these jail and prison construction moratoriums has been extended to June 30, 2022.

Close to Home Initiative

Implemented in 2012, New York’s Close to Home initiative replaces the inefficient juvenile justice system with residential, rehabilitative programs for young people to receive treatment near the communities they come from. Evaluations of New York’s juvenile justice system revealed significant shortcomings that supported the launch of Close to Home.

¹³² “No New Women’s Prison.” Families for Justice as Healing. Accessed May 17, 2022. [https://www.justiceashealing.org/nonewwomensprison#:~:text=Earlier%20this%20year%2C%20Families%20for,1905\).](https://www.justiceashealing.org/nonewwomensprison#:~:text=Earlier%20this%20year%2C%20Families%20for,1905).)

- First, New York’s juvenile justice system costs taxpayers over \$200K per youth per year.¹³³ Yet, the spending was largely ineffective in terms of public safety, with 75% of youth rearrested within three years.¹³⁴
- Second, it exposed youth to dangerous and abusive conditions in juvenile facilities.
- Third, it separated youth from their family and community by placing them in facilities hundreds of miles away, putting them at further risk of recidivism.
- Fourth, it focused on custody and control rather than rehabilitation and skills development.
- And lastly, it imposed barriers to educational achievement, with credits earned in upstate facilities not transferring to the New York City Department of Education.

Close to Home sought to address these shortcomings by removing New York City youth from dangerous, expensive, and ineffective juvenile facilities far from home and by bringing youth back home to alternative community-based interventions. Under this initiative, young people receive therapeutic services in small group residences in or around the five boroughs to stay close to their families and community.

By keeping young people near their families, families can more easily visit and participate in youth’s rehabilitation programs, increasing the likelihood of their successful transition. The initiative operated according to the following core principles:

- 1) promote public safety through intensive supervision of youth in well-staffed placements,
- 2) promote accountability by using data to inform policy and programming decisions and to assess the effectiveness and efficiency of the initiative,
- 3) leverage evidence-based and evidence-informed treatment,
- 4) stress educational continuity and achievement,
- 5) facilitate positive social connections with adults, peers, and community supports,
- 6) emphasize family support and engagement, and
- 7) develop, support, and maintain connections between youth and family members to aid in the future transition.¹³⁵

Close to Home is funded by New York City and a block grant from the state, each covering half of the costs of services for youth. This structure mirrors the established funding arrangement for youth who are placed in state-operated facilities. An evaluation of the program found that 79% of participants successfully transitioned home, and only 7% of those released into aftercare services violated the terms of their release. This model of leveraging community-based alternatives to incarceration provides a blueprint for New Jersey to adopt.

¹³³ Szanyi, Jason. “Implementation of New York’s Close to Home Initiative: A New Model for Youth Justice,” n.d., 30. <https://cclp.org/wp-content/uploads/2018/02/Close-to-Home-Implementation-Report-Final.pdf>.

¹³⁴ Ibid.

¹³⁵ Ibid.

What is Restorative Justice?

Though there are different types of alternatives to incarceration, the two of the examples profiled here - RESTORE and Common Justice - are programs based in a restorative justice framework. Restorative justice is a philosophy and set of practices - originating from indigenous groups, globally - for responding to harm that focuses on reparation rather than retribution. Restorative justice engages the person who was harmed, the person who caused harm, and their communities to acknowledge the harm done, understand its impact, develop a plan to “make things as right as possible,” and prevent the harm from happening again.¹³⁶

This report has addressed the deleterious impacts of incarceration at length which point to the need for alternatives, but it is not only the incarcerated person that stands to gain from alternatives to imprisonment. In fact, many restorative justice programs were developed in response to the ways that the criminal legal system fails to meet victims' needs and to transform the behavior of people who cause harm.¹³⁷

Victim-offender dialogue (VOD) is one restorative justice practice that has been widely studied and is utilized in the programs profiled below. VOD is a dialogue-driven, as opposed to outcome-driven, form of mediation that requires intensive preparation of all parties and is designed to facilitate deep listening, connection, and truth-telling in order to promote accountability and healing.¹³⁸ A review of 40 years of research on victim-offender dialogue programs, which did not include programs that address homicide and attempted murder, found that:¹³⁹

- All parties report higher levels of satisfaction with “the process, outcomes, and fairness of the [VOD] process than those who participated in court proceedings”.
- As a result of the VOD, victims experienced empowerment; often received the apologies which they desired; were better able to see the humanity of the person who caused harm; and enjoyed contributing to their rehabilitation.
- People who caused harm viewed the VOD process as fair; found it meaningful to be held accountable directly by the victim; and were less likely (between 30-70% less likely depending on the study) to recidivate.

Though these outcomes did not include VOD processes for homicide and attempted murder, other studies have shown the utility of VOD in such cases. Moreover, the programs profiled below, which utilize VOD, specifically respond to violent crimes.¹⁴⁰

RESTORE, Pima County, Arizona

RESTORE is a “community-based restorative justice¹⁴¹ conferencing program for prosecutor referred sex crimes involving adults” including misdemeanors and felonies.¹⁴² Terminology used within the program: survivor-victim (person who was assaulted) and

¹³⁶ Zehr, Howard. “Restorative Justice? What’s That?” Zehr Institute. Accessed May 17, 2022. <https://zehr-institute.org/what-is-rj/>.

¹³⁷ Ibid.

¹³⁸ Hansen, Toran, and Mark Umbreit. “State of knowledge: Four decades of victim-offender mediation research and practice: The evidence.” *Conflict Resolution Quarterly* 36, no. 2 (2018): 99-113.

¹³⁹ Ibid.

¹⁴⁰ Umbreit, M., William Bradshaw, and Robert B. Coates. “Victim sensitive offender dialogue in crimes of severe violence.” *Differing Needs, Approaches, and Implications, Office for Victims of Crime, US, Department of Justice* (2001).

¹⁴¹ For more on restorative justice, see the box on page 42.

¹⁴² Koss, Mary P. “The RESTORE program of restorative justice for sex crimes: Vision, process, and outcomes.” *Journal of interpersonal violence* 29, no. 9 (2014): 1623-1660.

responsible party (person who assaulted) will be used in this description.¹⁴³The program was developed in response to high attrition rates amongst sexual assault cases within the criminal legal system and the incongruence between the traditional criminal legal system process and survivor-victims desires.¹⁴⁴ Attrition means that cases are closed at various stages of the criminal legal process without redress for the survivor-victim. Moreover, even when cases move to the trial stage, survivor-victims have found the adversarial court process, which seeks to undermine their experience, to be as humiliating and traumatizing as the original crime.¹⁴⁵ “Survivor victims say that they desire a justice process that validates their status as legitimate victims, focuses on the offender’s behavior and not on theirs, provides a forum to voice the harm done to them, accords them influence over decisions about their case, and incorporates their input into the consequences imposed”.¹⁴⁶To remedy this, RESTORE has developed a four-part model for responding to sex crimes:

Intake & Referral	<p>Once a referral is received, meetings are held with the survivor-victim and responsible party to review their options.</p> <ul style="list-style-type: none"> • Survivor-victims can pursue criminal or civil prosecution or RESTORE. Responsible parties can participate in criminal prosecution or RESTORE, if survivor-victim consents. • If the survivor-victim chooses the RESTORE program, consent is also obtained from the responsible party. • Then, the responsible party undergoes a psychosexual forensic evaluation to ensure the RESTORE process is appropriate.
Preparation	<p>Meetings are held with the survivor-victim and responsible parties to review expectations, conference structure, and prepare what they would like to share.</p> <ul style="list-style-type: none"> • The survivor-victim gives input on the redress plan which always includes sex offender therapy and other recommendations based on the forensic assessment. • Survivor-victim’s additions may include certain rehabilitative requirements, financial remuneration for damaged property or therapy, and contributions to charity. • If the survivor-victim declines to participate in the conference, a surrogate victim can attend in their place. • Additionally, the family and friends of both groups are briefed about their role in the conference and in providing ongoing support to both parties.
Conferencing Stage	<p>At the conferencing stage, the survivor-victim, and the responsible party participate in an in-person dialogue supported by their family and friends and facilitated by trained a restorative justice professional.</p>

¹⁴³ The term “survivor-victim” is meant to couple the empowerment of surviving a crime with the outrage of having experienced it and the term “responsible party” avoids defining the person who caused harm by their crime, which can produce shame responses that inhibit taking accountability.

¹⁴⁴ Ibid

¹⁴⁵ McGlynn, Clare, Nicole Westmarland, and Nikki Godden. "I just wanted him to hear me': Sexual violence and the possibilities of restorative justice." *Journal of Law and Society* 39, no. 2 (2012): 213-240.

¹⁴⁶ Koss, Mary P. "The RESTORE program of restorative justice for sex crimes: Vision, process, and outcomes." *Journal of interpersonal violence* 29, no. 9 (2014): 1623-1660.

	<ul style="list-style-type: none"> • The responsible party begins by explaining the harm they caused to acknowledge the offense. • The survivor-victim explains the impact of the harm. • Family and friends share their reactions. • The redress plan is finalized.
Accountability & Reintegration	The responsible party has weekly phone calls and appears quarterly before the Community Accountability and Reintegration Board who supports the person in meeting the requirements of the redress plan. To exit the program, the responsible party writes a statement of accountability and reintegration explaining the lessons they learned.

Program Outcomes:¹⁴⁷

- In a review of 20 prosecutor-referred cases handled by RESTORE, including 11 misdemeanor and nine felony cases, 80% of participants completed the program.
- 90% of all involved parties agreed that they felt “safe, supported, treated fairly, treated with respect, and not expected to do more than anticipated.”
- However, there was disagreement, particularly amongst survivors, about the sincerity of responsible parties, with 70% believing that the responsible party took accountability and 30% dissenting. At the same time, 100% of survivor victims viewed the process as fair, while only 70% of the responsible parties did.
- 90% of all participants were satisfied with their reparation and redress plan and would recommend RESTORE to others.

