

THE U.S. CRIMINAL JUSTICE SYSTEM IN THE PANDEMIC ERA AND BEYOND

Taking Stock of Efforts to Maintain Safety and
Justice Through the COVID-19 Pandemic
and Prepare for Future Challenges

EXECUTIVE SUMMARY

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PRIORITY
Criminal Justice
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Preface

Starting in spring 2020, coronavirus disease 2019 (COVID-19) swept through the United States, infecting millions of people and resulting in hundreds of thousands of Americans killed. The pandemic caused a major disruption to all facets of life, along with significant economic damage and dislocation. This summary, and the report on which it is based, focuses on one part of the effects of the pandemic: how the U.S. criminal justice system adapted to respond to the threat posed by the COVID-19 pandemic.¹ The research effort is an “in-progress stock-taking” based on information gathered at the end of September 2020. We examine the changes that had been made across the justice system up to that point, the effects of those changes on communities, and whether the lessons learned suggest ways in which the justice system could be improved and strengthened going forward.

During the pandemic, a national protest movement—triggered by the killing of George Floyd by police officers in Minneapolis, Minnesota—occurred that focused on the equity and fairness of the justice system. Significant protests in many areas and cities once again raised the issue of criminal justice reform. The responses by the justice system to the pandemic are difficult to fully separate from the changes made during and after the protests. It is also difficult to consider the continuation and expansion of the lessons learned from the COVID-19 pandemic absent that national context. In some ways, that reality is fortuitous. Some of the changes made to respond to the threat of the pandemic—including changes that reduced incarceration and expanded access to justice—also could contribute to the response to the concerns of those seeking justice reform. Furthermore, considering some of the potentially promising innovations made in response to the pandemic through the lens of equity and fairness that was put front and center by the protests could contribute to better decisions about what should be preserved going forward.

In this summary, we describe the results of a set of workshops carried out by the Priority Criminal Justice Needs Initiative (PCJNI), a joint effort managed by the RAND Corporation in partnership with the Police Executive Research Forum (PERF), RTI International, and the University of Denver on behalf of the U.S. Department of Justice’s National Institute of Justice (NIJ). The goals of the Initiative are to identify needs for innovation in technology, policy, and practice across the criminal justice sector to inform NIJ and other justice system stakeholders.

¹ Brian A. Jackson, Michael J. D. Vermeer, Dulani Woods, Duren Banks, Sean E. Goodison, Joe Russo, Jeremy D. Barnum, Camille Gourdet, Lynn Langton, Michael G. Planty, Shoshana R. Shelton, Siara I. Sitar, and Amanda R. Witwer, *The U.S. Criminal Justice System in the Pandemic Era and Beyond: Taking Stock of Efforts to Maintain Safety and Justice Through the COVID-19 Pandemic and Prepare for Future Challenges*, Santa Monica, Calif.: RAND Corporation, 2021. As of April 7, 2021: https://www.rand.org/pubs/research_reports/RRA108-8.html

Our COVID-19 workshops included separate events that were focused on law enforcement, court systems, institutional corrections, community corrections, victim services, and community concerns in the criminal justice response to the pandemic. A variety of common challenges and innovations were identified in those discussions that not only assisted in the continued operation of the system through the pandemic but also might support broader reforms and justice system innovation going forward. In presenting the results of the workshops, we include anonymized direct quotes from participants in an effort to relate the lessons from the pandemic as directly as possible in the words of those who were involved in responding to it.

The results of this effort should be of interest to readers in criminal justice and service-providing organizations, policymakers, and members of the public who are interested in public safety, public health, and the response to the COVID-19 pandemic in the United States. Other recent products of the PCJNI that might be of interest are

- Brian A. Jackson, Michael J. D. Vermeer, Kristin J. Leuschner, Dulani Woods, John S. Hollywood, Duren Banks, Sean E. Goodison, Joe Russo, and Shoshana R. Shelton, *Fostering Innovation Across the U.S. Criminal Justice System: Identifying Opportunities to Improve Effectiveness, Efficiency, and Fairness*, Santa Monica, Calif.: RAND Corporation, RR-4242-NIJ, 2020
- Joe Russo, Michael J. D. Vermeer, Dulani Woods, and Brian A. Jackson, *Risk and Needs Assessments in Prisons: Identifying High-Priority Needs for Using Evidence-Based Practices*, Santa Monica, Calif.: RAND Corporation, RR-A108-5, 2020
- Camille Gourdet, Amanda R. Witwer, Lynn Langton, Duren Banks, Michael G. Planty, Dulani Woods, and Brian A. Jackson, *Court Appearances in Criminal Proceedings Through Telepresence: Identifying Research and Practice Needs to Preserve Fairness While Leveraging New Technology*, Santa Monica, Calif.: RAND Corporation, RR-3222-NIJ, 2020
- Sean E. Goodison, Jeremy D. Barnum, Michael J. D. Vermeer, Dulani Woods, Siara I. Sitar, and Brian A. Jackson, *The Law Enforcement Response to Homelessness: Identifying High-Priority Needs to Improve Law Enforcement Strategies for Addressing Homelessness*, Santa Monica, Calif.: RAND Corporation, RR-A108-6, 2020
- Joe Russo, Michael J. D. Vermeer, Dulani Woods, and Brian A. Jackson, *Data-Informed Jails: Challenges and Opportunities*, Santa Monica, Calif.: RAND Corporation, RR-A108-1, 2020
- Joe Russo, Dulani Woods, George B. Drake, and Brian A. Jackson, *Leveraging Technology to Enhance Community Supervision: Identifying Needs to Address Current and Emerging Concerns*, Santa Monica, Calif.: RAND Corporation, RR-3213-NIJ, 2019.

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Justice Policy Program

RAND Social and Economic Well-Being is a division of the RAND Corporation that seeks to actively improve the health and social and economic well-being of populations and communities throughout the world. This research was conducted in the Justice Policy Program within RAND Social and Economic Well-Being. The program focuses on such topics as access to justice, policing, corrections, drug policy, and court system reform, as well as other policy concerns pertaining to public safety and criminal and civil justice. For more information, email justicepolicy@rand.org.

Executive Summary

By the end of November 2020, the coronavirus disease 2019 (COVID-19) was estimated to have resulted in the deaths of between 268,000 and 360,000 Americans.¹ The spread of the disease stressed the U.S. health care system, with the number of people needing care overwhelming available resources in some parts of the country. Both the disease and the actions taken to respond to it stressed the country as a whole and had broad impacts on the economic system and government agencies at all levels.

Although the COVID-19 pandemic affected the United States as a whole, it was not the same everywhere at all times. From its local points of introduction, the virus spread through neighborhoods and towns at different rates. This reality meant that how and when COVID-19 affected specific states and locales varied considerably, and the circumstances to which government, the private sector, and the public had to respond varied. Washington State and New York City were the epicenters of the initial phase of the pandemic. They endured early spring spikes of the disease and had to wrestle with the effects on their governmental, health, local economic, and criminal justice systems. Spikes in infection and disease burden occurred later in states in the South and Midwest, putting the majority of the summer burden of the pandemic in those regions. In fall 2020, still other areas were driving national numbers, with states in the Northern Midwest experiencing rapidly increasing infection rates. By late fall and early winter 2020, COVID-19 had spread explosively and near uniformly across the country.

Local responses to the pandemic also varied considerably. Because there was not a unified public health response that was driven from the national level, different states, cities, and localities made different decisions about what steps should be taken, and these different jurisdictions did so at markedly different speeds. The palette of options available to decisionmakers was the same—closures of schools, restrictions of gatherings or events, stay-at-home orders, mandates to wear face masks, and so on—but what measures those decisionmakers chose to use in a particular state or city ended up being quite different.

The Pandemic Posed Major Challenges to the U.S. Criminal Justice System

The outlines of how the justice system functions in the United States are understood relatively broadly. Law enforcement agencies investigate crime and arrest the suspected perpetrators of crimes; they also conduct other crime-prevention initiatives. Suspects are transferred

¹ See Johns Hopkins University School of Medicine, “COVID-19 United States Cases by County,” data set, updated December 6, 2020, and Centers for Disease Control and Prevention, National Center for Health Statistics, “Excess Deaths Associated with COVID-19,” webpage, updated December 2, 2020, respectively.

