



# Legislative Report on Reentry Planning and Access to Social Services

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## **Contents**

<b>Executive Summary .....</b>	<b>1</b>
<b>Legislative Purpose and Provisions .....</b>	<b>4</b>
<b>Report Content .....</b>	<b>4</b>
<b>Benefits Programs.....</b>	<b>4</b>
<b>Housing.....</b>	<b>7</b>
<b>Medical .....</b>	<b>10</b>
<b>Mental Health Services.....</b>	<b>11</b>
<b>Substance Abuse and Addiction Services .....</b>	<b>13</b>
<b>Employment.....</b>	<b>14</b>
<b>Education.....</b>	<b>19</b>
<b>Conclusion .....</b>	<b>22</b>

# Executive Summary

## Introduction

As the safest large state in the nation, New York State has demonstrated its capability to protect public safety and reduce crime.<sup>1</sup> Simultaneously, New York has made strides towards reducing incarceration; our state has the lowest incarceration rate of any large state.<sup>2</sup> The COVID-19 pandemic, however, has changed the yardstick by which we traditionally measured this progress, and has made reentry into communities even more challenging for those who were formerly incarcerated. Throughout the United States, more than 5.5 million people were under the supervision of adult correction systems at the end of 2020.<sup>3</sup> In 2020, nearly 10% of this prison population, around 550,000 people, were released from prison and jails. During the same period, there were 18,289 releases from New York State Department of Corrections and Community Supervision (DOCCS) facilities.<sup>4</sup> This increase in releases was spurred by policies related to prison population density, particularly during the COVID-19 pandemic. It was catalyzed by previous policies that had begun the decarceration process in several other states.<sup>5</sup> New York State's incarcerated population represents less than 1% of this population under custody; as of January 1, 2021, the total population in DOCCS custody was 34,405.<sup>6</sup> Since that time, the prison population declined even further and was 31,029 as of September 1, 2022.<sup>7</sup> Prison closures have been a mainstay of this process; since 2011, New York State has closed 24 prisons. While depopulating prisons is an important step forward, the COVID-19 pandemic has resulted in a multitude of obstacles for effective community reentry.

The pandemic exacerbated the consequences associated with the reentry transition from imprisonment back into communities, as many reentry-related trainings and services in the community were paused or scaled back. Because the world switched to a virtual environment, there was also an initial lack of access to internet and technology in facilities which hindered reentry service providers from making virtual trainings available to incarcerated individuals. However, DOCCS quickly adapted to this new environment, especially around education, as tablets were used for instruction in college classes and virtual teleconferences/videoconferencing were utilized for re-entry planning. Moreover, the economic downturn of the pandemic specifically impacted low wage jobs where formerly incarcerated individuals most often find employment—with the exception of critical services such as supermarkets—where workers were needed to continue the provision of food for the general public and custodial maintenance—where workers ensured proper cleaning and hygiene in public buildings. Employment levels for the formerly

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<sup>1</sup> *Crime in the United States: 2020 Annual Report*, Federal Bureau of Investigation, 2020.

<sup>2</sup> Ann Carson, "Prisoners in 2020—Statistical Tables," *U.S. Department of Justice, Bureau of Justice Statistics*, December 2021.

<sup>3</sup> Rich Klucklow and Zhen Zeng, "Correctional Populations in the United States, 2020—Statistical Tables," *U.S. Department of Justice, Bureau of Justice Statistics*, March 2022.

<sup>4</sup> "Releases and Discharges from Incarceration: Calendar Year 2020," New York State Department of Corrections and Community Supervision, April 2022.

<sup>5</sup> "Decarceration Strategies: How 5 States Achieved Substantial Prison Population Reductions," *The Sentencing Project*, 2018.

<sup>6</sup> "Under Custody Report: Profile of Under Custody Population as of January 1, 2021," New York State Department of Corrections and Community Supervision, 2021.

<sup>7</sup> "Incarcerated Profile Report – September 2022," New York State Department of Corrections and Community Supervision, September 2022.

incarcerated are already at a disadvantage; at any given time, around 40% of formerly incarcerated are unemployed, and most alarmingly, this rate remains consistent across a several-year span. This created many challenges, as poverty is one of leading causes of recidivism. Stable affordable housing, food, and healthcare are all additional concerns that were raised amongst formerly incarcerated individuals.

This report will detail New York State's efforts to improve community reentry in recent years and will identify potential solutions for strengthening the reentry process for returning citizens.

### ***Department of Corrections and Community Supervision (DOCCS) Reentry Process***

The Department of Corrections and Community Supervision (DOCCS) has cemented a strong partnership with the Office of Temporary and Disability Assistance (OTDA) in the statewide reentry process that is intended to reduce crime by promoting success in the community through the coordination of services from the point of incarceration through the completion of community supervision.

Reentry planning begins during the reception process upon entry to a DOCCS correctional facility. During the reception process, the incarcerated individual is assessed and evaluated for needs and services. At the first general confinement facility, the Offender Rehabilitation Coordinator (ORC) meets with incarcerated individual at the initial interview to establish the program plan based on identified needs; goals and tasks are developed to address the program plan. The program plan follows the individual throughout their incarceration and release to community supervision. Reentry planning is reviewed by the ORC at the incarcerated individual's scheduled quarterly reviews. Housing information and resources are available to all incarcerated individuals via the Transitional Services Resource Centers, located in each correctional facility. DOCCS Transitional Services has also created a shared drive to enhance communication and ensure that reentry resources are readily available at the facility level. Reentry planning increases in the 6 months prior to a potential release date. Special needs (mental health, medical, disabilities, etc.) are conferenced and planned for, and referrals are made during this time. Community preparation reports are made to community supervision field staff. Potential residences are proposed, and home visits are made by community supervision Parole Officers to determine suitability for approval. DOCCS provides academic programs and vocational skills training in 26 trades to prepare incarcerated individuals for employment upon release. The Department further provides services such as cognitive behavior programs, soft skills training, and other programs to address underlying criminogenic needs and assist individuals with effectively utilizing their education and skills in the community.

Reentry Services, under Community Supervision, works in collaboration with the Department's correctional facility and community supervision field staff to facilitate the smooth transition of individuals returning to the community following a term of incarceration. Reentry staff build partnerships with service providers and government entities by working closely with state, county, and local offices throughout New York State to facilitate access to housing (to include DOCCS Community Based Residential Programs), public benefits, education, employment, and supportive services. Reentry Services develops additional referral sources for housing, substance

abuse prevention services, anger management, domestic violence and mental health counseling, medical services, mentoring, employment, and a host of other services needed by the formally incarcerated. Reentry staff also assist Parole Officers in the placement of returning citizens with specialized needs—ranging from serious medical illnesses to mental health concerns—by providing linkages to community housing resources, coordinating specialized services and making referrals to community-based organizations. Community-based organizations are equipped to assist in the stabilization of individuals who require additional guidance and support.

