



Advancing Prosecutor-Initiated Resentencing:

A Guide for Prosecutors, Policymakers, and Advocates



ABOUT FOR THE PEOPLE

For The People (FTP) is a national non-profit organization leading the implementation of Prosecutor-Initiated Resentencing (PIR)—a new area of law allowing prosecutors to revisit past sentences and facilitate prison releases for people serving excessive sentences. “Excessive sentences” are defined broadly to include sentences that 1) are too harsh upon further review, 2) stem from outdated policies, and/or 3) involve an incarcerated person whose further confinement is not in the interest of justice. We also partner with system stakeholders, community leaders, and incarcerated people to give voice to redemption stories, with the goals of expanding justice, reuniting families, and restoring communities—all with the goal of building a safer community for all.

HOW TO USE THIS GUIDE

As Prosecutor-Initiated Resentencing (PIR) has gained interest across the country, prosecutors, policymakers, and community advocates have sought FTP’s assistance in enacting and implementing PIR in their communities. This guide is intended to provide tools for advancing PIR by providing an overview of resentencing laws and policies, best practices for enacting legislation, and step-by-step guidance on implementation. The digital version of the guide includes links to online resources.

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As of Summer 2022, about 2 million people were incarcerated in United States prisons and jails. Despite a decline in recent years, the U.S. continues to have the highest incarceration rate in the world. The growth of incarceration reflects a change in policy, not crime rates, as harsh criminal penalties enacted in the 1980s and 90s required prosecutors to prosecute more people, and to keep them behind bars for longer periods of time.

Today, there is widespread agreement that we have over-relied on incarceration as a mechanism to ensure public safety. Instead, the criminal justice system—and the actors operating within the system—should explore and implement alternatives to incarceration that can keep communities safe. [Research suggests](#) that unduly long sentences do little to make communities safer. Understanding that there are thousands of currently incarcerated people who could be safely released, and given the high cost to keep these people in prison, many of these long sentences have diminishing returns.

With growing questions and concerns regarding the long-term benefit of lengthy sentences, prosecutors themselves have begun to raise questions about whether certain cases deserve a second look. Conviction Integrity/Review Units (CIUs/CRUs) have [been established](#) nationwide as prosecutors have embraced the review of wrongful conviction cases as an integral part of their job. Prosecutor Initiated Resentencing (PIR) was born out of a similar framework, as a means of ensuring that justice is done for people serving excessive sentences. While CIUs/CRUs pertain to issues involving the validity of the conviction, PIR pertains to issues involving the length of sentence. But until now, prosecutors had no legal mechanism to proactively redress these types of excessive sentences.

Today, PIR is a new legal mechanism that empowers prosecutors to revisit past cases and facilitate the release of people serving sentences that are no longer in the interest of justice. Since 2019, prosecutors in jurisdictions across the country, and across the political spectrum, have used PIR to identify hundreds of people for resentencing and release from prison. They have found that there are many

incarcerated people who have served a significant portion of their sentence, made meaningful strides toward rehabilitation, and can be safely released—people who deserve a second chance.

This guide is intended to provide tools for prosecutors, policymakers, and advocates who are interested in advancing PIR in their communities. The first part of the guide explains the important role PIR can play in improving the criminal justice system through empowering prosecutors to evaluate their own past cases through a public safety lens, releasing people who are serving sentences that are no longer in the interest of justice, and reuniting families, which in turn is strengthening public safety and building community trust.

The second part of the guide offers best practices for prosecutors, policymakers, and community stakeholders who are interested in enacting PIR legislation. It provides insights into why prosecutors, lawmakers, and advocates are supporting PIR, and provides a roadmap for bringing together legislators, community-based organizations, prosecutors, and other stakeholders. This part also demonstrates how to gather and analyze prison population data to look for opportunities to safely reduce incarceration.

The third part of the guide provides step-by-step guidance for prosecutors' offices on PIR implementation, including: 1) how to use prison data to create eligibility criteria and identify cases for review and potential resentencing, 2) what steps are necessary for launching a Resentencing Unit, and 3) the importance of partnering with community-based organizations to support victims and promote successful reentry for incarcerated people.

While no single policy can address all of the challenges in the criminal justice system, PIR is a valuable tool for revisiting past sentences and releasing people who no longer need to be in prison. We hope this guide will be used by those who share our commitment to reducing the nation's reliance on incarceration, strengthening public safety, and safely reuniting people with their families and communities.

The background of the slide features a stack of several open books with white pages, resting on a dark wooden surface. A black gavel is positioned on the right side of the stack. A thin orange line forms a partial circle around the gavel and the text area.

Understanding Prosecutor-Initiated Resentencing



WHY PROSECUTORS ARE ADVANCING PIR

Following a four-decade buildup of incarceration in the United States, in which the number of people behind bars rose nearly 700%, the nation's prison population has [begun to decline](#). Growing concerns about the number of people incarcerated and associated racial disparities have led to myriad reforms throughout the country aimed at reducing the nation's reliance on incarceration and improving outcomes for people when they are released. Though a number of states and the federal government have achieved some reductions in their prison populations in recent years, the U.S. continues to incarcerate its people at a rate that exceeds every other nation. Moreover, [racial and ethnic disparities persist](#) in the justice system, with Black men incarcerated at six times the rate of white men and Hispanic/Latinx men incarcerated at 2.5 times the rate of white men.

The percentage of people serving long sentences [has grown over time](#) for both Black and white people, and racial disparities in sentence length have widened. As of 2019, [57% of people in prison](#) were serving sentences of 10 years or more. Further, one in seven people in prison is serving a life or virtual life sentence, and many of these people received this sentence during the height of extreme punishment or have already served decades. Since then, more and more research shows that not all [lengthy sentences automatically result in safety and even sometimes have diminishing returns](#), especially involving cases where people are kept in prison long after they pose a threat to public safety. Given

the high cost of incarceration, unnecessary incarceration displaces critical resources that could be spent on drug or mental health treatment, education, and other activities that promote public safety.

Within prosecutor offices, innovations are needed on both the front end (e.g., diversion programs, alternatives to incarceration, behavioral health court) and the back end (e.g., support for rehabilitative programming, conviction integrity and review). For more than a decade, [prosecutors have been launching](#) Conviction Integrity/Review Units (CIUs/CRUs) and have been “looking back” at past cases where an injustice has occurred. CIUs/CRUs are now widely accepted, as many prosecuting agencies champion the need to review and correct wrongful convictions and exonerate innocent people. PIR was born out of this effort and often referred to as an expansion of conviction review to now include sentence review. Through PIR, prosecutors can initiate a thorough and methodical review of the prison population in their jurisdiction to identify people who can be safely released from prison and ask the court for recall and resentencing. PIR gives prosecutors a tool to provide redress for people where confinement is no longer in the interest of justice. When done with care, the PIR process can have lasting benefits for prosecutor offices, incarcerated people, families, and communities, and will positively contribute to public safety.

Don't prosecutors already have power to file for resentencing?

Within a limited time period, (e.g., within 60 days of the imposition of a sentence), some states allow prosecutors to request that the court modify or reduce a sentence. Only five states—California, Illinois, Louisiana, Oregon, and Washington State—broadly allow Prosecutor-Initiated Resentencing. Under extraordinary circumstances, there may be other legal avenues for prosecutors to revisit a case, but most states do not provide a legal mechanism for prosecutors to initiate sentence review and resentencing.

JUSTICE INCLUDES LOOKING BACK

Prosecutors are arguably [the most powerful actors](#) in the criminal justice system. From choosing which cases to charge to setting the terms of plea bargains, prosecutors make hundreds of decisions each day affecting the lives of people and entire communities. With this power comes great responsibility—a responsibility that is unique and complex compared to other actors in the justice system.

The role of a prosecutor has been defined as a “minister of justice,” and as such, prosecutors are obligated not merely to seek convictions but to pursue just outcomes. This duty ranges from the pursuit of appropriate criminal charges to making sure a punishment fits the crime. In carrying out their duties, prosecutors are expected to act with integrity and sound judgment as they work to increase public safety. Moreover, prosecutors also work to strengthen the criminal justice system as a whole. According to the [American Bar Association’s Criminal Justice Standards](#):



The prosecutor is not merely a case-processor but also a problem-solver responsible for considering broad goals of the criminal justice system. The prosecutor should seek to reform and improve the administration of criminal justice, and when inadequacies or injustices in the substantive or procedural law come to the prosecutor’s attention, the prosecutor should stimulate and support efforts for remedial action.



A prosecutor’s duty to seek justice therefore extends beyond the courtroom walls, and it does not end after conviction and initial sentencing. For example, upon learning that evidence used to convict a person is untrustworthy, prosecutors have a duty to review that information and determine whether the conviction should be revisited. Prosecutors carrying out PIR believe that a prosecutor’s job is to ensure sentences are just—at time of sentencing and, in some cases, years or decades later. Therefore, if a lengthy prison sentence is no longer in the interest of justice—because the sentence is too harsh or outdated, or because the incarcerated person has turned their life around in prison—prosecutors who have adopted PIR are taking action to correct that injustice.

Legal scholars have long recognized that our sense of justice can evolve: a punishment that may have seemed proportionate in one era can be widely accepted as disproportionate in the next. Through PIR, prosecutors are empowered to carry out their duty of administering justice—not just to convict, but to remedy unjust sentences.

Shouldn’t sentence reduction be administered by the executive (through clemency) or by a parole board?

While governors and presidents can release people through executive clemency, and parole boards can allow people to complete their sentences outside of prison, these powers are not consistently and regularly used. Because clemency and parole often require incarcerated people to navigate long and complex processes, many worthy cases are never considered. Unlike clemency, which is rooted in the moral principles of forgiveness and mercy, and parole, which has been eliminated in many jurisdictions, PIR provides prosecutors a tool to ensure fairness and to correct injustices in individual cases within the constraints of applicable sentencing laws.



STRENGTHENING SAFETY & PROTECTING VICTIMS

In recent years, a growing number of policymakers [across the political spectrum](#) have recognized that the U.S. incarcerates too many people who do not pose a threat to public safety, and it keeps many imprisoned for too long. Moreover, lengthy prison terms are sometimes at odds with the needs of crime survivors and high-incarceration communities. PIR provides an opportunity to revisit lengthy sentences, consult with victims, and ensure that the sentence—then and now—is consistent with goals of public safety.

STRENGTHENING PUBLIC SAFETY - INSIDE & OUTSIDE THE PRISON WALLS

While there may be a popular perception that long sentences deter crime, severe penalties do not always have the expected [deterrent effect](#). In fact, research suggests it is the certainty of punishment, rather than its severity, that primarily creates deterrence. Research also shows that most people [age out of crime](#), and yet, a substantial proportion of the nation's prison population is aged 50 or older—well past the peak age of criminal involvement.