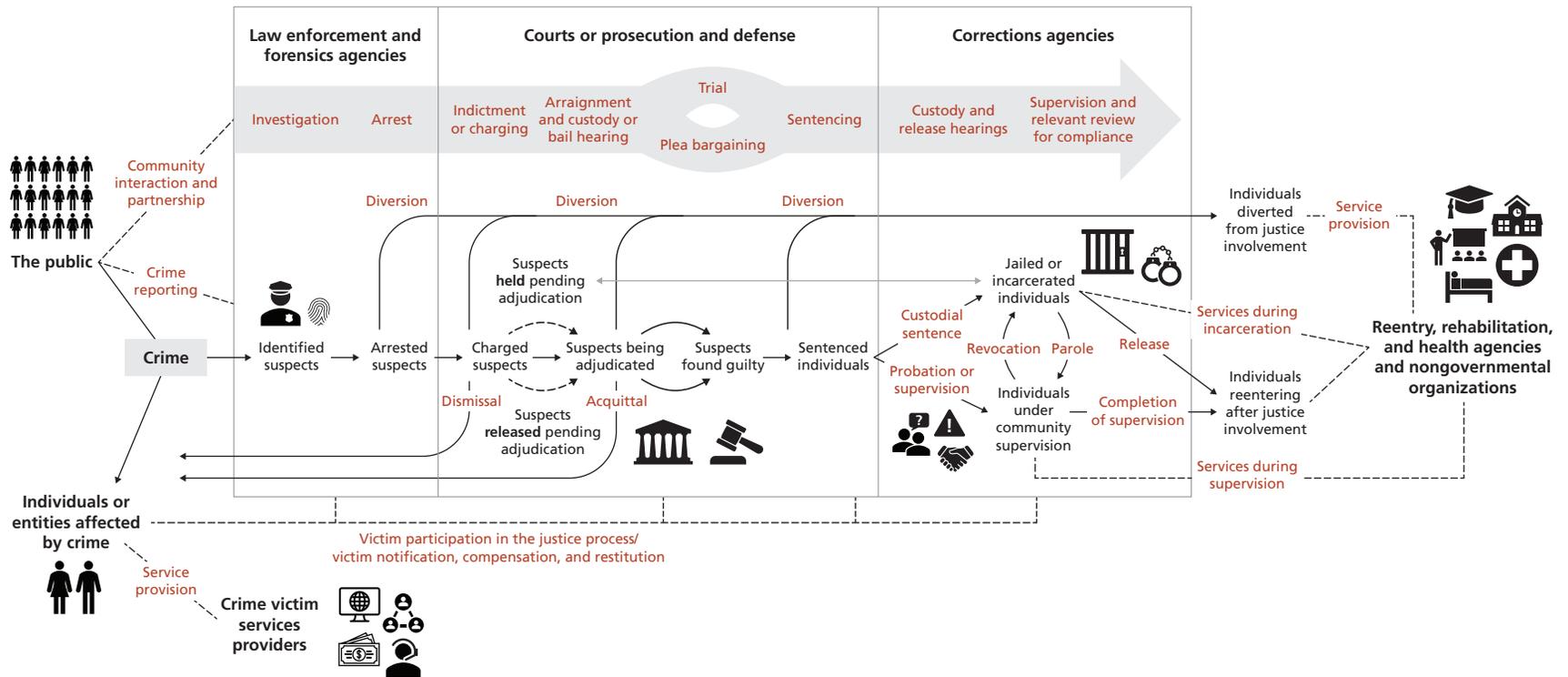
to the courts, where they are charged, their cases are resolved (most frequently through plea bargaining but sometimes through trial), and they are sentenced for their crimes. Depending on their sentence, they are transferred to the corrections system either for incarceration in a jail or prison or for supervision in the community corrections system on probation (or—after completion of a sentence in custody—on parole). The steps and connections among these three main components—law enforcement, the courts, and corrections—are shown in Figure S.1. The figure shows the path of justice-involved individuals through the system and the many entities involved in that process, with the involvement of members of the public and victims of crime supported by and involving other organizations and agencies. The functioning of the system creates what researchers and practitioners often describe as a flow of people through the system; an individual accused of a crime passes through the different steps with the relevant actions taken and decisions made in sequence.

Although it is frequently thought of as a purely governmental function, effective and efficient criminal justice depends on and involves a variety of actors and organizations beyond police, courts, and corrections agencies. The public plays a role as a participant in community policing and in reporting crime to law enforcement. Individuals or entities affected by crime have multiple roles in—and, in some states, a constitutional right to participate in—the justice process for the individuals accused. Some organizations associated with government and some nongovernmental organizations (NGOs) exist to assist, compensate, and counsel victims of crime in an effort to meet their needs. Other service-providing agencies are key players for justice-involved individuals, providing them with substance abuse treatment, counseling, education, and other services during their time in custody, under community supervision, or in reentry to reduce the chance that they will offend in the future.

Although the justice system often is viewed as a single river of people flowing from arrest to the corrections system, it is much more complex in reality. There are people whose charges were dropped or were acquitted at trial, and there are even more options: Depending on the context and the programs that are available, other paths might be available to divert people from that central flow. For example, there is prearrest diversion to treatment for substance abuse or mental health issues, diversion to specialty courts that serve specific populations or deal with specific types of offenses, or diversion to alternatives to incarceration later in the process. In some cases, intervention outside the criminal justice system might be better suited to address specific problems, and options have been developed to reduce the rate of growth of the significant portion of the U.S. population under some form of correctional custody or supervision.

Although this outline generally reflects the operation of criminal justice in the United States, the U.S. justice system is not a single system. Rather, it is hundreds of individual systems built locally and operating *similarly*, although by no means *identically*. There are more than 18,000 law enforcement organizations in the United States, some of which have thousands of officers and some of which have only a few officers. Some serve urban areas that might be geographically compact but population-dense, while others serve rural areas where many fewer people live in much larger jurisdictions. Court systems in different states have different administrative and management structures, which means that legal options that might be available in one state could be off the table in another. Corrections systems in different areas might have very different constraints on how they can manage their populations in custody and under supervision. How these agencies—and the service providers on which they depend—are funded also varies significantly. Some agencies are funded from line items in state or local bud-

Figure S.1
The Criminal Justice System



gets, some are supported by specific tax revenues, and others rely on fees paid by people filing cases in courts, paying fines, or paying the costs of their own correctional involvement.

Each individual justice system also exists in its own context. Some types of crime that are a major concern in one area might not be an issue in another area. The relationship between justice agencies and the communities they serve might be very strong in one city but strained to the breaking point elsewhere. Although correctional populations are significant nationwide, some areas had focused on reforming corrections and reducing the number of individuals in custody or under supervision before the COVID-19 pandemic. These local contexts, along with the differences in local policy, legal, and funding frameworks, had different effects nationally—enabling or constraining police, court decisionmaking, and what corrections agencies could do in response to unprecedented circumstances.

Because this diversity shapes how systems *could* respond, it also shapes the broader relevance of lessons learned from how agencies in different areas *did* respond. As a result, recognizing the diversity of the system must be the starting point for taking stock of the responses to the pandemic, planning for the future, and identifying lessons that are useful broadly and those whose value depended much more on the specific circumstances of the agencies or areas where they were used.

The COVID-19 Pandemic Created Multilayered Stresses on the Criminal Justice System

The high-contact nature of many criminal justice processes meant that the pandemic created the following major challenges to the standard ways of operating in the justice system:

- **Organizations were affected immediately by staff becoming infected or exposed to COVID-19.** Since the beginning of the pandemic, organizations in the justice system have been hit hard by staff and officers contracting COVID-19. According to a national tabulation of publicly reported deaths, as of November 2020, more than 156 police officers had lost their lives to COVID-19,² which is approaching the average number of officers who were killed in the line of duty from all causes from 2009 to 2019.³ It is estimated that, as of November 2020, between 98 and 191 corrections staff members had died from COVID-19, and more than 46,000 staff had been infected.⁴ In addition to losing key justice personnel to the disease, agencies across the system—including police departments, service agencies, and NGO reentry providers—have had their operations disrupted from staff exposure to COVID-19 because staff are forced to isolate themselves to reduce the chances of spreading the disease.
- **Justice organizations were forced to adapt to reduce the risk that they would be a driver for the spread of the virus.** From the face-to-face interactions of a police officer with a citizen on the street to a group education session supporting the reentry of a justice-involved person to the community, many justice processes had the potential to hasten the spread of the virus. Court processes bring together many people from different areas and

² National Law Enforcement Officers Memorial Fund, “COVID-19 Related Law Enforcement Fatalities,” webpage, undated.

³ National Law Enforcement Officers Memorial Fund, “Officer Deaths by Year: Year-by-Year Breakdown of Law Enforcement Deaths Throughout U.S. History,” webpage, September 29, 2020.

⁴ The Marshall Project, “A State-by-State Look at Coronavirus in Prisons,” webpage, updated December 2020b; American Correctional Association, “The Wall of Honor,” webpage, undated.

put them in a single room, and many of the participants have no choice about being there. Crowded prisons house residents in close proximity, creating the potential for the rapid spread of the virus from person to person. If it did not make substantial changes, the justice system had the potential to make the pandemic worse, harming public health as it sought to protect public safety.

- **The pandemic significantly changed the types of problems and needs that justice agencies had to address.** Although trends appeared to differ across the country, there were substantial shifts in crime and victimization during the pandemic. Trends also differed with time, with analyses performed early in the pandemic reaching different conclusions than those conducted later. However, it appeared that some areas saw substantial increases in domestic and family violence, which were shaped by the different responses in different areas, and there was added difficulty in identifying and responding to such incidents. Some areas saw increases in violence whose intensity and scope rivaled that seen during earlier spikes in urban violence, such as in the 1990s. Other areas saw reductions in overall crime but spikes in specific types of property crime. There also were significant increases in calls to police about individuals in mental health distress, which were ascribed both to the stresses of the pandemic and the challenges created for other organizations that respond to people with mental health needs.
- **There were secondary effects on justice system organizations from the economic consequences of the pandemic, with reductions in both government agency and service provider budgets.** The pandemic reduced economic activity, which reduced local tax revenues. Funding streams that usually supported justice agencies, such as fines and fees, dried up because of fewer cases and court filings and as a result of the inability of many to pay what they owed because of job losses. Moratoria on the collection of fines and fees was part of pandemic responses in some areas. Service organizations that depend on philanthropy and donations from businesses and individuals saw those funding streams dry up. Agencies including government agencies and NGOs had to reduce staff and cut services because of budget cuts, which strained their operations as needs caused by the pandemic increased.

The differences in the path of the pandemic and the nature of government responses to it meant that the circumstances faced by justice agencies and related organizations differed from place to place. However, whether they felt the impact of COVID-19 early or late, and whether their area chose to use such measures as lockdowns, justice agencies were presented with challenges, and most had to make significant changes in how they operated to continue to play their public safety roles while protecting public health and the health of their staff.

The courts are likely the largest convener of people . . . in [our state]. . . . On a typical day in our courthouses, we require or bring in . . . 1 percent of our [state's] population, and a large percentage of those people do not have a choice about whether to attend, because we've ordered them to appear. . . . We have an obligation not only to those people, but to the rest of the country to get it right, because if we don't get it right, we can set the whole community, state, country back.