Upon release to the community, staff of the 58 social services districts overseen by OTDA support successful reentry into the community. Reentry staff and social services staff must work collaboratively with those being released to the community to help access housing, employment, public benefits, and physical and mental health services. Developing packets of vital information reduces waiting periods and additional steps to the district office to complete applications for assistance. OTDA and DOCCS have collaborated to streamline access to temporary housing and benefits by improving communication on release timing and pre-release benefits planning. Optimizing reentry programs and services is critical to restoring the reentering citizen as an individual, as well as to improving public safety and reducing recidivism. As has been thoroughly documented,<sup>8</sup> removing barriers to reentry is a critical piece to ensuring a healing transition for the formerly incarcerated so that they can return to their communities and contribute positively to society. As noted later in this report, recent key changes to the public assistance application process facilitate the ability for individuals to have timely access to public benefits following release from incarceration.

### ***Division of Criminal Justice Services (DCJS) County Reentry Task Forces***

The goal of New York State’s re-entry strategy is to reduce recidivism and promote community safety. To that end, DCJS partners with DOCCS to support County Re-Entry Task Forces (CRTFs) in 20 counties: Albany, Bronx, Broome, Dutchess, Erie, Kings, Monroe, Nassau, New York, Niagara, Oneida, Onondaga, Orange, Queens, Rensselaer, Rockland, Schenectady, Suffolk, Ulster, and Westchester. Staff of the Vocation/Education, Employment and Re-Entry (VER) Unit within the Office of Probation and Correctional Alternatives at DCJS provide training, technical assistance and support to the Task Forces.

Task Forces coordinate and manage services provided to individuals who are returning to their communities after serving a state prison sentence and determined to be at moderate or high risk of reoffending. CRTFs provide access to services and assistance that allows individuals to transition home and remain crime-free by focusing on stabilization needs, service coordination and the provision of cognitive behavioral interventions and/or employment readiness programs.

To achieve state and local re-entry goals, CRTFs conduct strategic planning to develop effective approaches to serving individuals, build local capacity to meet service needs, identify gaps in services and assess the effectiveness of the county’s re-entry system for consistency with

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<sup>8</sup> See: “Coordination to Reduce Barriers to Reentry: Lessons Learned from COVID-19 and Beyond” ; Annelies Goger, David J. Harding and Howard Henderson, “A Better Path Forward for Criminal Justice: Prisoner Reentry,” *Brookings Institute*, April 2021; and Emilee Green, “An Overview of Evidence-Based Practices and Programs in Prison Reentry,” *Illinois Criminal Justice Information Authority*, December 19<sup>th</sup>, 2019, among others.

principles of effective practice, which includes the use of Motivational Interviewing techniques, cognitive behavioral approaches, positive reinforcement, and engagement in ongoing, pro-social support among others.

CRTFs also engage formerly incarcerated individuals and their families and the greater community to encourage participation in re-entry planning and programming through activities including, but not limited to public awareness campaigns, mentoring programs, community forums on relevant topics and panel discussions featuring re-entry stakeholders, and outreach to employers and the business community.

## Legislative Purpose and Provisions

[Chapter 670 of the Laws of 2019](#) requires OTDA and DOCCS to examine and make recommendations on the reentry planning for individuals returning to their communities following a period of incarceration. Specifically, the legislation is focused on barriers to an array of social services including housing, employment, public benefits, education, as well as health and mental health care. The COVID-19 pandemic caused a delay in compiling the information for the submission of this report, as both OTDA and DOCCS took unprecedented action to maintain critical operations and ensure the safety of New Yorkers.

OTDA and DOCCS worked to compile this report in a timely manner, but attention of each agency was diverted to take actions necessary to address the ramifications of the COVID-19 pandemic. OTDA was required to quickly assist social services districts to support remote work, expand on-line applications for assistance and to establish new programs to respond to the financial impacts of COVID including supplemental nutrition benefits and rental assistance. DOCCS was required to institute new safety protocols to safely manage the incarcerated population in congregate settings and releasees in the community. Additional information on DOCCS response actions to the pandemic can be found on its COVID-19 Report [webpage](#).

This report reflects data analysis and policy considerations developed during its original drafting as well as updates to reflect progress to date.

## Report Content

### ***Benefits Programs***

#### *Importance*

Access to public benefit programs is foundational for those re-entering the community to stabilize their pathway to gainful employment, housing, treatment programs, and a strong reintegration into society. These public benefits include Public Assistance, Supplemental Nutrition Assistance Program (SNAP), Medicaid, Supplemental Security Income (SSI), Social Security and other benefits.

Close collaboration between reentry and social services staff is vital to facilitate receipt of public benefits for reentering individuals. One study found that “expanded access to Medicaid can

reduce recidivism within the first year of release by 11.5%.”<sup>9</sup> Public benefit programs can provide the assistance to obtain health insurance and assist with other immediate needs upon release to the community and provide ongoing support. Collaboration between OTDA, social services districts and DOCCS reentry staff is important to facilitate successful reentry to the community.

Access to official documentation, such as Social Security Cards, birth certificates and photo identification is critical to successful reentry. Developing packets of vital information will assist greatly with reducing waiting periods and frequent trips to the district office to complete applications for assistance. It is also critical that reentry staff seek permanent housing options for individuals upon release. When necessary, social services districts must provide temporary housing for individuals upon release from prison.

### *Initiatives*

New York State has a relatively robust set of public benefit programs available to all residents, including those re-entering the community from incarceration. DOCCS and OTDA have an ongoing process to support collaboration among social services districts and reentry staff. Appropriate local contacts are routinely distributed, and districts have access to information regarding individuals scheduled for release to facilitate planned reentry. This effort was enhanced during the COVID health crisis to share information about expedited releases made to prevent the spread of COVID-19.

In 2021, DOCCS, in collaboration with NYC Human Resources Administration (HRA), piloted Supplemental Nutrition Assistance Program (SNAP) enrollment for individuals housed at Edgewood and Queensboro correctional facilities. Under this program, applicants must be within 30 days of release and returning to the five boroughs of New York City. Discussions regarding the expansion of this program to other locations are currently underway.

Additionally, DOCCS and HRA are in the process of developing a pilot program to assist incarcerated individuals with the completion of Cash Assistance applications prior to their release from Queensboro correctional facility.

Governor Hochul’s 2022–23 State budget included legislation to eliminate the 45-day waiting period for Safety Net Assistance and this important policy change was enacted. As a result, individuals reintegrating into the community will not be required to wait 45 days for Safety Net Assistance. OTDA will continue to encourage social services districts to work collaboratively with prisons and jails to help individuals submit completed applications prior to and upon release.

Recent initiatives to increase access to public benefits include:

- **New Online Application:** In July 2020, the New York State Office of Information Technology Services (ITS) and OTDA deployed an online application for Public Assistance, SNAP and Medicaid. The online application increases program access for all households by reducing the need to travel to the social services district office. The application also increases efficiencies for application processing as the information automatically transmits to the system used by workers to process applications. Individuals can pre-screen for eligibility

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<sup>9</sup> Erkmen Aslim, et al., “A Welfare Analysis of Medicaid and Crime,” *George Mason Law & Economics Research Paper*, April 10<sup>th</sup>, 2022.

through myBenefits.ny.gov to help assess what programs they are likely eligible for and to clarify what documentation is needed to support an application.