Given that public safety dollars are scarce, resentencing people who can be safely released can actually lead to safer and thriving communities and free up additional resources for investments in programs that better address the root causes of crime. In addition, families are [financially burdened](#) by the various costs associated with having an incarcerated family member. For instance, these costs can include the loss of income and opportunity costs for partners and childcare providers, childcare costs, and the costs of phone calls and visitations with their incarcerated family members. Conversely, when incarcerated people return to their communities, they can provide support through gainful employment, caregiving for elderly relatives, and co-parenting support, while also eliminating the outsized costs that come with having an incarcerated family member. Additionally, when incarcerated people are safely released, they are uniquely poised to mentor young people, which has the potential to interrupt cycles of future crime. Additionally, PIR is proving to be a powerful tool for pro-

moting public safety within the prison walls and is sparking commitments to plan for positive futures. [Isaiah Love](#), who was resentenced and released under PIR, recounted his conversations while in prison with incarcerated people, who upon learning of Isaiah's release, were inspired to follow in his footsteps. Isaiah was convicted of multiple robberies as a young man and was sentenced to 28 years in prison. Based on the work Isaiah did to turn his life around while in prison, the DA determined that he had served enough time and could be safely released. We hear these stories from [dozens of people](#) who have now been resentenced and released through PIR: when people in prison learn about PIR and see others being released from prison, they become motivated to further their education, seek out substance abuse treatment, and pursue other rehabilitative programming.

Finally, PIR helps build community trust with law enforcement, which in turn strengthens public safety. Community members are asking government institutions to be responsive and transparent, and to make better use of limited public safety resources. Spending taxpayer dollars on drug or alcohol treatment, mental health care, victim services, or other crime-reducing interventions can be a more cost-effective approach to making communities safe, rather than spending billions of dollars each year to incarcerate people who no longer need to be in prison. Further, seeing members of law enforcement take proactive steps toward reuniting families illustrates their commitment to the holistic safety of their communities.

PROTECTING VICTIMS

The [primary duty](#) of prosecutors is to seek justice, and they must always weigh the interests of victims in exercising their discretion as to whether to prosecute. While victims want accountability for people who commit crimes against them, they do not uniformly favor long sentences. In a [national survey](#), three quarters of crime survivors preferred accountability measures beyond prison. A majority of vic-



tims said the criminal justice system should focus more on rehabilitation, rather than punishment. And according to a [separate survey](#), nearly 80% of crime victims in California stated that they believed that incarceration increases a person's chance of committing future crimes, rather than helping rehabilitate a person.

We believe that a humane response crime addresses the needs of crime survivors while simultaneously ensuring justice, public safety, and human dignity. In a PIR process using

[trauma-informed practices](#) in the context of resentencing, crime survivors may play a critical role by participating in dialogue with prosecutors during their review and evaluation of past sentences. While some victims may choose not to participate in the PIR process, which can potentially open old wounds, others may see resentencing as an opportunity for greater healing, closure, and support.

Are crime victims notified and given an opportunity to express their views during the PIR process?

Yes, all 50 states and the federal government provide rights and protections to crime survivors, typically including the right to notice, the right to appear at a sentencing hearing, and the right to submit a written or oral statement at the hearing. Additionally, many PIR laws include victims' rights provisions directly in the legislative language to reinforce the importance and reiterate the rights of victims in PIR proceedings.

MECHANICS OF PIR & THE LAW IN PRACTICE

As of mid-2022, PIR had been enacted in five states—California, Illinois, Louisiana, Oregon, and Washington State. Legislation had been proposed or introduced in Florida, Georgia, Maryland, Massachusetts, Minnesota, New York, and Texas.

Though PIR laws vary depending on the state, all PIR laws give prosecutors discretion to identify people whose prison sentences no longer serve the interest of justice, and to recommend resentencing by the court. Courts may then resentence the incarcerated person as if they had not previously been sentenced, provided the new sentence, if any, is not greater than the original sentence.

DISCRETION, ELIGIBILITY, AND LIMITATIONS

PIR is discretionary, meaning prosecutors may choose to review cases and recommend cases for resentencing to the court, but they are not required to do so. Further, all PIR laws enacted to date allow prosecuting agencies to set their own eligibility criteria and determine the types of

cases they will prioritize in their review and resentencing of cases. Therefore, eligibility depends on policies established by a prosecutor's office, whether by selecting a group of cases that meet an established set of criteria, by reviewing external resentencing requests, or both.

Besides state-specific restrictions under existing sentencing laws, there are currently no exclusions in existing PIR laws or directives on the types of cases a prosecutor must review. A prosecuting agency can recommend resentencing for any type of offense, any type of sentence length, and any amount of time served. In practice, many prosecutors' offices choose an initial group of cases to prioritize based on the history and context of their jurisdiction's sentencing practices, such as non-serious, non-violent, and non-sex offense cases where the incarcerated person has already served a significant amount of time. Offices have also prioritized cases where the person was sentenced under a habitual offender statute that has since been amended, cases where the person was a child or young adult at the time of the offense, or cases in which the person is currently elderly.

Can resentencing referrals be made by actors outside the prosecuting agency?

While the PIR laws highlighted in this report grant prosecutors discretion to initiate resentencing, some states have also extended this discretion to other agencies. For example, in California, the Secretary of the California Department of Corrections and Rehabilitation (CDCR), the Board of Parole Hearings, county correctional administrators, and the Attorney General (in addition to district attorneys) can petition the court for resentencing.

In some jurisdictions, incarcerated people can petition for resentencing if they meet certain criteria. For example, in Washington, D.C., incarcerated people can motion the court for resentencing if they have served 15 years in prison and committed their offense before the age of 25. Under most PIR laws, incarcerated people cannot petition a court directly for resentencing. However, some prosecutors' offices consider resentencing requests made by incarcerated people, their defense attorneys, and/or their families and community members.

For more information on how incarcerated people and their loved ones can illustrate readiness for review, see For The People's California Resentencing and Reentry Support Guide [here](#).

JUDICIAL POWERS & POST-CONVICTION FACTORS

If a court decides to hear a case and recall the sentence, it will hold a sentencing hearing as if the person had not previously been sentenced. Depending on the jurisdiction, the court can use all of its judicial powers at the time of resentencing, including new authority to strike enhancements under recent reforms. In some states, the court is bound by current sentencing law to use new authority, so long as the new sentencing law does not result in an increase in punishment. In all cases, the court cannot resentence a person in excess of the original sentence, and it must award credit for time served on the original sentence.

Most PIR laws provide a list of post-conviction factors that the court may or shall consider in determining whether a person can be safely released and/or whether further confinement is no longer in the interest of justice. These factors typically include: the person's disciplinary record and record of rehabilitation while incarcerated; evidence that reflects whether age, time served, and/or diminished physical condition have reduced the person's risk for future violence; and any evidence reflecting circumstances that

have changed since the original sentencing leading to a conclusion that continued incarceration is no longer in the interest of justice.

What makes a resentencing hearing unique is that the court can now consider new evidence, such as programming completed while incarcerated, college courses and degrees obtained, vocational certificates and job training, reentry plans, letters from community members, and character and support letters from correctional staff. All of these supporting documents can help illustrate to the court that the person no longer needs to be incarcerated and also the positive community impact that could come from the person being released. After considering these factors, the court will decide whether to impose a new sentence and what the new sentence will be.



APPEAL

Whether a person can appeal a resentencing order depends on the jurisdiction. For example, in California, defendants and prosecutors have the right to appeal an order of the court (unless the right has been waived) once the judge has determined to resentence. With regard to PIR, any appeal would be to the resentencing decision and not to the original conviction. However, a defendant does not have a right to appeal a prosecutor's decision to not make a resentencing recommendation to the court.

APPOINTMENT OF COUNSEL

The U.S. Constitution guarantees the right to counsel, which attaches at the onset of a criminal proceeding and continues through direct appeal. However, this right does not automatically extend to all post-conviction matters (e.g., habeas corpus proceedings). In our view, during the PIR process, an incarcerated person should be afforded the same rights of notice, appearance, and counsel as previously afforded for the original sentencing hearing.

In some states, PIR laws provide for the right to counsel in a resentencing hearing. In many jurisdictions, public defenders' offices may not have capacity to represent their former clients in PIR proceedings. In these cases, pro bono lawyers (with the assistance of law students) at community advocacy organizations or law firms may be recruited to provide legal representation.

COSTS & FUNDING

Although there are costs associated with PIR—including costs to prosecutors' offices that review cases, file motions, and appear in court—the policy ultimately saves resources, as resentencing a person allows the diversion of the costs associated with unnecessary incarceration.

Some state legislatures and county jurisdictions have dedicated funding to support PIR, recognizing its potential to free up taxpayer dollars for other public safety needs. In addition, some prosecutors' offices have been able to leverage existing internal resources—for example, by incorporating PIR into Conviction Review/Integrity Units (CRUs/CIUs) or appellate divisions—without incurring significant additional costs.

For prosecutors' offices that are unable to absorb or allocate internal resources or secure funding to support PIR, partnerships with law schools, pro bono attorneys, and community organizations trained in participatory defense¹ can help distribute the workload. In addition, FTP may be available to support partner jurisdictions throughout the implementation process.

Does PIR affect a person's right to challenge their underlying conviction?

No. A resentencing, in and of itself, does not impact a person's right to challenge their underlying conviction. However, admissions made during the PIR process could be used as evidence in future proceedings, and release may preclude relief under a writ of habeas corpus. If you have questions related to this issue, we recommend consulting with an attorney.

¹Participatory defense is a model in which family members play a key role in organizing and advocating for the prison release of their loved ones. For more information, see below.



PIR in California

The nation's first PIR law was enacted in California ([AB 2942](#)), and it empowers prosecutors to review past cases of current incarcerated people and whose continued incarceration is no longer in the interest of justice, and to recommend that the court impose a lesser sentence.

The court may then resentence an incarcerated person for any reason rationally related to lawful sentencing as if the person had not previously been sentenced. The court may use its full judicial powers at resentencing, including deciding the new term; whether to strike enhancements; and, if there are multiple charges, whether sentences should run consecutively or concurrently; but the new sentence cannot exceed the original sentence. At the time of resentencing, the court must award credit for time served on the original sentence and must rely on sentencing rules of the state's judicial council to avoid disparity of sentences.

Another California law ([AB 1812](#)) provides guidance for the court on the evaluation of evidence in resentencing, including consideration of post-conviction factors, such as a person's disciplinary record and record of rehabilitation while incarcerated; whether age, time served, and diminished physical condition have reduced the risk for future violence; and whether circumstances have changed since the original sentence that would deem further confinement unjust.

California has also enacted legislation ([AB 1540](#)) to add due process and equity provisions to strengthen and clarify PIR—prohibiting the court from denying a PIR motion without a hearing, requiring it to state the reasons for its decision to grant or deny recall and resentencing on the record, and creating a presumption favoring recall and resentencing.

Other Legal Mechanisms

In some jurisdictions without a PIR law, alternative legal mechanisms may be available to provide relief to people serving excessive sentences. These include mechanisms to address the cases of people who were sentenced under outdated habitual offender laws (e.g., North Carolina) and “second look” resentencing for people who committed their offenses as young people or emerging adults (e.g., Maryland).

In addition, some states have proposed changing court rules by the judiciary to allow for PIR (e.g., Florida). State courts regularly amend their rules to align with laws passed by the legislature, and in some cases may adopt rules that are broader than what is required by state law. For information regarding the process for changing court rules, visit the official website for the judicial branch in your state.

Depending on the jurisdiction, there may be other legal mechanisms for pursuing resentencing in certain cases; this is not a comprehensive inventory.



Enacting Prosecutor-Initiated Resentencing Laws

Enacting legislation takes time, and it is rarely predictable. In this part of the guide, we hope to demystify the process—for prosecutors, community advocates, and other criminal justice stakeholders interested in enacting PIR legislation. This section includes tools for transforming the idea into legislative text, framing the issue, building support, and using prison data to illustrate the opportunities that could be realized through enacting PIR.