– Court system panelist

Tensions Between Justice System Roles and the Groups the Justice System Serves Complicated Adaptation and Change

Changing how the justice system operates in response to the pandemic—and innovating or reforming it for other reasons—is more challenging because of the complexity of roles the system has evolved to play and the different populations it serves. The first population considered is often justice-involved individuals and, by extension, their families and communities. People in the justice system are there because they have committed a crime, and part of their involvement is to be sanctioned for their behavior. But the reality that police, courts, and corrections agencies have become the front line for responding to many individuals with mental health challenges and substance abuse problems means that their involvement in the system is not *solely* about punishment. The justice system often seeks to serve this population in important ways by delivering treatment, counseling, and other services in a composite process that—in theory—sanctions them for their criminal behavior and attempts to address its causes to reduce the chances that they will reoffend in the future.

How the justice system chooses to do its business is responsive to the organizations and individuals who make up the system itself. It is also responsive to the communities to which justice organizations drive jobs and economic activity. The general public, including individuals or entities who are affected directly by the crimes that justice-involved individuals are accused or convicted of committing, is also a key population served by the system. Public safety is maintained for the benefit of the public, and victims of crime have rights and roles in the justice process, some of which are guaranteed by law.

When we consider making changes to how the justice system functions in crisis response or more broadly, the perspectives and needs of these three different groups—organizations in the system, justice-involved individuals and their communities, and the general public—can be in tension. Changes that make the system itself more efficient might go against the needs of crime victims or make it more difficult to deliver counseling and rehabilitative services to incarcerated populations. Changes that make the system more rehabilitative (e.g., to achieve broader societal goals more efficiently or to reduce recidivism by delivering more-extensive services to incarcerated populations) might be viewed as reducing the legitimacy of the system in the eyes of victims of crime. Although there is broad agreement that all three populations are important, different people weigh their importance differently, meaning that when change in the justice system must be made—whether because of immediate need to respond to the threat of a global pandemic or because of a desire for longer-term reform—these tensions can make such changes much more difficult to navigate.

The National Climate Challenged the Justice System and Its Responses to the Pandemic

The effect of the COVID-19 pandemic on the criminal justice system was complicated by other factors and circumstances. From the outset of the pandemic, both the disease and the response to it became intensely politicized, and there was substantial controversy regarding public health interventions. This meant that there also was controversy about the role that different parts of the general public wanted justice agencies to take in enforcing compliance with public health directives, such as wearing masks, closing businesses with indoor or significant in-person contact, or prohibiting such events as concerts, parties, or gatherings of large num-

bers of people. In some parts of the country, law enforcement actively enforced mask-wearing and shut down events where transmission could occur across large numbers of people. In other parts of the country, intervention was much more limited. In some broadly publicized cases, it was justice agencies themselves that resisted taking on—or outright refused to take on—a role of enforcing compliance with public health measures intended to reduce the spread of the virus.

As the country was beginning to deal with the effects of the COVID-19 pandemic, the killing of George Floyd by police officers in Minneapolis, Minnesota, triggered large-scale protests and unrest. Echoing the response to the killing of Michael Brown in Ferguson, Missouri, in 2014, the Black Lives Matter protests that started in May 2020 were more widespread and focused intensely critical attention on law enforcement and on the justice system more generally. The focus of the protests was on the first of the three groups described earlier—justice-involved populations and their communities—but they had consequences for the other two, including broader public participation in the protests and the consequences of the protests for justice agency officers and staff. The resulting push to cut funding from law enforcement agencies and reallocate it to non-criminal justice approaches for dealing with violence and other societal problems gained significant momentum in some areas, and other areas adopted changes to policing practices and implemented civilian oversight of justice agencies.⁵ Both the law enforcement actions and policy actions taken in response to the protests differed significantly across the country. However, national-level reactions to extremely local-level actions—sometimes the actions of individual officers—taken during the protests intensified scrutiny of law enforcement agencies, further complicating the challenge of policing during the pandemic.

Past efforts to explore the potential role of criminal justice agencies in response to a pandemic, and the role of law enforcement agencies in particular, emphasized that close relationships and trust between members of the public and the justice system are needed for that involvement to be most effective.⁶ The combination of the national environment and the protests therefore strained that trust (in some areas, apparently to the breaking point), reducing the opportunity for public safety agencies to contribute to protecting public health during this period. Although the limited involvement of justice agencies had some benefits because it reduced concerns about the criminalization of noncompliance with public health regulations, the reality meant that a possibly important player in reducing the impact of the COVID-19 pandemic on the country faced practical constraints in its ability to do so.

⁵ See Andrew Welsh-Huggins, “In Cities Across U.S., Voters Support More Police Oversight,” Associated Press, November 21, 2020.

⁶ Edward P. Richards, Katherine C. Rathbun, Corina Solé Brito, and Andrea Luna, *The Role of Law Enforcement in Public Health Emergencies: Special Considerations for an All-Hazards Approach*, Washington, D.C.: U.S. Department of Justice, Bureau of Justice Assistance and Police Executive Research Forum, September 2006, p. 17.

The Priority Criminal Justice Needs Initiative Held a Virtual Summit to Better Understand the Challenges and Responses of the Justice System to the COVID-19 Pandemic

It is difficult to separate how the criminal justice system had to adjust to the realities of operating under pandemic conditions from the national political environment and backlash triggered by George Floyd's death. The fact that both occurred at the same time—multiplying the challenge to appropriately address either in isolation—is simply historical reality. Responses to the pandemic, including significant decarceration, also aligned with some of the demands made during the protests. Similarly, while some of the organizations involved in protests were calling to defund the police as part of reform efforts, the economic consequences of the pandemic for state and municipal budgets were resulting in the defunding of criminal justice agencies in very real ways. As a result, the reality of this period makes it difficult (perhaps even impossible) to fully separate the effects of the pandemic on the justice system from the broader national environment created by calls for justice reform.

Acknowledging this fundamental difficulty from the outset, the Priority Criminal Justice Needs Initiative (PCJNI)—a joint effort managed by the RAND Corporation in partnership with the Police Executive Research Forum (PERF), RTI International, and the University of Denver on behalf of the U.S. Department of Justice's National Institute of Justice (NIJ)—held a virtual summit made up of separate online workshops that explored the justice system's response to the COVID-19 pandemic. The workshops were held in the second half of September 2020, as the summer lull in viral spread was beginning to come to an end and the fall increase in case rates was starting. The goal of the workshops was a combination of an “in-progress stock-taking” on the way the justice system had responded to the pandemic up to that time and a look toward what those responses could teach us about the future. The workshop was designed to be cognizant of both the enormity of what has happened in the country and the responsibility (1) to seek out lessons we can use to prepare for similar future incidents and (2) to gain insight that could be valuable for addressing broader challenges and concerns.

The seven four-hour virtual workshops focused on

- **law enforcement services and operations**, including the shifts in crime during the pandemic and changes that had to be made in performing police tasks
- **law enforcement management**, including issues of staff safety and the workforce (e.g., recruiting and training), overall policing policy and strategy, and interactions with other justice agencies
- **court system operations and services**, including staff safety and workforce issues, case prioritization and backlogs, virtual court operations, and the effects of changes in the courts on other elements of the justice system
- **institutional corrections operations and services**, including staff safety and workforce issues, inmate safety and contagion prevention, technology issues, and effects of changes made in corrections on other justice system sectors
- **community corrections operations and services**, including safety issues, changes in policies and strategies, use of technology, measures taken when in-person interactions were needed, and the effects on other facets of the justice system of the issues facing community corrections

- **victim services delivery**, including the safety of staff in service-delivery organizations, issues contacting clients, changes that had to be made in how services were delivered, and the use of technology to do so
- **the public and the provision of justice during the COVID-19 pandemic**; specifically, the bigger picture of how changes made in policing, courts, and corrections affected communities; equity issues in how public health guidelines were enforced; and changes in service provision during the pandemic.

For the sectoral workshops, we designed each group to reflect representatives from state and local criminal justice agencies and organizations that had been significantly affected by the pandemic, individuals with public health expertise who had worked with the sector, representatives of national organizations, and participants with knowledge of how changes in the sector had affected communities and justice-involved individuals. In the workshop that focused on victim services, we sought out representatives from organizations that served a variety of needs, used different approaches (e.g., hotlines and direct service-delivery organizations), and were organized in different ways (e.g., stand-alone entities versus services delivered by staff from criminal justice agencies). For the public and the provision of justice panel, we sought representatives from a variety of communities, faith-based organizations, service providers with knowledge of how the COVID-19 pandemic and the changes made to the system had affected communities, and individuals with other relevant expertise.

Although the discussion in the panels was designed to focus on the responses to the pandemic rather than to the community protests, it quickly became clear that it was impossible to fully separate the two. Multiple panelists emphasized the importance of learning from the pandemic for the short term, but many were looking further out in search of more-fundamental lessons about ways the justice system could be improved going forward. As a result, the difficulty in separating the response to the pandemic and the response to the protests began to appear to be an opportunity more than a challenge, with some successful adaptations to the COVID-19 pandemic suggesting ways in which the system could adapt to address broader concerns as well.

PCJNI researchers synthesized the discussions from the workshop and drew on available published data and broader reporting about the pandemic and the justice system's response to it to provide context for drawing conclusions from the panelists' remarks. As part of this synthesis, PCJNI researchers compiled research, evaluation, and data-collection questions suggested by the discussions to begin to build a national research agenda for understanding the justice system's response to the COVID-19 pandemic and evaluating potential promising practices within that response for the future. Although we sought to bring practitioners and experts from departments across the country and with a variety of experience to the panels, it is important not to lose sight of the fact that—as is the case for all such efforts—the discussion likely would have been somewhat different with other groups of participants or in workshops held at different points during the pandemic. The authors did not fact check or seek to verify the statements made by participants beyond looking for contextual information or other sources to expand on the discussion of points that seemed particularly salient. As a result, although we generalize from the often very powerful discussions that occurred during the events, we seek to do so cautiously, and we recommend the reader do so as well. Indeed, many of the generalizations drawn are useful for further examination of key problems and promising solutions.