- **NYDocsSubmit:** In 2020, the Integrated Eligibility System program—in conjunction with OTDA and the Department of Health—deployed the NYDocSubmit mobile application which is currently used by 54 counties. NYDocSubmit permits clients submission of documentation to social services districts so individuals can more easily provide required documentation. As with the on-line application for benefits, this initiative improves access to benefits.
- **Free ID:** As of October 2020, recipients of Public Assistance, SNAP and Medicaid can obtain a free non-driver identification card issued by the Department of Motor Vehicles.
- In 2022, Governor Hochul’s budget included important changes to permit public assistance recipients to earn and save more before losing eligibility for benefits. The enacted budget included provisions to enable single adults to benefit from the expanded earnings disregards available to households with children (which were also enhanced through this legislation). This change will enable individuals returning to the community from incarceration to earn more before losing eligibility for public assistance. Additionally, recipients are now able to save up to \$10,000 without impacting their eligibility. These changes were implemented to encourage work and savings and to help recipients attain financial security.

Based in part on collaborations with DOCCS, OTDA has taken steps to improve access to benefits upon re-entry to the community. One critical change was elimination of the statutory 45-day waiting period for Safety Net benefits, as noted above. OTDA is also encouraging districts to support pre-release benefits planning/readiness to facilitate access to appropriate housing, basic needs including food and necessary medical care upon release. New training will be implemented in 2023 to improve eligibility staff awareness of evidence around substance use addiction to further facilitate access to benefits and treatment.

In the 2022 State of the State, Governor Hochul advanced two proposals to expand access to birth certificates and Non-Driver ID (NDID) cards among the incarcerated population. Access to these and other official documents are important indicators of successful community reentry as they are significant to self-identification and to accessing public benefits and other social services. The FY 2023 Enacted Budget amended Correction Law and Public Health Law to permit DOCCS to utilize sentence and commitment paperwork, or a certificate of conviction, to request a certified copy of a birth certificate at no cost on behalf of an incarcerated individual. Effective July 15, 2022, facility staff were advised to initiate a birth certificate application upon arrival at the incarcerated person’s first general confinement facility. For those already in custody, the application would be initiated at their next scheduled quarterly review.

Additional legislation was signed in the FY 2023 Enacted Budget to authorize DOCCS, in partnership with the Department of Motor Vehicles (DMV), to assist incarcerated individuals with obtaining a NDID, which would be issued to the individual upon release. Following the passage of this legislation, DOCCS and DMV established pilot sites at Bedford Hills, Taconic, and Wyoming correctional facilities. The first two (2) releasees to receive their NDID under this new program were released from Wyoming CF on June 14, 2022. The Department is in the process of expanding this initiative to all its facilities statewide. Combined, these initiatives will greatly

expand the pool of incarcerated individuals with access to official documentation that will assist in accessing social services and obtaining public benefits following their release.

### *Impediments*

The DOCCS reentry population frequently applies for and receives Public Assistance and SNAP benefits. Following the application process, the most common reasons for denial of Public Assistance or SNAP benefits was failure to appear at required eligibility appointments or failure to provide needed documentation to support a determination of eligibility. Based on this finding, OTDA and DOCCS will work to improve case management around the eligibility determination process to help ensure individuals who need public benefits complete the application process. This includes efforts to increase the submission of program applications with required documentation prior to release. The recent on-line application and document submission options as well as elimination of the 45-day waiting period for Safety Net Assistance will also facilitate completion of the application process. A relatively small percentage of individuals were denied benefits due to having income above the eligibility standards; further emphasizing the importance of helping individuals secure benefits they are likely eligible to receive and that are paramount to helping them reestablish in the community.

Food insecurity is another major issue for the formerly incarcerated, as 91% of those released from prison have reported experiencing food insecurity.<sup>10</sup> Section 11 of the Food and Nutrition Act makes individuals incarcerated for more than 30 days ineligible for SNAP benefits during their incarceration, however, states can request waivers to begin processing SNAP applications from incarcerated individuals before they are released.<sup>11</sup> OTDA encourages districts to coordinate the submission of pre-release applications to facilitate the timely receipt of public benefits.

## **Housing**

### *Importance*

Establishing a housing plan to ensure safe, stable, and suitable housing upon release is paramount to successful reentry into the community. Housing is a primary issue for reentering individuals; those who are formerly incarcerated are nearly ten times more likely to be homeless than the general population.<sup>12</sup> Yet more critically, the prevalence of homelessness is highest within the first two years of release<sup>13</sup>—the same critical time when recidivism overall is most likely.<sup>14</sup> This establishes the urgency of ensuring housing stability for reentering individuals as a key investment in public safety. On the individual level, when this is achieved, releasees can experience improvements in their quality of life and familial relationships, as well as in the areas of physical/mental health, substance abuse, and employment.

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<sup>10</sup> Emily A. Wang, et al., “A Pilot Study Examining Food Insecurity and HIV Risk Behaviors among Individuals Recently Released from Prison,” *AIDS Education Prev.*, April 2013.

<sup>11</sup> “Coordination to Reduce Barriers to Reentry: Lessons Learned from COVID-19 and Beyond.”

<sup>12</sup> Lucius Couloute, “Nowhere to Go: Homelessness Among Formerly Incarcerated People,” *Prison Policy Initiative*, August 2018.

<sup>13</sup> Couloute, “Nowhere to Go: Homelessness Among Formerly Incarcerated People.”

<sup>14</sup> Mariel Alpher, Matthew R. Durose and Joshua Markman, “2018 Update on Prisoner Recidivism: A 9-Year Follow-Up Period,” *U.S. Department of Justice, Bureau of Justice Statistics*, May 2018.

## *Initiatives*

New York State has taken additional steps to aggressively expand affordable housing options in New York State. In 2017, the State launched an ambitious housing plan to build and preserve more than 100,000 units of affordable housing and 6,000 units of supportive housing (affordable housing coupled with housing retention support services over a five-year period). To date, more than 6,500 units of supportive housing have been funded and the State's affordable housing production goals are also being met. Most recently Governor Hochul's SFY 2022–24 enacted budget includes a \$25 billion, five-year housing plan that will create or preserve 100,000 affordable housing units, including 10,000 accompanying by supportive services for vulnerable populations, such as those exiting incarceration.<sup>15</sup>

In the 2022 State of the State, Governor Hochul directed DOCCS to pilot a transitional housing program for undomiciled releasees returning to New York City who otherwise may end up in the homeless shelter system. The Department established this pilot program at Edgecombe Residential Treatment Facility in Manhattan, and DOCCS accepted its first program participant in August 2022. Under this program, participants will receive up to 90 days of stable housing as they pursue employment and housing opportunities. Once a releasee secures an approved housing location, the head of that location is eligible to receive a temporary stipend to help offset household costs for a twelve-week period. As of October 2022, there are almost 30 residents in the program, with an additional 35 individuals approved for placement in the program. This first-of-its-kind transitional housing program represents a significant step toward reducing the barriers formerly incarcerated individuals face in securing housing, which in turn will reduce the number of releasees in the shelter system and better position this population for successful reentry.

The State FY 2020–2021 Executive State Budget included an historic increase in funding for the OTDA administered Homeless Housing and Assistance program (HHAP) by doubling the program from \$64 million to \$128 million and this investment has continued each year since. HHAP is administered by the New York State Homeless Housing Assistance Corporation, which is staffed by OTDA. HHAP funding can be used to acquire, construct, and/or rehabilitate housing for homeless persons, including those who were formerly incarcerated, with Empire State Supportive Housing Initiative (ESSHI) paying for operating and staffing costs for HHAP and other capital construction projects. While several HHAP-funded projects include formerly incarcerated persons as part of larger target populations (such as persons with substance use disorders, persons with mental illness, and/or persons living with HIV/AIDS), HHAP has also constructed projects that are specifically designed to house formerly incarcerated persons, such as those sponsored by the Fortune Society.

