

# The Jerome N. Frank Legal Services Organization

YALE LAW SCHOOL

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ATTN: Justice Andrew J. McDonald

Criminal Justice Commission  
300 Corporate Place  
Rocky Hill, CT 06067

November 20, 2019

## ***Re: Recommended Criteria for Selection of new Chief State's Attorney***

Dear Justice McDonald and the Criminal Justice Commission,

We are students in Yale Law School's Challenging Mass Incarceration Clinic, which focuses on securing fair sentences for convicted people in Connecticut. The success of our work depends on engaging effectively with other stakeholders in the justice system. Prosecutors are among the most important legal professionals with whom we negotiate in the course of our advocacy.

We write to recommend criteria for you to consider as you select the next Chief State's Attorney. Specifically, we urge the Commission to seek candidates ***who are committed to policies of reconsidering the lengthy sentences of incarcerated people who have demonstrated strong records of rehabilitation.***

Connecticut is already a leader in efforts to limit incarceration.<sup>1</sup> However, the current policies are seeing diminishing returns. The State of Connecticut's Criminal Justice Policy and Planning Division reports that although the prison population continues to decline, that rate has slowed in recent years.<sup>2</sup> To stay true to the goals of justice and community safety, Connecticut should consider ways to both limit the number of people entering prisons and to ***expand opportunities for reconsidering the lengthy sentences of those who are already incarcerated.*** The new Chief State's Attorney will be a crucial player in this effort. This selection process represents a critical opportunity to ensure that Connecticut remains on the forefront of sensible criminal justice reform.

Below, we summarize some of the compelling reasons to reconsider lengthy prison sentences and highlight the important role prosecutors can play. These proposals are sourced from guidelines published by the American Bar Association (ABA) and by Fair and Just Prosecution (FJP), a network of local prosecutors "committed to promoting a justice system grounded in fairness, equity, compassion, and fiscal responsibility."<sup>3</sup>

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<sup>1</sup> See Dennis Schrantz, Stephen DeBor & Marc Mauer, *Decarceration Strategies*, SENTENCING PROJECT 8-16 (Sept. 5, 2018), <https://www.sentencingproject.org/publications/decarceration-strategies-5-states-achieved-substantial-prison-population-reductions/#IL.%20Connecticut>.

<sup>2</sup> *Prison Population Projection*, CONN. OFFICE OF PLANNING & MGMT. CRIMINAL JUSTICE POLICY & PLANNING DIV. (Feb. 2019) <https://portal.ct.gov/-/media/OPM/CJPPD/CjResearch/PopulationForecast/PRISON-POP-PROJECTION-February-2019-draft.pdf?la=en>.

<sup>3</sup> *Our Work and Vision*, FAIR AND JUST PROSECUTION, <https://fairandjustprosecution.org/about-fjp/our-work-and-vision/>.

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We hope that the following considerations may serve as a helpful guide in selecting a Chief State's Attorney committed to pursuing a fair, equitable, and fiscally responsible justice system in Connecticut.

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There are many reasons to prioritize reconsideration of long sentences. Here we highlight several of the most important reasons that FJP has provided to its network of prosecuting attorneys nationwide<sup>4</sup>:

- Administering long prison sentences undermines public safety by draining the state of resources that could otherwise fund more effective crime prevention strategies.<sup>5</sup>
- Long sentences have no meaningful effect on crime deterrence.<sup>6</sup>
- Many individuals in prison are at very low risk of reoffending due to maturation, age, and general rehabilitation.<sup>7</sup>
- Long sentences negatively impact incarcerated people's loved ones and communities.<sup>8</sup>
- The harmful consequences of lengthy incarceration disproportionately impact communities of color.<sup>9</sup>

Candidates for the Chief State's Attorney might encourage individual prosecutors' offices in Connecticut to reconsider long sentences in the following ways<sup>10</sup>:

- Improve and expand review processes within prosecutors' offices to ensure efficient, routine consideration of whether individuals serving lengthy sentences are ready for release. State's attorneys can put this into practice by establishing *sentencing review units* dedicated specifically to the task of reconsidering lengthy sentences.
- Advocate for *sentencing modification* for incarcerated people whose continued confinement is no longer warranted. Access to this review procedure—which can be one of few promising options for incarcerated people in Connecticut—depends on prosecutor support.<sup>11</sup> Without it, those seeking modification cannot even get into court.
- Support the expansion of mechanisms that provide opportunities for incarcerated individuals committed to rehabilitation to achieve shorter sentences. This includes *parole* (currently

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<sup>4</sup> See Fair and Just Prosecution, *Revisiting Past Extreme Sentences: Sentencing Review and Second Chances* 3-10 (Yale University Working Paper, 2019) (on file with the Challenging Mass Incarceration Clinic).