The Response to the COVID-19 Pandemic Involved Major Changes in Technology, Policy, and Practice by Organizations Throughout the Justice System

When the virus began to spread, the criminal justice system initially halted some of its activities to reduce infection risk. In some areas, police scaled back their activities; for example, deprioritizing traffic enforcement to minimize person-to-person contact. Some courts shut down. Some corrections institutions stopped visitation and many other activities that involved close contact, and in-person community supervision was minimized or stopped. Many actions were taken to try to reduce the flow of individuals into the justice system, including deferring arrests or charging, delaying trials, and limiting reincarceration for, e.g., nonviolent infractions of supervision conditions during probation and parole. Like many other organizations, justice agencies sought to reduce the chances that infected people would come into their buildings through screening and other measures, sought out protective equipment, and changed policies to try to protect their employees. However, many other adaptations were made to allow justice system functioning to continue in some capacity and to respond to the specific issues created by the pandemic. In Table S.1, we summarize the key top-level findings from our sector-by-sector examination, and in the next section, we pull together common responses to the pandemic from across the justice system.

We went . . . looking for more discretionary ways to deal with crimes. A lot of citations were handed out. A lot of warnings were handed out rather than arrest[s]. Only those arrests that were of a violent nature, serious misdemeanor nature were actually physically taken into custody.

– Law enforcement operations panelist

We stopped all visitation, which was a dramatic change for us. We stopped—I hate using this term *nonessential staff*—but we basically only kept the security staff and other staff in the facilities that were necessary for the immediate safe operation of the facility. So all our vocational instructors, all of our teachers, etc., all of our program, recreation leaders, they had to stay home. And we had to basically run a bare-bones operation.

– Institutional corrections panelist

Common Responses to the Pandemic Were Built on Past Innovation and Reform Efforts

The pressures placed on the justice system by the pandemic affected different parts of the system in different ways, but, in many cases, the responses to those challenges had common causes and required similar responses. As a result, in our panels' deep dives into each component of the justice system, the following common themes emerged with respect to successes in dealing with the pandemic and lessons that could be valuable to maintain in the long term:

- **Shifts in crime and need that occurred during the pandemic had implications throughout the system.** The pandemic resulted in reductions in some types of crimes but increases in others; these shifts were shaped by the effects on behavior and the responses taken to control infection. Increases in such offenses as domestic and family violence simultaneously created needs (e.g., the requirement for courts to maintain access

Table S.1
Key Findings from Each Sector Discussion

	Law Enforcement	Court System	Institutional Corrections	Community Corrections	Victim Services
Reducing the number of people in the justice system	<ul style="list-style-type: none"> • Many police departments adjusted their strategies for crime prevention and enforcement to limit officer contact with the public and reduce the flow of people into the justice system. • In some cases, there were changes to non-arrest approaches, including greater use of citations as an alternative to arrest. In others, departments merely deferred arrest until after the public health crisis improved, building a backlog of “to-be-arrested” individuals who will have to go through the system in the future. 	<ul style="list-style-type: none"> • Courts were central in reducing populations in other parts of the justice system, including by reducing pretrial detention, limiting issuance of warrants, and facilitating release of individuals from custody where appropriate. 	<ul style="list-style-type: none"> • Corrections facilities are limited by the space they have, and facilities that were overcrowded before the pandemic had great difficulty controlling the spread of the virus. In concert with other parts of the system, institutional corrections agencies sought to reduce jail and prison populations to open up space and enable disease control. 		

Table S.1—Continued

	Law Enforcement	Court System	Institutional Corrections	Community Corrections	Victim Services
Reducing transmission in facilities by using virtual and other models where possible	<ul style="list-style-type: none"> • Some police agencies closed stations to public entry to limit the potential for people to bring the virus into the station. • Some departments made significant shifts to virtual service delivery. Although some departments had already taken such steps, the pandemic pushed the changes and increased public receptiveness to online and virtual police response. 	<ul style="list-style-type: none"> • Because of significant concern about virus transmission at courts, which are major conveners of people drawn from across wide jurisdictions, many court processes were initially stopped to reduce the risk of transmission. • To restart operations, some courts made significant shifts to virtual models for many types of proceedings and services. That has worked very well and has been viewed as providing benefits to both justice agencies and individuals who must appear. As a result, it is a potential practice to continue after COVID-19 has receded. • Although some areas have resumed jury trials, e.g., in alternative locations where physical distancing is possible or in alternative courtroom arrangements, capacity is still limited. 	<ul style="list-style-type: none"> • Some facilities closed their doors to visitors and many types of nonsecurity staff, which reduced the chance of the virus entering facilities but hobbled many types of programming. Although such approaches were fine for short periods, as the pandemic wore on, they became more difficult to maintain. • Shortages in testing and the difficulty of managing large-scale testing programs made it difficult to keep the virus out of facilities and manage outbreaks when they occurred. Facilities had to develop management strategies for isolation and quarantine of multiple populations to limit risk. • Masks and hygiene practices were central components of many facilities' responses. 	<ul style="list-style-type: none"> • Distanced and virtual supervision was viewed as beneficial by both staff and supervisees, increasing efficiency, allowing greater contact with supervisees, and reducing the burden of meeting justice obligations. It was viewed as a practice to continue, although outcome evaluation is needed. • The pandemic resulted in a major reduction in the dosage of supervision for many people in the community corrections system, with reduced drug testing and less direct contact. So far, results appear positive, suggesting potential routes to further reform and improve the supervision system. • Meeting the needs of individuals receiving treatment for substance use or mental health concerns was more difficult, requiring significant changes in models for treatment delivery. 	<ul style="list-style-type: none"> • Victim services providers went to virtual and remote models to continue to operate and reach crime victims during the pandemic, but providers had reservations about cybersecurity, the ability to deliver services securely, and the effectiveness of some counseling and intervention delivered by phone or videoconferencing. New approaches to delivering some services appear promising to continue after the pandemic recedes. • Some critical services, including shelter and food, require in-person interaction, and delivering them in a safe way was more difficult and costly for providers.

Table S.1—Continued

	Law Enforcement	Court System	Institutional Corrections	Community Corrections	Victim Services
Reducing transmission in facilities by using virtual and other models where possible (continued)		<ul style="list-style-type: none"> Because virtual hearings are viewed as inappropriate by many for serious felonies and other cases requiring a jury trial, large backlogs of unresolved cases have formed in many court systems, raising concerns about the rights of the accused. This has led to efforts to develop safe approaches to resume in-person proceedings. 			
Digital divides limited how broadly virtual models could replace traditional approaches	<ul style="list-style-type: none"> Public communication and community policing was very difficult during the pandemic, but departments had success using virtual modes, such as video platforms Facebook Live or Zoom. Reaching some groups required alternative methods, such as direct mail. Some forensic labs were able to transition rapidly to significantly distributed work models, although agencies that had not invested in technology (e.g., those that were still dependent on paper files) had more difficulty. 	<ul style="list-style-type: none"> Limitations in bandwidth, connectivity, and available technology make it difficult for some individuals or organizations to participate in virtual court processes. To address concerns about these digital divides, systems had to develop such approaches as loaning technology or providing other ways to join virtual proceedings. 	<ul style="list-style-type: none"> Corrections institutions that already had invested in digital infrastructure (notably, inmate access to tablets for connectivity and communication) had options available to them other institutions did not. 	<ul style="list-style-type: none"> Transitions to virtual models for both supervision and service delivery were made more difficult by major digital divides, with technical limitations for both supervisees and providing organizations. In some cases, technology had to be provided rapidly to staff and supervisees to allow activity to continue. 	<ul style="list-style-type: none"> Bandwidth limitations and the digital divide can hamper serving all those who need assistance.

Table S.1—Continued

	Law Enforcement	Court System	Institutional Corrections	Community Corrections	Victim Services
Public communication and justice system transparency posed major challenges	<ul style="list-style-type: none"> Community crime prevention and violence interruption efforts were much more difficult because limiting face-to-face contact and restricted entry to hospitals hurt their efforts to connect with crime victims. The national environment and conditions created by the criminal justice reform protests made law enforcement involvement in public health initiatives very problematic. Although police can have a role in such situations, doing so effectively requires trust between police and the public. 	<ul style="list-style-type: none"> Virtual proceedings raised concerns about public access to courts and transparency. Some courts responded by streaming proceedings widely on the internet. However, that approach raised different concerns about the effect on participants in proceedings. 	<ul style="list-style-type: none"> Many institutions had difficulty managing public messaging regarding the situations within facilities and the steps they were taking in response. Agencies that had provided their residents with tablets or other ways to communicate with family cited transparency benefits because inmates could give their families, counsel, and other audiences updates. 		<ul style="list-style-type: none"> Pandemic conditions, including stay-at-home orders and visitor restrictions at such sites as hospitals, made it more difficult to reach victims. New approaches had to be developed to do so that might be valuable to maintain after the pandemic.

Table S.1—Continued

	Law Enforcement	Court System	Institutional Corrections	Community Corrections	Victim Services
The COVID-19 pandemic caused major staff health and stress concerns	<ul style="list-style-type: none"> Protecting officer health and safety and, by extension, agency operational capacity required changes in staffing models (e.g., using staff cohorts, or an exclusive group of staff that works the same shift or in the same area), changes in procedures, and the use of protective equipment. In some cases, departments had difficulty with staff compliance with the use of protective equipment, reducing its effective risk reduction. Operating in pandemic conditions and concerns about bringing exposure home to their families were significant stressors and mental health challenges for law enforcement staff. In response, some agencies implemented new mental health support and intervention resources, including remote counseling options. 	<ul style="list-style-type: none"> Court systems had major concerns about the safety of staff in older, sometimes crowded court facilities. Protecting court staff with high risk of COVID-19 complications was a driver for closing courthouses and seeking alternative ways to operate. 	<ul style="list-style-type: none"> Correctional and service provider staff faced major stress and health concerns, both from the broader pandemic and the specifics of their occupational exposure. Strategies to protect staff included procedural measures and providing protective equipment, although agencies sometimes had issues with staff use of personal protective equipment. 	<ul style="list-style-type: none"> Community corrections organizations used virtual and work-from-home models that reduced infection risk and provided more flexibility to staff. However, balancing work and home life was a stressor for staff. Where in-person work was required, agencies used various cohorting models to reduce the exposure risk to large factions of their workforce. 	<ul style="list-style-type: none"> Providers faced significant challenges protecting their staff because of being at a lower priority for access to protective equipment. Providers working from home faced the additional challenges of stress and managing the collision of their work and home lives. Victim service providers had difficulty with staffing levels, and recruiting during the pandemic was a challenge.