STEPS IN THE LEGISLATIVE PROCESS

For those who may be unfamiliar with the legislative process, we will start with the basics. The process by which an idea or concept becomes a state or federal law is referred to as the legislative process, and it can take a number of routes—as a standalone bill, an amendment, or an appropriations rider (among other alternatives). Moreover, the process can vary depending on the laws, rules, and customs in a particular jurisdiction.

While each jurisdiction is unique, some common questions emerge for the legislative process: Which part of the statutory code should be amended? What should be included in the legislation? Who should author the bill? What is the timeline for passage? We consider each of these questions below, incorporating lessons learned from introduction and enactment of PIR legislation in jurisdictions across the country.

1 Determine Where to Add PIR Language

Before drafting PIR legislation, it is important to determine the part of the statutory code to which PIR language will be added. It may be helpful to review how other jurisdictions have drafted or passed PIR legislation and the part of the code they amended or to which they added a new section. While each state has different laws and formats for legislation, examining PIR legislation in other jurisdictions can provide valuable models for drafting legislation in your state. To determine whether to amend an existing statute, or to create a new section in the code, consider the following:

Whether an existing statute already allows for some form of resentencing authority.

- In **California**, an existing statute ([PC § 1172.1](#) (originally § 1170(d)(1) and previously § 1170.03)) allowed resentencing by some actors in the justice system (e.g., the director of the corrections department). [AB 2942](#) amended the law to extend resentencing authority to prosecutors.

- In **Georgia**, existing law ([Code § 17-10-1\(f\)](#)) allow the court to resentence a case within one year of the imposition of the sentence or within 120 days of the court being revested with jurisdiction in the case of an appeal, whichever is later. If passed, [SB 501](#) would have added a PIR mechanism to subsection (f).
- In **Vermont**, an existing rule of criminal procedure ([Crim. P. Rule 35\(c\)](#)) grants prosecutors resentencing discretion but only within a restricted time period of seven days after the imposition of the sentence.

Whether an existing statute related to prosecutorial duties and responsibilities already gives prosecutors PIR authority in theory but where a PIR-specific law could provide clarity and specificity.

- In **Washington State**, an existing law ([RCW 36.27.020\(11\)](#)) provided a duty for prosecutors to redress instances where law and justice do not align to ensure that justice overrides law. Building on the principle that prosecutors have a duty to correct discrepancies between law and justice in order to maintain legitimacy, [SB 6164](#) gave prosecutors explicit authority to engage in resentencing.

Whether legislation relevant or similar to PIR has already been codified.

- In 2021, **Maryland** passed the [Juvenile Restoration Act](#) (JRA), which allows for people who committed an offense as a minor to petition the court for resentencing after serving 20 years of their sentence. The JRA was codified as [Crim. Proc. § 8-110](#). Thus, [SB 976](#) and [HB 958](#) were drafted to propose the addition of a PIR provision in § 8-111 directly after the JRA.

2 Draft Legislative Text

While existing PIR laws can be used as a guide for drafting PIR legislation, the text should be tailored to the context of your jurisdiction and written in consultation with the bill’s legislative author, as well as prosecutors, defense attorneys, advocates, and other key stakeholders.

Key principles of PIR legislation include:

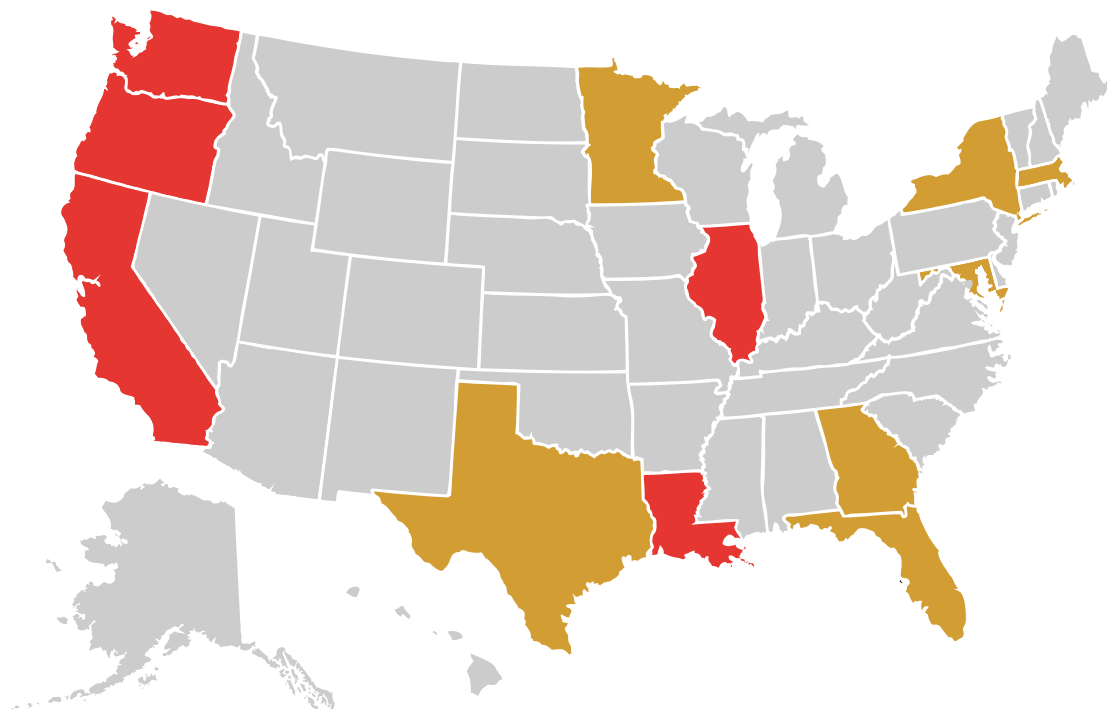
- Clearly authorize the prosecutor to recommend resentencing for a person whose sentence no longer serves the interests of justice.
- Outline the contours of resentencing, including authorizing the court to resentence a person in the same manner

as if they had not previously been sentenced, provided that any new sentence may not be greater than the original sentence.

- Set forth post-conviction factors for consideration by the court, including a person’s records of discipline and rehabilitation while incarcerated, evidence that reflects recidivism risk, and information about changed circumstances that suggest incarceration is no longer in the interest of justice.
- Affirm that victims’ rights will be protected, including the rights of notice of resentencing and the right to be heard at the resentencing hearing.

For more information, and to review FTP’s model legislative language, see Appendix A.

PIR LEGISLATION ACROSS THE U.S.	ENACTED	INTRODUCED
	<ul style="list-style-type: none"> • California – AB 2942 (2018) • Washington – SB 6164 (2020) • Oregon – SB 819 (2021) • Illinois – SB 2129 (2021) • Louisiana – SB 186 (2021) 	<ul style="list-style-type: none"> • Florida (2021) – SB 662 / HB 1459 • Georgia (2022) – SB 501 • Maryland (2022) – HB 958 / SB 976 • Massachusetts (2021) – H 1567 • Minnesota (2021) – HF 901 / SF 2005 • New York (2021) – S 257 • Texas (2021) – HB 3392





3 Find an Author/Sponsor and Champion

A critical step is to identify a lawmaker who will author PIR legislation and then champion the bill as it moves through the legislative process. There is no single answer to the question of who the best author might be—it could be an experienced committee chair, a rank-and-file member serving on a relevant committee, a current or former prosecutor, or a newly-elected member with an interest in criminal justice reform. What matters is that the author is committed to PIR and is in a position to get the bill enacted.

In California, PIR legislation was authored in a collaborative process, with FTP’s founder Hillary Blout drafting the legislative text of the bill with input from elected prosecutors, defense attorneys, appellate attorneys, community leaders, and advocacy organizations. The proposed text was shared with Assemblymember Phil Ting, who [introduced the bill and carried it through the legislative process](#).

In Washington State, the King County Prosecuting Attorney’s Office (KCPAO) proposed PIR legislation to Senator Manka Dhingra, who also works as a prosecutor and has experience spearheading criminal justice reform measures. KCPAO outlined their priorities for inclusion in the PIR legislation, and Senator Dhingra authored the bill.

In searching for a bill author, consider the following:

- With whom do you already have an established working relationship?
- Who has a history of putting forward criminal justice reform legislation?
- Who will be effective at convincing their fellow legislators to support the bill?
- Who has a history of bringing together allies across the political spectrum?

4 Identify Key Legislators and Stakeholders

In order to enact PIR legislation, it is important to understand who is in a position to move the bill forward—and who may be opposed as the bill moves through the legislative

process. Identifying key players inside and outside the legislature will yield valuable information that can be used to target decision makers, build strong allies, and prepare to respond to potential opposition.

To determine which legislative actors you should contact and provide education about the benefits of PIR, consider the following:

- Where is the bill in the legislative process?
- If the bill is being considered by a committee, who is the chair of that committee? Who is the highest-ranking committee member of the minority party? Who are the other committee members?
- If the bill is being considered in a legislative chamber, who is the leader of that chamber? Who is the highest-ranking member of the minority party?
- Who are the leaders of the other legislative chamber?
- Who are the leaders of influential caucuses or groups within the legislature that may be interested in PIR?
- What legislators have been champions on criminal justice reform in the past? Who has a history of opposing criminal justice reform?

To determine other stakeholders who may be helpful in advancing PIR legislation, consider the following:

- Who are the leaders of the executive branch (e.g., governor) and relevant government agencies (e.g., justice department, corrections bureau, sentencing guidelines commission)?
- Which organizations or influential people have a history of supporting criminal justice reform (e.g., civil rights organizations, faith groups)?
- Which organizations or influential people have traditionally opposed reform?
- What unlikely allies (i.e., “strange bedfellows”) may emerge to support PIR?
- Who stands to gain power or resources if PIR is enacted?
- Who stands to lose power or resources if PIR is enacted?
- What communities will be directly impacted by PIR?



5 Create a Timeline for Passage

In working to pass legislation, timing is key. Among the many factors to consider are: Is the current makeup of the legislature conducive to passing PIR? Should the bill be introduced early or late in the legislative session? Is the bill likely to pass in the current political environment, or would it be more (or less) likely to pass in the future?

Additionally, it is important to create a timeline that is aligned with the schedule of the legislature in your jurisdiction. The timeline should include deadlines for the following:

- When the bill should be drafted
- When the bill should be circulated
- When community partners should be secured
- When the bill should be submitted or introduced
- When the bill will be considered (e.g., committee, full floor, appropriations)
- When testimony will be needed
- When to talk to legislators

6 Build Support for Legislation

In order to pass PIR legislation, lawmakers and the public must be educated and convinced—ideally, before the legislative process begins—that the policy is both necessary and urgent. At times, status quo bias can be formidable, which is why it is critical to help policymakers, practitioners, and the public understand how PIR is consistent with values of public safety and fairness, and that there is urgency to provide relief to people in prison who can be safely released. Before reaching out to stakeholders, draft a one-page fact sheet that can be circulated to provide information on the PIR bill. Example fact sheets can be found in Appendix B.