To support positive outcomes for residents of supportive housing, the State implemented the ESSHI starting in 2016, and to date has invested over \$193 million to provide rental assistance and critical support services to help needy individuals remain in permanent supportive housing. Additionally, DOCCS Community Based Residential Programs (CBRP) and the Office of Mental Health (OMH) Forensic Housing are examples of initiatives that are currently being utilized to serve populations leaving incarceration. Most have a case management component to assist with

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<sup>15</sup> New York State, "Governor Hochul Announces Launch of Comprehensive \$25 Billion Housing Plan in Historic FY 2023 Budget," April 9<sup>th</sup>, 2022.

stabilization and establish long term housing plans. County Reentry Task Forces (CRTFs) are another important source of case management services and advocacy with local Departments of Social Services to get services in place upon release. DCJS and DOCCS partner to support CRTFs, which are currently available in 20 counties in NYS.

Several policies have been enacted to support and reduce barriers to housing. Based on guidance from the Council for Community Reentry and Reintegration that recommended the banning of housing discrimination based on an individual's conviction alone, legislation was passed in April 2019 that outlawed private and public housing discrimination based on arrest only. These changes followed amendments to a policy from 2015 that allowed returning citizens to live with spouses and partners if an individualized determination finds no instances of domestic violence involving those partners. A prior policy made it unintentionally difficult for some people to live with partners with whom there was no history of abuse or criminal activity.

Additional pilots have been launched to address the issue of housing. In 2017, case management support services were funded to enable people returning from prison to reunite with their families living in public housing facilities in Schenectady, Syracuse and White Plains to provide greater opportunities for safe, cost-effective housing. Also in 2017, a new pilot program was established to provide two counties with additional funding to support social services district state case management services for individuals upon their release from State prison. These case management services are designed to help individuals access to rental supplements, secure employment and/or vocational training and to remove barriers to financial security. A key component of the program to help individuals obtain and maintain permanent housing by leveraging existing rent supplement programs to successfully house un-domiciled individuals reentering the community from prison. This program is administered by OTDA and advised by the Council on Community Reentry and Reintegration and local County Reentry Task Forces. Specific to New York City, the Human Resource Administration (HRA) encourages housing placements for those exiting incarceration by paying families to allow for undomiciled persons to reside in their homes. The New York City Housing Authority (NYCHA) has a pilot program which screens parolees for eligibility to reside in public housing with their families, rooted in a federal housing program under US Department of Housing and Urban Development.

### *Impediments*

Access to safe and affordable housing is a challenge for many, particularly for those re-entering the community after a period of incarceration. This is due to a variety of coalescing factors, including housing costs, limited safe housing options for very low-income individuals and limited income and financial resources. Identifying housing for formerly incarcerated individuals who are re-entering the community is even more challenging due to HUD eligibility rules, community opposition to low-income housing—including transitional housing for those re-entering the community from prison—and a lack of gainful employment. In addition, those who are sex offenders face further obstacles because of restriction on living close to schools or other places in which there are children or vulnerable populations. Access to sufficient financial assistance to meet housing needs, including up-front costs (security deposits, first month rent) and ongoing rent, is a key impediment to permanent housing.

## **Medical**

### *Importance*

Many individuals being released from state prison have chronic medical concerns. Of paramount importance is establishing safe and adequate discharge plans to support and meet all medical needs for those released within the community. Continued medical support within the communities is crucial to successful reintegration.

### *Initiatives*

Programs and services such as Health Homes, Health Homes Plus and Delivery System Reform Incentive Program (DSRIP) ensure that all members have access to programs to reduce avoidable hospital use and promote the use of e-prescribe for prescriptions. The use of the Senior Utilization Review Nurses and discharge planners in facilities has improved the smooth transition for those released with medical concerns, including those participants in the Medication Assisted Treatment (MAT) program in correctional facilities.

DOCCS has provided Medicaid enrollment services to eligible individuals who are incarcerated and nearing release since 2013. The Department enrolls an average of 282 incarcerated individuals into Medicaid each month. There are currently almost 15,125 individuals under custody with suspended Medicaid. In FY 2021–2022, 3,096 applications for Medicaid were submitted, of which 2,460 were approved. Efforts continue to ensure all eligible individuals who are under custody are enrolled in Medicaid, with an emphasis on those being released, to allow for a continuity of care for individuals returning to the community.

The Medicaid 1115 Waiver Amendment, proposed in 2021 to embed racial and social equity into the Medicaid process and system, is significant for providing critical medical treatments for an incarcerated individual with high medical needs. Under the amendment, Medicaid activation for incarcerated individuals would begin 30 days prior to release, assisting in a continuity of medical services and treatment. Additionally, the state developed a therapeutic residential treatment pilot to provide specialized treatment care for those reentering society.<sup>16</sup> Incarcerated individuals were identified as one of the vulnerable populations covered by the Medicaid Waiver Amendment and was explicitly cited as “critical to achieving the waiver’s health equity goals [by]...ensuring appropriate transition and supports during reentry...[for] particularly vulnerable patients with comorbidities.”<sup>17</sup>

### *Impediments*

Health insurance policies, such as certain providers not covering certain services, e.g., sex offender treatment. Upon release, individuals need community Medicaid in place. Inpatient Medicaid status must be switched to community status, which, unfortunately, correctional facility staff do not have the ability to make this switch on the release date.

Additionally, nursing home placements are extremely difficult; many will not accept those with a violent criminal history, and most will not take sex offenders. In-home medical services are also

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<sup>16</sup> New York State Department of Health Office of Health Insurance Programs, “1115 Waiver Demonstration Conceptual Framework: A Federal-State Partnership to Address Health Disparities Exacerbated by the COVID-19 Pandemic,” August 2021, 21.

<sup>17</sup> “1115 Waiver Demonstration Conceptual Framework,” 21.

not willing to go into certain housing situations (i.e., sex offender rooming houses). Additional providers are needed for MAT when transitioning into communities.

## ***Mental Health Services***

### *Importance*

OMH, through Central New York Psychiatric Center (CNYPC), provides an extensive range of treatment services to incarcerated individuals in DOCCS custody on-site at the correctional facilities, including but not limited to mental health screening upon reception, clinic services, intensive mental health services in dedicated housing areas, crisis intervention services, and reentry preparation and planning. In addition, CNYPC provides an in-patient level of care when appropriate. Longitudinal statistical analyses demonstrate that providing appropriate mental health services, including ensuring access to prescription drugs upon reentry, reduces rates of recidivism.<sup>18</sup>

### *Initiatives*

DOCCS Assistant Reentry Managers specialize in mental health and work with CNYPC Pre-Release Services staff who facilitate the following programs and practices for people with serious mental illness (SMI):

- Day of Release Coordinated Warm Handoff
- Personalized Recovery Oriented Services (PROS)
- Single Point of Access (SPOA)
- Mobile Integration Teams (MIT)
- Mental Health Care Coordination including Assertive Community Treatment (ACT) and Forensic ACT, Transitional Forensic and Homeless Transitional Forensic (in NYC)
- Assisted Outpatient Treatment (AOT)
- Forensic Supported Housing and ESSHI housing availability
- Reentry Toll Free Hotline
- Academy for Justice-Informed Practice
- Drop-in Center (in NYC)