Table S.1—Continued

	Law Enforcement	Court System	Institutional Corrections	Community Corrections	Victim Services
Justice system interconnections affected response	<ul style="list-style-type: none"> • Decisions made by other parts of the justice system and social services agencies significantly affected law enforcement, including increasing demands to respond to individuals in mental health crises, which were exacerbated by the pandemic. 	<ul style="list-style-type: none"> • Court systems likely will have major backlogs of cases to address even after the COVID-19 pandemic recedes, requiring additional innovation to more rapidly resolve cases. 	<ul style="list-style-type: none"> • Delivering health care in hard-hit facilities was difficult, particularly for agencies that relied on outside hospitals to provide advanced care to residents. COVID-19 control procedures made meeting residents' other care needs (e.g., for substance use disorders or mental health challenges) more difficult. Doing so was facilitated by virtual technologies for telecare. 	<ul style="list-style-type: none"> • Efforts to decarcerate to reduce the risk of contracting COVID-19 in corrections institutions created a significant burden for supervisor and service-provider organizations. For NGO service providers in particular, the demand for services was intense in some areas. Because of backlogs in other upstream parts of the justice system, community supervision participants expect another wave of cases in the future as those backlogs are resolved. 	<ul style="list-style-type: none"> • Changes made by police and the courts in how they responded to some crimes—including nonarrest or rapid release of some individuals—made it tougher to meet the needs of crime victims.
Budget and fiscal concerns from the COVID-19 pandemic are acute	<ul style="list-style-type: none"> • As a result of the economic consequences of the COVID-19 pandemic, police agencies are facing reductions in budgets. Such cuts—although seemingly in agreement with the calls during protests to defund the police—will create additional issues for the remainder of the pandemic and during the recovery period. 	<ul style="list-style-type: none"> • Because of pressure on the funding streams on which some courts depend to operate, including filing fees or specific tax revenues, these systems face resource constraints and have had to reduce staff. These constraints could make resolving court backlogs even more challenging. 	<ul style="list-style-type: none"> • Institutional corrections agencies face funding pressures as a result of the effects of the pandemic on municipal and state budgets. There are concerns that those budget constraints will limit the ability of agencies to maintain the reduced density that has enabled infection-control strategies but that also could enable the system to improve performance and implementation reforms going forward. 	<ul style="list-style-type: none"> • There are major funding challenges facing both the government and NGO components of the community corrections system. These challenges will require more than considering how funding will affect individual entities in isolation. Instead, jurisdictions must address how the providers that serve their area are supported and how the different pressures on their individual funding streams will affect the viability of the system as a whole. 	<ul style="list-style-type: none"> • Many provider organizations face acute funding shortages from changes made by government, reduced revenues from fines paid by justice-involved individuals, reduced philanthropy, and financially strapped businesses that are unable to provide pro bono services or in-kind contributions. The pandemic has put the continued viability of many service providers at significant risk.

to protective orders, the need for law enforcement to change how they responded to some calls), made some strategies for responding more difficult (e.g., the decision in some areas to generally not arrest individuals accused of misdemeanors), and magnified demands on service providers to meet victims' needs. Some of those changes might enable better response to such concerns as domestic violence going forward. The nature of the pandemic also created needs within the justice system, causing stresses among incarcerated individuals and practitioners across justice organizations that built on similar concerns that preceded the pandemic.

Looking across the domestic violence field nationwide, generally demand for services, including shelter, was up. Over 160 cities, counties, or states . . . reported at least double-digit increases in hotline calls, police calls, visits to helplines, or even homicides.

– Victim services panelist

Effectively, what happened here was every single social service agency on top of the courts being just turned off, every social service [agency] also kind of turned off. . . . We've seen . . . mental health [calls significantly] up, but overall we've seen crime go down. . . . That's kind of a weird juxtaposition because I think you would think these things would move together, but they're moving apart in this situation.

– Law enforcement operations panelist

- **Physical infrastructure can put unforgiving constraints on responses to infectious disease.** Responding to the pandemic required space to physically distance, and the high density of many facilities in the criminal justice system made that exceedingly difficult—and required such strategies as decarceration to create the needed space. Across our panels, participants described difficulties in using physical distance to manage the disease—in small police stations, in court buildings where the design goal had been to fit as many courtrooms in as possible, in overcrowded jails and prisons, and in congregate shelters for reentry and to serve victims of crime. As a result, reducing the risk of broad spread of the virus within the justice system required such strategies as significant decarceration from jails and some prisons, holding court in alternative sites, and having many justice practitioners operate in the field.

From one perspective, those challenges raise questions about what the true capacity of existing justice system infrastructure should be and whether it should be much lower than the pre-pandemic approaches of high-density facilities (unless investments are made to make that infrastructure less vulnerable to future pandemics). However, the experience also led some of the panelists to argue for the value of “de-infrastructuring” future justice activities—i.e., with more people working in the field, working from home, and using other distributed approaches to reduce the need for physical buildings and offices.

If you're at a hundred percent capacity or above, you have an outbreak, there is *nothing* you can do. You can't quarantine people. You're stuck. If you have a little bit of breathing room, there's a lot of things you can do to help manage an outbreak and keep people safe, both inmates and staff.

– Institutional corrections panelist

- **A massive shift to virtual access to justice and services could be valuable to both justice agencies and society, but it could leave areas and individuals behind.** For some time, analysts and practitioners have argued that there could be substantial benefit from adding telepresence and other virtual technologies to the justice system. Those benefits were dramatically realized during the pandemic. However, the pandemic led agencies to apply virtual models for tasks and functions that had not been the focus before. The expansion of online police services saved officers time. Virtual connections between courts and correctional facilities were valuable to both systems, allowing some tasks to be done with less transportation cost and security risk than physically moving people from place to place. The ability for members of the public to connect virtually—to go to court, to speak with incarcerated family members, to report during community supervision, and to receive services—saved them money and time, and made their participation in justice processes much less burdensome.

However, our panelists raised questions about efficacy and appropriateness as well: While some panels were nearly unanimous on the value of virtual modes, others cautioned that—particularly for counseling and service delivery—the effectiveness of virtual modes might not be sufficient. And although there are clearly some types of virtual interactions and processes that are entirely unproblematic (e.g., providing individuals virtual ways to file paperwork or perform other transactions), important questions remain about the effect of virtual modes on the outcomes of trials and other hearings. Therefore, additional evaluation is needed to assess whether justice truly is deliverable virtually.

Furthermore, although the potential value of virtual connections was clear to many, the issue of the digital divide came up across essentially all of our panels. Not every justice agency or supporting organization has invested in technology that will allow it to rapidly “go virtual.”⁷ Not everyone in every area of the country has ready access to technology and connectivity. To the extent that the justice system maintains virtual models, the needs of those populations without access to technology must be addressed so that the increase in access to justice for some is not offset by a decrease in access for others. However, potentially limited access to virtual justice is only one result of the shortfalls in digital infrastructure that exist in many areas of the country. Both before and during the pandemic, shortcomings in the availability, speed, and capacity of internet infrastructure in poorer or more-rural areas has affected economic activity, the education system, and

⁷ As we were completing the report on which this summary is based, the National Commission on COVID-19 and Criminal Justice, an effort of the Council on Criminal Justice, published its final recommendations. Where their findings parallel those of our panels, we note the agreement. The National Commission also recommended upgrading the digital infrastructure of the criminal justice system—i.e., focusing on the *internal* system shortfalls in capability and digital divides (National Commission on COVID-19 and Criminal Justice, *Experience to Action: Reshaping Criminal Justice After COVID-19*, Washington, D.C.: Council on Criminal Justice, December 2020b, p. 16).

other societal functions. Efforts to address the digital divide to facilitate virtual justice system models would pay dividends in many other areas as well.

This time, this year has really propelled the courts into the technology age, and the courts have never historically embraced technology in a big way. But my imagination stops at the point where a person might be losing [their liberty] over Zoom. . . . [T]here's something about being in the courtroom that makes the gravity of the situation real.

– Court system panelist

We really hope that the things that have served us well [during] COVID are here to stay. You think about people who are impoverished and . . . they have to make court appearances. If these people have jobs, they could lose their job for having to make that court appearance. Whereas now, they can show up to court remotely for a traffic ticket or for a misdemeanor charge. I think that's a net positive for society.

– Law enforcement operations panelist

- **A justice system can respond more effectively in a crisis than a group of justice organizations acting independently.** In our panels, multiple participants flagged the importance of organizations collaborating to effectively respond to crises of this magnitude. The importance of collaborating with public health agencies came up multiple times, and the information and guidance health experts could provide to justice agencies was noted as important.⁸ Other collaborations were highlighted as well, such as sharing protective equipment, bringing together information, coordinating different elements of response, and cooperating to try to meet the needs of both justice-involved individuals and crime victims. Our panels provided a multitude of examples where the decisions in one part of the system affected others and, although those choices might have been unavoidable in the face of the crisis, more coordination and information-sharing might have cushioned the effects of those choices throughout the system.⁹

People [were] sitting in jail for [an extended period] before they were able to have their day in court. And that's just not fundamentally what the role that police officers should be put into is—to take someone's freedom away . . . without any type of judicial review, other than a paper review of the probable cause statement or something very minimal like that. So I think it erodes the public trust in the whole system.