Legislators: Ideally, the lawmaker who authors the PIR bill will reach out individually to their colleagues to add co-authors/co-sponsors and to gain support for the bill. Advocates can also play an important role in meeting with legislative offices to provide education around PIR and to lobby for its passage. Lawmakers may be more likely to

support PIR legislation after hearing from validators—law enforcement or criminal justice reform leaders who can speak to the bill’s merits—and from prosecutors in states that have already enacted PIR who can answer questions with regard to implementation. In addition, legislators will be interested in the views of local grassroots groups and organizations, as well as ordinary constituents in their district or state.

Community Groups & Advocates: It is vital to ally with community organizations—both local grassroots groups and larger criminal justice reform organizations—who can help shape and pass PIR legislation and be strong partners in implementing the law after enactment. We recommend building partnerships with community groups that engage in the participatory defense model, in which family members play a key role in organizing and advocating for the prison release of their loved ones. Strong community partnerships will help ensure that the law is implemented in a thoughtful manner consistent with the wants and needs of the community and that incarcerated people and victims alike receive support.

Prosecutors: As leaders in the justice system, prosecutors are uniquely positioned to advance innovative strategies to promote public safety and reduce unnecessary incarceration. Serving in a position of public trust, local prosecutors have a powerful voice in shaping and passing PIR legislation in their jurisdictions.

In many states, a statewide prosecutors’ association provides education and training to prosecutors and serves as a hub for legislative education and advocacy. Prosecutors’ associations often take a supportive, neutral, or oppositional position on proposed legislation and policies that affect the roles and powers of prosecutors. Whether or not prosecutors choose to support PIR legislation will have important implications for its passage.

In California, prosecutors from all backgrounds and from across the political spectrum became increasingly supportive of PIR as they learned that it would provide prosecu-



tors a tool to redress certain sentences, such as cases that would be sentenced differently today or in which youths were sentenced as adults. In Washington State, some prosecutors were initially skeptical of PIR legislation, but they moved to a neutral position after further consideration. As a general matter, we have found that the fact that PIR laws are discretionary—i.e., that they leave the decision as to pursue resentencing in the hands of the prosecutor—has contributed to support within the law enforcement community.

Judges: While sitting judges cannot ethically share their personal opinions on legislative proposals, some states have a judicial council or judges’ association that may weigh in on proposed legislation and submit recommendations and opinions to the legislative and executive branches. Some retired judges may also be interested in weighing in on relevant issues.

In general, judges have been supportive of PIR because they have observed the consensus-driven nature of the process, which requires final approval by the court. For those judges who may be skeptical of the law, it is important to note that a PIR motion is not an appeal, and a resentencing does not

reflect on a judge’s past decision. Rather, PIR takes into account circumstances that could not have been known at the time of original sentencing, such as the incarcerated person’s rehabilitation or subsequent changes in sentencing law.

Other Stakeholders: In addition to lawmakers, community groups, prosecutors, and judges, consider engaging the following stakeholders:

- Public defender’s office
- Victims’ rights organizations
- Governor or executive
- Sheriffs’ association
- Rank and file officers association
- Police chiefs’ association
- Department of corrections
- Commissioner of public safety
- Sentencing guidelines commission
- Community-based organizations
- System-impacted people
- Taxpayer/fiscal responsibility advocates

Will releasing people from prison lead to increased violence and crime?

Although any crime committed by a formerly incarcerated person is likely to receive outsized attention, it is important to keep in mind that [about 600,000 people](#) are released from U.S. prisons annually. Despite an uptick in certain types of crimes in recent years, overall [crime rates remain lower](#) than they were a generation ago, and there is [little evidence](#) that violent crime rates are driven by people being released from prison.

Prosecutors utilizing PIR are deliberate and thorough in their determination of who should be considered for resentencing and early release. Resentencing decisions are based on specific criteria, such as a person having already served extensive time in prison, having low risk scores, having committed their offenses as youths when their brains had not yet finished developing, or being a person who has reached an age at which they are unlikely to recidivate. Prosecutors work closely with family members, community organizations, and public defenders to create a strong reentry plan and relapse prevention plan for the people whose cases have been selected for resentencing.



HISTORICAL CONTEXT & POLICY CONSIDERATIONS

Effective PIR advocacy requires knowledge and understanding of the historical context and policy considerations around criminal justice reform. Lawmakers and their staff are typically very busy and may lack current information about sentencing policy and corrections, including how PIR can be used to strengthen public safety. It is therefore important to be equipped with knowledge on the history of

criminal justice policy, pertinent data, arguments for and against PIR, and answers to frequently asked questions. You can find more information on the history of criminal justice policy, the movement for reform, the role of the prosecutor, and policy rationales for PIR, in [For The People's 2021 report](#).

Will PIR result in thousands of dangerous people being released from prison?

No. PIR does not result in the automatic release of incarcerated people. Instead, PIR establishes a mechanism for cases to be carefully reviewed by prosecutors in consultation with victims, and any release must be approved by the court. The law requires a thorough process with multiple layers of review by prosecutors, defense attorneys, and other experts to ensure that a person can be safely released. Judges have discretion over whether to grant resentencing hearings and whether to ultimately resentence a person, based on many different factors including a person's history of rehabilitation in prison. While in prison, PIR can also incentivize currently incarcerated people to avoid incurring disciplinary violations and to make productive steps in their rehabilitation in order to be stronger candidates for resentencing and early release in the future.

USING PRISON DATA TO UNDERSTAND OPPORTUNITIES

Successful legislative advocacy requires a bill's proponents to tell a compelling story—to explain the urgency of a problem and to show how proposed legislation can be part of the solution. In order to enact PIR, you must explain, using arguments and data, how PIR can be used to safely release people from prison and why prosecutors are in a unique position to support these efforts.

Prison data can be invaluable for illustrating the benefits of PIR. For example, prison data can show the number of people who could potentially be safely released under PIR and the costs a jurisdiction could avoid by releasing people who do not need to be incarcerated. Prison data can also show which demographic groups are most affected by criminal penalties that are now outdated in that jurisdiction and how PIR can help address these disparities.

Prison population datasets can be difficult to obtain, and they may be released in a format that requires analysis by a trained data analyst. While this section is intended primarily for prosecuting agencies and data analysts who are working to pass legislation, we encourage anyone who is interested in advancing PIR to use prison data to bolster their advocacy.

ACQUIRING DATA

Obtaining thorough and reliable prison data can be time consuming. While some prison data are available through public websites or can be requested through a public records request, data retrieval is typically much easier when the request is made directly by a prosecuting agency or



other government official. Additionally, a dataset requested by an elected official will often include more comprehensive data than what is available in a publicly requested dataset. Ideally, the official should email a document of requested variables to a relevant contact within the corrections department (a sample data request can be found in Appendix C). Alternatively, data may be accessible through a third party, such as the governor's office, legislature, or sentencing guidelines commission.

To obtain the most useful data in a timely manner, we recommend the following steps:

- Submit the data request as early as possible, as it will likely take several weeks or even months for the request to be fulfilled.
- Request the most current available dataset.
- Include both variables that are absolutely necessary to conduct an analysis and also variables that may not be necessary but are helpful. The sample data request in Appendix C structures the requested variables in two priority tiers to avoid overwhelming the corrections department. In an email to the corrections department, note the priority tiers and indicate that you wish to receive as many variables as are available and that you understand that there will likely be variables listed that are unattainable.
- After submitting a data request, be prepared to follow up to ask for additional clarification on variables (e.g., whether the date of admission is referring to admission to the state prison or county jail, whether estimated release dates take into account good time credit).

WHAT PRISON DATA CAN ILLUSTRATE ABOUT YOUR PRISON POPULATION

Once you have obtained prison population data, it should be analyzed by an experienced data analyst. FTP may be available to assist partners who need support with this process, or recommend others who can provide that service. The following is a high level overview of how to begin to organize the data:

1 Calculate descriptive statistics on demographic information, such as race/ethnicity, age, and sex, to get an overall view of the prison population in the relevant jurisdiction and to understand whether proportions of certain incarcerated groups vary from the general population (especially when looking at racial disparities).

2 Break down data by variables from the following list to estimate how many people could be released based on these various categories and through considering multiple categories at once to create a specific criterion (e.g., under 18 years old at time of offense AND served seven or more years):

- Age at time of offense (e.g., under 18 years old, under 26 years old)
- Current age (e.g., 65 years or older, 60 years or older)
- Time served (e.g., 10 or more years, seven or more years)
- Offense types (e.g., all non-serious, non-violent, non-sex offenses (“non-non-non”) plus residential burglaries and robberies)

3 Calculate the estimated costs the jurisdiction would avoid if people meeting various criteria were released, using the estimated cost to incarcerate one person in the jurisdiction.



Implementing Prosecutor-Initiated Resentencing

Passing legislation generates headlines, but it is the careful and time-intensive process of implementation that determines whether a law succeeds in achieving its objectives. This part of the guide is intended to be used by prosecuting agencies working to implement PIR after enactment. It explains to prosecutors how to put PIR into practice—by launching a Resentencing Unit, using prison data to develop criteria and to identify cases, working with community stakeholders to incorporate methods such as the participatory defense model, and taking a case to court for resentencing.



LAUNCHING A RESENTENCING UNIT

1 Designate a Team

A prosecuting agency should identify a team of attorneys, investigators, and/or other legal professionals who are dedicated to seeking justice and provide them sufficient resources to carry out their work. Ideally, the team should be led by someone with extensive prosecutorial experience and should report directly to the chief or elected prosecutor in the jurisdiction. Some offices have integrated the Resentencing Unit into an existing Conviction Integrity/Review Unit (CIU/CRU), or they have jointly created a unit that encompasses both the review of sentences and convictions (e.g., [Justice Integrity Unit](#) in Multnomah County, OR; [Conviction and Sentence Review Unit](#) in San Diego County, CA). Establishing clear roles and lines of authority will help ensure that team members know whom to turn to when issues arise, that they are held accountable for their work, and that the team ultimately achieves its objectives.

2 Build Partnerships

PIR is best achieved through a collaborative approach. Resentencing Units are most successful when they have strong relationships with key stakeholders in the justice system. Through collaboration, prosecutors will gain access to more information than they could gather on their own, which enables them to make decisions that are grounded in evidence-based knowledge.

During the PIR process, prosecutors' offices will draw on relationships with stakeholders in the justice system to obtain data and records, to connect with an incarcerated person's support networks—which in turn will help with gathering additional documentation (e.g., letters of support, verification letters for future housing and employment)—and to build support for the resentencing.

To start, we recommend building partnerships with the following agencies and groups:

- **Corrections Department:** Connecting with the corrections department in your jurisdiction will enhance your ability to obtain prison population datasets and individual prison records.
- **Public Defender's Office/Defense Attorneys:** Opening lines of communication with the public defender's office and defense bar (as well as court-appointed attorneys) can create opportunities for a more streamlined PIR process.
- **Community-Based Organizations:** Working in tandem with local community-based organizations (CBOs) leads to better PIR outcomes. For example, CBOs play a significant role in helping develop strong reentry plans for incarcerated people and connecting them with reentry services and resources upon release. CBOs can also bring together incarcerated people, their support networks, and victims so that all may participate in the resentencing process.

The Participatory Defense Model

[Participatory defense](#) is a community organizing model that empowers incarcerated people, their families, and their communities to impact the outcome of their case. Organizations such as [Silicon Valley De-Bug](#) in San Jose, which uses the participatory defense model, transform the way power is distributed in the court system by allowing family members to partner closely with public defenders, legal advocates, and community organizations as active agents in their loved ones' defense.