OMH operates prison-based reentry and in-reach programs for individuals with serious mental illness returning to communities, including the Community Orientation and Reentry Program (CORP) at Sing Sing Correctional Facility, and the Safe Transition and Empowerment Program (STEP) at Bedford Hills Correctional Facility. Both programs provide in-reach to incarcerated patients from community providers three months prior to release to establish connections and ease their transition into the community. STEP also provides transitional case management to participants three to six months post-release. Both programs employ forensic peer specialists who provide both in-reach groups and outreach engagement and care coordination services, including a Drop-in Center in NYC that works closely with community supervision to facilitate 24/7 support for the forensic population. In 2015, OMH significantly expanded prison-based reentry-

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<sup>18</sup> Richard A. Van Dorn, et al. "Effects of outpatient treatment on risk of arrest of adults with serious mental illness and associated costs," *Psychiatric Services*, Vol. 64, No. 9, 856-62, 2013.

focused programming including cognitive behavioral and evidence-based interventions (e.g., Motivational Interviewing) and treatment for mental illness, violence risk and criminogenic needs.

In addition, CNYPC expanded their SMI Intermediate Care Programs to include specialized reentry programs for men with histories of violence who are within 36 months of release.

OMH discharge planning begins at reception through mental health screening, collection and review of community records and admission to caseload and treatment as clinically indicated. CNYPC Pre-Release Services, in collaboration with DOCCS and the county Single Point of Access (SPOA), applies for entitlements such as Social Security, Medicaid, the Medication Grant Program, housing, care coordination and arranges post-release appointments with mental health clinics, including PROS programs. After the applications are submitted, discharge planners work with the local governmental units to ensure Medicaid is activated in a timely manner.

Some participants may have an Assisted Outpatient Treatment (AOT) order. In NYC, OMH operates transitional forensic case management, including a team dedicated to those released to shelters, where clients are serviced for a length of stay averaging 90 days. Service delivery is based on the Critical Time Intervention (CTI) treatment model. Services provided include intensive case management at a ratio of 1:12, pre-release contact with prospective client, comprehensive needs assessment, referral and advocacy to obtain entitlement benefits and housing, psychiatry services, and day of release warm handoff and coordination with service providers and community supervision (if indicated). Pre-Release Services works in tandem with the providers and clients, based on the clients' needs.

Currently, DOCCS works with OMH to carry out the Parole Support and Treatment Program (PSTP). PSTP is designed to facilitate community reentry for parolees with serious mental health issues by utilizing supportive housing and case management programs. These programs provide enhanced programming that includes evidence-based interventions, and in-reach to incarcerated patients from community providers three months prior to release to establish connections and ease their transition back into communities.

Implemented in 2014, the Academy for Justice-Informed Practice offers free specialized in person (NYC), or web-based staff training focused on the education and skills required for working with a justice-involved population. With a faculty of experts from across disciplines the Academy delivers quality training programs that advance leading-edge information, teach best practices and foster collaborative working relationships among training participants.

Behavioral health crisis clinics are also being established with extended hours, and for those with immediate mental health issues to access in lieu of going to emergency rooms. In partnership with 12 city agencies and nearly 200 non-profits, Thrive NYC's programs reach people with the highest need, those with serious mental illness, those affected by trauma and those living in historically under-served neighborhoods.

### *Impediments*

Challenges to mental health treatment in the community include difficulty in gaining access to mental health programs due to waitlists for services and limited housing options. Related to the access challenges, despite the progress in expediting Medicaid activation, lack of Medicaid activation immediately upon release contributes to difficulty in accessing Medicaid services in the

community. In addition, stigma experienced by persons with mental illness is a well-documented phenomenon, as is the stigma faced generally by those returning to the community from incarceration. For this reentry population, there is a double stigma associated with having a mental health condition while also having a criminal history. The effects of this stigma can be seen in employment, housing, and even accessing services. Case managers must often provide significant advocacy on behalf of their clients to access services.

## ***Substance Abuse and Addiction Services***

### *Importance*

DOCCS provides substance abuse treatment to individuals identified with a substance abuse need while incarcerated. Immediately upon release, continuity and/or engagement into outpatient or inpatient treatment services is essential to address any substance abuse or addiction use. According to the Federal Reentry Coordination Council, “efforts to provide health care for individuals while incarcerated, including mental health and substance use disorder treatment, have a high risk of failure without continuity of care upon release.”<sup>19</sup> As all reentry efforts are intended primarily to reduce recidivism, providing a continuum of robust substance abuse treatment before and upon reentry is crucial. This is particularly true as demand for substance abuse services overall increased during the COVID-19 pandemic, and a significant portion of the incarcerated population need substance abuse treatment upon release.

DOCCS has for over 20 years recognized the importance of addressing substance abuse by maintaining incarcerated pregnant females on MAT. More recently, DOCCS launched a program that allowed incarcerated individuals that were stabilized on MAT in the community or a local correctional facility to continue MAT while in DOCCS.

### *Initiatives*

Many programs and services have been implemented and are available to maintain sobriety and address substance use and addiction. Currently, DOCCS works in partnership with the Office of Addiction Services and Supports (OASAS) to administer programs to assist individuals who have relapsed to avoid re-incarceration.

In October 2021, Governor Kathy Hochul signed legislation that required DOCCS to establish an MAT program in consultation with OASAS by October 2022.<sup>20</sup> The law requires DOCCS to offer all forms of MAT, provide counseling and individualized treatment plans for those receiving MAT services, develop reentry strategies for program participants, provide a one-week supply of medication upon release, and develop procedures to assist parolees who relapse or fail a drug test with treatment in lieu of arrest or reincarceration. Prior to the effective date, DOCCS interviewed the under-custody population to identify individuals who self-identified as abusing an opioid which is one component of a substance use disorder diagnosis under the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5). Through this process, DOCCS has identified approximately 2,300 incarcerated individuals who are being prioritized to be seen by a

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<sup>19</sup> “Coordination to Reduce Barriers to Reentry: Lessons Learned from COVID-19 and Beyond,” 10.

<sup>20</sup> See Chapter 432, Laws of 2021 with Approval Memo # 22.

medical professional to determine if a substance use disorder diagnosis is appropriate and which treatment modality is best suited for the patient.

To facilitate services, DOCCS executed contracts with community-based Opioid Treatment Providers (OTP) to provide methadone at forty-two (42) facilities and all DOCCS physicians applied for and received their X Waiver, which provides DOCCS with the capacity to prescribe for over 4,000 buprenorphine patients. The MAT program will enable DOCCS to treat opioid addiction and substance use disorder more effectively, which will decrease the likelihood of relapse and overdose in the community following release. As of November 2022, there are over 750 incarcerated individuals receiving MAT in DOCCS facilities.

DOCCS also trains the incarcerated population on the use of Narcan, which is administered to individuals who are experiencing an overdose and offers a Narcan kit to every incarcerated individual upon release. Training on the proper use of this life-saving tool is especially critical for justice-involved populations as the risk of overdose is significantly higher immediately upon release.