– Law enforcement operations panelist

⁸ The National Commission recommended institutionalizing such connections to sources of medical knowledge, including public health agencies (National Commission on COVID-19 and Criminal Justice, 2020b, p. 33).

⁹ One of the recommendations of the National Commission was maintaining “standing coordinating panels for [the] public health emergency preparedness” of criminal justice agencies (National Commission on COVID-19 and Criminal Justice, 2020b, p. 13).

We also heard about instances where survivors would have no idea that their abuser has been released until they run into them on the street.

– Victim services panelist

- **Serious challenges remain for successfully protecting the health and safety of emergency responders and critical personnel during large-scale disasters.** Large-scale events, whether natural or manmade, have always created serious challenges with regard to protecting the health and safety of emergency responders and critical personnel. Echoing the experiences of the September 11, 2001, terrorist attacks (9/11), panelists questioned whether today’s responders would have long-term consequences from COVID-19 that would create long-term costs for them and for the United States. The potential for long-term physical effects is still uncertain, although it appears to be a significant concern for some. It *is* certain, however, that mental health consequences from the stresses of the pandemic already are occurring. As was the case for 9/11, there likely will be a need to remain attentive to how the consequences of this disaster evolve and how both the availability and use of protective options by practitioners and key personnel shape those consequences.

We also don’t know the long-term health consequences of COVID. For instance, there seems to be some lasting consequences on heart health, which we already know is a big concern in the law enforcement community. So we don’t know whether survivor benefit claims will be lasting [for] decades.

– Law enforcement operations panelist

Across our panels, the ability of organizations to adapt was supported by previous reform efforts or earlier initiatives to use new technologies. Areas that already had taken steps to reduce jail or prison populations had fewer constraints on how they could implement infection control measures in their less crowded facilities. Organizations that had made investments in information technology and converted paper case files into electronic files could shift to remote and distributed work models much more easily than those that had not. Past experiments with virtual court processes or telemedicine made it more straightforward to virtualize different parts of the justice process. And past relationships with other justice agencies—or with community organizations and the public more broadly—meant that social capital was already in place and could be drawn on when needed. In some cases, agencies that did not have such pieces in place before the pandemic put them in place quickly, with a speed of innovation and technology adoption that was nearly unprecedented for the justice system, but they had a more difficult time adapting than those that already had the needed elements in place.

Really, it’s the pace of change. [It’s] unprecedented in my experience in over 32 years of court administration.

– Court system panelist

Some Responses to the Pandemic Have Delayed Rather Than Resolved Challenges

Although reducing justice populations by halting or deferring processes did reduce infection risk, those strategies have created significant backlogs in the system that will have to be addressed later. Panelists described growing numbers of individuals who have been arrested but not charged, or whose court cases are accumulating in deep backlogs of unresolved cases and delayed trials. Across our panels, the metaphor most often used was that the flow of people through the system was blocked and the backlogs were growing like water behind a dam, with the pressures on the justice system increasing as the numbers of cases increase. The pressures are compounded by budget cuts, which are affecting both government and NGOs that are critical to the functioning of the system, essentially shrinking the size of the pipes available to drain the backlogs once the pandemic recedes. We summarize these constraints in Figure S.2 and flag backlogs and constrictions that were identified across our panels, which affect nearly every part of the justice system.

Although strategies of deferral might have been sufficient to manage a short-term event—which is consistent with the early narrative that the pandemic would pass through the country quickly—they were not enough for a longer-term crisis. Over the course of the pandemic, strategies of deferral managed the current crisis at the price of a future one, and dealing with that future crisis might require additional cycles of change and adaptation to relieve the pressure.

Figure S.2
Pressures Building at Different Points in the Justice System from Backlogs and Capacity Constraints



We work as a system, and our courts have been doing everything just about virtually . . . but a real downside, and we're looking at this statewide, is the dockets aren't moving . . . and the backlog is huge. I've seen it [before], the court shut down, obviously [after the hurricane we experienced]. I saw the impact of that. But the courts are going to have to be able to function at over a hundred percent to be able to actually even make a dent into the docket. So, I don't know if that's going on in other places or not, but there's a backlog and it's a big deal.

– Community corrections panelist

Community engagement has been a challenge. . . . Over the last three or four years, we've really made strides in community engagement and we're missing that. We're missing that component from our agency. And I'm concerned about the long-term effects of that.

– Law enforcement operations panelist

Research and Evaluation Are Needed to Assess Responses to the Pandemic and Inform Future Innovation and Reform Efforts

Across the different parts of the system, the adaptations made to confront the COVID-19 pandemic suggest a slate of research and evaluation needs to measure (1) the effectiveness of such adaptations in responding to the current crisis, (2) their potential value for strengthening preparedness for future infectious disease outbreaks, and (3) the value of maintaining them over the longer term, even when the risks of the pandemic are no longer dominating decisionmaking.

Some of the steps that were taken, such as the use of teleconferencing for many processes, were relatively well defined and previously explored changes that were made on a very broad scale. Before the pandemic, research and evaluation efforts had suggested the potential value of using telepresence in the justice system. However, multiple panelists suggested that it had not been broadly adopted because of the justice system's organizational and technological risk aversion. The COVID-19 pandemic changed that, with the pressure to continue operations breaking such barriers and, in the assessment of some of our panelists, causing the system to make years of progress in weeks. Therefore, these changes represent a major expansion in the scope and depth of an available technology across the justice system.

The pandemic was not the disruption that we wanted in the court system, but maybe [it was] the disruption we needed to really make change happen. . . . [W]e're a big old-fashioned institution that doesn't change very easily. And this pandemic has really pushed the pace of change.

– Court system panelist

Some of the other initiatives pursued during the pandemic—notably, major efforts to reduce arrests to limit flows of people into the justice system and rapid increases in releases from jails and some prisons—represented much more-substantial changes. Although some efforts to reduce incarceration in correctional institutions already were underway, the signifi-

cant population reductions that occurred in some areas represented a massive, near–national-level experiment in a very different approach to managing criminal justice. Such changes were in line with some of the changes that were being sought in national protests, but they were implemented for infection-control rather than justice-reform purposes.

I think there is a lot of support in the general public for the concept of scaling back on mass incarceration. And I think that is one of the very few things that consistently—in the last five or ten years—has been a bipartisan issue that pretty much everybody can agree that we want to cut back incarceration.

– Institutional corrections panelist

Our panelists were generally positive about the results of many of these experiments of necessity, but some were cautionary about outcomes. Panelists viewed virtual models as extremely valuable and as having many possible benefits, but some were concerned about the effect of digital divides and whether virtual processes would be as effective as in-person ones. Several panelists were optimistic about the changes in arrest and incarceration policies because such policies did not appear to have resulted in major increases in crime. In Table S.2, we summarize the most promising practices that came out of the discussion in each of our panels.

However, for nearly all of these promising practices, our panelists emphasized the need for longer-term, empirical evaluations of outcomes to see whether their initial optimism held up to analysis and to assess whether the outcomes were driven by the circumstances of the pandemic. As a result, a variety of research and evaluation questions came out of the discussions in each panel, which showed commonalities and differences across the system. In Table S.3, we summarize those research questions, which represent an initial contribution to a research agenda for weighing the system’s response to COVID-19 and determining what lessons can be learned for the future.¹⁰

I think there’s a real opportunity to fundamentally shift the reach of the criminal justice system in the lives of the poorest people in the community. But there’s also tremendous resistance. . . . I think it’s going to be up to researchers to be able to really evaluate the impact of COVID and bail reform and these arguments around police legitimacy and the link between that and crime to really help us better understand the impact.

– Community organization panelist

¹⁰ The National Commission argued for the development of minimum standards across a wide variety of these topic and practice areas to strengthen preparedness for the next pandemic. It also called for a “national research agenda concerning COVID-19 and criminal justice” for which the questions in this summary, and the report on which it is based, could provide a jumping-off point; furthermore, the results of such questions could support standards development (National Commission on COVID-19 and Criminal Justice, 2020b, p. 31).

Table S.2
Promising Practices Identified in Each Sector Panel Discussion

Category	Law Enforcement	Court System	Institutional Corrections	Community Corrections	Victim Services
Virtual components of justice processes	<ul style="list-style-type: none"> • Maintain virtual access to the courts. Participants saw major advantages in making court appearances virtual for criminal justice practitioners (including forensic examiners and police officers) and citizens. The option was viewed as cost-saving when resource constraints likely will affect both government organizations and individuals. • Continue using virtual calls for service and alternative ways to efficiently meet the public's needs. The use of web-based reporting and nontraditional responses to some crimes have been explored by some agencies as a cost-saving measure for some time. The pandemic pushed the adoption of these modes, but their value to the public and likely significant resource constraints are arguments for maintaining them. 	<ul style="list-style-type: none"> • Maintain virtual access to the courts. The ability of individuals to attend court remotely not only improves efficiency but also appears to have improved access to justice by making it easier and less costly for individuals to participate. Although digital divide concerns—which might increase because of the economic effects of the pandemic—must be resolved, the value of virtual options appears to be considerable. • Maintain routine virtual connectivity between courts and corrections agencies. In both the courts and corrections panels, participants noted the high value of bringing individuals to court virtually because it increased safety for all and cut costs involved with prisoner transportation and security at court. • Maintain virtual elements of in-person processes. Although a return to traditional in-person jury trials is a priority, maintaining virtual components wherever possible—in jury selection and voir dire—would increase efficiency and make jury service less burdensome. 	<ul style="list-style-type: none"> • Maintain routine virtual connectivity between courts and corrections agencies. Corrections agencies flagged virtual court appearances as a major opportunity to save money and reduce safety risk. In an era of likely constrained resources, reducing costs for inmate transportation will be attractive. 	<ul style="list-style-type: none"> • Maintain virtual supervision and service-delivery models. Virtual approaches to supervision and service delivery during the pandemic appeared to be beneficial to both supervisees and staff. Initial experience suggested that virtual approaches might have other advantages over standard methods, for example, by allowing customization of supervision. Although the effectiveness of these approaches should be evaluated formally, these approaches appear to be very promising, particularly for lower-risk supervisees. 	<ul style="list-style-type: none"> • Explore maintaining virtual service-delivery options. Although victim services providers were less convinced than others that virtual models were as effective as traditional modes of counseling and service delivery, they could provide alternative modes when in-person delivery is not available. More-rigorous assessments of their effectiveness and the identification of specific services where virtual delivery is advantageous are needed.

