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TRANSITION BRIEFING & RECOMMENDATIONS

**Divest from Policing and Mass Incarceration,
Invest in Communities and Families of Color**

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Introduction

Due to systemic racism that ranges from slavery and land theft to Jim Crow and mass incarceration, our nation has underinvested in and marginalized Black, Indigenous, and other communities of color. These historically oppressed communities face two complementary forms of state-enacted violence. First, they are facing economic violence due to historical and ongoing disinvestment in their communities, which impacts their economic security, educational opportunities, and overall health and wellbeing. Second, they are facing direct state-sanctioned violence from law enforcement and mass incarceration. **Therefore, the Biden-Harris Administration must undertake *criminal justice reform* with an obligation to divest from systems of oppression and invest in the healing of historically oppressed communities.**

In addition, the COVID-19 pandemic has disproportionately devastated those impacted by the criminal justice system. The virus has [infected and killed](#) an unacceptable number of incarcerated individuals who lack recommended protections, while those returning to their communities are [unable to access resources](#). **The Administration must immediately work to decarcerate federal, state, and local facilities and ensure people returning to their communities have access to crucial supports to aid successful reentry during the pandemic.** The federal government must also provide crucial investments to ensure youth and adults impacted by the criminal justice system are able to get jobs with family-sustaining wages and benefits—both during and after the COVID-19 pandemic—due to the economic crisis engendered by the pandemic.

The new Administration must also act immediately to rectify centuries of racial injustices that have been [exacerbated by the Trump Administration](#). The national reckoning over the murder of George Floyd at the hands of Minneapolis police officers, as well as the deaths of Breonna Taylor, Ahmad Aubrey, and many others, has led many to call for reimagining how we end systemic racism in our country and justice system. Our existing systems are rooted in ideals of white supremacy and are causing harm to communities of color. As a nation, we have underinvested in the health and wellbeing of communities of color— particularly in Black communities—while we've overinvested in systems that enact violence on these communities. **To protect Black lives and heal Black communities, we must divest from the law enforcement and mass incarceration and invest in BIPOC (Black, Indigenous, and people of color) communities.**

The Trump Administration and congressional leaders have failed to respond adequately to the COVID-19 pandemic, and policymakers have repeatedly failed to realize racial justice. However, the failure provides an opportunity for the incoming Biden-Harris Administration to center historically oppressed communities in its response and begin taking critical steps to heal from centuries of injustice.

Key Actions:

We recommend these initial action steps to respond to the immediate COVID-19 pandemic and calls for racial justice.

- Center historically oppressed communities, including those impacted by the criminal justice system, BIPOC youth and young adults, and communities of color in an immediate COVID-19 response package.
- Issue executive actions to reverse harmful policies from the Trump Administration and incentivize economic justice.
- Work with Congress to ensure continued long-term investments and immediately pass legislation to advance racial justice that divests from mass incarceration and policing and invests in communities and families of color including by championing the BREATHE Act.
- Ensure continued momentum for transformational change by creating a Commission for Equity and Justice and working with Congress, states, and localities to reimagine justice.

Center historically oppressed communities, including those impacted by the criminal justice system, BIPOC youth and young adults, and communities of color in an immediate COVID-19 response package.

Protect the health and safety of those impacted by the criminal justice system

The Administration must act immediately to protect the health and safety of youth and adults impacted by the criminal justice system and work with Congress to center the needs of this community in the first COVID-19 response by:

- Providing funding to ensure that COVID-19 testing, prevention, care, and treatment services are available at no cost to those who are incarcerated or detained.
- Decarcerating people in jails, prisons, and detention centers and reducing admissions. Provide funding to states and localities to immediately release and provide support to those who are most vulnerable to coronavirus and further reduce incarcerated populations by—among other things—releasing those in pre-trial detention, youth who are incarcerated, and those being held for unpaid money bail or immigration bonds, immigration detainer holds, and technical violations of community supervision.
 - Additionally, legislation must incentivize states to use their power to severely limit ongoing incarceration, especially as officials issue mandatory stay-at-home orders that threaten incarceration for violation.
- Providing funding for crucial supports to support reentry during the pandemic including COVID-19 federal cash assistance, access to housing, employment, and nutrition assistance, and automatic enrollment into Medicaid prior to release.¹

¹ See Justice Roundtable recommendations for legislative options to protect the health and safety of incarcerated youth and adults during the COVID-19 pandemic. https://justiceroundtable.org/wp-content/uploads/2020/05/JR_Summary-of-COVID19-Recs_FINAL_May-29-2020.pdf.