Common Justice, New York

Common Justice is an alternative-to-incarceration and victim-services program based on restorative justice principles for people who have committed and survived serious and violent felonies.¹⁴⁸ The program originates “out of our communities’ most strongly and urgently expressed needs to break cycles of violence and incarceration” and operates based on the following tenets:¹⁴⁹

1. Survivor-centered - The current system purports to act on victims’ behalfs, without listening to victims or asking them what they want. Common Justice asks victims if they want the person who caused them harm in programs or incarcerated. Ninety percent of victims choose the Common Justice model. This choice is not an expression of mercy, but of pragmatism. Survivors care about ensuring that neither they nor anyone else are victimized in the same way again. Hailing from communities where incarceration is common, survivors often believe that

¹⁴⁷ Ibid

¹⁴⁸ “Common Justice.” Common Justice. Accessed May 17, 2022. <https://www.commonjustice.org/>.

¹⁴⁹ *The Four Principles for Making Our Cities Safer*. YouTube. Common Justice, 2020.

https://www.youtube.com/watch?v=EQ3oyZ9w0fo&feature=emb_logo&ab_channel=CommonJustice.

imprisonment will not make them or anyone else safer.

2. Accountability-based - Punishment and accountability are not synonymous. Punishment is something that is done to the perpetrator, while accountability is something that the perpetrator participates in by acknowledging the harm they caused and its impact, expressing remorse, making things as right as possible, and taking the necessary steps not to cause harm again. None of these steps is required in the current system.
3. Safety driven - The current system responds to violence with more violence, instead of achieving safety. Violence is precipitated by “shame, isolation, exposure to violence, and an inability to meet one’s economic needs”. Because prisons create shame, isolate people, expose people to violence, and impede people’s economic well being, they cannot constitute a safe response to harm.
4. Racially equitable - Survivors of color do not have access to the resources they need to heal and their desires are not adequately reflected in current criminal legal system responses. Violence originates not only from individual behaviors, but from structures that create inequitable access to education, healthcare, and other services. Common Justice seeks to build a model that is responsive to the needs and desires of survivors of color who are impacted by these inequities.

These tenants are operationalized through the Common Justice model. If and only if the survivor consents, the process of diverting the case from the criminal legal system to Common Justice begins. First, the survivor’s needs and desires are recognized and addressed. The survivor has the opportunity to express what accountability for the harm they have endured would look like by co-creating a plan for sanctions and wrap-around services. Survivors are also provided with the support and services needed to cope with the trauma they have experienced. After extensive preparation, the responsible parties (i.e. person who caused harm, anyone who was complicit in the harm) and the harmed parties (i.e. the survivor and others impacted by the harm) come together in a restorative dialogue called a “circle” that is held by a professional facilitator. In this dialogue, harm is acknowledged and remorse is expressed. Parties work together to decide on sanctions that would meaningfully repair and prevent harm from happening again. The staff rigorously monitors the responsible parties’ fidelity with the agreement and completion of a 15-month intensive violence intervention program. If the completion of the agreements and program is successful, the responsible party does not serve time in prison and jail. To read a story of participants in the Common Justice Program, see Figure 5 in the appendix.

Recommendation #4: Reinvest state dollars into reentry programs to reduce recidivism and ensure successful reintegration

Why Investment in Reentry?

Annually, New Jersey releases approximately 563 women from prison (representing 6% of all prison releases) and 18,307 women from jail (representing 13% of all jail releases).¹⁵⁰ However, of all individuals released in 2015 in New Jersey, 51.4% were rearrested, and 30.4% were reincarcerated within three years. These measures of recidivism are even higher for women, who tend to have higher rates of co-occurring substance use and mental health disorders.

With the majority of incarcerated women having children under 18 and sole custody of their children, reentering women requires a unique set of reentry services.

According to a study by the Serious and Violent Offender Reentry Initiative (SVORI), women have

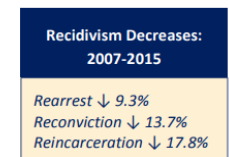
“significantly higher need for services than men.”¹⁵¹ During pre-release interviews, women reported their greatest life skill needs as education (95%), employment (83%), and job training (83%) and their greatest transition service needs as public health insurance (91%), financial assistance (87%), a mentor (83%), and obtaining a driver’s license (79%).¹⁵²

In New Jersey, 60% of incarcerated people are released to parole supervision prior to the end of their sentences, and 40% are max-outs who complete their sentence and are not subject to further supervision.¹⁵³ The cost of parole supervision is 1/10 the cost of incarceration, but parolees are reincarcerated at high rates due to technical violations, such as missing appointments or failing drug tests.¹⁵⁴ The stringent nature of parole and probation requirements leads to a substantial reduction in cost savings as individuals are often reincarcerated for innocuous reasons.

Recommendation Specifications

To prevent recidivism and ensure successful integration into society, returning citizens must be provided with the resources to secure good jobs, housing stability, and the appropriate

Year of Release	Total Releases	Rearrested Within 3 Years	Reconvicted Within 3 Years	Reincarcerated Within 3 Years
2007	12,617	56.7%	44.5%	37.0%
2008	12,989	54.3%	41.9%	34.8%
2009	11,895	53.1%	38.8%	32.4%
2010	11,388	56.8%	45.4%	34.9%
2011	10,835	52.7%	39.8%	31.3%
2012	9,934	53.3%	40.1%	31.3%
2013	9,669	52.3%	38.2%	29.8%
2014	9,109	51.2%	38.0%	30.5%
2015	9,017	51.4%	38.4%	30.4%



Murphy, Philip D, Sheila Y Oliver, and Marcus O Hicks. "2015 RELEASE COHORT OUTCOME REPORT: A THREE-YEAR FOLLOW-UP." n.d., 54.
https://www.nidoc.gov/pdf/offender_statistics/2015_Release_Recidivism_Report.pdf

¹⁵⁰ Initiative, Prison Policy. "Who's Helping the 1.9 Million Women Released from Prisons and Jails Each Year?" Accessed May 13, 2022.
<https://www.prisonpolicy.org/blog/2019/07/19/reentry/>.

¹⁵¹ "Improving Access to Services for Female Offenders Returning to the Community," no. 269 (2012): 6.
<https://www.ojp.gov/pdffiles1/nij/237725.pdf>.

¹⁵² Ibid.

¹⁵³ The Pew Charitable Trusts, The Impact of Parole in New Jersey. November 2013. Accessed May 13, 2022.
https://static.prisonpolicy.org/scans/PSPP_NJParole-Brief.pdf.

¹⁵⁴ Ibid.

education and skills to achieve socioeconomic mobility after release. Reentry programs provide immediate support at the individual level to prepare formerly incarcerated individuals for reintegration. These programs ease the transition after incarceration by helping individuals establish life stability through housing, healthcare, training and employment, substance use rehab, legal support, and education. Largely run by community-based organizations, reentry programs address risk factors that affect successful reentry. When individuals are released from prison, they receive, at most, a bus ticket and a nominal stipend. About one third of all departments of corrections report that they do not provide any stipends, and only one half report making any transportation arrangements.¹⁵⁵ Left in such economic precarity and without the resources to secure employment, access substance abuse treatment, or reestablish ties with their family or community, returning citizens are at high risk of recidivism or drug relapse.

As previously noted, Governor Murphy's \$48.9 billion budget proposal for FY2023 calls for a 3.7% increase in state corrections spending, with \$1.03 billion allocated for corrections.¹⁵⁶ The DOC budget allocates \$50M for correctional officer salaries but only \$4M for NJLocally Empowered, Accountable, and Determined (LEAD), which funds community-based reentry programs. **Given that incarceration largely fails to prepare individuals for successful reintegration, New Jersey should instead increase its budget allocation to scale evidence-based reentry programs.**

New Jersey Reentry Corporation's Reentry Housing model is one such program that could benefit from increased funding. Based on successful reentry housing programs in New York (Fortune Society) and Kentucky (Recovery Kentucky), NJRC's Reentry Housing model provides supportive housing, peer recovery support service, and skills training to address the social, psychological, and emotional barriers to healthy and successful reentry. This program estimates the cost of a 72-person reentry housing facility to be \$1.85M per year. At the cost of \$26K per person, this is more than half of the \$55K annual cost of incarcerating an individual through DOC.¹⁵⁷

[A Look at Case Studies](#)

Center for Employment Opportunities

One of the nation's largest transitional jobs programs for returning citizens is the NY-based Center for Employment Opportunities (CEO). CEO provides recently released individuals paid transitional jobs along with employment counselors and other wraparound support to help them successfully build life stability after incarceration. Operating in 31 cities across 12 states, CEO's model starts with a week-long job readiness and life skills class, during which case managers also connect participants to benefits such as the Supplemental

¹⁵⁵ Travis, Jeremy, Amy L. Solomon, and Michelle Waul. "From Prison to Home: The Dimensions and Consequences of Prisoner Reentry: (720982011-001)." American Psychological Association, 2001. <https://doi.org/10.1037/e720982011-001>.

¹⁵⁶ Murphy, Philip D. "The Governor's FY2023 Budget," n.d., 102. <https://www.nj.gov/treasury/omb/publications/23bib/BIB.pdf>.

¹⁵⁷ "After 30 Years in Prison, You Should Be Able to Earn the Right to Die Free." New Jersey Reentry Corporation, 2021.

https://www.njreentry.org/application/files/2416/4087/8359/After_30_Years_In_Prison_You_Should_Be_Able_To_Earn_The_Right_To_Die_Fre_e_2021.pdf.