Table S.2—Continued

Category	Law Enforcement	Court System	Institutional Corrections	Community Corrections	Victim Services
Work models	<ul style="list-style-type: none"> • Maintain remote work options and schedule flexibility. Although remote work options and schedule flexibility were driven by the necessity of minimizing the risk of transmitting the virus, panelists viewed such options as valuable for improving staff morale and retention in the long term. As a result, like in many private-sector firms, flexible schedules and remote work options were viewed as something to maintain in the longer term. 	<ul style="list-style-type: none"> • Maintain remote and paperless work processes for courts. Even before the pandemic, courts were pursuing paperless processes and other improvements in information technology. Although models that allowed easy work from home were valuable in the pandemic, they also would improve efficiency after the pandemic. 	<ul style="list-style-type: none"> • Explore maintaining flexible work models as part of corrections. Although many parts of corrections practice must be done in person and in facilities, providing some roles with more flexibility to the extent possible could make corrections careers more attractive. 	<ul style="list-style-type: none"> • Maintain teleworking models in community supervision and service-provider agencies. Because they allow more flexibility for corrections practitioners, telework and flexible work models could help reduce infrastructure costs and make corrections careers more attractive to potential employees. 	
Communication and connectivity	<ul style="list-style-type: none"> • Use virtual connectivity and new information technology platforms to support leadership and community situational awareness. In panel discussions, participants noted the value of law enforcement leaders being able to connect remotely and get information about what was going on. They thought it was useful in responding to questions from political leaders or the public. In addition, providing more data resources on department websites was noted as a strategy to strengthen communication when staff were not connecting with people in person. Both appear valuable to maintain. 		<ul style="list-style-type: none"> • Maintain expansions of virtual and video visitation systems. Facilities that had strong virtual connectivity between inmates and others, including family, legal counsel, program providers, and electronic content sources, made disease-control measures that limited in-person contact easier to implement. 		<ul style="list-style-type: none"> • Maintain alternative contact approaches to reach victims in need. Alternative ways that organizations developed to reach out to and communicate with victims under stay-at-home and restricted-contact conditions of the pandemic, including text lines and modified practices with law enforcement agencies, could make it possible to better identify and serve victims in need after the pandemic recedes.

Table S.2—Continued

Category	Law Enforcement	Court System	Institutional Corrections	Community Corrections	Victim Services
Sector-specific issues			<ul style="list-style-type: none"> • Better integrate corrections agencies into public health planning. Because of their confined and dense populations, corrections institutions have always been a potential flash-point for infectious disease outbreaks. Because community spread into and out of facilities was a contributor, the COVID-19 pandemic demonstrated that facilities should have a seat at the table not only for emergency planning in their areas during crises but also on a long-term basis. • Preserve reductions in inmate density to reduce disease risk. Although infrastructure changes (e.g., ventilation) could reduce the chances of facilities becoming hotspots of disease, facilities that had lower population density had many more options available to reduce the risk of viral spread and respond when outbreaks occurred. 		<ul style="list-style-type: none"> • Strengthen partnerships and collaborations to enable service delivery during crisis periods. Relationships and linkages between service providers, which are important even under normal circumstances, were viewed as particularly important in responding to the extremely complex and demanding circumstances of the pandemic.

Table S.3
Key Research and Evaluation Questions Identified from Panel Discussions

Category	Law Enforcement	Court System	Institutional Corrections	Community Corrections	Victim Services
Understanding COVID-19's effects on criminal justice	<ul style="list-style-type: none"> • What explains the differences from place to place in how crime and victimization changed during the pandemic? • What is the extent of the long-term physical and mental health consequences of COVID-19 for law enforcement officers? How has the pandemic affected officer suicide, which was a significant concern before the pandemic? 	<ul style="list-style-type: none"> • Can the effects of the pandemic on plea bargaining behavior and outcomes be identified and measured? Can concerns about the potential coerciveness of COVID-19 in correctional facilities (i.e., increasing bargaining power of prosecution) be distinguished from ways that the push to reduce jail and prison populations might lead to a greater desire to reach agreement rapidly? 	<ul style="list-style-type: none"> • Given concerns about the pandemic's effect on different racial and ethnic groups and disparities in incarceration, data need to be collected to better understand the burden of disease across demographic groups within facilities. • What have been the mental health effects of the pandemic on both incarcerated populations and correctional staff, and how long do such effects last? 	<ul style="list-style-type: none"> • Given the importance of employment as a component of reentry and a driver of success, can the effect of the pandemic's economic dislocation on justice-involved individuals be directly measured to better understand supervision success rates going forward? 	<ul style="list-style-type: none"> • Changes in reporting behavior by victims during the pandemic risks future analyses of crime and justice responses reaching distorted conclusions. For example, if many victims delay reporting because of fear of COVID-19 or other reasons, crime at different stages of the pandemic may appear lower than it actually was. How can this be addressed in research and evaluation studies? • Given differences in data on needs reflected in calls to helplines versus calls to police, how can the totality of the changes in victim service demand caused by the pandemic be better characterized?

Table S.3—Continued

Category	Law Enforcement	Court System	Institutional Corrections	Community Corrections	Victim Services
Improved disease management	<ul style="list-style-type: none"> How has the level of community trust and the public perception of the legitimacy of police departments affected their ability to contribute to managing COVID-19? Have more-trusted departments been more effective or more trusted with access to sensitive data or other resources to enable pandemic response? Are there other roles that law enforcement could productively play in public health response? How can areas better plan for future pandemics to limit the conflicts and imprecision in public health orders (e.g., what businesses were classified as essential, what level of enforcement by police is appropriate or useful) that made law enforcement participation in managing the crisis more difficult and controversial? Can a consensus be reached around definitions and categories to make it possible to respond more quickly, collaboratively, and effectively to future outbreaks? 	<ul style="list-style-type: none"> Can resources be developed to educate court system stakeholders about Health Insurance Portability and Accountability Act (HIPAA) requirements regarding the sharing of COVID-19 case information to enable protection of both staff and the community? 	<ul style="list-style-type: none"> What can be learned from the significant differences in COVID-19 spread in separate correctional systems and even across facilities within the same system? Was the variation mostly attributable to the nature and time of introduction of the virus, or were there key differences in initial conditions (e.g., more- versus less-crowded conditions) or in the practices, policies, or infection-control actions taken that explain the different experiences? What disease-testing strategies are effective in minimizing infectious disease in correctional institutions, taking into account the limits of tests, their costs, and the information (and the uncertainty of that information) provided by a positive or negative result? 		<ul style="list-style-type: none"> Given resource constraints and victims in need of sheltering, can better strategies be identified to reduce infection risk in group shelters while keeping barriers to utilization low for clients?

Table S.3—Continued

Category	Law Enforcement	Court System	Institutional Corrections	Community Corrections	Victim Services
Improved disease management (continued)	<ul style="list-style-type: none"> • Are there more-effective ways to address the increase in mental health calls that has been observed during the pandemic, and how might alternative models inform consideration of police reform efforts? • How can law enforcement officers be better protected from infection risks during large-scale outbreaks, including increasing their compliance with the use of available protective equipment? 		<ul style="list-style-type: none"> • Given concerns about individual isolation for disease prevention and controversy around the levels of transparency of correctional systems during the pandemic, can consensus models for such activities be developed that meet the needs of both corrections systems and advocates? • How can corrections officers and staff be better protected from infection risks during large-scale outbreaks, including increasing their compliance with the use of available protective equipment? • Given the lessons learned from the pandemic and the significant infectious disease risks to both incarcerated populations and the public from high-density, mass incarceration, what should the capacity of existing correctional institutions be? 		

Table S.3—Continued

Category	Law Enforcement	Court System	Institutional Corrections	Community Corrections	Victim Services
Improved disease management (continued)			<ul style="list-style-type: none"> • Are there architectural or other retrofitting options that would make correctional institutions more resilient to future infectious disease threats? • What are the implications of the pandemic's lessons on the capacity of carceral facilities' medical care-delivery systems? 		
Assessing the outcomes of reductions in arrest, incarceration, and supervision	<ul style="list-style-type: none"> • What have been the effects of nonarrest policies and actions taken in response to lower-level crimes during the pandemic? Do initially positive perceptions hold up over the longer term? 	<ul style="list-style-type: none"> • Has the significant reduction in pretrial detention and money bail had an effect on appearance rates? 	<ul style="list-style-type: none"> • How has the reduction in detention, reduction in jail use, and expedited release from prison incarceration affected crime and recidivism rates? • How can the effects of the changes made as a result of the pandemic be distinguished from the effects of other initiatives (e.g., bail reform) that were already underway in some areas? 	<ul style="list-style-type: none"> • How has the substitution of supervision for incarceration and the reduction in the dosage (i.e., intensity) of supervision for many individuals affected crime and recidivism rates? • How have the major changes to the use of revocations—and, therefore, a significant reduction in a flow of individuals back into institutional corrections—affected outcomes? • How has the reduction of the use of such techniques as drug testing or electronic supervision affected outcomes? Do the changes made provide a template for reducing costs and intrusion into supervisees' lives going forward? 	

