



## CONVENING ON ADDRESSING BARRIERS TO FINANCIAL SERVICES FOR JUSTICE IMPACTED-INDIVIDUALS

This note outlines the justice-impacted convening sessions chaired by Assistant Secretary Graham Steele and Counselor Janis Bowdler.

**Date:** Friday, January 12<sup>th</sup>, 2024

**Time:** 11:00 AM – 4:00 PM

**Location:** Cash Room, U.S. Treasury Department Main Building at 1500 Pennsylvania Ave

**Key Contacts:** Anita Robertson, [Anita.Robertson@treasury.gov](mailto:Anita.Robertson@treasury.gov), (202) 374-9917

**Overview:** This two-part discussion aims to address financial barriers faced by justice-impacted individuals. The first panel begins with insights from experts who have firsthand experience with these challenges. Following a break for lunch, the second panel will discuss the underlying barriers to accessing banking services. The event will conclude with a dialogue between regulators, financial institutions, and non-profits organizations to foster collaboration towards inclusive financial solutions. The key objectives will include:

- **Participants agree to work together with USG to explore tailored financial services including for justice impacted individuals.**
- **USG participants identify concrete ways for greater collaboration across federal agencies that advance or augment efforts to reduce barriers to financial services for Justice Impacted Individuals**

**Format:** Roundtable participants seated around a large conference table. Panelists facing the roundtable and additional participant seating behind panelists. Limited participants joining via Zoom.

**Press:** Closed. Event recorded for internal purposes.

### Summary

Research indicates that individuals re-entering society often encounter challenges in accessing bank accounts and affordable financial services. Consequently, they may resort to high-cost options or go without financial products and services altogether. This can lead to long-term negative effects for justice-involved individuals, their families, and communities, especially affecting people of color, women, and low-income communities.

Pursuant to the goals in Executive Order 14074, “Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety,” which was issued on May 25, 2022, the Treasury Department is working with the White House-organized Alternative Re-entry Committee to dismantle banking barriers for justice-involved individuals striving for societal reintegration. As part of these efforts, the Treasury Department is hosting sessions with



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stakeholders and regulators to discuss this critical issue and illuminate the barriers that impede justice-impacted individuals from using banking services.

The roundtable event and discussion will help build awareness and offer an opportunity to receive feedback with respect to:

- 1) Addressing current barrier to financial products and services for justice impacted consumers and businesses.
- 2) Developing public and private strategies for financial inclusion for justice impacted individuals.
- 3) Delivering consumer-friendly educational materials that are trustworthy, accessible, and inclusive for justice impacted individuals through the Financial Literacy and Education Commission (FLEC).

## **Background**

Access to financial services is a fundamental aspect of reintegrating individuals who have been subject to criminal justice-related interventions, such as parole, probation, or incarceration, into society and helping them build stable, productive lives. Justice-impacted individuals (JII) frequently encounter significant barriers when attempting to access financial services, including insurance, banking, loans, and investments, and may encounter difficulties in fulfilling basic needs such as housing and employment. These challenges stem in part from financial services sector policies and practices that limit the ability of individuals with criminal records to access bank accounts and credit.<sup>1</sup> Beyond the direct impact on the individuals involved, this issue can influence economic vitality, community stability, and the effectiveness of the criminal justice system in supporting re-entry of justice impacted individuals.

JII and their family members are twice as likely as the general population to be unbanked or underbanked (32% vs. 15%).<sup>2</sup> This lack of access banking services extends to broader financial services, including loans and investments, further restricting their economic opportunities and hindering their ability to build financial security.

Some practical hurdles can exacerbate the financial exclusion of JII. For example, upon release, many JII lack a driver's license, passport, or birth certificate,<sup>3</sup> and the process of obtaining these documents can be complicated and expensive. Without valid identification, JII face hurdles

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<sup>1</sup> See Consumer Financial Protection Bureau. (Jan. 2022). "Justice-Involved Individuals and the Consumer Financial Marketplace." [https://files.consumerfinance.gov/f/documents/cfpb\\_jic\\_report\\_2022-01.pdf](https://files.consumerfinance.gov/f/documents/cfpb_jic_report_2022-01.pdf).