Nutrition Assistance Program (SNAP). After this week-long class, participants then begin 2-4 months in paid transitional jobs, such as on grounds-keeping and road maintenance projects. Along with this paid work and on-the-job training, participants receive ongoing job coaching to secure permanent jobs.

The core of CEO's strategy is focused on providing immediate and daily pay, a highly structured work environment, individualized support, and a sense of community to reduce recidivism rates. In a study of CEO's New York sites, evaluators reported statistically significant improvements in employment rates and reductions in recidivism rates. At 36 months post-enrollment, CEO participants experienced a 48% increase in labor force participation.¹⁵⁸ 3 years following enrollment, CEO participants were also 8.2% less likely to experience a reconviction or felony rearrest — a 19% reduction relative to the comparison group.¹⁵⁹ The success of CEO's model is a testament to the importance of providing paid employment as well as targeted and individualized support to individuals as early as possible - at the minimum, immediately upon release and, ideally, at least 18 months prior to release. Providing a continuum of care that starts with rehabilitative programs during incarceration and connects individuals to basic needs, such as housing, employment, and healthcare, through case management following release is critical to ensuring successful reintegration.

Florida Work Release Program¹⁶⁰

Florida's Work Release program provides another example of a successful reentry model that can be adopted in New Jersey. Florida's reentry program allows incarcerated individuals with 10 months remaining on their custodial sentences to be transferred to work release centers that are spread throughout the state. This reentry program allows individuals to work regular jobs in the community. This program allows individuals to develop specific work-related skills, increase their social capital, earn minimal wages, and become more acclimated to working in highly structured environments. The program was found to have a statistically significant effect on reducing reconvictions by 13% at 3 years post-release, increasing employment rates, and increasing quarterly earnings post-release.

¹⁵⁸ Center for Employment Opportunities, *Improving Long-Term Employment Outcomes: Promising Findings from New York State*. February 2019. Accessed May 13, 2022. https://ceoworks.org/assets/images/CEO-Improving-Long-Term-Employment_042319_print.pdf.

¹⁵⁹ *Ibid.*

¹⁶⁰ "Program Profile: Florida Work Release Program." *CrimeSolutions*. National Institute of Justice, September 5, 2017. <https://crimesolutions.ojp.gov/ratedprograms/558>.

Recommendation #5: Prevent harm by developing, investing in, and evaluating programs that address its root causes

Why Prevention?

Prevention stops the cycle of harm from being set in motion and intervenes to prevent further harm once it has begun. This is beneficial to incarcerated women whose trauma metastasizes into crime, to those who are the victims of these crimes, and to society broadly, who will not have to bear the cost of incarceration or its impact.

Examining the shared experiences of incarcerated women prior to their imprisonment points toward what can prevent crime. **As aforementioned, two of the hallmark experiences of incarcerated women are poverty and physical and sexual abuse during childhood.**

Prior to their incarceration, many women are unemployed or underemployed, living below the poverty line, and receiving some form of government assistance.¹⁶¹ Not only does this lead to participation in illicit economies like drug dealing and committing property crime, but poverty also keeps women stuck in abusive relationships which end up being a catalyst for their transgressions.¹⁶² While economic disadvantage plays a role in criminal behavior, childhood sexual abuse predicts a higher likelihood of committing harm as an adult.¹⁶³ In fact, girls who experienced physical and sexual maltreatment are twice as likely to commit violent crime throughout their life span. **Prevention must target economic deprivation and childhood sexual abuse.**¹⁶⁴

Prevention also includes diverting people who have committed crimes from incarceration to stop the cycle of retraumatization and revictimization that imprisonment imposes.¹⁶⁵ In this way, prevention should include developing alternative mechanisms to respond to harm, bring about accountability, and facilitate healing that do not involve incarceration. See recommendation 3 for a complete discussion on alternatives.

Recommendation Specifications

To prevent the harm that precipitates women's criminal behavior and intervene in the cycle of harm in which they are stuck once they commit a crime, we recommend:

- Recommendation #5a - Guaranteed income for New Jerseyans
- Recommendation #5b - Child sexual abuse prevention

Recommendation Specifications #5a - Guaranteed Annual Income

¹⁶¹ Herbst, Jeffrey H., Olivia Branscomb-Burgess, Deborah J. Gelaude, Puja Seth, Sharon Parker, and Catherine I. Fogel. "Risk profiles of women experiencing initial and repeat incarcerations: Implications for prevention programs." *AIDS Education and Prevention* 28, no. 4 (2016): 299-311.

¹⁶² Slabbert, Ilze. "Domestic violence and poverty: Some women's experiences." *Research on social work practice* 27, no. 2 (2017): 223-230.; Wesely, Jennifer K., and Susan C. Dewey. "Confronting Gendered Pathways to Incarceration." *Social Justice* 45, no. 1 (151 (2018): 57-82.

¹⁶³ Papalia, Nina, James RP Ogloff, Margaret Cutajar, and Paul E. Mullen. "Child sexual abuse and criminal offending: Gender-specific effects and the role of abuse characteristics and other adverse outcomes." *Child maltreatment* 23, no. 4 (2018): 399-416.

¹⁶⁴ Widom, Cathy Spatz, and Max Osborn. "The cycle of violence: Abused and neglected girls to adult female offenders." *Feminist criminology* 16, no. 3 (2021): 266-285.

¹⁶⁵ Ibid

Though the federal poverty line in 2019 was \$20,000 for a family of three, according to the Poverty Research Institute, families in New Jersey were considered to be in poverty in 2019 if their income fell below \$70,372. Given this threshold of poverty, which reflects the cost of living in NJ, 3M people, including 800,000 children, live in poverty in the state.¹⁶⁶

Universal Basic Income is a government issued cash transfer that is meant to boost the economic well-being of the public broadly. Guaranteed Income or Guaranteed Annual Income (GAI) is a variation of UBI that is more targeted, providing cash transfers to specific communities to ameliorate economic inequality. Unlike other anti-poverty programs, like health insurance or food assistance, GAI puts cash directly in the hands of citizens, providing flexibility to meet their unique needs.

Building off of successful unconditional cash transfer programs in Stockton, California and Jackson, Mississippi, cities in New Jersey including Newark and Paterson, have started their own guaranteed income pilot programs.¹⁶⁷ In Stockton, starting in February 2019, 125 randomly selected residents received \$500/month over 24 months. **Within two years, full time employment increased, income volatility lowered, and health and well-being increased.**¹⁶⁸ Similarly, the Jackson, Mississippi program, which specifically targeted Black, low-income mothers, found an increase in mothers' ability to pay bills on time, provide three meals a day for their children, and save for emergencies and long-term goals.¹⁶⁹

While the increase in quality of life that GI can have is clear, GI also has been shown to reduce property and violent crime,¹⁷⁰ In a study of Mincome, a GAI program in Manitoba, Canada profiled below, researchers found a negative relationship between GI and total, property, and violent crime and hypothesized that reductions in violent crime reflected decreases in intimate partner violence.¹⁷¹ This is an especially important finding when considering GI's potential to prevent women from entering the criminal legal system, as most incarcerated women have histories of intimate partner violence which catalyzes their crime. Incarcerated women report committing their crimes under the duress of an abusive partner or defending themselves against their partner through violence.¹⁷²

Considering this, we recommend a state-wide guaranteed income program for New Jersey. What could this look like?

¹⁶⁶ NJ.com, Nick Devlin | NJ Advance Media for. "One-Third of N.J. Living in Poverty, Nonprofit Says. Here's How Much It Costs to Live in Your County." nj, July 18, 2021.

<https://www.nj.com/data/2021/07/one-third-of-nj-living-in-poverty-nonprofit-says-heres-how-much-it-costs-to-live-in-your-county.html>.

¹⁶⁷ "About Guaranteed Income." The Newark Movement for Economic Equity . City of Newark , April 26, 2022.

<https://newarkequity.org/#block-process-year-2021>.

¹⁶⁸ SEED. "About SEED." Accessed May 15, 2022. <https://www.stocktondemonstration.org/about-seed>.

¹⁶⁹ Springboard to Opportunities. "Magnolia Mother's Trust." Accessed May 15, 2022. <https://springboardto.org/magnolia-mothers-trust/>.

¹⁷⁰ Dorsett, Richard. "Basic income as a policy level: A case study of crime in Alaska." *Westminster Business School, Working Paper Series 2* (2019).; Calnitsky, David, and Pilar Gonalons-Pons. "The impact of an experimental guaranteed income on crime and violence." *Social problems* 68, no. 3 (2021): 778-798.

¹⁷¹ Ibid.

¹⁷² Catherine Mitchell Fuentes, "Nobody's Child: The Role of Trauma and Interpersonal Violence in Women's Pathways to Incarceration and Resultant Service Needs", *Medical Anthropology Quarterly*, Vol. 28, Issue 1, pp. 85–104, <https://anthrosource-onlinelibrary-wiley-com.ezp-prod1.hul.harvard.edu/doi/pdfdirect/10.1111/maq.12058>.

