

- Traffic offenses, especially driving with a suspended license, merit particular scrutiny because of their relationship to poverty.<sup>188</sup>
- The effects of “color blind” and “gender blind” charging policies on the disparities in charging for different demographic groups.

## XI. Recommendations

- To systematize and incentivize more equitable pretrial, charging, and plea bargain practices, prosecutors in every jurisdiction in the state should conduct an internal analysis of their use of prior arrest, charge, and conviction data in decisions regarding pretrial detention and bail, charging, and plea bargaining, to assess the public safety impact and the gender, race, ethnicity, and LGBTQ+ impacts of using those prior records. Prosecutors should also revisit policies that limited consideration of prior records as part of office charging and plea-bargaining guidelines, to determine more accurate means of protecting public safety while reducing disproportionate impacts.
- To increase the use and effectiveness of pre-arrest and pre-file diversion and deferral programs, the Washington State Legislature should direct the Washington State Institute for Public Policy to partner with relevant state and tribal experts to create and maintain an inventory of criminal justice diversion programs that have proven to be effective for different populations and different needs, with a particular emphasis on cultural competence, trauma-informed care, and gender responsiveness.
  - After the creation of this list, jurisdictions should ensure that any program or treatment required as part of a formal pre-arrest or pre-file diversion agreement must belong to the list maintained by the Washington State Institute for Public Policy.

<sup>188</sup> ROBERT C. BORUCHOWITZ, AM. CONST. SOC'Y FOR L. & POL'Y, DIVERTING AND RECLASSIFYING MISDEMEANORS COULD SAVE \$1 BILLION PER YEAR: REDUCING THE NEED FOR AND COST OF APPOINTED COUNSEL 19 (2010), <http://lpdb.la.gov/Serving%20The%20Public/Reports/txtfiles/pdf/Boruchowitz%20Diverting%20and%20Reclassifying%20Misdemeanors.pdf>.

- To better understand and address disparities in charging, pretrial detention, bail, plea bargain, and diversion or deferral decisions, the legislature should work with the appropriate statewide and county prosecutorial agencies to fund the creation of a statewide system for data collection and publication, and forge partnerships with individual jurisdictions to collect and submit data from charging, bail, pretrial detention, plea bargain, and diversion or deferral decisions, with these data disaggregated by gender, race/ethnicity, sexual orientation and gender identity, and disability. Data should be made available to the public in a timely and accessible manner.