In the participatory defense model, community members whose loved ones are incarcerated meet regularly to collectively review and support cases. The group looks at each person's case individually, identifying and compiling

The Participatory Defense Model *(cont.)*

information including police reports, court transcripts, and documents generated during incarceration. Families compile biographical materials and create a holistic, contextualized narrative to show the court that their loved ones are more than the crimes they committed and that they have a community to support their reentry and rehabilitation.

Participatory defense hubs are often housed within churches, community centers, and other institutions where residents naturally seek support and community. These hubs frequently establish and maintain relationships with service providers in the community that can provide additional supports to people facing criminal charges or convictions and their loved ones.

3 Get a Training

PIR training—for the team launching a Resentencing Unit, as well as for executive-level staff in the prosecutor’s office—will help ensure a shared understanding of roles and responsibilities and will contribute to better outcomes. FTP can provide training to support a PIR initiative at multiple levels, including high-level training on the overall resentencing process and more technical training focused on mechanics (e.g., how the legal mechanism works in practice, tips for collaborating with your state corrections department, methods for analyzing prison records). FTP can also connect prosecutors looking to launch a Resentencing Unit with other prosecutors who have successfully implemented PIR in their jurisdictions. For more information on training opportunities, [contact FTP](#).

4 Obtain and Analyze Your Prison Data

As discussed earlier in this Guide, prison data can illustrate the benefits of PIR by showing who in your incarcerated prison population could potentially be safely released. In this section, we explain how to use your prison data during implementation to help identify evaluation criteria—that is, the types of cases you consider as a starting point for PIR review.

Since many prosecutors’ offices do not have current, comprehensive data on the prison population sentenced in their

jurisdiction, your first step is to obtain this information from your state’s corrections department. As stated earlier, if the data is not readily available through the department’s public website, we recommend a prosecutor in your office send an email to a contact in the corrections department, attaching a document of requested variables for all incarcerated people sentenced from your jurisdiction (see Appendix C for a sample data request with a list of suggested variables).

Similar to the process of analyzing data when working to enact PIR, once the full prison population dataset has been received, it should be broken down by different variables to filter the data and understand the number of people who would fall under different criteria. Though corrections departments vary in the quality and quantity of data they may be able and willing to share, some datasets can be quite comprehensive and include data on current and prior offenses, sentence length, time served, age, risk assessments, rule violations, programming, and more.

It may be helpful to create a data “snapshot” report that provides an overview of your jurisdiction’s prison population through producing descriptive statistics on variables such as race, current age, age at time of offense, time served, sentence length, offense type, and more. The snapshot can then be used to develop review criteria, a significant next step in the PIR process. For jurisdictions that need assistance in analyzing prison population datasets and creating data snapshots, FTP may be available to provide support.

In reviewing and analyzing your dataset, you might be surprised to learn certain data points, such as the sentence lengths attached to certain types of offenses. For example, one county in California learned of a cohort of elderly people serving life sentences for property crimes that occurred long ago, and a subset of these people demonstrated they had made significant strides toward their rehabilitation. The data can also help you understand sentencing trends over time and compare sentencing practices over the last few decades.

As groups of cases are reviewed and resentenced, this process should be continuously repeated to have regularly updated analyses of the prison population dataset and to consider additional criteria to identify cases for review and resentencing.



Example of County Data Snapshot Report produced by For The People

5 Establish Eligibility Criteria for Implementation

Next, the prosecutor’s office should determine a systematized approach to identify cases for PIR consideration, as this can ensure fairness by avoiding unwarranted disparities among the cases considered for resentencing. We recommend developing clear eligibility criteria for the types of cases your office will review during the initial phase of PIR implementation. As your work progresses, eligibility criteria can be reassessed and adjusted, taking into account lessons learned and available resources.

Jurisdictions implementing PIR have considered various factors in determining eligibility criteria, including:

- Age at time of offense (e.g., under 18 years old, under 26 years old)
- Current age (e.g., 65 years or older, 60 years or older)
- Time served (e.g., 10 or more years, seven or more years)
- Offense types (e.g., all non-serious, non-violent, non-sex offenses (“non-non-non”) plus residential burglaries and robberies)
- Sentence length (e.g., sentenced to at least 15 years)
- Sentence type (e.g., third strike sentenced to life whose

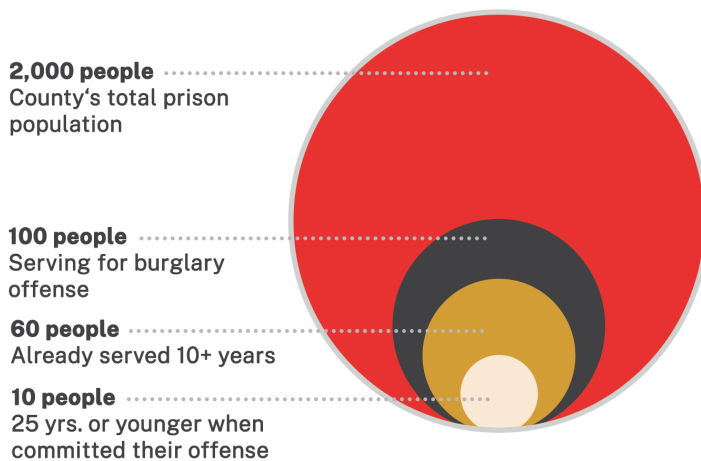
final strike would no longer qualify as a third strike today, serving a lengthy sentence due to enhancements)

- Medical condition (e.g., medically incapacitated and unable to perform daily living functions, at greater risk of death or serious illness if they contract COVID-19, terminally ill)
- Classification scores (e.g., classification score below certain threshold, reduction of classification score by a certain number of points within last five years or currently holds lowest classification score possible)
- Disciplinary violations (e.g., no serious violations in the last three years)

We recommend layering different groups of the above actors to determine initial criteria. For example, an office may choose to start with a group of cases involving burglary, which may be 100 people. And then, within that group, they may choose to review only those who have served at least 10 years of the sentence, which may be a subset of 60 people. From this subset of 60 people, an office may narrow further, by adding an additional layer to review those who were under 26 years old at the time of the offense, leading to a subset of 20 people. Thus, through layering variables on top of one another—offense type, time served, and age at time

of offense—the office could identify their initial criteria and a first group of cases. In this example, the layering process determined a category of people who have served at least 10 years for a burglary offense that they committed before the age of 26, with 20 people meeting this criteria. Through repeating this process of layering with different variables, the office can develop a full set of initial criteria.

Developing Initial Criteria



THE RESENTENCING PROCESS

Once your office has determined a set of initial eligibility criteria, the dataset can be used to narrow down the sentenced population to an initial group of cases for consideration. After this group has been identified, review available RAP/FBI sheets, probation reports, old case files, and other records for the people in this group. Prior offenses or criminal history may warrant some cases being set aside for consideration at a later time.

7 Begin Engagement

When you have identified an initial group of people that meets your eligibility criteria, it is time to begin the engagement process. Start by preparing an engagement packet to send to each of the incarcerated people identified, including:

6 Institute PIR Policy for your Office

Once a Resentencing Unit has been established and eligibility criteria has been determined, your PIR policies—both internal and external—should be formalized in writing.

The internal policy should include eligibility criteria, guidelines for coordinating with external partners, procedures for reviewing and resentencing cases, instructions for processing external requests, parameters for the resentencing team's work, and additional considerations.

An external policy, including FAQs, should also be developed and published on your office's website to provide guidance to the public with regard to the Resentencing Unit's work. If the office is reviewing external resentencing requests, the website could also include an application form. Examples of external policies can be found for [Cook County, IL](#), [San Diego County, CA](#), and [Multnomah County, OR](#).

See Appendix D for sample internal and external office policies.

- A letter informing them of their potential eligibility for resentencing and next steps
- A waiver form for them to complete to authorize release of their prison record, if necessary to retrieve the file
- A version of FTP's [Resentencing and Reentry Support Guide](#) tailored to your jurisdiction to help an incarcerated person navigate the process of compiling supporting documents (e.g., relapse prevention plan, letters of remorse, statement of accountability, journey letter, reentry plan, resume)

In our experience, it is good practice to send the packet through the incarcerated person's attorney (if they have legal representation) and to obtain an agreement that allows the prosecutor's office to review the prison files and relevant supporting documents.



8 Review and Summarize Prison Files of Candidates

After an incarcerated person has provided consent to begin the PIR process and (if necessary to retrieve the prison file from the corrections department) signed a release authorization, you can retrieve the prison file and begin reviewing and summarizing the file.

A prison file typically contains all documents generated during the course of a person's incarceration. For PIR purposes, relevant documents in the prison file may include the incarcerated person's probation report from their commitment offense, the abstract of judgment (AOJ) and any amended AOJs, disciplinary violations, the medical record, and a record of in-prison programming.

The task of reviewing a prison file is an in-depth process that provides ample insight into an incarcerated person's trajectory over the course of their imprisonment, from the time of the offense to the present day. For many, a prison file illustrates evidence of rehabilitation and transformation. When reviewing a person's file, we suggest looking for and being mindful of the myriad ways in which the person's in-prison record shows that further confinement would be unjust. We find that summaries help to visualize the person's trajectory over time to see if and how that person has grown and provides insight into whether they can be safely released.

After reviewing a person's prison file, summarize information on their commitment offense (including any enhancements), prior convictions, any other relevant background info, rule violations, in-prison programming, the trajectory of the person's classification scores during their time of incarceration, and any other relevant information (e.g., prior confinements, prior non-confinements, health assessments, disabilities and/or accommodations, standardized test scores, drug/alcohol use assessments, parole hearing transcripts). A case summary template is provided in Appendix E.

Now is also the time to begin reviewing supporting documents submitted by the person and their support networks. As discussed above, supporting documents submitted by the incarcerated person can help provide prosecutors a more complete picture of a person's rehabilitation. We have found that it is best to request supporting documents at the beginning of the PIR process—through sharing the [Resentencing and Reentry Support Guide](#) in the initial engagement packet—to allow enough time for collection. In our experience, however, many incarcerated people wait to send their supporting documents until specifically asked to do so, as they often have no way of knowing that the prosecutor's office is in the process of reviewing their prison file. Mail can sometimes get lost along its route into the prison, and there is often no way to confirm whether an incarcerated person received the initial engagement packet. For these reasons, if you have not yet received supporting documents from an incarcerated person at this stage, you should send a letter requesting them again as a reminder.

In addition, connect with the defense attorney and community-based organization (CBO) partners to assist with compiling support letters from the person's support networks, which can later be included in materials submitted to the court. This is also a good time for the defense attorneys, or social workers working with defense attorneys, and CBOs to begin assisting in developing reentry plans for candidates under consideration.

After reviewing the prison file and any additional supporting documents, creating a one-page document that summarizes the incarcerated person's trajectory and rehabilitative efforts can be useful for preparing an office presentation, for engaging victims, and for general recordkeeping.