Negative Income Tax Credit - Borrowing from a federal guaranteed income proposal drafted by The New School’s *Institute on Race and the Political Economy*, guaranteed income could be structured through a negative income tax credit. Those making below the state median income could be refunded for the difference between their income and the median income up to \$12,500 with an extra \$4,500 for each child in their household.¹⁷³ If an individual received the entire tax credit of \$12,500 (not accounting for any additional child credits), this translates to approximately \$1000 per month of GI, which is in line with other GI programs. Having an additional stipend for children is important considering that 58% of women who become incarcerated are mothers.¹⁷⁴ A poll conducted by Data ,for Progress in July 2021 of 1,137 likely voters said that they would support federal monthly payments of between \$500 and \$1,000.¹⁷⁵

State-level Child Tax Credit - Building off the successful federal child tax credit, as outlined by *New Jersey Policy Perspective*, NJ could institute a state-level child tax credit to ease poverty for children and families.¹⁷⁶ The tax-credit would target families that earn 250% or below the federal poverty level, with the amount of the credit adjusted according to income. It would cover dependent children up to age 25, including children with individual tax identification numbers. To ensure that this poverty alleviation program reaches the families most in need, the tax-credit would be refundable. “Taxpayers subtract both refundable and nonrefundable credits from the taxes they owe. If a refundable credit exceeds the amount of taxes owed, the difference is paid as a refund. If a nonrefundable credit exceeds the amount of taxes owed, the excess is lost.”¹⁷⁷ Because low-income families owe few taxes, if the credit were *nonrefundable*, none of the credit would be returned to them. The eligibility screening and distribution are streamlined for this program. The only inputs needed are the family’s income and size and the distribution is managed through

Comparison of Two State-Level Tax Credits for Children

	Option 1: Young Child Tax Credit	Option 2: All Ages Child Tax Credit
Eligibility by age	Only available to all children under age 6	Available to all children (under age 18), including adult dependents (ages 18-24)
Maximum credit per child	\$582	\$187
Average credit for households receiving	\$553	\$246
Percentage of taxpayers receiving tax credit	4%	10%
Percentage of tax relief going to bottom-80% income households	100%	100%
Number of children benefitting	449,000	792,000
Number of households benefitting	186,000	424,000
Total cost	\$100 million	\$106 million

Source: Institute on Taxation and Economic Policy, 2021; Data on file with author.

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¹⁷³ The New School, Institute on Race and Political Economy. “A Guaranteed Income for the 21st Century.” Accessed May 15, 2022. <https://drive.google.com/file/d/1UDFPwUYu2Rf4RGgXuOTacmBj2Gt9paAV/view>.

¹⁷⁴ Initiative, Prison Policy. “Prisons and Jails Will Separate Millions of Mothers from Their Children in 2021.” Accessed May 15, 2022. <https://www.prisonpolicy.org/blog/2021/05/05/mothers-day-2021/>.

¹⁷⁵ Penumaka, Evangel, Isa Alomran, and Abby Steckel. “Majority of Voters Support a Guaranteed Income,” n.d., 9. <https://www.filesforprogress.org/memos/voters-support-a-guaranteed-income.pdf>.

¹⁷⁶ New Jersey Policy Perspective. “Making New Jersey Affordable for Families: The Case for a State-Level Child Tax Credit,” February 22, 2022. <https://www.njpp.org/publications/report/making-new-jersey-affordable-for-families-the-case-for-a-state-level-child-tax-credit/>.

¹⁷⁷ Tax Policy Center. “What Is the Difference between Refundable and Nonrefundable Credits?” Accessed May 15, 2022. <https://www.taxpolicycenter.org/briefing-book/what-difference-between-refundable-and-nonrefundable-credits>.

the state tax agency which already has this and the family's banking information. If the credit were distributed to all dependent children up to age 25, the average credit per household per month would be \$246, with 792,000 children benefitting. In total, the program would cost \$106M (option 2 in the figure on page 53). **A third of this cost could be covered by what the state plans to invest in the building of a new women's prison.** The major limitation of this guaranteed income recommendation and why it might be less favorable than the aforementioned option is that it would not reach persons without children.

A Look at Case Studies

Manitoba Basic Annual Income Experiment

From 1975-1977, a guaranteed annual income (GAI) experiment was run in Dauphin, Manitoba, Canada. All residents of Dauphin qualified for and received an annual benefit adjusted for household size and labor market earnings that was equivalent to \$19,500 (in 2014 dollars) for a four-person household. This figure represented 38% of the median family income in Dauphin in 1975 which was \$51,004 and the cash transfer was deducted by 50 cents for every dollar of labor market income up to \$39,000. Researchers examined the impact of this cash transfer on total crime, property crime, and violent crime in Dauphin and found a decrease over the course of the experiment across all categories.¹⁷⁸ It is hypothesized that the reduction in violent crime was due to a decrease in intimate partner violence, as this type of violence made up the largest share of violent crime in the preceding years. GAI likely reduces IPV by reducing financial stress in relationships which can escalate to violence and by reducing power dynamics within the relationship by providing women with the financial resources to leave the relationship if they chose to. Though some may wonder about the generalizability of these findings to the present, the authors note that though intimate partner violence within marriages has fallen, it has increased amongst boyfriends. The decrease within marital relationships is likely due to increased economic opportunities for women which GAI would provide.¹⁷⁹

Recommendation #5b - Child Abuse Prevention

According to Prevent Child Abuse New Jersey, 1 in 4 girls and 1 in 6 boys in New Jersey will be victimized by sexual abuse by their eighteenth birthday.¹⁸⁰ The New Jersey Department of Children and Families sponsors the New Jersey Child Assault Prevention Program (NJCAP) which is a "statewide community based prevention program" that offers educational workshops to schools and communities.¹⁸¹ Specifically, schools can apply for a grant through NJCAP to partially fund the delivery of prevention workshops for students, staff, and parents. New Jersey also has Child Advocacy Centers in each county that

¹⁷⁸ Calnitsky, David, and Pilar Gonalons-Pons. "The impact of an experimental guaranteed income on crime and violence." *Social problems* 68, no. 3 (2021): 778-798.

¹⁷⁹ *Ibid.*

¹⁸⁰ Prevent Child Abuse New Jersey. "Enough Abuse Campaign." Accessed May 15, 2022.

<https://www.preventchildabusenj.org/what-we-do/programs/enough-abuse-campaign/>.

¹⁸¹ NJCAP. "New Jersey Child Abuse Prevention." Accessed May 15, 2022. <https://njcap.org/>.

provide, “a safe, child-focused environment where law enforcement, child protective services, prosecution, medical and mental health professionals share information and develop a coordinated strategy that seeks justice while also working to meet the unique needs of each child and family.”¹⁸²

In 2019, New Jersey passed Erin’s law which requires that all public schools in the state implement a program to prevent child sexual abuse which teaches 1) students in grades kindergarten through 12th grade “age-appropriate techniques to prevent child sexual abuse and tell a trusted adult”, 2) “school personnel all about child abuse”, 3) “parents & guardians the warning signs of child sexual abuse, plus needed assistance, referral or resource information to support sexually abused children and their families”.¹⁸³

Though data is not available on the most widely used child sexual abuse prevention curriculum’s in New Jersey, because NJCAP is the state sponsored curriculum, it is likely the most widely disseminated. Unfortunately, the last time that the program was evaluated was 2006 and all research to date has focused on participant evaluation and knowledge retention as opposed to its impact on child sexual abuse prevalence.¹⁸⁴

The Center for Disease Control and Prevention (CDC) cites ongoing, regular monitoring and evaluation of prevention programs as an important component of child sexual abuse prevention.¹⁸⁵ **For this reason, we recommend that the state partner with a university to conduct research into the effect of prevention curricula on child sexual abuse rates in New Jersey.** Depending upon the study’s design, it could evaluate the efficacy of a particular child sexual abuse prevention curriculum, like NJCAP, or the efficacy of Erin’s law on child sexual abuse rates.

The study could address:

- Cataloging the types of child sexual abuse prevention programs implemented across districts
- Ensuring each program meets evidence-based standards and that there are differentiated programs for children, staff, and parents
- Measuring the efficacy of particular prevention programs or the implementation of Erin’s law on child sexual abuse rates within the state

¹⁸² New Jersey Childrens Alliance, Inc. “Child Advocacy Centers (CACs).” Accessed May 15, 2022. <https://njcainc.org/our-cacs/child-advocacy-centers-cacs/>.

¹⁸³ Erin’s Law. “What Is Erin’s Law?” Accessed May 15, 2022. <https://www.erinslaw.org/erins-law/>.

¹⁸⁴ NJCAP. “Evaluation, Empirical Studies and Evidence Supporting the CAP Curricula.” Accessed May 15, 2022. <https://njcap.org/evaluation-empirical-studies-and-evidence-supporting-the-cap-curricula/>.

¹⁸⁵ Fortson, Beverly L, Joanne Klevens, Melissa T Merrick, Leah K Gilbert, and Sandra P Alexander. “Preventing Child Abuse and Neglect: A Technical Package for Policy, Norm, and Programmatic Activities,” n.d., 52. <https://www.cdc.gov/violenceprevention/pdf/CAN-Prevention-Technical-Package.pdf>

*“I met Gale [Muhammad of Women Who Never Give Up, Inc.] while I was at Edna Mahan. She came in strong and with a purpose...She **built a trust foundation** with all of us that turned into a lifetime friendship...Her coming into the prison was a blessing for a lot of us women...**she fought for us**”*

- Rashida Smith, formerly incarcerated at Edna Mahan
Correctional Facility

Building a Coalition for Change

The time is now in the state of New Jersey to reimagine justice and change the narrative from cycles of harm due to incarceration to cycles of opportunity by repairing, reimagining, and reinvesting. To miss this opportunity to put more just options on the table is to misread the opportune moment that New Jersey has. Now is the opportunity to lead the nation in showing how to **expand cycles of opportunity for the women at Edna Mahan.**

Advocating for Women at Edna Mahan

A diverse coalition can partner to bring about meaningful change. In an effort to move the needle of justice toward those who are incarcerated at Edna Mahan, below, we

are offering models from recent and current advocacy movements in New Jersey and other states for community members and allies to leverage.