<sup>5</sup> Chris Mai & Ram Subramanian, *The Price of Prisons: Examining State Spending Trends, 2010-2015*, VERA INST. OF JUSTICE 7 (May 2017), [https://storage.googleapis.com/vera-web-assets/downloads/Publications/price-of-prisons-2015-state-spending-trends/legacy\\_downloads/the-price-of-prisons-2015-state-spending-trends.pdf](https://storage.googleapis.com/vera-web-assets/downloads/Publications/price-of-prisons-2015-state-spending-trends/legacy_downloads/the-price-of-prisons-2015-state-spending-trends.pdf).

<sup>6</sup> David Roodman, *The Impacts of Incarceration on Crime*, OPEN PHILANTHROPY PROJECT 48 (Sept. 2017), [https://www.openphilanthropy.org/files/Focus\\_Areas/Criminal\\_Justice\\_Reform/The\\_impacts\\_of\\_incarceration\\_on\\_crime\\_10.pdf](https://www.openphilanthropy.org/files/Focus_Areas/Criminal_Justice_Reform/The_impacts_of_incarceration_on_crime_10.pdf).

<sup>7</sup> Howard N. Snyder, *Arrest in the United States, 1990-2010*, U.S. DEP'T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, BUREAU OF JUSTICE STATISTICS (Oct. 2012), <https://www.bjs.gov/content/pub/pdf/aus9010.pdf>.

<sup>8</sup> *Second Look Act*, WE GOT US NOW (2017), <https://www.wegotusnow.org/secondlook>.

<sup>9</sup> Leigh Courtney et al., *A Matter of Time: The Causes and Consequences of Rising Time Served in America's Prisons*, URBAN INST. 2 (July 2017), [https://apps.urban.org/features/long-prison-terms/a\\_matter\\_of\\_time.pdf](https://apps.urban.org/features/long-prison-terms/a_matter_of_time.pdf).

<sup>10</sup> See Fair and Just Prosecution, *Revisiting Past Extreme Sentences: Sentencing Review and Second Chances* 3-10 (Yale University Working Paper, 2019) (on file with the Challenging Mass Incarceration Clinic).

<sup>11</sup> CONN. GEN. STAT. ANN. § 53a-39 (establishing procedures for the modification of a defendant's sentence by a sentencing court or judge).

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categorically unavailable for many convicted individuals in Connecticut, regardless of evidence of rehabilitation<sup>12</sup>), *commutation and clemency*, and *good time credit*. Our clinic currently represents two men who work as mentors in Cheshire Correctional Institution’s T.R.U.E. Unit. Our clients and the other mentors spend hours each day administering a sweeping mentorship and rehabilitation program that they built from the ground up. The state should acknowledge this type of dedicated, positive work by providing meaningful sentencing review and accessible avenues for early release in appropriate cases.

- Engage with and educate key decisionmakers in the executive and judicial branches about how shorter sentences promote public safety, fiscal responsibility, and justice.

Prosecutors across the country—even in states historically “tough on crime”—are pursuing bold initiatives that emphasize proportional punishment, public safety, and fiscal responsibility.<sup>13</sup> And Connecticut has already distinguished itself with innovative, data-informed criminal justice reforms that have decreased the state’s incarcerated population and improved public safety.<sup>14</sup> Prosecutors are uniquely situated to ensure that Connecticut remains on the forefront of this movement. Specifically, selecting a Chief State’s Attorney committed to reconsidering lengthy prison sentences will allow Connecticut to build on its past reform efforts and continue to eliminate the costs and harms of excessive incarceration.

Thank you for considering our recommendations.

Sincerely,

/s/ Allen J. Hernandez

/s/ Adina Hemley-Bronstein

Allen Hernandez, Law Student Intern  
Rhea Christmas, Law Student Intern  
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MacKenzie Pantoja, Law Student Intern

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<sup>12</sup> CONN. GEN. STAT. ANN. § 54-125a(b) (making individuals convicted of a certain crimes, including felony murder and aggravated first degree sexual assault, categorically ineligible for parole).

<sup>13</sup> Miriam S. Gohara, *Keep on Keeping On: Maintaining Momentum for Criminal Justice Reform During the Trump Era*, 14 STAN. J. C.R. & C.L. 511, 6-8 (2018)

<sup>14</sup> See, e.g., Schrantz, et al., *supra* note 1, at 8-16.