<sup>2</sup> Watson, S. "Economic Wellbeing of U.S. Adults with Experiences with Incarceration & Unpaid Legal Costs." First Step Alliance. [www.firststepalliance.org/post/first-step-alliance-report-economic-health-of-justice-involved-individuals](http://www.firststepalliance.org/post/first-step-alliance-report-economic-health-of-justice-involved-individuals). Specifically, those with a justice-impacted family member were more than twice as likely to be unbanked than those who do not (7% vs. 3%). Those with a justice-impacted family member were also more than twice as likely to be underbanked than those who do not (25% vs. 12%).

<sup>3</sup> Financial Health Network. (Jan. 2023). "Supporting Returning Citizens' Financial Health." <https://finhealthnetwork.org/wp-content/uploads/2023/01/Supporting-Returning-Citizens-Financial-Health-2023.pdf>.



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reintegrating into society by accessing financial services, securing housing, or applying for jobs.<sup>4</sup> Further, prior convictions can significantly impact credit scores and banking history. During periods of incarceration, individuals typically cannot engage in financial activities, leading to dormant accounts or unpaid debts that negatively affect their credit scores. This, in turn, presents barriers to obtaining loans, credit cards, and basic banking services upon release.<sup>5</sup>

Additionally, the burden of criminal justice debt can exacerbate these challenges. Unpaid criminal justice debts can grow over time due to mandatory interest and penalties, sometimes even accruing while an individual is incarcerated.<sup>6</sup> This kind of debt is prioritized over other types, like credit card or medical debts, due to the unique enforcement capabilities of governments and private companies through the criminal legal system. For instance, in many states, unpaid criminal justice debts can lead to the suspension of a driver's license, a necessity for many employment opportunities and a necessary form of identification.<sup>7</sup>

Additionally, financial institutions may be reluctant to extend services to JII or may require extensive background checks before opening accounts.<sup>8</sup> These background checks can be time-consuming, invasive, or burdensome, potentially deterring some from even attempting to engage with traditional financial institutions. Moreover, past criminal history can lead to impede access to financial institutions and products which is necessary for improving financial capability.<sup>9</sup> This lack of access creates a cascade of challenges, impacting their ability to manage finances, receive income, and efficiently pay bills.<sup>10</sup>

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<sup>4</sup> The Atlantic. (Aug. 2016). "The Elusiveness of an Official ID After Prison."

<https://www.theatlantic.com/politics/archive/2016/08/the-elusiveness-of-an-official-id-after-prison/495197>.

<sup>5</sup> National Consumer Law Center & Collateral Consequences Resource Center. (2022, February 14). The High Cost of a Fresh Start: A State-by-State Analysis of Court Debt as a Bar to Record Clearing. Available from:

<https://www.nclc.org/resources/the-high-cost-of-a-fresh-start-a-state-by-state-analysis-of-court-debt-as-a-bar-to-record-clear/>

<sup>6</sup> National Consumer Law Center. (2016, October 14). New NCLC Chapter on Criminal Justice Debt. Retrieved from <https://library.nclc.org/article/new-nclc-chapter-criminal-justice-debt>

<sup>7</sup> National Consumer Law Center. Criminal Justice Debt: Consumer Debt Advice from NCLC. Retrieved from <https://library.nclc.org/article/criminal-justice-debt-consumer-debt-advice-nclc>

<sup>8</sup> Oxfam & Global Center on Cooperative Security. (Nov. 15, 2015). "Understanding Bank Derisking and Its Effects on Financial Inclusion." [https://www-cdn.oxfam.org/s3fs-public/file\\_attachments/rr-bank-de-risking-181115-en\\_0.pdf](https://www-cdn.oxfam.org/s3fs-public/file_attachments/rr-bank-de-risking-181115-en_0.pdf). Collins, J. M. (2022, November 18). The Costs of Conviction: Examining Financial Account Ownership Among Formerly Incarcerated Individuals. APPAM - 2022 APPAM Fall Research Conference.