9 Determine Candidates for Advancement in Review Process

Once your office has reviewed and summarized prison records and support documents, your team should determine which candidates will advance in the review process. In making these determinations, consider:



- Whether the incarcerated person has participated in in-prison programming (e.g., completed multiple educational, self-help, and substance abuse treatment programs)
- Whether they have demonstrated good behavior in prison (e.g., minimal disciplinary violations or rules violation reports for non-serious incidents)
- Evidence of low-risk release (e.g., family and/or community support, job possibilities, strong reentry plan and relapse prevention plan)
- Circumstances/cause of original offense (e.g., substance abuse, addiction, mental health issues, financial instability, housing insecurity, neighborhood with high crime rate, young age)
- Whether the person demonstrated personal growth (e.g., strong letter of remorse and statement of accountability)
- Whether the person played lesser role than suggested by charge (e.g., charged with murder according to the felony murder rule)
- Views of crime survivors/victims (if known)

10 Consult with Victims

After identifying a candidate or group of candidates to advance for resentencing, your office should engage any victims. All PIR laws enacted to date require victims to be notified of the resentencing proceedings and to be given an opportunity to make their voices heard in the process. Consultation with victims is not only required by law, but for some victims, the incorporation of [restorative justice](#) practices, like victim-offender mediation, may bring about healing and closure.

Before a resentencing hearing is calendared, the PIR team must make reasonable attempts to contact the victim(s) of the candidate's commitment offense to provide notice and an opportunity to appear.

Some prosecutors have been concerned that victims will uniformly oppose resentencing. However, that has not been the experience for the majority of prosecutors engaged in PIR and with whom we have supported. On the contrary, our

prosecutor partners have reported that some victims have been eager to learn about the incarcerated person's rehabilitative efforts and often are surprised to learn that the person is still incarcerated. Many victims have expressed their gratitude for being included in this process.

While some crime survivors may appreciate the opportunity to participate in the PIR process, others may not welcome engagement, as it has the potential to open old wounds. Because the impact of crime is different for every victim, it is important to use [trauma-informed practices](#) in approaching victims in the context of resentencing, including getting help from trained and experienced victim advocates, where appropriate.

Before reaching out to crime survivors, the person engaging the victim should use the prison file summary, along with any information on reentry plans, to familiarize themselves with the candidate's case, including their past offense and their in-prison trajectory. It may also be helpful to review the PIR law in your jurisdiction and refresh yourself on your office's Resentencing Policy. We find that prosecutors feel most prepared when they are able to articulate why they are engaging in PIR generally and why the person under consideration is a good candidate for release.

When contacting crime victims, the prosecutor's office can contact them alone or enlist support from their victim services unit. The prosecutor should explain the candidate's in-prison trajectory, as well as the incarcerated person's reentry plans. While the decision to recommend a person for resentencing is entirely within the prosecutor's discretion, victims are typically a critical part of the prosecutor's evaluation and thus afforded an opportunity to express their opinions about the PIR process and to state how they feel about the potential to resentence the incarcerated person. If the candidate has submitted a letter of remorse to your office, you should have this letter on hand during the call, inform the victim of it, and offer to share it with the victim.

Sometimes victims cannot be reached. If a phone call, mailing, and investigative service (office resources permitting)



do not result in contact with the victim, prosecutors usually find they have done their due diligence to move forward with the resentencing.

11 Prepare a Motion for Resentencing

Now that you have determined that an incarcerated person can be safely released, the next steps may include engaging the public defender, acquiring a credit calculation from the prison, and drafting a proposed sentence order and a motion for resentencing. You will need to calendar the resentencing hearing and submit your motion for resentencing, along with any other steps required by your office or the court.

The contents of the prison file summary and supporting documents will make the factual basis of the motion and should be organized to include the incarcerated person's disciplinary record, record of rehabilitation, evidence of reduced risk for recidivism, an explanation of changed circumstances to support early release, and any other factors required in your jurisdiction.

The motion for resentencing should generally include the request for a new sentence, a statement of the case, a memorandum of points and authorities, including the legal basis for PIR, post-conviction factors showing that further confinement of the incarcerated person is no longer in the interest of justice, and the proposed sentence recommendation. In addition, some offices include victim impact and input in the motion for resentencing—and if the victim is not available, note if they were unable to contact the victim or if they are now deceased. For templates and other legal resources, visit www.fortheppl.org/.

12 Coordinate Resentencing Hearing

Once a motion for resentencing has been filed, prosecutors should speak with the court to determine whether the incarcerated person must appear in person or whether they may appear remotely. If the court allows the incarcerated person to appear remotely, confirm with the defense attor-

ney that the person's housing facility can accommodate a virtual court appearance on the specified date.

In addition, this may be an opportunity for educating the judge(s) who would preside at the resentencing hearing regarding the PIR process. As this is a relatively new area of law, some judges may not yet have a comprehensive familiarity with how PIR works. Conferencing with the judge before the resentencing hearing can help streamline the process.

After a resentencing date is set, use this time to reach out to the incarcerated person's support network to advise on proceedings and next steps. It is important to address any outstanding questions about life after resentencing, particularly on the day of possible release. Confirming transportation from prison, a housing destination, and whether supports will be present will help establish a clear plan for the day of release. In addition to personal supports, consider including social workers, parole/community supervision agents, and relevant community-based organizations.

At the resentencing hearing, the prosecutor will provide the court with reasons for resentencing and will recommend a proposed sentence for the court to consider, taking into consideration any credits for time served. The court will want to hear about victim impact, as well as input from victims if they have exercised their right to participate. In addition, the court may wish to hear directly from the incarcerated person about their rehabilitative journey. Once the court has heard statements from the prosecutor, the incarcerated person or defense attorney, and the victim (if applicable), the court will issue its decision and, if the decision is to resentence the person, resentence accordingly.

13 Ensure Successful Outcomes at Reentry

Regular communication between the incarcerated person and their family, community supports, and community-based organization (CBO) partners throughout the resentencing process is essential to ensuring a smooth transition at reentry.



Preparation of a reentry plan will help establish the foundation for resources and supports post-release. Many people leaving prison face social, emotional, and other major challenges, including establishing stable housing, finding gainful employment, and making connections to professionals in the mental health, behavioral health, substance use, and medical fields. The implementation of a strong reentry plan, developed by the incarcerated person in collaboration with their support network, is necessary to overcome these challenges.²

Including the incarcerated person directly during reentry planning will increase buy-in and follow-through as they work toward a plan that fits their specific needs. Reviewing prison files and medical records, and conducting conversations with staff and supports will help identify gaps that may emerge post-release. Availability and access to resources will vary greatly depending on the community. Therefore, developing partnerships with CBOs and designating reentry coordinators or social workers will promote continuity of care and a continuous dialogue between each level of support and the incarcerated person.

14 Reunite Families and Share Their Stories

Sharing stories of redemption and reunification is an opportunity to provide public education about incarcerated people and their families. By acknowledging the simple truth that people do change and that no one should be reduced to their worst moment, the public can learn about the possibility of redemption for system-impacted groups and see that releasing people who have served a significant time and have turned their lives around is consistent with public safety.

In speaking about PIR, it is important that the public understands three key components of PIR:

- Through PIR, prosecutors have the ability to look back at sentences that no longer serve the interest of justice. This allows families to be reunited and communities to be restored.
- PIR is a careful, meticulous process that promotes public safety.
- It is expensive for jurisdictions to house people serving unjust sentences. By releasing people who no longer need to be incarcerated, we can free up public safety resources for more effective crime-reducing activities.

When supporting a returning community member in telling their story, we recommend the following:

- Be sure to receive full consent before speaking to the media, and determine comfort level with specific kinds of media (video vs. audio vs. photo).
- Employ people-first language that does not reduce a person to their status. For instance, do not define people as a “burglar,” “felon,” or “ex-con.” You could instead say, for example, “a person who committed a burglary” or “a formerly incarcerated person.”
- Explain mitigating circumstances prior to the conviction, such as adverse childhood and young adulthood factors.
- Delineate the conviction transparently with all relevant details for the public.
- Lay out the person’s path to rehabilitation and future reentry plans.

²Parole supervision can also be a resource for transitional housing and services, especially in cases where the formerly incarcerated person has no prosocial support network.



PIR STEPS IN ACTION: THE RIVERSIDE DA'S OFFICE & ALWIN SMITH



After California's PIR law (AB 2942) passed in 2018, the Riverside District Attorney's Office (DAO), located in Southern California, began the process to begin PIR in their county. They first **designated a resentencing team** to begin reviewing cases for possible resentencing. The DAO then began building partnerships with For The People (FTP), the California Department of Corrections and Rehabilitation (CDCR), and the county Public Defender's Office.

FTP provided PIR **training** to the DAO's resentencing team, and CDCR provided **prison population data** to the team at the request of the DAO. The DAO then **analyzed** the prison data, with the assistance of FTP, and **established review criteria** for cases to be considered for resentencing. The office determined that they would initially review cases involving residential burglary or robbery, and where a person had served at least 10 years of their sentence. In addition, the DAO determined their **policies for sentence review**.

The DAO, in partnership with FTP, **began engagement** by sending letters to incarcerated people who fell within the DAO's criteria, advising them that they may be considered for resentencing. FTP then began the process of **collecting and reviewing prison records and other supporting documents**, including through correspondence with incarcerated people. FTP then presented preliminary findings to the resentencing team, and the DAO then **determined candidates to proceed**.

One of the cases identified to proceed was **Mr. Alwin Smith**. In 2000, at the age of 31, Alwin was struggling with drug ad-

diction, and desperate for money to sustain his habit, Alwin robbed a Motel 6 and was later convicted of second-degree robbery and possession of a controlled substance. For this offense, he was given a 40 years-to-life sentence.

In reviewing Alwin's case, it was clear that he had worked incredibly hard on his rehabilitation and reentry plan and had a support network dedicated to ensuring his success upon release. While incarcerated, Alwin began a spiritual education to rehabilitate himself and became dedicated to living a substance-free life. He was actively engaged in Celebrate Recovery Inside, a faith-centered 12-step program, becoming a facilitator and preparing lessons for his then-fellow incarcerated people. He obtained an associate of ministry degree in 2014 and continued taking faith-based courses. Through his faith and his dedication to tackling his addictions, Alwin transformed his life and developed an array of tools that would one day assist him upon his return home. He submitted extensive supporting documents, including a statement of accountability, a remorse letter, a journey letter, and a relapse prevention plan, all of which illustrated his remarkable transformation while incarcerated. After reviewing Alwin's case, the DAO **consulted the victim** in his case and then **prepared a motion for resentencing**, highlighting Alwin's rehabilitation.

On July 8, 2021, the Court held a **resentencing hearing**, and at the recommendation of the DA, Alwin was resentenced to time served at the age of 51. He served 20 years and had 20 years-to-life remaining on his sentence.

Now with skills in a variety of areas, a degree, a host of tools to help him navigate various triggers, and strong connections in the **reentry** community, Alwin is poised to take full advantage of his second chance at life. As of mid-2022, Alwin is interning at a church, where he helps provide showers and meals for people experiencing homelessness. He also started his own ministry and devotes time to supporting other people who were recently released from prison.

FTP is honored that we were able to play a role in reuniting Alwin with his family, and we are grateful that he was willing to **share his story**.