Ensure historically oppressed communities have access to supports during the recovery and beyond

Policymakers must prioritize immediate COVID-19 relief for historically oppressed communities and extend it throughout the recovery and beyond. The COVID-19 legislation must also emphasize access to quality employment, guaranteed jobs and income, and job quality for key populations: BIPOC youth and young adults, individuals impacted by the criminal justice system, and immigrants of color. Finally, Congress and the Administration must also prioritize further investments in [mental health, child care and early education](#), and in [strengthening the safety net](#).²

- **Develop and fund a national transitional jobs program in a COVID-19 response**
 - To support the near-term economic recovery and provide much-needed long-term investment into historically oppressed communities, the federal government must develop and implement a permanent national [transitional jobs](#) program, targeting these key populations and providing them with access to family-sustaining wages and quality career pathways.
- **Expand and fund guaranteed income as part of COVID-19 relief efforts**
 - A guaranteed income is a monthly, unconditional cash payment given directly to individuals and is meant to supplement, not replace, the existing social safety net. Congress should establish a discretionary grant program to fund new and expand current guaranteed income pilots, such as those currently being conducted by the [Mayors for a Guaranteed Income](#) as part of a COVID-19 relief effort.
 - The Administration should continue to work with Congress and state and local policymakers to codify a guaranteed income program that prioritizes historically oppressed communities, including BIPOC youth and young adults, individuals impacted by the criminal justice system, and immigrants of color, that supplements the existing social safety net.
- **Expand existing investment into workforce and education opportunities that target those impacted by the criminal justice system including through the Workforce Innovation and Opportunity Act (WIOA) and the Perkins Career and Technical Education Act.** Ensure existing workforce development programs have adequate funding to respond to the economic crisis. Incentivize “ban the box” policies, lift state occupational licensing bans for individuals with a criminal record, and equitably expunge records after individuals have fulfilled their requirements by the justice system.
- **Invest in alternatives to law enforcement and mental health.**
 - **Expand and scale up mobile crisis resources** in conjunction with the implementation of the new 988 law. The law establishes a new nationwide three-digit phone number (988), which supplements the National Suicide Prevention Hotline, and should be provided resources to connect to mobile crisis units across the country.
 - **Create a grant program to expand school-based health care** by prioritizing investments in historically oppressed communities. Districts that receive funding must commit to hiring from within the community and prioritizing culturally responsive, healing-centered, and trauma-informed care—through hiring peer support specialists

² See CLASP’s full recommendations for addressing the child care crisis and investing in equitable child care and early learning for all; confronting the current mental health and wellbeing crisis for economically marginalized people and communities of color; and fighting poverty, hunger, and health care needs by removing barriers to program access at <https://www.clasp.org/2021-presidential-transition-resources>.

- and other non-traditional providers and providing access to non-traditional health care and indigenous/culturally derived healing practices.
- **Invest in culturally responsive community-based care and develop an initiative focused on [reframing mental health](#) for economically marginalized communities.** Work to integrate mental and behavioral health across sectors such as workforce development, child care, education, and other community-based service providers.

Issue executive actions to reverse the harmful policies from the Trump Administration and incentivize economic justice.

The Biden-Harris Administration must reverse the Trump Administration's return to [frameworks and policies](#) proven to criminalize and dehumanize communities of color. To do so, we recommend that the Administration:

- Empower the Department of Justice (DOJ) to **reinstate consent decrees** with local police departments, **withhold federal funding** if local police departments do not enact recommended reforms, **and actively pursue new investigations** into local law enforcement.
- Move to **decriminalize marijuana federally** and reinstate the Obama administration's "Cole memo."
- Direct DOJ to **end mandatory minimum sentencing and detention** for good;
- **[Strengthen juvenile justice and delinquency prevention guidance with](#)** a goal of **[abolishing juvenile detention](#)**.
- **Reinstate Obama Administration guidance on school discipline to reduce racial disparities and ban suspensions and expulsions in pre-k and child care programs.** The Department of Education should strengthen guidance incentivizing states to decriminalize truancy.
- **Terminate all contracts with private prison companies** for both federal prisons and immigrant detention facilities. End all contracts that the Bureau of Prisons (BOP), Immigration and Customs Enforcement (ICE), and U.S. Marshals Service have with private detention facilities. Extend these bans to states and localities by conditioning their receipt of federal public safety funding on their use of public facilities. Terminate contracts with state and local jail or jail-like facilities. Prohibit new contracts and the opening of new prison facilities of any kind, for both federal prisons and immigrant detention centers.
- **Permanently end the 1033 program** through executive order.
- Encourage the Departments of Labor, Health and Human Services, Education, and Justice, as well as other federal agencies, to **issue guidance and provide technical assistance to ensure existing workforce development programs target historically oppressed communities for transitional jobs program** and provide them with supportive services including cash assistance, food and nutrition supports, housing, child care, transportation, and health and mental health care.