Outpatient programs and services, inpatient programs and services, detox beds, naloxone training, recovery fitness programs and centers, Open Access Clinics, OASAS/ Single Room Occupancy's housing initiatives, MAT programs within DOCCS facilities and communities, and the County Reentry Task Force (CRTF) assist with finding appropriate treatment for these individuals. To assist persons with their reentry, two pilot reentry peer programs have been established through two OASAS certified agencies (Exponents, Inc. and The Fortune Society).

### *Impediments*

There are several contributing factors that have the potential to lead to individuals being unable to receive necessary substance use treatment or programming. The COVID-19 pandemic has contributed to barriers in receiving treatment and alternative ways to attend programs. The following essential programs need further support for requirements to be met. There are barriers for access and timeliness for chemical dependency evaluation emergencies and non-emergencies, delays in access to inpatient/residential treatment program beds , and an overall lack of detox beds. The recent launch of the Supportive and Intensive Crisis Stabilization Centers across the State should help alleviate some of these delays. Once the Stabilization Centers are open patients will have 24-hour access to screenings and assessments for Substance Use and Mental Health Disorders. Moreover, upon release, there is the potential for unsafe housing situations where the individual cannot escape the substance abuse situation(s) in a timely manner, since illegal substances continue to be easily accessible. Finally, there is a delay in continuing MAT in the community due to lack of and location of providers.

### *Employment*

#### *Importance*

Assisting formerly incarcerated individuals with obtaining gainful and long-term employment is crucial to their financial sustainability and empowers individuals to become contributing members to their families and communities. Most significantly, stable employment is the number one

predictor of preventing recidivism.<sup>21</sup> Inversely, poverty and unstable employment increase rates of recidivism. In fact, around 50% of individuals with two or more arrests in the past twelve months makes under \$10,000 annually, pointing to the impact of supporting returning citizens to obtain substantial employment.<sup>22</sup> As the unemployment rate for the formerly incarcerated usually hovers around 30%, formerly incarcerated individuals face immense financial barriers upon release. The following programs and policies represent positive steps towards addressing this.

### *Initiatives*

There are many resources available to help individuals gain successful employment upon release. Individuals can obtain services through a range of public and private resources including assistance from Department of Labor Career Centers, nonprofit organizations and help through social services districts for those receiving public assistance benefits. As part of these efforts, certain bans on employment are removed via a Certificate of Relief or Certificate of Good Conduct granted by DOCCS and/or the ability to seal non-violent convictions.

Several initiatives work towards the dual-purpose of removing barriers and creating opportunities. Through New York State's Work for Success (WFS) Initiative, DOCCS and the Department of Labor (DOL) have worked together to provide formerly incarcerated with job readiness training and employment referrals.

Through pre-employment and job placement assistance, the program aims to reduce the high unemployment rate among New Yorkers returning from prison. DOCCS reentry staff evaluate formerly incarcerated individuals before referring them to the initiative as well as provide training for them. Businesses who take part in the initiative are expected to benefit significantly by positively contributing to this population and benefit in several other ways. Under WFS, businesses that hire formerly incarcerated individuals can:

- Attain up to \$2,400 in federal tax credits (WOTC) for each formerly incarcerated person they hire
- Earn up to \$25,000 in fidelity bonding coverage for employing eligible job seekers
- Hire qualified and highly skilled employees

The DOL Work for Success (WFS) staff are located in Albany, Syracuse, Buffalo, Bronx, Brooklyn, Massapequa, Nassau County (Hicksville and Hempstead), and Orange County (Middletown and Newburgh).

According to the Department of Labor, employers who have taken part in the initiative have been very receptive to the project. Many have highlighted the positive impact of the initiative. They perceive it as a way of challenging the stereotypes that have generally been associated with persons who have been formerly incarcerated. In addition, those businesses who have participated in the initiative stress that this is a way of helping someone have a new beginning.

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<sup>21</sup> Kristy Holtfreter, Michael D. Reisig and Merry Morash, "Poverty, State Capital, and Recidivism Among Women Offenders," *Criminology and Public Policy*, Vol. 3, No. 2, March 2004.

<sup>22</sup> Alexi Jones and Wendy Sawyer, "Arrest, Release, Repeat: How Police and Jails are Misused to Respond to Social Problems," *Prison Policy Initiative*, August 2019.

Additionally, employers cannot refuse to hire someone because he or she has been previously convicted of one or more criminal offenses, or because of a belief that a conviction record indicates a lack of “good moral character,” unless:

- There is a direct association between one or more of the previously incarcerated person and the employment sought or held
- Employing or continuing to employ the person would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public

The New York State Human Rights Law protects individuals with prior arrest records that were positively resolved or resulted in sealed convictions or youthful offender adjudications.<sup>23</sup> The WFS initiative is vital in helping successfully reintegrate and stabilize formerly incarcerated individuals.

An array of policies and guidelines have been established to remove employment barriers for reentering citizens. In April 2019, legislation removed bans for people convicted of criminal convictions to be eligible for real estate, insurance adjuster, and notary public licenses. Applicants now receive individualized consideration required by New York’s anti-discrimination statute. This followed 2015 guidance from the Governor’s Office to create a presumption towards granting an occupational license (for example for a barber or a paramedic), unless an individualized assessment of an applicant’s criminal record found that person to be unsuitable for that license under New York’s anti-discrimination statute governing licensing and employment. New York State law (Article 23-A) was a first in the nation regulation that prohibited insurance companies from denying insurance coverage to businesses that hire people with criminal convictions. “Fair Chance Hiring” for New York State Agencies details that applicants for positions in executive agencies are not required to discuss or disclose information about prior convictions until and unless the agency has interviewed the candidate and is interested in hiring him or her. Finally, a series of criminal record reforms enacted as of April 2019 remove arrest charges not leading to a conviction. The criminal records now report only actual convictions and pending arrests to potential employers, the only information that employers can lawfully consider when hiring.

The Governor’s office—in conjunction with DOCCS—has increased vocational training to connect in-prison trades training to growing job fields in the community, including a cosmetology training program that results in the opportunity to obtain a New York State occupational license in appearance enhancement, all from prison. Training in the culinary arts has also been expanded, as well as green industry trades, namely solar panel repair. With this training and the resulting credentials, individuals will make themselves more desirable candidates in the job application process. In 2017, legislation was signed that added three new Limited Credit Time Allowance (LCTA) programs: the DMV Call Center Program; vocational culinary arts training; and Food Production Center. These programs provide job training and skills that prove highly valuable for those reentering society.

“Ban the Box” is a movement that advocates for the passing of laws which protect persons involved with the criminal justice system. The main purpose for Ban the Box is to eliminate the checkbox in applications that asks applicants to mark whether they have a criminal history. This is to increase employment prospects for those who are reentering into society, an issue that has

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<sup>23</sup> “Work For Success,” NYS Department of Labor, n.d.

been cited throughout this report. In 2008, unemployment amongst formerly incarcerated people was almost five times higher than the overall labor force which was at 27%.<sup>24</sup> Additionally, several studies find that serving time in prison puts individuals at a greater risk when searching for employment. Specifically, it reduces lifetime employment by as much as one-third. Ban the Box works to mitigate these issues.