<https://appam.confex.com/appam/2022/meetingapp.cgi/Paper/44684>; Risk-Based Approach for the Banking Sector. (2014). <https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Risk-based-approach-banking-sector.html>

<sup>9</sup> Henderson, T (2018, September 25). New Frontiers in Fair Lending: Confronting Discrimination Against Ex-Offenders - NYU Law Review. NYU Law Review. <https://www.nyulawreview.org/issues/volume-80-number-4/new-frontiers-in-fair-lending-confronting-discrimination-against-ex-offenders/>

<sup>10</sup> Ibid



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These challenges are further exacerbated by a widespread mistrust of the banking system among JIIs.<sup>11</sup> This often stems from historical injustices, perceived discrimination, past negative experiences, or a lack of familiarity with traditional financial products.<sup>12</sup>

Finally, policies to prevent fraud, money laundering, terrorism, and other financial crimes can create barriers for JIIs. The practice of “de-risking,” in which financial services companies avoid conducting business with customers perceived as high-risk,<sup>13</sup> can exacerbate the challenges faced by JIIs. In the process of de-risking, some financial institutions, in seeking to comply with anti-money laundering requirements, may close accounts of, or refuse services to, JIIs, based upon their criminal records or because they are members of “high-risk” populations more generally.<sup>14</sup> As a result of these and other factors, JIIs are more likely to be financially marginalized and reliant on less-secure and more-costly financial services.<sup>15</sup> JIIs are often forced to rely on alternative financial services like payday loans and check cashing services. These alternatives may come with costly fees and high interest rates, potentially exposing JIIs to a cycle of debt and further deepening their financial difficulties. JIIs may find themselves excluded from favorable loan terms even for some traditional financial products, encountering higher interest rates or outright rejection of their credit applications.<sup>16</sup> The lack of access can force many to rely on cash, posing safety risks and limiting their ability to save or invest in themselves as individuals or in their communities. These challenges may extend beyond banking services to housing, employment, and other essential services that are the foundation of a stable financial life. JIIs’

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<sup>11</sup> American Bankers Community Engagement Foundation (2021). (rep.). Expanding Financial Services for Justice Involved Individuals. Retrieved January 1, 2024, from <https://www.aba.com/-/media/documents/reference-and-guides/financial-inclusion-for-justice-involved-individuals-report.pdf?rev=57b19a9ab70748ba90780dc67eb42fbc>.

<sup>12</sup> National Consumer Law Center. (2016, October 14). New NCLC Chapter on Criminal Justice Debt. Retrieved from <https://library.nclc.org/article/new-nclc-chapter-criminal-justice-debt>

<sup>13</sup> AMLA The Department of the Treasury’s De-risking Strategy. (2023, April). In [https://home.treasury.gov/system/files/136/Treasury\\_AMLA\\_23\\_508.pdf](https://home.treasury.gov/system/files/136/Treasury_AMLA_23_508.pdf). United States Department of Treasury.

<sup>14</sup> Committee on Banking, Housing, And Urban Affairs United States Senate, 115<sup>th</sup> Congress, Combating Money Laundering and Other Forms of Illicit Finance: Administration Perspectives on Reforming And Strengthening Bank Secrecy Act Enforcement, (2018, January 9). In <https://www.congress.gov/115/chr/CHRG-115shrg28675/CHRG-115shrg28675.pdf>.

Financial Action Task Force (FATF). (2012). Guidance on a Risk-Based Approach to Customer Due Diligence for the Banking Sector. <https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/Risk-Based-Approach-Banking-Sector.pdf.coredownload.pdf> (Guidance on a risk-based approach to CDD emphasizes the importance of considering a customer's background and potential risks when making decisions about account opening and ongoing monitoring. This could involve taking into account criminal records); Basel Committee on Banking Supervision. (2020). Sound management of risks related to money laundering and financing of terrorism.