The intention behind these tools is to:

- Center and elevate the stories of those in impacted communities;
- Raise awareness of the crisis at Edna Mahan Correctional Facility;
- Help equip stakeholders with information to unite and encourage legislative and gubernatorial action.

Stakeholders Included in This Report

Our team has had the privilege of meeting with currently and formerly incarcerated people, community leaders, and legislators/elected officials. **We want to uplift the ongoing efforts that are underway to change the narrative for the women at Edna Mahan.**

Though by no means exhaustive of all key stakeholders needed for a diverse coalition or of all efforts being taken, the table below includes stakeholders with whom we have engaged and some key learnings from our conversations with them.

It is our hope that by sharing some of these efforts, people across a diverse range of stakeholder groups can connect (if they have not already done so) to carry advocacy work forward:

Type	Stakeholder	Efforts / Key Learnings
Impacted Communities	Currently and formerly incarcerated people	The women we spoke with shared their needs; to live life in a dignified manner (i.e., psychological, emotional, spiritual, and physical needs met during and after incarceration), communicate with their loved ones and provide for themselves and their families, become properly equipped with education, training, and reentry preparation services in advance of leaving Edna Mahan. Their stories and lived experiences must remain at the center of any advocacy work.
	Families and loved ones of incarcerated people	From those we spoke with, on the most basic level, family members and loved ones of those who are incarcerated at Edna Mahan are advocating for expanding access to communicate with and visit their loved one(s) at EMCF. Many live in urban centers in the eastern part of the state, making it challenging to travel to the small town in northwest New Jersey. Being hours away imposes what can be prohibitive travel costs for families seeking to visit and exacerbates the isolation incarcerated women already face.
Organizations	Reentry and community-based	The Returning Citizens Support Group (RCSG) - Based in Newark, this group is run by and for formerly incarcerated people. They are changing the narrative for and improving the lives of people coming home from carceral settings. They are currently

	<p>pursuing their first initiative — creating safe and affordable housing for returning citizens via Second Chance Developers, LLC.</p> <p>New Jersey Reentry Corporation (NJRC)'s mission is to remove all barriers to employment for citizens returning from incarceration. With 8 locations, including the Training & Employment Center in Kearny, NJRC provides “traditional wraparound services, including state and federal benefits, healthcare, legal services, housing referrals, and employment.”¹⁸⁶</p> <p>Help Us Become Better (HUBB) Arts & Trauma Center - Based in Newark, “nestled on the site of a subsidized housing complex, a neighborhood of low-to very low income families of color. The HUBB has become a beacon, offering beneficial activities and opportunities”¹⁸⁷ through five core programs: My Thoughts Out Loud (MTOL), Families Involved in Structured Transitions (FIST), Youth Television, Film, & Press (YTFF), ThatHubbLife Radio, and Rhymes4Reasons. In this space, community members, mostly youth, are able to safely share their life experiences and participate in educational and entrepreneurial opportunities.</p> <p>Reimagining Justice New Jersey (RJNJ) - Advocates to reimagine a system that incorporates culturally responsive, evidence-based and trauma-informed solutions that adequately support communities that are most impacted by violence. Specifically, RJNJ has two main programs: Reimagining Justice Scholars and the Paterson Healing Collective: Hospital-based Violence Intervention Program.</p>
Legal & advocacy	<p>Women Who Never Give Up, Inc. (WWNG) - For 20+ years, WWNG has advocated for changes in New Jersey’s justice and prison system. Most recently, in part due to WWNG’s effective advocacy, both the “Opportunity to Compete” and “Dignity for Incarcerated Primary Caretaker Parents” Acts were signed into Law. The Opportunity to Compete Act, commonly referred to as “ban the box,” was signed into law in 2014, requiring both public and private sector employers to postpone questions about conviction/arrest history until after a conditional offer of employment is extended.¹⁸⁸ The Dignity Act, enacted in January 2020, makes “it easier for incarcerated parents to keep in touch with their family members and specifically improve prison conditions for incarcerated pregnant women.”¹⁸⁹</p>

¹⁸⁶ “Home :: NJRC.” Accessed May 13, 2022. <https://www.njreentry.org/>.

¹⁸⁷ thehubb. “Home.” Accessed May 13, 2022. <https://www.thathubblife.org>.

¹⁸⁸ National Employment Law Project. “New Jersey Governor Christie Signs Fair-Hiring Law, Ensuring Public and Private Employers ‘Ban the Box,’” August 12, 2014.

<https://www.nelp.org/news-releases/new-jersey-governor-christie-signs-fair-hiring-law-ensuring-public-and-private-employers-ban-the-box/>.

¹⁸⁹ “Office of the Governor | Governor Murphy Signs Dignity for Incarcerated Primary Caretaker Parents Act.” Accessed May 13, 2022. <https://nj.gov/governor/news/news/562020/approved/20200109b.shtml>.

		<p>American Civil Liberties Union (ACLU) New Jersey - Among the many legal pathways through which ACLU-NJ advocates for justice, one is through writing legislation to continue decarcerating New Jersey. They were the original authors of The Trauma Credit Bill, upon which our team based our recommendations for The Trauma Relief Bill.¹⁹⁰</p> <p>New Jersey Institute of Social Justice (NJISJ) - “The Institute advocates for systemic reform that is at once transformative, achievable in the state, and replicable in communities across the nation.”¹⁹¹ One of NJISJ’s three pillars is Criminal Justice Reform, where they focus mainly on reforming policing and closing the state’s youth prisons — mobilizing people across the state through its “150 Years is Enough” campaign.</p> <p>New Jersey Prison Justice Watch (NJPJW) - NJPJW is “a coalition of survivors, families, faith based communities and advocates calling for an end to torture in New Jersey correctional facilities”¹⁹² that advocates to end violence at Edna Mahan. See NJPJW’s Statement, “Abuse at New Jersey’s Women Prison Must End”¹⁹³ to learn more about their efforts.</p> <p>Durgana Law, LLC. - a private law firm bringing litigation on behalf of a client who was abused at EMCF.</p>
	Private sector	<p>CGL Companies and The Moss Group - Hired by NJDOC to lead the implementation of cultural change within the department and provide guidance on how and where to relocate a new women’s prison for NJ.</p>
New Jersey State Government	Elected officials	<p>Senator Sandra Cunningham (District 31), Assemblywoman Yvonne Lopez (District 19), Former Governor Jim McGreevey - Across three current and former elected officials, all have worked towards advancing legislation intended to increase quality of life and opportunities for incarcerated people.</p>
New Jersey State Government	Department of Corrections	<p>Acting Commissioner Victoria Kuhn, Assistant Commissioner Helena Tome, External Affairs Executive Director Dan Sperrazza - As Acting Commissioner, Kuhn is responsible for a budget of nearly \$1 billion, approximately 8,000 employees, and the oversight of approximately 13,000 state-sentenced people housed across 11 correctional facilities, county jails, and community halfway houses. Tome serves as the liaison to the state’s incarcerated female population and is</p>

¹⁹⁰ BillTrack50. “NJ - A5972.” Accessed May 13, 2022. <https://www.billtrack50.com/billdetail/1397201>.

¹⁹¹ New Jersey Institute for Social Justice. “Criminal Justice Reform.” Accessed May 13, 2022. https://www.njisi.org/criminal_justice_reform.

¹⁹² NJ-PJW. “NJ-PJW.” Accessed May 13, 2022. <https://njpjw.org>.

¹⁹³ NJ-PJW. “Abuse at New Jersey’s Women Prison Must End A Statement from New Jersey Prison Justice Watch Coalition.” Accessed May 13, 2022. <https://static1.squarespace.com/static/588f722f20099ed4521a6ad6/t/60131c4439f37e6166dcb0b4/1611865156953/NJPJW+Statement+rev4.docx.pdf>.

responsible for ensuring the implementation of the DOJ's recommendations. Sperrazza recently joined the department after decades of working in re-entry; he is responsible for NJDOC's communications with other agencies and media.

Centering Impacted Community Members

The lived experiences of those who have been/are impacted by the justice system, specifically at Edna Mahan, are critical in providing firsthand perspectives to the advocacy campaign. “Their personal stories can help illustrate the nuanced reality of those who have been involved in the criminal legal system; they are often long-time residents with deep ties to the local community...[and can] humanize the issue for policymakers.”¹⁹⁴

Sharing the stories of those (who have explicitly consented) with the lived experience of the trauma from incarceration at Edna Mahan is critical to humanizing them and calling people to take action.

Here is what Rashida, a woman who was formerly incarcerated at Edna Mahan, said after part of her story was told to an audience at Harvard University:

“...thank you for allowing me to share my life with you all and picking my story to represent the women of Edna Mahan — what we went through and some still going through.”

- Rashida Smith, formerly incarcerated at Edna Mahan
Correctional Facility

¹⁹⁴ Vera Institute of Justice. “Building the Movement.” Accessed May 13, 2022.
<https://www.vera.org/advancing-universal-representation-toolkit/building-the-movement>.

A New Jerseyan from Bergen County unfamiliar with the abuse at Edna Mahan, said this after hearing part of Rashida’s story:

“Wow, how did I not hear about this? This is devastating, yet important to hear so that we can do something about it.”

- Bergen County, New Jersey resident

Stories

The stories below were shared with us by women who were formerly incarcerated at Edna Mahan. **They have graciously and explicitly given their consent to have them shared with a wider audience in an effort to incite change for those still at Edna Mahan.** Jara and Rashida’s stories exemplify what the federal Department of Justice found during their two year investigation of the Edna Mahan Correctional Facility for Women: a pattern and practice of abuse and cover up and the critical need for change.