Signed in December 2019 to take effect in December 2021, a federal Ban the Box prohibited the federal government and its contractors from inquiring about an applicants' criminal history before extending a conditional offer of employment in the United States.<sup>25</sup>

In New York City, the Fair Chance Act is a Ban the Box law that is applicable to all NYC public and private employers that have 4 or more employees.<sup>26</sup> With that being said, employers can ask about unsealed misdemeanors, any pending charges and felony convictions. Any past arrest that did not lead to a criminal conviction does not need to be shared.

Through Governor Hochul's "Jails to Jobs" initiative announced in the 2022 State of the State, DOCCS is implementing several new programs to enhance employment opportunities for individuals following their release.

First, the Department is establishing new vocational and job readiness programs within its institutions to train incarcerated individuals to develop the skills that are highly sought after in today's job market. This includes a new Commercial Driver's License (CDL) program and the expansion of the Reentry Computer Labs to additional facilities. The United States is currently experiencing a large shortage of commercial truck drivers and the CDL program will train incarcerated individuals in this field with promising job prospects in the community. DOCCS has identified six (6) facilities for this program—Bedford Hills, Collins, Eastern, Gouverneur, Orleans, and Sing Sing—and is in the process of purchasing CDL simulators which will provide participants with realistic driving scenarios and weather conditions.

Additionally, DOCCS Division of Education has formed a Vocational Education Re-imagining Steering Committee whose mission is to ensure that incarcerated individuals have the skills to meet current industry standards to obtain gainful employment or enroll in a post-secondary school upon re-entry into the community. The Committee will assess all current programming, develop new programs based on industry need, review and update technology and equipment, identify and implement evidence-based teaching strategies and methods, identify learning disorders so that all students will be able to be successful in their vocational education pursuits, and develop a streamlined process for job placement so that releasees have obtained meaningful employment prior to their release. The Division of Education is also establishing several new and forthcoming programs and initiatives:

- DOCCS is working with community colleges to establish college credit for vocational students
- Auto Tech programs will be implemented at select facilities. These programs will prepare students to take the Automotive Service Excellence entry-level exams.

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<sup>24</sup> Michael Hartman, "Ban the Box: Policy Snapshot," *National Conference of State Legislatures*, June 2022.

<sup>25</sup> Hartman, "Ban the Box: Policy Snapshot."

<sup>26</sup> "NYC Commission on Human Rights Legal Enforcement Guidance on the Fair Chance Act, Local Law No. 63 (2015)," NYC Commission on Human Rights, June 2016.

- DOCCS is working with various industry groups and private employers to provide job placement for releasees
- DOCCS is exploring sustainability development programs that will provide training for incarcerated and help DOCCS meet its energy savings goals
- DOCCS is in the process of selecting a computer coding program. Upon completion of the program, students will be Full-Stack Developers, the equivalent of a Computer Programmer.
- DOCCS is partnering with the Capital District Educational Opportunity Center (EOC) to enhance reentry services. EOC offers academic support, trade skills knowledge, and offers third-party, industry recognized certifications. Students can earn college credits through community colleges. EOC also offers employment assistance for students.
- DOCCS continues to arrange for various certifications like Occupational Safety and Health Administration (OSHA) 10 program, National Center for Construction Education and Research certifications for nine trades, Servesafe, Cosmetology and Barbering licenses, Cleaning Management Institute certifications, Environmental Protection Agency Section 608 Technician certification, Microsoft Office Suite certifications, Internet Core Competency certification, and Groom Elite certification.
- DOCCS also offers DOL apprenticeships in 12 vocational trades

In November 2021, the first-of-its-kind Reentry Computer Lab was launched at Queensboro CF located in Long Island City, Queens. The Reentry Computer Labs enable incarcerated individuals to search for employment, education, and social service opportunities, type and save resumes and cover letters, and schedule interviews for after they are released to the community. These resources improve career building skills and increase linkages with the community in advance of an individual's release date. The Department has identified eight (8) facilities to expand this initiative to—Albion, Collins, Edgecombe, Fishkill, Hudson, Lakeview, Orleans, and Taconic—and has ordered all equipment and supplies needed to operationalize this program.

Second, DOCCS is partnering with the Division of Criminal Justice Services (DCJS) to administer Workforce Development Specialist Training (WDS) for parole officers and community supervision re-entry services staff. The WDS training provides participants with skills needed to effectively work with the releasee population to enhance career planning and will aid in refocusing community supervision's efforts on expanding employment opportunities for the individuals under their supervision. This program was created by the National Institute of Corrections (NIC) and includes 180 hours of classroom training, self-study, and practical experience. Following the completion of the training weeks, each participant must facilitate a Ready, Set, Work! group within 60 days of training completion and complete at least 4 groups by December 31, 2023. The first cohort of eighteen (18) community supervision staff graduated from the training class on July 1, 2022. DOCCS is also in the process of hiring an Employment Parole Officer in each region—seven (7) in total—and will conduct a second training through DCJS once those positions are filled.

Lastly, the Governor advanced legislation in the FY 2023 Executive Budget to cease the collection of supervision fees. By law, these fees were imposed on individuals under community supervision and served to increase the economic burden placed on a population that already struggles to find

employment due to the stigma associated with their incarceration. This outdated and counter-productive practice was removed from law with the passage of the FY 2023 Enacted Budget and, effective April 2022, DOCCS ceased the collection of these payments. This action will lessen the financial burden placed on releasees and offer additional economic security for these individuals and their families.

### *Impediments*

While employment services are generally available, individuals re-entering the community from incarceration often have barriers to gainful employment including stigma associated with having been incarcerated, as well as often having limited formal education and training credentials. These barriers—combined with limited financial means to cover employment search related costs such as transportation and childcare—can lead to extended periods of unemployment. Critical to this perspective, we must acknowledge that the barriers to stable, long-term employment that formerly incarcerated individuals face are compounded by a multitude of other issues. Identifying solutions from the voices of the formerly incarcerated—a strategy that is supported by the federal government—is a key start to addressing this in a more holistic way.<sup>27</sup>

## **Education**

### *Importance*

Education is a strong investment towards preventing recidivism within formerly incarcerated populations; one study even found it to be a “producer of public safety.”<sup>28</sup> Logically, education is directly connected to employment outcomes, which is another key indicator to reducing recidivism. In fact, one meta-analysis identified that formerly incarcerated individuals who received educational programming—either through vocational or academic programs—were 13% more likely to obtain employment post-release.<sup>29</sup> Maintaining and expanding investments in education is a data-driven policy decision to reduce recidivism.

Among individuals in DOCCS custody with an academic need who were released in 2021, 93% had addressed their academic need, meaning they either participated in programming or were offered an opportunity to participate in academic programming. Among those first released in 2021 with an academic need, 58% had satisfied their academic need or were still participating in programming at the time of release.

Among 2015 releases from DOCCS with an academic need, those who successfully completed academic programming returned to custody within 3 years at a lower rate (33%) than those who did not complete academic programming (40%). Among 2018 releases from DOCCS with an academic need, those who successfully completed academic programming returned to custody within 3 years at a lower rate (24%) than those who did not complete academic programming (27%).

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<sup>27</sup> “Coordination to Reduce Barriers to Reentry: Lessons Learned from COVID-19 and Beyond,” 19.

<sup>28</sup> Anna Jacobs and Marsha Weissman, “Mapping the Landscape of Higher Education in New York State Prisons,” *John Jay College Prisoner Reentry Institute*, February 2019, vii.