Appendix A: Model Legislative Language

FTP has developed model legislation for policymakers who are interested in adopting PIR. While the legislative text will vary depending on law and policy in a given jurisdiction, PIR legislation should include the following elements:

- I. Upon the recommendation of the chief prosecutor in which a defendant was sentenced, the Court may recall a sentence and commitment previously ordered and resentence the defendant if the original sentence no longer serves the interest of justice.
- II. The Court may resentence the defendant in the same manner as if the defendant had not previously been sentenced, provided the new sentence, if any, is no greater than the initial sentence.
- III. The Court may consider post-conviction factors, including, but not limited to: (a) the inmate's disciplinary record and record of rehabilitation while incarcerated, (b) evidence that reflects whether age, time served, or diminished physical condition have reduced the inmate's risk for future violence, and (c) evidence that reflects that circumstances have changed since the inmate's original sentencing so that the inmate's continued incarceration is no longer in the interest of justice. Credit shall be given for time served.
- IIII. Victims shall be afforded all rights as outlined in the [INSERT STATE NAME] Crime Victims Bill of Rights, [INSERT CODE SECTION]. The District Attorney shall make a good faith and reasonable effort to notify victims of the motion for resentencing, the date of the resentencing hearing, and the victims' right to be present and/or to submit an oral or written statement at the hearing.



Appendix B: Examples of Fact Sheets for PIR Legislation

CALIFORNIA

AB 2942 Prosecutorial Discretion



SUMMARY

California houses the largest prison population of inmates serving long-term sentences in the country. In some instances, California District Attorney's Office have found that a current sentence is no longer in the interest of justice and warrants redress. However, there are no legal vehicles that would allow a prosecuting agency to revisit prior sentences and recommend a reduced sentence.

This bill would provide discretion to prosecuting agencies to recommend a lesser, legal sentence where the prosecuting agency finds that a sentence reduction is in the interest of justice.

BACKGROUND

California houses nearly 130,000 inmates – the second largest population of prison inmates in the country – and has the greatest sheer number of inmates with long-term sentences for both men and women.¹

While public safety remains a key priority for all Californians, emerging research suggests that we should revisit past policies thought necessary to achieve the best public safety outcomes. A report published by the University of Chicago reveals that longer prison sentences have marginal effects on recidivism. Research from the Brennan Center for Justice found that prison sentences could be shortened by 25% across the board without causing a negative effect on public safety.

¹ *Still Life: America's Increasing Use of Life and Long-term Sentences*, The Sentencing Project, May 3, 2017

Some California District Attorneys have also found that certain prison sentences, upon further review, are no longer in the interest of justice and warrant a lesser, legal sentence. Under existing law, the Board of Parole Hearings may recommend a recall and resentencing, however, prosecutors do not have any discretion to provide redress in such cases.

Additionally, many California District Attorneys have launched Conviction Review Units to investigate and address claims of wrongful conviction. Prosecutorial discretion to recommend resentencing would assist District Attorney offices in streamlining the conviction review and resentencing process.

THIS BILL

AB 2942 would provide prosecutors the discretion to make recommendations for recall and resentencing, where the interest of justice so warrant. The recommendation would be made to the sentencing court, which would make the final determination whether a lesser, legal sentence is appropriate.

SPONSOR

Santa Clara County District Attorney Jeff Rosen

STAFF CONTACT

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ILLINOIS



DISCRETIONARY RESENTENCING

HB 3587 / SB 2129 | Rep. Slaughter / Sen. Peters

PROPOSERS: Cook County State's Attorney's Office | John Howard Association of Illinois | Restore Justice Illinois

What does **HB 3587 / SB 2129** do?

- Allows prosecutors, at their discretion, to motion to **resentence defendants in the interest of justice** and gives the court discretion to re-sentence to a lesser term of imprisonment.
- **Preserves the rights** established by the Rights of Crime Victims and Witnesses Act.
- Allows the court to **consider post-conviction factors** including prison disciplinary records, evidence of rehabilitation, and reduction of a risk to society due to age or physical condition, among others.

Why is **HB 3587 / SB 2129** important?

- After a person is sentenced, Illinois provides few meaningful mechanisms to review the length of a sentence based on how a person responds to incarceration. Parole is virtually non-existent in the state aside from the handful of prisoners still serving indeterminate sentences and those who will one day be afforded mid-sentence review.
- Incarcerating people for long periods of time and after they cease to pose threats to public safety takes away tax dollars that could be used for healthcare, housing, education, and infrastructure. In 2015, Illinois' prison population was 47,622 and the state spent \$1,595,647,075 in prison expenditures, or \$33,507 per inmate. By comparison, in 2016, Illinois spent \$29,223,830 on public education, or \$14,180 per student.
- Front-end reforms help ensure more equitable policies moving forward, but back-end reforms help address the fact that many Black and brown people are still incarcerated today under failed policies of the past.

FOR MORE INFORMATION

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MARYLAND

FACT SHEET PROSECUTOR-INITIATED RESENTENCING

As protectors of public safety and ministers of justice, the role of a State’s Attorney should not end at sentencing. Prosecutor-Initiated Resentencing (PIR) gives State’s Attorneys in Maryland an additional tool to ensure continued justice and fairness in sentencing.

HOUSE BILL 0958



How the Law Works

- ◆ The proposed legislation would grant State’s Attorneys a clear legal mechanism through which to motion the court for a modification of a defendant’s sentence—after a thorough and methodical review of the case and sentence—to ensure continued fairness and justice in sentencing.
- ◆ This law ensures a system of checks and balances by vesting the judges with ultimate decision-making authority in these cases.
- ◆ Victims would be notified of resentencing proceedings and afforded all rights as outlined in Md. Code, Criminal Procedure §11–104 and §411–503.
- ◆ This law would be purely discretionary, and State’s Attorneys would not be mandated to review cases in their jurisdiction.
- ◆ The proposed legislation was carefully drafted to consider resources of the courts and counsel by leveraging an existing process. This law would allow State’s Attorneys to exercise the same discretion on the back end as they do on the front end: make a sentencing recommendation to the Court.

Why Prosecutor-Initiated Resentencing?

- ◆ **People change + can be rehabilitated.** In 2021, the Maryland passed the Juvenile Restoration Act, which allows persons convicted of crimes as juveniles to request the court to reconsider their sentences after serving at least 20 years in prison. This law reflects scientific data on juvenile brain development and multiple Supreme Court decisions, and also recognizes that people can change and be rehabilitated. Now, prosecutors can review whether an incarcerated person has made significant rehabilitative progress and would no longer pose a risk to public safety—and for whom further incarceration is no longer in the interest of justice.
- ◆ **Changes in sentencing policies + sentencing parity.** In some cases, based on changes in the law and/or prosecution practices, a different sentence would have occurred if the case were tried today. Through PIR, prosecutors can continue to uphold and enforce legal practices by recommending different sentences appropriate to today’s context. Additionally, prosecutors can now address and ensure sentencing parity among co-defendants with different levels of culpability but who received very disparate sentences, as well as parity between sentences imposed decades ago compared to sentences requested today.
- ◆ **Remediating racial disparities + mass incarceration.** Maryland has earned the embarrassing distinction of incarcerating more Black men than any other state—more than double the national average. Over 70% of the nearly 18,000 people in Maryland’s prisons are Black, compared to about 30% of the general population. As the majority of people serving the longest prison terms in Maryland are Black, PIR would allow prosecutors to be proactive in remediating the ills of racial disparity and mass incarceration in our state.
- ◆ **Redistribution of critical public safety resources.** Housing a healthy inmate in Maryland costs \$44,001 per year. Maryland has a significant aging lifer population, despite research showing that elderly people have relatively low risk of recidivism, along with the highest healthcare costs and health risks. This law can help facilitate the safe release of people who are older in age and/or with a serious medical condition. PIR could create significant cost savings and divert taxpayer dollars away from housing people in prison who are not a threat to public safety to other more critical public safety initiatives.
- ◆ **Incentivizing positive prison behavior.** PIR laws incentivize positive in-prison behavior by deterring people from incurring rule violations and motivating people to enroll in and complete education courses, job training, substance abuse classes, and other rehabilitative programming.
- ◆ **Smarter on crime.** States across the country are finding smart and innovative ways to address mass incarceration, such as PIR. In recent years, California, Washington, Oregon, and Illinois all passed PIR laws. A number of other states have also proposed PIR laws (*those starred are currently pending): Florida, Texas, Minnesota,* Massachusetts,* New York,* and Georgia.*



Appendix C: Sample Data Request

For all currently incarcerated people in the state prison system:

Priority Tier 1 (Highest Priority)

- Identification Number Assigned by Corrections Department/Prison System
- Date of Birth and/or Current Age
- Sex and/or Gender
- Race
- Ethnicity
- Sentencing County
- Offense Group (General – e.g. Drug)
- Offense Type/Category (Specific – e.g. Possession)
- Statute Code for Offense
- Offense Date and/or Age at Offense Date
- Custody Date, Sentencing Date, and/or Admission Date
- Sentence Type (e.g., Determinate, Life without Parole)
- Sentence Length (specify whether length is in months or years)
- Time Served on Sentence (including pre-sentence credit)
- Time Remaining on Sentence
- Projected Release Date or, if applicable, Earliest Parole Hearing Date
- City/County of Residence
- Facility & Custody Level
- Commitment/Admission Type (e.g. Parole Violator, New Admit, 2nd Striker)
- Number of Total/Serious Disciplinary Violations While Incarcerated (and if available, within the last 3 years)
- Risk Level

Priority Tier 2

- Programs Participated in While Incarcerated (with beginning & end date)
- Risk Level History from Prior Annual Evaluations
- Enhancements on Sentence
- Sex Offender Registrant Status
- Prior Offenses (total number, offense types)
- Available Data on Parole/Probation (e.g. Probation Terms if applicable, Expected Date of Next Parole Hearing)
- ICE Detainer Flag



Appendix D: Sample Office Policy



[JURISDICTION NAME]
RESENTENCING UNIT POLICY
(INTERNAL)

(Content below that is highlighted in grey and is in brackets should be replaced with information relevant to your jurisdiction.)

Eligibility criteria for [JURISDICTION NAME] Resentencing Unit will evolve over time. Our office will begin by prioritizing the review of the following types of cases and will assess the criteria [QUARTERLY/ANNUALLY/BI-ANNUALLY] to determine whether they should be expanded to include additional types of cases.

Current Eligibility Criteria (Priority Tier/Phase 1)

- **X** [Example: Served at least 10 years of sentence for a drug-related offense]
- **Y** [Example: Currently age 65 or older and have served at least 20 years for a non-sex/non-homicide offense]
- **Z** [Example: Under 21 at the time of their offense and have served at least 15 years for a non-sex/homicide offense]
- **XX** [Example: Served at least 10 years for a theft/robbery/burglary offense]

Coordination with External Partners

We shall utilize a “participatory defense” model in our resentencing work, which empowers incarcerated people, their families, and their communities to directly engage their case—improving outcomes, demonstrating community support, and smoothing an incarcerated person’s transition back into society.

Using the participatory defense model, we will conduct our resentencing work in coordination with the following external partners: the public defender’s office, and/or court-appointed attorneys, the [DEPT OF CORRECTIONS], [IF APPLICABLE, INSERT NAME OF LAW CLINIC(S) AND/OR LAW FIRM(S) WITH DEFENSE ATTORNEY(S) OFFERING PRO BONO SERVICES], and [INSERT NAMES OF COMMUNITY-BASED ORGANIZATIONS THAT CONDUCT PARTICIPATORY DEFENSE WORK].