We leave these stories here for the use of storytelling to bring about change at Edna Mahan. **In addition to this humble start, we encourage folks to engage in more dialogues with people who have been impacted:**

Rashida’s story

When Rashida was in her early twenties, she became pregnant. Her parents told her: If you decide to keep the baby, you can’t come home. Rashida began to sell drugs to support herself. By her son’s first birthday, she was facing a 15 year prison sentence at Edna Mahan Correctional Facility for women.

Correctional officers’ abuse was not always covert; sometimes it was brazen. As Rashida left the dining hall, a sergeant

Jara’s story

As a child, Jara was fascinated by the law and dreamed of becoming a judge. But the price of this dream was steep and so in college, Jara sold drugs to pay tuition. Four years of college turned into 5 years at Edna Mahan.

When she first entered prison, Jara was housed in a gymnasium. She slept in a bunk amongst 50-80 other women. Toilets were in the center of the room and showers were against the walls. Going to

instructed the women to, "Keep it moving." Suddenly, she was called out of the crowd by the officer saying, "Hey you, I know you hear me, get the fuck over here." He grabbed Rashida by the back of the neck and slammed her into a metal detector saying, "When I tell you to move, you better fucking move." Rashida was sent to solitary confinement and charged with verbally assaulting an officer.

Rashida knew there was something wrong, so she went to see a psychiatrist. She wanted someone to talk to, but instead was diagnosed with being anti-social and put on medication.

As Rashida left prison, a correctional officer taunted: "You may be leaving, but you'll be back." Rashida rebuffed his comment to which the officer replied, "Well, we'll make room for your kids." In these venomous words was a truth that Rashida was about to find out: when coming home there are many barriers and little grace at every turn.

Rashida was in a halfway house with onerous rules like having to be escorted anywhere in public. Once released from state supervision, Rashida used her network to get a job at a construction company where she now works as a project manager and also mentors youth as a part of their community outreach program. Her son is 28 years old and her daughter is 7. "I'm fortunate enough for this to be my outcome," Rashida says, "but that's not the outcome for a lot of people. Support is so important ... Support systems are what helps people succeed and not return to prison."

the bathroom or keeping clean meant being totally exposed, while male correctional officers looked on.

Jara's permanent housing in A-Cottage seemed to have more privacy until one night the door to her room became ajar. Jara lay frozen in her bed as a correctional officer sexually assaulted her roommate.

Interspersed with abuse was also boredom and negligence. Because Jara had some college, there were no educational programs for her to participate in. The highest degree you could earn while incarcerated was a GED.

When Jara came home, she was released into an intensive supervision program that required her to retain a residence, obtain a job within 30 days, maintain a 6:30pm curfew, and attend daily AA meetings even though she did not have an addiction.

Jara opted to open a barbershop, knowing that her record would not impede her if she worked for herself. Now, she and her partner are successful business owners, but her incarceration follows her. Jara prefers to sleep during the day, knowing that her partner is watching out for her. "The trauma" she says, "never goes away. I'm just fortunate to hide it well."

Learnings from Advocacy Movements

Universal Representation in New Jersey | Vera Institute of Justice's Advancing Universal Representation Toolkit¹⁹⁵ features an advocacy campaign in the state where the coalition used election cycles to secure funding to support "Universal Representation", or "the idea that every immigrant facing deportation should have the right to a publicly funded lawyer if they cannot afford one"¹⁹⁶. We see below how timing and layers of advocacy efforts resulted in the successful funding for the cause, and much can be extrapolated for the movement to provide justice for women incarcerated at Edna Mahan:

Using election cycles to secure funding

In New Jersey, the 2017 gubernatorial election of a pro-immigrant candidate created a high-profile opportunity to position universal representation as a priority among lawmakers. Local advocates were able to seize the opportunity and make the case for funding a statewide program, thanks to the groundwork they had laid in previous years. In 2015, the American Friends Service Committee started a privately funded universal representation pilot program, providing a model for the local coalition to build on.⁹ And in 2016, Seton Hall University School of Law released a report that included statistics demonstrating the need for a publicly funded universal representation program.⁹

Both during and after the 2017 gubernatorial election cycle, the coalition took additional action to secure funding for a universal representation program, including the following:

- › establishing relationships and getting an on-the-record **public statement from the candidate** in support of allocating public dollars for deportation defense;⁹
- › **advising political campaign staff and elected officials** on immigration policy; and
- › engaging in **extensive advocacy** postelection, including meetings, sign-on letters, and **op-eds**.⁹

As a result of this multipronged, multiyear campaign effort, Governor Phil Murphy allocated \$2.1 million in his inaugural state budget in 2018 and \$3.1 million in 2019 to provide deportation defense through New Jersey's nonprofit legal service organizations.⁹ A diverse and growing coalition has

continued to advocate that Governor Murphy fully fund deportation defense for detained immigrants.⁹ The coalition continues to publish advocacy reports to support its ongoing efforts.⁹

⁹ The Working Group on Immigrant Representation in New Jersey, *Universal Representation: Why the Garden State Should Provide Access to Counsel for Detained Immigrants* (South Orange, NJ: The Working Group on Immigrant Representation in New Jersey, 2017), 2, <https://perma.cc/FZP9-MEG7>.

⁹ Lori A. Nessel and Farrin Anello, *Deportation Without Representation: The Access-to-Justice Crisis Facing New Jersey's Immigrant Families*, (Newark, NJ: Seton Hall University, Seton Hall Law Center for Social Justice, 2016), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2805525.

⁹ Phil Murphy: Democrat for Governor, "Murphy Calls for State Office to Assist Immigrants Caught in Trump's Web," January 30, 2017, <https://perma.cc/YN7U-ENJK>.

⁹ Ted Sherman, "Groups Push N.J. to Provide Legal Assistance to Those Facing Deportation," January 29, 2018, [NJ Advance Media for N.J.com, https://perma.cc/735T-8PVW](https://perma.cc/735T-8PVW); and Susan Roy, "Why N.J. Immigrants Aren't Getting Fair Day in Court Before Deportation," March 19, 2018, updated January 30, 2019, *Star-Ledger*, <https://perma.cc/6S9L-W97N>.

⁹ "Murphy OKs \$3.1M for Immigrants Facing Deportation—\$1M Boost," July 1, 2019, *New Jersey 101.5-Townsquare Media*, <https://perma.cc/7N66-NG7V>.

⁹ Sixty Leading NJ Faith, Community and Advocacy Organizations Send Letter to Gov. Murphy Urging Full Funding for Legal Defense for Detained Immigrants," February 7, 2020, *InsiderNJ*, <https://perma.cc/2YB6-FA2S>.

⁹ American Civil Liberties Union of New Jersey, American Friends Service Committee, Make the Road New Jersey, New Jersey Policy Perspective, and Seton Hall Law School Immigrants' Rights/International Human Rights Clinic, *Due Process for All: Promoting Access to Justice for Immigrants in New Jersey* (2019), <https://perma.cc/S2Z8-J444>.

¹⁹⁵ Vera Institute of Justice. "Building the Movement." Accessed May 13, 2022.

<https://www.vera.org/advancing-universal-representation-toolkit/building-the-movement>.

¹⁹⁶ Ibid

[Decarceration in Connecticut](#) | Though incarceration rates are higher than ever across the nation, some states, including New Jersey, are leading the charge in decarceration in their states. Here we see an example of the power of advocacy in Connecticut.¹⁹⁷

In part due to coalition advocacy efforts, Connecticut has seen a precipitous decline in the number of people incarcerated, **reducing the incarcerated population in half in the last 15 years** — from 19,438¹⁹⁸ people incarcerated in 2007 to 9,827 people in April 2022¹⁹⁹. In addition, Connecticut’s Index Crime rate for both violent and property crimes has decreased, falling to a 50-year low in recent years.²⁰⁰

According to The Sentencing Project’s 2018 report on Decarceration Strategies, a key reason for this decline was due to:

“Sustained advocacy for drug policy and criminal justice reform by Community Partners in Action, the Drug Policy Alliance, and other key groups in the state. The efforts led to successful legislative and executive actions that contributed directly to reducing crime, lowering the prison population, and decreasing costs.”

Specifically, due to the efforts of the coalition, “Connecticut’s executive branch took important steps in 2006 and 2007 to analyze and improve the state’s criminal justice system. A Criminal Justice Policy and Planning Division was created within the Governor’s Office of Policy and Management and a Connecticut Sentencing and Parole Review Task Force was formed.”²⁰¹ The report goes on to say, “Continuing leadership by Governor Dannel P. Malloy helped maintain and reinforce the state’s results. In 2015, the Governor initiated Connecticut’s “Second Chance Society” (a collection of both innovative reentry strategies and bipartisan legislative reforms), which has boosted the momentum for change.”²⁰²

¹⁹⁷ The Sentencing Project. “Fewer Prisoners, Less Crime: A Tale of Three States.” Accessed May 13, 2022.

<https://www.sentencingproject.org/wp-content/uploads/2015/11/Fewer-Prisoners-Less-Crime-A-Tale-of-Three-States.pdf>.

¹⁹⁸ The Sentencing Project. “Decarceration Strategies: How 5 States Achieved Substantial Prison Population Reductions.” Accessed May 13, 2022.

<https://www.sentencingproject.org/publications/decarceration-strategies-5-states-achieved-substantial-prison-population-reductions/>.

¹⁹⁹ The Connecticut Statistical Analysis Center. April 2022. “OPM - Criminal Justice Policy & Planning Division Monthly Indicators Report.” Accessed May 13, 2022.

<https://portal.ct.gov/-/media/OPM/CJPPD/CjResearch/MonthlyIndicators/2022-MONTHLY-INDICATOR-REPORTS/Monthly-Indicators-Report-2022-April.pdf>.

²⁰⁰ “Prison Populations at 20-Year Low.” Accessed May 13, 2022.