<sup>29</sup> Lois M. Davis et al., “Correctional Education and Where Do We Go From Here? The Results of a Comprehensive Evaluation,” RAND Corporation, 2014.

From the institutional perspective, educational programming is also considered an asset.<sup>30</sup> DOCCS administrators view these programs and their impact favorably, demonstrating twofold benefits towards investment, even before quantifying the return-on-investment to taxpayers.

It should be noted that during the COVID-19 pandemic, packets of work were created and delivered to students enrolled in academic education at their housing units and teachers interacted by picking up the packets and providing feedback on the work. Additional packets were delivered as one was collected. Additionally, through the collaboration between facility Deputy Superintendents for Programs and college providers, college courses were able to be delivered to students on a correspondence basis. College providers would deliver the course documents to the Deputy Superintendents who would in turn ensure the documents were delivered to the students and previous work would be collected and returned to the college providers.

While college providers were not allowed into the facilities during the pandemic, the Department was able to use technology and other creative solutions to continue instruction. The colleges were able to use Department speakerphones, televideo equipment, and secure messaging to communicate in a meaningful way with the college students.

### *Initiatives*

In 1995, a law was passed in New York that prohibited incarcerated people from being eligible for state financial aid through the Tuition Assistance Program (TAP). This ban severely limited the amount of funding available for college programs in DOCCS facilities, even though college participation has been found to be one of the strongest indicators of rehabilitation and successful community reentry. In Governor Hochul's FY 2023 Enacted Budget, legislation was signed to remove this prohibition and restore TAP funding for incarcerated students. The restoration of this critical funding stream will catalyze additional college programs in DOCCS facilities in the years to come. Not to be forgotten, we should follow the United States Department of Education and Office of Federal Student Aid's continuous monitoring and evaluation efforts to assess how incarcerated students are accessing (or are barred from accessing) Pell Grant funding (albeit within the framework of TAP).<sup>31</sup> Congress restored Pell Grant funding in December 2020.

Similarly, on the national level, the FAFSA Simplification Act of 2021 (FSA) eliminated a 1994 provision in the Higher Education Act that prohibited incarcerated postsecondary students from receiving Pell Grants. However, the law required that such students be served by "prison education programs" (PEPs) to qualify for Pell subsidies. Subsequent regulations issued by the U.S. Department of Education impose several additional mandates on the state to approve the PEPs operating in the state's correctional facilities. While the removal of the prohibition of incarcerated students from receiving Pell grants is a welcome change on the national level, the additional mandates imposed by the regulations will likely impact the future of college programs in DOCCS facilities. Therefore, the state should closely monitor developments regarding this program and carefully evaluate the impacts it will have on college prison programs operating in New York State.

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<sup>30</sup> Jacobs and Weissman, vii.

<sup>31</sup> "Coordination to Reduce Barriers to Reentry: Lessons Learned from COVID-19 and Beyond," 20.

The Department has placed a strong emphasis on expanding college programs in its facilities. There are currently 29 college programs operating in 36 correctional facilities. As of September 2022, there were approximately 1,600 incarcerated students enrolled in college programs. College programming will continue to be prioritized to maximize the educational offerings available to the incarcerated population.

In addition to the restoration of TAP funding, the SUNY Board of Trustees voted on September 14, 2016, to remove prior convictions from consideration to admission to SUNY schools. Though schools will inquire about convictions for students seeking campus housing or participation in internships, clinical experiences, and study abroad, this Ban the Box action removed a significant barrier for individuals previously involved in the justice system that was not associated with campus safety.

### *Impediments*

Currently, there are impediments to equitable and wide-scale academic programming across correctional facilities. Before the loss of Pell and TAP eligibility, there were 70 higher education programs in New York State Prisons; in 2019 there were 15 programs across 25 DOCCS facilities.<sup>32</sup> Providing resources to equitably distribute academic programming would meet some of that demand. Leveraging the SUNY system, which currently operates in more than 20 prisons, is one way to ensure this distribution.

## **ADDITIONAL CONSIDERATIONS**

**Less Is More.** Signed into law in September 2021, the Less is More Act (Chapter 427, Laws of 2021) has also impacted reentry, primarily through the amendment relating to Earned Time Credits (ETCs).<sup>33</sup> Under this provision, for every 30 days without a violation, an individual earns 30 days of Earned Time Credits, with a maximum of two years of retroactive Earned Time Credits. ETC reports are automatically issued every 180 days and are retroactive to the initial date of community supervision. These ETCs are revoked for 30 days after a sustained violation.

Less is More is extremely impactful for formerly and currently incarcerated individuals. It modifies the standard of evidence and certain other procedures when determining whether to revoke the community supervision of a person on parole. The “Less is More Act” aims to ensure that DOCCS focuses its resources on helping people successfully complete community supervision and avoiding future return to DOCCS custody or supervision. Preventing reincarceration allows New York State to focus its limited resources on more substantive parole violations. This promotes greater community safety and justice for families and develops a stronger perception of the legitimacy of the criminal justice system.

**Raise the Age.** Included within the Raise the Age legislation is a provision that grants individuals previously convicted of certain crimes the opportunity to apply to have their criminal record sealed effective October 7, 2017. An application for sealing cannot be made until at least ten years has passed since the individual’s date of conviction or date of release from confinement. The individual must have also remained crime-free during that time. Individuals who were convicted

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<sup>32</sup> Jacobs and Weissman, vii

<sup>33</sup> See Chapter 427, Laws of 2021.

of two or more felonies, a sex offense, violent felony, or other specified serious felonies are not eligible to have their records sealed. This provision will not impact the information available to law enforcement. Rather, it will enhance a previously convicted individual's ability to find employment and reintegrate into their community by removing the stigma of a previous conviction for someone that has turned their life around. This represents a major step forward for New York, which previously only allowed criminal record sealing for juveniles and people who completed drug treatment under provisions of the Rockefeller drug law reform.

***Executive Order 181: Restoration of Voting Rights.*** In April 2018, Executive Order 181 was issued, which states that individuals under community supervision will be given individualized consideration for a conditional pardon to restore their voting rights. Under this program, more than 67,000 conditional pardons were granted to people on parole. On May 4, 2021, signed legislation (Chapter 103, Law of 2021 with Approval Memo #6) permanently restored the right to vote to for New Yorkers who are successfully serving a period of community supervision.<sup>34</sup>

***Certificates of Relief.*** In 2015, the Governor's office instituted a streamlined process for the issuance of Certificates of Relief from Disabilities (available to people convicted of up to one felony) to eligible individuals leaving prison without them having to apply. These certificates are helpful documents that create a presumption of rehabilitation for eligible people, and the automatic issuance of these certificates enables a more seamless transition to the community.

## Conclusion

While community reentry remains an ongoing challenge and priority for each agency, OTDA and DOCCS have made great strides to enhance communication, policies, and practices to remove barriers to reentry for individuals released from state custody. OTDA and DOCCS will continue to strengthen inter-agency partnerships to achieve their shared vision of enhancing economic and social opportunity for justice-involved populations. Both agencies look forward to the continued implementation of the exciting new initiatives laid out in the Governor's agenda and leveraging new partnerships with non-profits, academia, and the private sector to create meaningful pathways to success for returning citizens.

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<sup>34</sup> Chapter 103, Law of 2021 with Approval Memo #6.