<https://www.bis.org/bcbs/publ/d505.pdf> (outlines the core elements of an effective AML/CFT counter-terrorist financing regime, including CDD measures that may involve screening customers for “past convictions or pending and ongoing prosecutions for a criminal offence”); National Consumer Law Center & Collateral Consequences Resource Center. (2022, February 14). The High Cost of a Fresh Start: A State-by-State Analysis of Court Debt as a Bar to Record Clearing. Available from: <https://www.nclc.org/resources/the-high-cost-of-a-fresh-start-a-state-by-state-analysis-of-court-debt-as-a-bar-to-record-clear/>

<sup>15</sup> Watson, S. “Economic Wellbeing of U.S. Adults with Experiences with Incarceration & Unpaid Legal Costs.” First Step Alliance. [www.firststepalliance.org/post/first-step-alliance-report-economic-health-of-justice-involved-individuals](http://www.firststepalliance.org/post/first-step-alliance-report-economic-health-of-justice-involved-individuals).

<sup>16</sup> Henderson, T (2018, September 25). New Frontiers in Fair Lending: Confronting Discrimination Against Ex-Offenders - NYU Law Review. NYU Law Review. <https://www.nyulawreview.org/issues/volume-80-number-4/new-frontiers-in-fair-lending-confronting-discrimination-against-ex-offenders/>



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struggles with managing personal finances and income instability can make them less appealing to potential landlords, restricting their housing options.<sup>17</sup> Similarly, employment opportunities can be limited due to gaps in work history or concerns related to financial instability. Access to certain financial assistance programs can be denied based on past justice involvement, further exacerbating JII vulnerabilities.<sup>18</sup>

There is an increasing recognition of the difficulties faced by JIIs. Federal and state government initiatives are now more focused on aiding their reintegration by simplifying access to identification documents and increasing fairness in credit scores.<sup>19</sup> These measures can include providing identification upon release from incarceration, simplifying the process to obtain essential documents, and removing criminal history questions from job applications. In the last three years, the American Rescue Plan Act have invested billions of dollars in community development financial institutions (CDFIs), minority depository institutions (MDIs), and other community-based lenders. These investments are particularly beneficial for economically distressed communities, including JIIs and their families. Some CDFIs are focused on improving access to financial services, like banking and small business loans, for formerly incarcerated people. Some have adapted their lending practices to include non-traditional forms of credit and accept alternative forms of identification, aiming to ease the financial transition and stability for these individuals.<sup>20</sup> non-governmental organizations, financial institutions, and community organizations can offer products and services like counseling, legal support, financial education, and “second chance” banking. Finally, other organizations are focused on integrating financial empowerment services into reentry programs for formerly incarcerated individuals to facilitate their successful return to society.<sup>21</sup>

While there is a growing recognition of the importance of supporting JIIs, the financial challenges they face are multifaceted. Addressing these challenges requires a coordinated effort to create a more inclusive economy.

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<sup>17</sup> Center for American Progress. (2012). Caught in the Crackdown: How Anti-Money Laundering Laws Hinder Financial Inclusion for Low-Income and Vulnerable Populations.

<https://scholarlycommons.law.northwestern.edu/njls/>

<sup>18</sup> The Sentencing Project. Employment discrimination against people with criminal records.

<https://www.sentencingproject.org/fact-sheet/poverty-and-opportunity-profile-eliminating-barriers-to-reentry/>

<sup>19</sup> The White House. (2023, January 20). Executive Order 14074 - Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety.

<https://www.federalregister.gov/documents/2022/05/31/2022-11810/advancing-effective-accountable-policing-and-criminal-justice-practices-to-enhance-public-trust-and>;

Fair Lending Report of the Consumer Financial Protection Bureau, June 2023. (2023, July 6). Federal Register.

<https://www.federalregister.gov/documents/2023/07/06/2023-14197/fair-lending-report-of-the-consumer-financial-protection-bureau-june-2023>;

NAACP Legal Defense and Educational Fund, Inc. (n.d.). Ban the Box.

<https://naacp.org/resources/fair-chance-hiring-fact-sheet>

Legal Service Corporation (2015, October 21). Program Letter 15-5: Second Chance ID and Reintegration.