<https://www.ctpost.com/local/article/Prison-populations-at-20-year-low-9212542.php>.

²⁰¹ The Sentencing Project. “Decarceration Strategies: How 5 States Achieved Substantial Prison Population Reductions.” Accessed May 13, 2022.

<https://www.sentencingproject.org/publications/decarceration-strategies-5-states-achieved-substantial-prison-population-reductions/>.

²⁰² Ibid

Conclusion

On the sprawling grounds of Edna Mahan Correctional Facility, behind the chapel, its namesake is buried. Flanking the right side of Edna Mahan's grave are 30 gray, stone crosses marking the plots of children of incarcerated women who died at the facility.

Following her death, Edna Mahan's vision of a rehabilitative institution died too and was replaced with a system of retribution, abuse, and predation. Considering the decades of scholarship on the criminogenic effects of prison and the scandals emerging from this facility and others, perhaps such a vision was never possible in the first place. The proximity of the child graves to the superintendent is symbolic of the cycle of harm that incarceration perpetuates and in which currently incarcerated women and generations to come are caught. It is this deeper crisis of cyclical harm to which the state must attend.

Our report calls on the state of New Jersey and all New Jerseyans to transform cycles of harm into cycles of opportunity. **Stopping the cycle begins by repairing the harm caused to incarcerated women through decarceration, resentencing, and commutations.** Such policy changes will go far in acknowledging that the pain women have endured and the indignities they have suffered mean that they have more than served their debt to society. **Next, reimagining responses to harm that do not rely on incarceration must be taken up.** Restorative and transformative justice programs have demonstrated that safety, accountability, and healing can be achieved without exiling those who cause harm or minimizing the experiences of victims. Finally, reinvestment in reentry and prevention that addresses economic inequality and childhood trauma will reduce harm and thus, the demand for prisons and jails overall.

The former superintendent's tombstone is engraved with a line from the apocalyptic Book of Esdras in the Hebrew Bible: "I shall light a candle of understanding in thine heart, which shall not be put out." Now that the injustices of EMCF and incarceration broadly have been illuminated, New Jersey can carry this candle of understanding to illuminate a future with safety and healing for all.

Areas for Further Advocacy

During our visit to Edna Mahan, the group of incarcerated women we spoke with shared many concerns with us, some of which transcended the scope of this report. To honor their voices and the need for holistic and transformational change, we are documenting their concerns here in hopes that New Jerseyans will begin or continue to advocate for the rights of the incarcerated.

- Dignified clothing: Incarcerated women in the minimum security compound reported being issued used, fluorescent orange DOC-provided clothing, some of which smelled and had sweat stains. Women reported being provided six pairs of underwear - in sizes that did not fit them - every six months. Considering the impact of menstruation, women expressed a need for more undergarments.
- Poor medical care: Incarcerated women reported what they described as “medical abuse and negligence.” One incarcerated woman told a story of being in the infirmary with a herniated disk, unable to move. When her requests for assistance using the bathroom were unheeded by the nurse, others in the infirmary, one of whom had a cane, came to assist her. Others reported conditions and symptoms being ignored until they escalated severely.
- Lack of gender-responsive care for transgender incarcerated people: Cisgender incarcerated women reported feeling fearful following reports of a transgender woman impregnating two female incarcerated people. Cisgender incarcerated women attributed this instance, along with other instances of intimidation and harassment by transgender individuals, to the DOC’s lack of policies to support the increase in transgender individuals who reside at the facility.
- Lack of opportunity: The women in the maximum facility noted that most women would have completed any opportunities offered after five years of incarceration. They asked for increased mental and behavioral therapists to continue their personal growth.
- Lack of legal representation: The women noted that they could not further their appeals because limited state-appointed attorneys were available. They cited their limited income as a barrier to accessing their rights through the justice system.

Appendix

Figure 1

What is trauma? “A traumatic event is one in which a person or persons perceives themselves or others as threatened by an external force that seeks to annihilate them against which they are unable to resist and which overwhelms their capacity to cope.”²⁰³

Our bodies are designed to protect us against threats. When a threat is detected, adrenaline floods the body, the mind becomes hyper-focused, and feelings of fear and anger mobilize action. When this threat response is ineffective because an external force overpowers the body, trauma occurs. Trauma is overwhelming in that the event or experience feels inescapable or unmanageable, shatters feelings of agency and of being connected to others, and defies the ordinary systems for making meaning of our lives and the world. Trauma can occur as the result of a single instance of violence or close encounter with death or through low-intensity, but sustained threats as in abusive dynamics. All psychological trauma, regardless of its precipitating event is characterized by feelings of “intense fear, helplessness, loss of control, threat of annihilation and powerlessness.”²⁰⁴

In the aftermath of trauma, survivors experience symptoms of:²⁰⁵

- Hypervigilance - The traumatized person’s threat response system works overtime, keeping the person on high alert, ready to meet danger at any moment.
- Flashbacks - Even if danger is not present in their environment, they continue to relive the traumatic moment through intrusive thoughts and dreams.
- Dissociation - To quell the intensity of their inner world, the survivor may move into a detached, trance-like state of dissociation in which they feel numb.
- Disconnection - Trauma creates a pervasive sense of disconnection from self, family, community, love, and divine order. At the moment of trauma, the survivor is treated as if they are worthless. This creates shame at experiencing such an indignity.

²⁰³ Jones, Serene. Trauma and Grace, 2nd Edition: Theology in a Ruptured World. United States: Presbyterian Publishing Corporation, 2019.

²⁰⁴ Ibid

²⁰⁵ Ibid

Figure 2

What is abuse? “Relationship abuse is a pattern of behaviors used to gain or maintain power and control over a partner, which can manifest in a number of ways.”²⁰⁶ Though physical violence is most readily associated with abuse, abuse can be also be emotional, psychological, sexual or financial in nature. People engaging in abuse often use the following tactics:²⁰⁷

- Coercion & Threats - “The perpetrator may threaten to harm the victim, victim’s children, other family members ... [or] force the victim to engage in acts against [her] will...”
- Intimidation - The perpetrator may use body language like menacing looks, damaging property in front of the victim or brandishing a weapon to demonstrate his power.
- Emotional abuse - The goal of emotional abuse is to degrade the victim’s self-esteem so that she believes that she deserves abuse and lacks the confidence to leave. This involves constant criticism and insults, as well as undermining the victim’s point of view by calling her crazy or irrational such that she doubts her own experiences and feelings.
- Isolation - The perpetrator may control the victims movements and communications or create distrust between her and her closest relationships in order to minimize the possibility of her escape.
- Minimizing, denying and blaming - The perpetrator will not take responsibility for his actions and instead blames the victim for his misdeeds.

Figure 3

Former Coffee Creek Staff Accused and/or Convicted of Sexual Abuse²⁰⁸

Position	Year	Allegation	Criminal Conviction	Criminal Sentence	Civil Settlement
Correction Lieutenant	2004	Sexually assaulted an incarcerated woman	4 counts of official misconduct	6 months in jail and 5 years probation	\$350,000 for 1 victim
Food Services Coordinator	2004	Sexually assaulted two incarcerated women multiple	2 counts of official misconduct	45 days in jail and 5 years	

²⁰⁶ <https://www.thehotline.org/resources/types-of-abuse/>

²⁰⁷ <https://dvcc.delaware.gov/background-purpose/dynamics-domestic-abuse/>

²⁰⁸ Ibid.

		times		probation	
Landscape manager	2009	Repeated sexual abuse of incarcerated women	8 counts of first-degree and 7 counts of second-degree custodial sexual misconduct	11 years in prison	\$1,258,000 for 17 victims
Plumber	2009	Sexually assaulted an incarcerated woman	1 count of custodial sexual misconduct	Unknown	N/A
Corrections officer ²⁰⁹	2009	Sexually assaulted an incarcerated woman and demanded that she expose herself to him in her cell	1 count of custodial sexual misconduct	3 years probation	N/A
Maintenance specialist ²¹⁰	2010	Sexually abused one incarcerated woman for two years and sexually assaulted another in men's intake	4 counts of first-degree custodial sexual misconduct	3 years in prison	N/A
Maintenance worker	2012	Unknown	1 count of first-degree and second-degree custodial sexual misconduct	Unknown	N/A
Maintenance worker ²¹¹	2012	Unknown	1 count of first-degree and second-degree custodial sexual misconduct	Unknown	30 days in jail and 4 months of probation
Corrections Officer	2016	Sexually assaulted an incarcerated woman	1 count of custodial sexual misconduct	60 days in jail	N/A
Prison Doctor	2017	Sexual abuse during a gynecological exam	N/A	N/A	\$175,000 for 1 victim
Prison Nurse	2022	Repeated sexual abuse of incarcerated women during medical visits	Criminal case pending	Criminal case pending	\$1,700,000 for 10 victims

²⁰⁹ "Female Inmates Sue over Coffee Creek Sex Assaults - Oregonlive.Com." Accessed May 15, 2022.

https://www.oregonlive.com/news/2009/08/female_inmates_sue_oregon_corr.html.

²¹⁰ Lednicer, Lisa, and The Oregonian. "Former Coffee Creek Custodian Is Now an Inmate in Drugs-for-Sex Case." oregonlive, May 7, 2010.

https://www.oregonlive.com/washingtoncounty/2010/05/former_coffee_creek_custodian.html.

²¹¹ Oregonian/OregonLive, Roger Gregory | The. "Former Coffee Creek Maintenance Worker Admits Sexual Misconduct with Female Inmate." oregonlive, September 14, 2012. https://www.oregonlive.com/washingtoncounty/2012/09/former_coffee_creek_maintenanc_1.html.