Table S.3—Continued

Category	Law Enforcement	Court System	Institutional Corrections	Community Corrections	Victim Services
Assessing the outcomes of reductions in arrest, incarceration, and supervision (continued)				<ul style="list-style-type: none"> How can the effects of the changes made as a result of the pandemic be distinguished from the effects of other initiatives (e.g., bail reform) that were already underway in some areas? 	
Assessing distanced criminal justice models	<ul style="list-style-type: none"> What have been the effects of alternative work schedules and models on staff and law enforcement agencies, and how should those effects shape the decision to continue them over the longer term? What should be measured to better assess the effects of pandemic restrictions on alternative approaches, such as violence-reduction interventions, and assess the effectiveness of efforts to create virtual options for generally relationship-intensive face-to-face interventions? 	<ul style="list-style-type: none"> Is there a measurable effect on case outcomes of trial participants being socially distanced or wearing face coverings? How can courts proactively identify alternative facilities where jury trials could be held in the community? Can tools be developed to solicit community input on case prioritization to ensure that community views are reflected in which cases are allocated scarce court resources and acted on for backlog reduction? 	<ul style="list-style-type: none"> Can the effectiveness of virtual visitation and other virtual options be measured to support investments in their expansion? 		<ul style="list-style-type: none"> What are the differences in outcomes for individuals served in alternative housing supports or hotel or motel models versus standard sheltering?

Table S.3—Continued

Category	Law Enforcement	Court System	Institutional Corrections	Community Corrections	Victim Services
Assessing virtual delivery of justice services	<ul style="list-style-type: none"> How satisfied has the public been with the provision of virtual police services during the pandemic, and how much have those alternative models saved departmental resources? How effective have efforts to train staff and new officers virtually been? Over time, how do the skills and capabilities of officers who went to the Academy in cyberspace differ from those of officers who were trained in person? What technologies are needed to support more law enforcement practitioners in flexible work models (e.g., systems to better enable dispatchers to work remotely)? Did digital divides among different groups in the public affect the effectiveness of communication and other strategies? Were alternatives used by departments that encountered such problems effective? 	<ul style="list-style-type: none"> Have remote-appearance options reduced failure-to-appear rates? Do victims of crime have a different perception of whether justice is served in remote hearings and proceedings? How do jurors perceive the experience of serving on a virtual jury? In virtual proceedings, do outcomes differ from those of in-person court processes on measurable factors, such as bail, sentences, or other outcomes? Could online dispute-resolution processes be applied in the criminal area to help reduce the backlog while maintaining procedural justice? Does the potential for integrating virtual technology into future court operations suggest a need to revisit court design and security standards? If virtual juries are used, are there issues maintaining the representativeness of the jury pool? How has the shift to virtual proceedings affected self-represented litigants? 		<ul style="list-style-type: none"> Are virtual models as effective as in-person supervision, counseling, and treatment? How have key outcomes—both from the individual and societal perspective—been affected by the shift? What are the full net savings for corrections agencies from virtual models? Estimates should include variable costs (e.g., staffing, transportation time) and potential savings from infrastructure costs. What are the net savings to the individuals under supervision? How have digital divides across different parts of the community corrections system—including government agencies, NGO service providers, and entities serving urban and rural communities—affected the ability to continue operations through the pandemic? 	<ul style="list-style-type: none"> How effective are virtual models for delivering services to victims, and how satisfied are those victims with the outcomes (including virtual court participation)? How can organizations that might not have as strong a technology infrastructure as government criminal justice agencies more effectively address the information security and other concerns with delivering services remotely? Similar to questions raised in the past regarding law enforcement, are there challenges (e.g., with legal discoverability) with providers using personally owned devices in performing their roles? Given concerns about the digital divide significantly affecting the ability of victims from locations with low broadband or little communications infrastructure to access services and participate in the justice process, can levels of true access be better mapped to inform assessment of the impact of virtual models?

Table S.3—Continued

Category	Law Enforcement	Court System	Institutional Corrections	Community Corrections	Victim Services
Assessing virtual delivery of justice services (continued)		<ul style="list-style-type: none"> • Can the positive effects of virtual proceedings on litigants—in easier access, lower costs, and other factors—be quantified? If costs are lower, is access to justice increased? • Can the effects of streaming or broadcasting court proceedings online be measured to allow for the weighing of broader access versus greater exposure for victims, defendants, and other parties? 			
Improving justice funding models	<ul style="list-style-type: none"> • Given likely funding constraints on departments going forward, what are the implications of the types of programs and initiatives that will be cut? How do such cuts interact with reform efforts arguing for the reallocation of resources from police budgets? 	<ul style="list-style-type: none"> • How have the mechanisms through which court systems are funded affected their ability to respond to and operate through the pandemic? 	<ul style="list-style-type: none"> • How can institutional corrections systems respond to budgetary pressures that could push toward a return to high-density facilities, therefore increasing vulnerability to infectious diseases? 	<ul style="list-style-type: none"> • How can both supervision agencies and the service providers on which they depend be sustainably funded, given what we have learned during the pandemic? 	<ul style="list-style-type: none"> • Given the importance of services to victims of crime and the importance of supporting their involvement in the justice process, how can sustainable support for organizations delivering those services be put in place given the vulnerability revealed by the pandemic and its economic consequences?

There Are Long-Term Challenges to Face, but There Is Also Opportunity to Substantially Improve Justice System Performance for All

At the time of this writing, there is optimistic news about vaccines for the virus becoming available that could mean that the end of the pandemic is approaching. But that good news is also coming at a point when case numbers are spiking to unprecedented levels in states across the country and average daily deaths once again number in the thousands. Furthermore, our panelists emphasized that, like people who have recovered from COVID-19 but are still experiencing symptoms, the effects of the pandemic on the criminal justice system are not going to go away rapidly. Because of the consequences of how agencies responded to deal with the immediate pressure of the pandemic, enduring pressures—backlogs of cases, demands, and needs—were created that might take months or even years to work through, even after pre-pandemic capacity is restored. And that recovery will be made more complicated by the scars that the pandemic will almost certainly leave on municipal budgets, on the philanthropic funding streams on which many service providers rely, and on the economy as a whole. The fiscal and economic fallout means not only that justice agencies likely will have fewer resources to address the backlogs that have built up but also that that need in particular will continue to expand as some stresses experienced by individuals and families during the pandemic persist beyond it. Although national protests called for defunding the police as part of demands for change, it might be the economic consequences of the pandemic that result in justice agencies having fewer resources to work with and constrained options going forward.

I think it's also helpful just to think about [the fact that] it's going to be years before real recovery happens. I mean . . . you've got a really high rate of unemployment just across the board. And so when you talk about helping a population who doesn't have credit, who doesn't have job experience, who doesn't have a resume, trying to provide some of those supports just for employment, which is essential for any sort of long-term independence and self-sufficiency.

– Victim services panelist

However, in spite of concerns about very serious challenges, there was optimism among our panelists as well. Long before the pandemic, there were concerns about the consequences of the number of people channeled into the justice system in the United States. The focus of calls for reform regarding mass incarceration have generally focused on the consequences for justice-involved individuals and their communities and how the intermingling of responses to mental health issues, substance abuse, and crime has affected the system's overall effectiveness.¹¹ Beyond such concerns, the pandemic made it undeniable that the public safety goals of criminal justice and public health are inexorably intertwined, and that past efforts to prepare the system for pandemic threats had only limited success. The pandemic itself represented a massive forcing function to decarcerate, giving the United States the opportunity to consider how a justice system that relies less on arrest and incarceration might look and what public

¹¹ The final report of National Commission argued for the expansion of diversion and alternative interventions to reduce the flow of such individuals into the justice system (National Commission on COVID-19 and Criminal Justice, 2020b, pp. 21–24).

safety outcomes it might produce. The pursuit of that outcome aligns with the calls for reform that were prominent in the protests through summer 2020, but it predates both those calls and the pandemic. The pandemic disproved—on a nationwide scale—the argument for slow progress in past reform and innovation in the justice system, potentially opening up new options and possibilities for the future. Although there are good reasons for a level of risk aversion in justice agencies, adapting to the pandemic involved rapid change on a very broad scale. Having demonstrated that inertia can be overcome, there is the potential for change that might have looked unrealistic before.

So that's where we're standing at this moment in time, it's a big moment and we're not going to waste it. We're gonna go big and we're gonna do the investments in the community that we've talked about for a long time, but have never done.

– Court system panelist

I don't think instinctively that as a system we're inclined to be introspective. . . . I think if there is a silver lining, [it's that] we are being forced to be introspective. Ironically, some of the things that we were considering well before the pandemic where "old school resistance prevailed," now we're really considering it.

– Community corrections panelist

Given the terrible loss caused by COVID-19, which has claimed the lives of many members of criminal justice and service organizations, of medical professionals fighting the disease (including those treating justice-involved individuals who became infected), and of hundreds of thousands across the United States, realizing the potential for improvement seems to be a critical goal. Drawing on lessons they learned in responding to this crisis, our panelists saw a chance for innovation that could make the criminal justice system both more effective in managing public safety and fairer to those who become involved in the justice system. In our discussions, panelists talked about the inherent tension that exists between the desire to craft justice interventions that are effective at the individual level and responding uniformly across large categories of people, offenses, or problems. Responses to the pandemic to reduce populations in jails or prisons, allowing the system to focus on fewer people at a time, make it easier to customize interventions for greater effectiveness. Technologies that the pandemic forced on the usually risk-averse justice system—most notably, virtual modes of interaction and supervision—further enable the development of one-size-fits-one models that can conserve resources, improve fairness, reduce the intrusiveness of the justice system in the lives of individuals and their communities, and be more effective. Although the likely enduring fiscal pressure on the justice system might make this sort of innovation practically important, learning to build a stronger justice legacy could be, to paraphrase one of our panelists, a way to find at least a thin silver lining in what has been a very darkly clouded time for the United States.