Procedures for Reviewing and Resentencing Cases

- Identify cases falling under current eligibility criteria categories through data analysis of [DEPT OF CORRECTIONS] prison population dataset.
- Review prison files of all cases falling within eligibility criteria to identify any circumstances that should be flagged (e.g., certain prior offenses, sex offender registrant).
- Review appeals documents and other relevant materials to further understand patterns in each case.
- Narrow down the initial group of cases using additional context provided by the prison file, appeals documents, and other relevant materials.
- Request from [DEPT OF CORRECTIONS] the [PRISON FILES] and disciplinary records of the remaining cases, and send letters to the incarcerated people to request additional documents, including certificates and documentation pertaining to programming and medical records.
- Coordinate with the community-based organizations around contacting families, loved ones, and/or other members of each person’s support network to gather additional supporting documents and to discuss reentry plans.



- Place a personal phone call from a prosecutor and or a victim advocate to victims, depending on the seriousness of the offense, and consider any comments they provide.
- Send status updates to the incarcerated people whose cases will not move forward in this round of review.
- Review the [PRISON FILES], disciplinary records, and additional documents from the incarcerated people to create a full work-up of each case.
- Coordinate with legal aid organizations to identify representation for the incarcerated people who do not have their own attorneys.
- Prepare a final presentation to the [PROSECUTOR] of each case.
- The [PROSECUTOR] will make the ultimate decision on which cases to bring to court.
- Send status updates to the incarcerated people whose cases will not move forward in the final round of review.
- Draft the motions for sentence reduction.
- Attend the resentencing hearings, and ensure reentry plans for and coordinate the prison release of those who are granted sentence reductions by the court.

Processing External Resentencing Requests

If a request comes from [DEPT OF CORRECTIONS] to consider an incarcerated person for resentencing, we will review the details of their case if they fall within the current eligibility criteria established by our office.

If a request comes directly from an incarcerated person or their loved one, we will save their correspondence and review the contents as time and office resources permit. While we are not required by law to respond to these requests or to review such cases, our office will aim to send back correspondence that acknowledges receipt and outlines our office Resentencing Policy within [XX DAYS/WEEKS].

The Resentencing Unit/Team

There will be a specific team of staff on the Resentencing Team who are designated to use [% OF TIME] of their work capacity to carry out duties that relate to the implementation of the Resentencing Unit. The number of cases that a staff member reviews and resentences will be positively considered during the employee's annual evaluation.

The Resentencing Unit's core team will convene [QUARTERLY/ANNUALLY/BI-ANNUALLY] to assess the number of cases being reviewed, the number of cases being resentenced, current eligibility criteria, and proposed revisions to resentencing policies. Additionally, the core team will meet [MONTHLY/QUARTERLY/BI-ANNUALLY] with designated community leaders and crime victims at a local community center and will participate in an [ANNUAL] visit to a nearby prison facility to gather input from corrections staff and incarcerated people. Feedback gathered at these community meetings and prison visits will inform our office's considerations during regular reviews and revisions of our resentencing policies.

RESENTENCING UNIT POLICY: ADDITIONAL CONSIDERATIONS

In addition, consider adding processes that detail:

- How the office will collect, store, and use data such as the number of cases reviewed and resentenced, and how it will track its timeline for resentencing cases.
- The general composition of the Resentencing Unit, and how team members will be selected.
- An estimated number of cases that the office will aim to complete each [QUARTER/YEAR].
- A more comprehensive policy specifically around whether/how external resentencing requests are reviewed and considered.
- A process that involves a regular review of the progress being made by the Resentencing Unit (e.g., number of cases completed, number of cases remaining to reach goal, changes that can be made to streamline processes, setting new goals and expanding criteria, reviewing and updating policies).



[JURISDICTION NAME] RESENTENCING UNIT POLICY (EXTERNAL)

[JURISDICTION NAME] believes it is the prosecutor's responsibility to ensure that the values of justice and public safety are upheld, and that this responsibility does not end with a conviction. As a minister of justice, the prosecutor has a duty to take remedial action in cases in which neither justice nor public safety is being served. To carry out this duty, the [PROSECUTOR NAME] in [JURISDICTION NAME] has begun to review and consider the resentencing of sentences that are no longer in the interest of justice because they were too harsh or imposed under outdated laws, or because the incarcerated person has rehabilitated.

Eligibility Criteria

While the types of cases our office prioritizes for consideration of resentencing will evolve over time, we are currently examining cases that fall under the following criteria:

- X [Example: Served at least 10 years of sentence for a drug-related offense]
- Y [Example: Currently age 65 or older and have served at least 20 years for a non-sex/non-homicide offense]
- Z [Example: Under 21 at the time of their offense and have served at least 15 years for a non-sex/homicide offense]
- XX [Example: Served at least 10 years for a theft/robbery/burglary offense]
- YYY [Example: Prison record, including disciplinary record and participation in programming, demonstrate rehabilitation]



Identifying Cases for Resentencing

Our office—in partnership with the public defender’s office, the [DEPT OF CORRECTIONS], [INSERT ANY OTHER RELEVANT STAKEHOLDERS (E.G., LAW CLINICS, PRO BONO DEFENSE ATTORNEYS)], and community-based organizations—will identify and consider cases that meet the above criteria through a regular and systematic review of a full prison population dataset provided by [DEPT OF CORRECTIONS].

For external resentencing requests, we [WILL/WILL NOT] implement an application process at this time. While incarcerated people and their loved ones may contact our office with requests, comments, or questions, we cannot guarantee that we will review and/or respond to outside inquiries. If a person’s case is identified for review, our office will send a letter to them with further information and next steps.

Frequently Asked Questions (FAQs)

Q: Can my case be considered for resentencing even if it does not meet the criteria listed above?

A: If your case does not fall within the criteria outlined above, it is possible that it may become eligible for consideration of resentencing at a later time. Our office will work with our community partners to regularly reassess and update criteria used to prioritize cases for resentencing. To prepare for the future event of your case becoming eligible for consideration of resentencing, you can do the following:

- Save certificates and documentation that indicate your participation in any type of programming while incarcerated (e.g., educational courses, mental health and/or substance abuse treatment groups, religious activities or groups).
- Avoid disciplinary violations in prison.
- Regularly update your resume.
- Begin reflecting on your past actions by writing a letter of remorse and accountability (do not send this letter to the victim, but keep a copy for your own files).
- Identify and cultivate relationships with people in your family and/or community who could provide positive support and stability to you after incarceration.

Q: Do I need a lawyer for my case to be reviewed and resentenced?

A: No, you do not need a lawyer for your case to be considered for resentencing. Therefore, it is not advised to pay any attorneys offering to “file a petition for you.” Be careful of any organization or legal entity charging a legal fee and claiming to be able to expedite or file a petition on your behalf.



Appendix E: Case Summary Template

Name: FIRST LAST (Corrections Identification #)		
Current Age: (DOB)	Race:	Current CS: (as of xxxx) Orig. CS:
Sentence: Sentence Date: Sentencing Judge: Plea/Trial:	Offense Date:	CSRA = (since xxxx)
Time Served: (xxxx – present)	Age @ Time:	Charged as: (PC);
Facility: Admission Date:	Earliest Poss. Release Date: Youth Eligible Parole Date: Min. Eligible Parole Date: Elderly Parole Date:	Current TABE: Original TABE:

Current Offense	
<ul style="list-style-type: none"> • Facts: (File & Page) • _____'s Statement: (File & Page) <p>Count 1: [date] - Title (Code section) (File & Page)</p> <p>Count 2:</p>	<p>Enhancements: (File & Page)</p> <p>Conviction & Sentence: (File & Page)</p> <ul style="list-style-type: none"> • _____ years; [trial/plea] <p>Restitution: (File & Page)</p> <ul style="list-style-type: none"> • \$_____ [paid/unpaid]



Pre-Conviction

Prior #1:

[date] - Title (Code section) (File & Page)

- Facts:
- Sentence:

Prior #2:

[date] - Title Code section) (File & Page)

- Facts:
- Sentence:

Juvenile Record:

[date] - Title Code section) (File & Page)

- [date] - Title (Code section)
- Facts:

Background:

- Substance Abuse history (File & Page):
- Military Service (File & Page):
- Family (File & Page):
 - Spouse
 - Children
 - Siblings
- Education and Pre-Incarceration Training (File & Page):
- Pre-Incarceration Employment History (File & Page):
- Other:
 - Risk/Needs Assessment (File & Page):
 - Health (File & Page):

Post-Conviction

Rehabilitative Programming:

- Current Assignment (File & Page) [by year]:

Substance Abuse:

- Current (File & Page) [by year]:

Work:

- Current Assignment (File & Page) [by year]:

Vocational Training:

- (File & Page)

Educational Achievements

Rules Violation Report

- x/x/xx: (File & Page)
 - Facts:
 - _____'s Statement:
 - Pled Guilty/Not Guilty
- NOTE: [include a sentence re: nature of any relevant RVRs from prior terms]

Medical:

- (File & Page)

Classification Trajectory [by year]:



Reentry

Housing:

- Address pre-conviction issues:

Family:

- Address pre-conviction issues:
 - Facts:
 - _____'s Statement:
 - Pled Guilty/Not Guilty
- NOTE: [include a sentence re: nature of any relevant RVRs from prior terms]

Reentry Plan – General:

- Housing
- Transportation
- Employment plans
- Medical
- Substance Abuse
- Support

Relapse Prevention:

Reentry Plan Docs:

Summary of Key Facts

- **Commitment Offense** (File & Page):
 - Facts:
 - Enhancements:
 - Sentence:
- **Priors**
- **RVRs** (File & Page):
- **Substance abuse** (File & Page):
- **Prison programming** (File & Page):
- **Reentry** (File & Page):



Appendix F: Checklist for Advancing PIR

ENACTING PROSECUTOR-INITIATED RESENTENCING

- Submit requests for prison population data to the corrections department or other appropriate entity in your jurisdiction to ensure a timely retrieval of data.
- Identify where to add PIR language in the statutory code and draft legislative text.
 - If applicable to your strategy, identify groups and individuals to review the legislative draft and provide feedback (e.g., other legislators, criminal justice reform organizations, prosecutors/prosecutors' associations, victims' advocacy groups).
- Find legislator(s) to author the bill in at least one legislative chamber.
- Create a map of key legislators and stakeholders.
- Create a timeline for the legislative process.
- Analyze prison population data to quantify opportunities around the number of incarcerated people who could be released early and potential state costs avoided.
- Draft one-page fact sheet with information on the bill.
- Build support for legislation:
 - Meet individually with legislators, prosecutors, and other key stakeholders.
 - Identify community groups with whom to partner and determine whether to build a formal coalition to support the bill.

IMPLEMENTING PROSECUTOR-INITIATED RESENTENCING

- Designate a team of attorneys and legal professionals to implement a Resentencing Unit in your jurisdiction.
- Establish partnerships with the corrections department, public defender's office, and community-based organizations in your jurisdiction, prioritizing those who use the participatory defense model.
- Undergo PIR training from FTP.
- Analyze prison population data and establish initial eligibility criteria.
- Use eligibility criteria to identify candidates for resentencing.
- Create formal internal and external office policies around PIR.
- Select specific cases to review and engage candidates.
- Complete the case review process, consult with victims, prepare motions, and petition the court for resentencing.
- Coordinate the successful reentry of any newly released people by ensuring they receive needed support.
- Reunite families and tell their stories.
- Continue the case review process and regularly adjust eligibility criteria as needed.