SENATE, No. 3935

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 15, 2021

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

SYNOPSIS

Requires award of Edna Mahan trauma credits to inmates incarcerated during period of investigation into allegations of sexual abuse by correctional police officers and staff.

CURRENT VERSION OF TEXT

As introduced.

An Act concerning Edna Mahan trauma credits and supplementing Title 30 of the Revised Statutes.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

1. a. For the purposes of this section:

"Edna Mahan trauma credits" refer to credits awarded pursuant to section 1 of P.L. , c. (C.) (pending before the Legislature as this bill) to an inmate in the Edna Mahan Correctional Facility for Women for time served by the inmate during the period of investigation into allegations of sexual abuse of inmates by correctional police officers and staff at the facility conducted by the: Civil Rights Division of the United States Department of Justice, United States Attorney's Office District of New Jersey, Hunterdon County Prosecutor's office, office of the Attorney General of the State of New Jersey, and Governor of the State of New Jersey.

"Period of investigation" means the period during which the Civil Rights Division of the United States Department of Justice, the United States Attorney's Office District of New Jersey, Hunterdon County Prosecutor's office, Attorney General of the State of New Jersey, and the Governor of the State of New Jersey conducted an investigation

into allegations of the sexual abuse of inmates by correctional police officers and staff at the Edna Mahan Correctional Facility for Women. The period of investigation shall begin on April 26, 2018, the date the investigation by the Civil Rights Division of the United States Department of Justice and the United States Attorney's Office District of New Jersey was initiated, and shall terminate on the effective date of section 1 of P.L.

, c. (C.) (pending before the Legislature as this bill).

b. In addition to any credits awarded pursuant to R.S.30:4-92; section 3 of P.L.2009, c.330 (C.30:4-92a); R.S.30:4-140, and section 1 of P.L.2020, c.111 (C. 30:4-123.100), Edna Mahan trauma credits shall be awarded pursuant to this section to an inmate incarcerated in the Edna Mahan Correctional Facility for Women during the period of investigation into allegations of the sexual abuse of inmates at the facility.

c. The Edna Mahan trauma credits awarded pursuant to this section shall provide further remission from both the maximum and minimum term of the inmate's sentence, including the statutory mandatory minimum term, at the rate of 183 days for each year, or portion thereof, served by an inmate confined in the Edna Mahan Correctional Facility for Women during the period of investigation. An inmate shall not be awarded Edna Mahan trauma credits pursuant to this section in excess of 365 days of remission.

d. Nothing in this section shall be deemed to limit an inmate's eligibility for parole consideration under the law governing parole.

2. This act shall take effect immediately.

STATEMENT

This bill requires Edna Mahan trauma credits to be awarded to any inmate in the Edna Mahan Correctional Facility for Women (Edna Mahan) who was incarcerated during the period of investigation into allegations of sexual abuse by correctional police officers and staff at the facility.

In April of 2018, the Civil Rights Division of the United States Department of Justice (DOJ) and the United States Attorney's Office District of New Jersey (U.S. Attorney) initiated an investigation into allegations of sexual abuse at Edna Mahan. In its report published in April 2020, the DOJ and U.S. Attorney concluded that there is reasonable cause to believe conditions at Edna Mahan violate the Eighth Amendment of the United States Constitution due to facility staff sexually abusing inmates. The report further concluded that the sexual abuse is pursuant to a pattern or practice of resistance to the full enjoyment of these Eighth Amendment rights.

In addition to any credits awarded under current law, this bill requires the award of Edna Mahan trauma credits (credits) to any inmate incarcerated in Edna Mahan during the period of investigation into allegations of the sexual abuse of inmates at the facility. The credits awarded under the bill are to provide further remission from both the maximum and minimum term of the inmate's sentence, including the statutory mandatory minimum term. The credits are to be awarded at the rate of 183 days for

each year, or portion thereof, served by an inmate confined in Edna Mahan during the period of investigation. An inmate is not to be awarded credits under the bill in excess of 365 days of remission.

Under the bill, "Edna Mahan trauma credits" refers to credits awarded to an inmate for time served by the inmate during the period of investigation into allegations of the sexual abuse of inmates by correctional police officers and staff at Edna Mahan conducted by the: Civil Rights Division of the United States Department of Justice, United States Attorney's Office District of New Jersey, Hunterdon County Prosecutor's office, office of the Attorney General of the State of New Jersey, and Governor of the State of New Jersey. "Period of investigation" is defined to mean the period during which the Civil Rights Division of the United States Department of Justice, the United States Attorney's Office District of New Jersey, Hunterdon County Prosecutor's office, Attorney General of the State of New Jersey, and the Governor of the State of New Jersey conducted an investigation into allegations of the sexual abuse of inmates by correctional police officers and staff at Edna Mahan. The period of investigation begins on April 26, 2018, the date the investigation was initiated by the DOJ and U.S. Attorney, and terminates on the effective date of the bill.

Between 2010 and 2016, eight staff members were terminated for sexual misconduct at Edna Mahan. From October 2016 to November 2019, five Edna Mahan corrections officers and one civilian employee were convicted or pled guilty to charges related to sexual abuse of more than 10 women under their watch. According to the sentencing judge for one of the convicted officers, the "pervasive culture" at Edna Mahan allowed the corrections officer to abuse his "position of authority to indulge in [his] own sexual stimulation." Dozens of additional corrections officers have been indicted for charges related to sexual abuse of prisoners. Most recently, additional allegations of the mistreatment of inmates in Edna Mahan surfaced in 2021, involving approximately 30 staff members who were suspended and investigated for severely beating at least three inmates. One of the inmates suffered a broken eye socket and another transgender inmate was handcuffed and beaten so severely that she could not walk and was confined to a wheelchair.

In April 2021, a settlement was announced between the New Jersey Department of Corrections and private plaintiffs' counsel representing current and former Edna Mahan inmates. The settlement reportedly encompasses 22 claims, including two class action complaints providing up to \$20,835,600 in damages and attorneys' fees for women who were either directly impacted by sexual misconduct or who were incarcerated in the facility between 2014 and the date of court approval of the settlement.

Figure 5

Below is an excerpt from the Common Justice report “Common Justice: Stories of Our Work”. It tells the story of three participants who completed the Common Justice program.²¹²

“Marcus and Charles had never seen Jacob before the night they robbed him at gunpoint. Their case was one of the first in Common Justice, and we had not yet learned something that is now central to our understanding of our work: that when given the choice, the vast majority (more than 90 percent) of victims choose Common Justice over incarceration for the person who harmed them. Jacob became one of our early teachers about why that is when he explained: “I knew immediately when it happened that I didn’t want those boys to go to prison, but I wanted something. I needed something. I wanted them to face me man-to-man, human-to-human, and I wanted to know they would do something with their lives so they’d never do this to anyone again, and I wanted to have some say in what that might be.”

With Jacob’s blessing, Marcus and Charles began the preparatory portion of the program, which Marcus described in part, saying: “They ask you questions and make you think about things you should have thought about all along. Like the empathy thing when you think about how everyone you see is feeling—like the bus driver and the man at the corner store or whoever. And when you do that, you start to think about how everyone feels, and you walk down the block and see all these people with their own histories and lives and feelings and it’s like they’re all lit up. And you realize you have to be a different kind of person in a world like that, with people lit up and alive like that. You have to be better.” He added about his obligation to Jacob in particular: “The way I think about it, I owe Jacob twice: once for what I did, and once for him giving me this chance. And both those debts will take my lifetime to repay.

After three months of work with Marcus and Charles, we prepared to convene the circle with Jacob. Our circles start by telling the story of the incident, then discussing how the crime impacted everyone present, including those close to the harmed and responsible parties. The participants speak one at a time. Marcus talked about the time in his life leading up to the incident, saying: “Every day for months, I was looking for a job...dropping off resumes...making follow up calls. ‘Thank you for your application, we don’t have any openings at this time.’ ‘Sorry, no.’ ‘No positions available.’ Day after day...my pockets empty for so long. I hate that feeling of having nothing for so long. I fought it so long, and it put me in a different state, a worse state. And finally I got to feeling: I’m never going to get a job. Maybe they’re right. Maybe I’ve been kidding myself thinking I could be something different. Maybe the one job I’m qualified for is the one they’ve been telling me all along is the only thing I can do—the one that starts after 10p.m. on a dark block somewhere.”

After talking about the incident and its impact on Jacob, the group spent three hours brainstorming possible agreements. The wide range of sanctions Marcus and Charles had to complete include: commitments to attend college, making a short movie about their experience in Common Justice, community service, writing apologies, creating a memorial at the site where the incident took place, and more.

In the final go-round, as the participants were talking about how they felt, Charles’s turn came. Charles has been through an enormous amount of hardship in his life. He waited nearly a minute before he spoke, and then his smile lit up the room as he said, “I feel... brand new.” Jacob looked Marcus and Charles in the eyes and said he felt “joyful and full of gratitude” and, more than anything, like he “was part of something that should be available to everyone.”

When Common Justice staff asked Marcus and Charles the next day about how they felt, Charles said he will never forget that “he [Jacob] reached out his hand...not to punch me, not to shoot me, not to give me the finger...he reached out to shake my hand like a man. I’ve never seen anything like that in my life.” For over a year following the circle, Marcus and Charles worked with Common Justice staff to complete every one of the agreements. Both young men overcame many obstacles (big and small), worked to earn back their freedom, and graduated the program. Years later, neither Marcus nor Charles have been convicted of any new crimes; Jacob has moved through the trauma of what was done to him; and all three still reflect on their experience in Common Justice with gratitude, clarity, and one of the harder things to regain after serious harm: hope.”

²¹² Sered, Danielle. Rep. *Common Justice: Stories from Our Work*. Common Justice, 2016. https://www.commonjustice.org/the_common_justice_model.