Work with Congress to immediately pass legislation to ensure continued long-term investments and advance racial justice that divests from mass incarceration and policing and invests in communities and families of color including by championing the BREATHE Act.

The Administration must work with Congress to pass a COVID relief package centered in equity and justice. It must also work to pass legislation reversing policies that contribute to the ongoing criminalization of communities of color. Legislative proposals to undo these harms and invest in communities include:

- The BREATHE Act;
- The George Floyd Justice in Policing Act;
- The Marijuana Opportunity Reinvestment and Expungement (MORE) Act;
- The Counseling not Criminalization Act;
- The Reverse Mass Incarceration Act;
- The New Way Forward Act; and
- Fairness and Accuracy in Criminal Background Checks Act.

The Administration must also seek comprehensive reauthorizations of existing legislation to ensure sustainability and long-term investment in the President's first budget.

- **Prioritize reauthorization of WIOA and work with Congress to establish a new title within WIOA specifically for youth and adults impacted by the justice system.** This new title should emphasize access to subsidized employment and transitional jobs models, integrated education and training, access to supportive services, and community-informed reporting and accountability requirements.
- **Expand investments into quality education and workforce training opportunities to all individuals who are incarcerated** through prioritizing historically oppressed communities in the reauthorization of the Higher Education Act (HEA) and National Apprenticeship Act (NAA).

Ensure continued momentum for transformational change by creating a Commission for Equity and Justice and working with Congress and states and localities to reimagine justice.

Announce the creation of a Commission for Equity and Justice within the first 100 days.

The commission will focus on economic justice, education justice, and healing justice for Black and Brown communities, people impacted by the criminal justice system, and immigrants of color. Members of the commission should include: a compensated Advisory Council comprised of members of impacted communities, including people impacted by the justice system, BIPOC young people, Indigenous people, and immigrants of color; as well as representatives from the Office of Management and Budget (OMB), National Economic Council (NEC), Domestic Policy Council (DPC), Department of Justice (DOJ), United States Department of Treasury (USDT), Department of Labor (DOL), Health and Human Services (HHS), Department of the Interior (DOI), and Department of Education (ED). The

commission should develop a report within its first 90 days of being staffed and develop full recommendations within 18 months. The goals of the commission are to:

- Oversee and recommend steps to divest from mass incarceration and law enforcement, including immigration enforcement and detention.
- Develop a comprehensive [healing-centered policy agenda](#) in collaboration with impacted communities.
- Center BIPOC youth and young adults, individuals impacted by the criminal justice system, and immigrants of color who will work with Congressional, state, and local leaders to advance policies that improve the economic, education, and health outcomes for their communities, while working to divest from existing systems of oppression.
- Encourage cross-sector collaboration to holistically address structural and systemic problems.
- Study and implement reparations options and execute the charge of H.R. 40, The Commission to Study and Develop Reparation Proposals for African Americans Act. Options can take a number of forms including direct payments to descendants of the enslaved and Indigenous Americans, a jobs guarantee, student loan forgiveness, and more.

The Commission for Equity and Justice should **establish a grant program to incentivize states to enact meaningful criminal justice reforms**, such as

- ending mandatory minimums,
- eliminating police from schools,
- ending cash bail and fines and fees,
- expunging criminal records,
- closing youth prisons,
- raising the age of criminal liability,
- eliminating life without parole sentences,
- diverting people to health and mental health services, and
- releasing people incarcerated for health/mental health conditions including substance abuse.

The grant program should also incentivize states to implement “ban the box” policies in housing, job, and education applications as well as lift occupational licensing bans for those with a criminal record. The grant program should be designed similar to what is outlined in [President-elect Biden’s justice plan](#). However, the Administration should ensure that decarceration is applied equitably and does not apply only to those convicted of nonviolent offenses, while also ensuring that grant funds are directed toward communities most historically harmed by mass incarceration. The grants must also specify that those returning to their communities from incarceration have access to quality education and employment pathways, housing, health and mental health supports, and other reentry supports.