<https://www.lsc.gov/about-lsc/laws-regulations-and-guidance/program-letters/program-letter-15-5>

<sup>20</sup> Hope Policy Institute. Criminal Justice Reform: Dismantling Barriers to a Second Chance. Hope Enterprise Corporation/Hope Credit Union. Retrieved January 3, 2024, from <http://hopepolicy.org/manage/wp-content/uploads/Criminal-Justice-Paper.pdf>.

<http://hopepolicy.org/manage/wp-content/uploads/Criminal-Justice-Paper.pdf>.

<sup>21</sup> Cities for Financial Empowerment Fund. Expert Topic: Reentry Integration Strategies. Retrieved January 3, 2024, from <https://cfefund.org/project/cfe-coalition-city-expert-topics-reentry-integration-strategies/>.



## **Detailed Objectives**

- Highlight the socio-economic challenges faced by individuals who have been part of the justice system, such as stigmatization and limited access to financial services.
  - Identify systemic barriers in housing, education, and especially in financial services that disproportionately affect these communities.
  - Examine the long-term impacts on their financial stability and community reintegration efforts.
- Discuss the current regulatory framework governing banking and financial services, focusing on aspects that affect justice-impacted individuals.
  - Analyze the unintended consequences of these regulations on financial inclusion efforts.
  - Identify areas where regulatory adjustments could facilitate better access to banking services.
- Examine the role of banks in fostering financial inclusion through tailored services and innovative approaches.
- Investigate the potential for new technologies to produce biases in financial services products for justice impacted individuals.
  - Discuss new technologies for criminal record verification that respect privacy while balancing security and rights.
- Propose policy reforms to make financial services more accessible, such as modifying credit scoring and regulatory adjustments.
  - Explore strategies that can strengthen capital delivery ecosystems with a proven track record of reaching justice-impacted individuals, small businesses, and communities.
  - Review successes and lessons learned from impactful public-private partnerships in this effort, including larger banks as capital delivery partners and community intermediaries and financial institutions as front-line small business lenders.
- Highlight successful initiatives that have helped justice-impacted individuals access banking services, focusing on their scalability and impact.





**Participants (SUBJECT TO CHANGE)**

**USG INTERNAL ATTENDEES- *As of 1/10***

- Graham Steele, Assistant Secretary for Financial Institutions
- Janis Bowdler, Counselor for Racial Equity
- Chastity Murphy, Senior Advisor for Assistant Secretary for Financial Institutions
- Anita Robertson, Executive Assistant for Assistant Secretary for Financial Institutions
- Suzanna Fritzberg, Deputy Assistant Secretary for Office of Consumer Policy
- Daniel Aiello, Acting Deputy Director for Policy and Programs, CDFI Fund
- Jessica Mejia, Senior Advisor for Public Affairs
- Scott Rembrandt, Deputy Assistant Secretary, Office of Strategic Policy, Office of Terrorist Financing and Financial Crimes
- Jeff Stout, Director, State Small Business Credit Initiative
- Steven Seitz, Deputy Assistant Secretary, Federal Insurance Office
- Anisha Steephen, Senior Advisor, CREO and Tax Policy
- Ted Lee, Deputy Assistant Secretary, Tax Policy
- Araoluwa Omotowa, Special Advisor, CREO

**USG EXTERNAL ATTENDEES- *As of 1/10***

- Rohit Chopra, Director, CFPB
- Mike Hsu, Acting Comptroller, OCC
- Kristin Johnson, Commissioner, CFTC
- Vanessa Chen, Special Advisor to the President, DPC
- Michael Negron, Special Advisor to the President, DPC
- Tara Mikkilineni, CFPB
- Dianne Thompson, CFPB
- Shaina Venek, CFPB
- Lauren Oppenheimer, OCC
- Eric Belsky, FRB

**STAKEHOLDER PARTICIPATION**

- National Civil Rights and Legacy Organizations
- Advocacy and Consumer Organizations
- Justice-Impacted Individuals (JII)-Focused Organizations and Individuals
- Federal Financial Agencies
- Community Development Financial Institution and Respective Trades
- Banks and Respective Trades
- Immigrant Groups
- Academic and Legal Experts
- Credit Reporting Agencies and Respective Trades