



## BACKGROUND

People struggling with mental health issues and substance use disorders interact with law enforcement and the criminal justice system at disproportionately high rates.<sup>1</sup> Because incarceration often fails to address the underlying causes of crime, incarcerated people with mental illness and substance abuse challenges are at higher risk of recidivism.<sup>2</sup> As a consequence, jails have become the nation's largest source of mental health treatment, such that three of the nation's largest mental health providers are Cook County, Los Angeles County, and Rikers Island jails.<sup>3</sup>

But law enforcement and local governments cannot arrest and incarcerate their way out of mental health and drug crises. In recognition of this reality, local law enforcement agencies across the country have increasingly experimented with innovative public safety models that prioritize treatment and diversion over punishment and unnecessary incarceration.<sup>4</sup> From these models, we have learned that providing targeted mental health services and drug treatment, and offering greater opportunities for diversion away from the justice system, will save states money, improve public safety, and reduce unnecessary incarceration and recidivism.

## RECOMMENDATIONS

### RECOMMENDATION 1: INVEST IN AND SUPPORT COMMUNITY RESTORATION CENTERS AND TREATMENT SERVICES

Community-based treatment provides vital, non-punitive support to people with mental health and substance abuse issues. These services improve outcomes by addressing the root causes of illness and addiction, thereby preventing future crimes.<sup>5</sup>

Instead of relying on hospitalization or incarceration to address mental health and substance abuse crises, states and localities should invest in community resources. Community restoration centers provide psychiatric care, crisis stabilization, and other services with fewer restrictions than hospitals or incarceration.<sup>6</sup> Such a center in San Antonio, Texas greatly decreased emergency room use, incarceration, and spending.<sup>7</sup>

Another successful model, Forensic Assertive Community Treatment (FACT), addresses community members' mental health needs in an intensive, outpatient program. FACT programs match participants

with teams of psychiatrists, social workers, nurses, occupational therapists, and peer support specialists. In New York, those enrolled in FACT initiatives experience fewer arrests and spend less time incarcerated than their non-FACT counterparts.<sup>8</sup>

States and localities should also consider funding peer support services and mobile crisis teams. Peer support services connect people to specialists with firsthand experience managing similar challenges, while mobile crisis services have proven effective in de-escalating emergencies and preventing unnecessary arrests.<sup>9</sup>

Community treatment also yields financial benefits through lowered crime rates and increased tax revenue.<sup>10</sup> Providing treatment in prison yields between \$1.91 and \$2.69 per dollar spent, while community treatment provides a return of \$8.87 per dollar spent.<sup>11</sup> Providing services prior to, or in conjunction with, justice system involvement will reduce unnecessary incarceration, prevent crime, and save money.

<sup>1</sup> *Indicators of Mental Health Problems Reported by Prisoners and Jail Inmates, 2011-2012*, Bureau of Justice Statistics, 2017; *Drug Use, Dependence, and Abuse Among State Prisoners and Jail Inmates, 2007-2009*, Bureau of Justice Statistics, 2017.

<sup>2</sup> Kristen M. Zgoba et al., "Criminal Recidivism in Inmates with Mental Illness and Substance Use Disorders," *Journal of the American Academy of Psychiatry and the Law* 48 (2020): 4; Jacques Baillargeon et al., "Psychiatric Disorders and Repeat Incarcerations: The Revolving Prison Door," *American Journal of Psychiatry* 166 (2009): 105.

<sup>3</sup> Ronal W. Serpas, "A Smarter Public Safety Model: Addressing Crises Related to Mental Health, Substance Abuse, and Chronic Homelessness," *Police Chief Magazine*, January 2021.

<sup>4</sup> Melissa Reuland, Laura Draper, and Blake Norton, *Statewide Law Enforcement / Mental Health Efforts: Strategies to Support and Sustain Local Initiatives*, Council of State Governments Justice Center, 2012.

<sup>5</sup> Treatment Advocacy Center, "Outcomes of FACT Model," *Treatment Advocacy Center*, 2017.

<sup>6</sup> *Ensuring Justice and Public Safety: Federal Criminal Justice Priorities for 2020 and Beyond*, Law Enforcement Leaders to Reduce Crime & Incarceration, 2020, 11.

<sup>7</sup> Kym Klass, "Restoration Center: San Antonio's Answer to Mental Health," *Montgomery Advertiser*, January 27, 2017.

<sup>8</sup> J. Steven Lamberti et al., "A Randomized Controlled Trial of the Rochester Forensic Assertive Community Treatment Model," *Psychiatric Services* 68 (2017).

<sup>9</sup> Amy C. Watson, Michael T. Compton, and Leah G. Pope, *Crisis Response Services for People with Mental Illnesses or Intellectual and Developmental Disabilities: A Review of the Literature on Police-Based and Other First Response Models*, Vera Institute of Justice, 2019.

<sup>10</sup> Doug McVay, Vincent Schiraldi, and Jason Ziedenberg, *Treatment of Incarceration?: National and State Findings on the Efficacy and Cost Savings of Drug Treatment Versus Imprisonment*, Justice Policy Institute, 2004, 6.

<sup>11</sup> McVay, *supra* note 10, at 6.

## RECOMMENDATION 2: EXPAND THE USE OF DIVERSION AND HARM-REDUCTION PROGRAMS

Once someone has been formally arrested, they are likely to suffer long-term collateral consequences, which impede successful reentry, significantly lower lifetime earning potential, and perpetuate poverty.<sup>12</sup> Diversion programs offer an alternative to arrest and incarceration by providing services, such as housing or treatment, instead of punishment. By offering eligible individuals a chance to avoid incarceration and its collateral consequences, diversion can help reduce crime and unnecessary incarceration.<sup>13</sup>

Pre-arrest diversion programs like Law Enforcement Assisted Diversion (LEAD), founded in Seattle, Washington, allow police officers to divert individuals into services and have proven effective in preventing future arrests.<sup>14</sup> LEAD's harm-reduction approach centers on the individual experiencing the behavioral, mental health, or substance abuse crisis and seeks to provide holistic responses to meet each person's unique circumstances. Another pre-arrest diversion strategy, known as the co-responder model, matches police with mental health professionals or social workers to de-escalate crises without relying on arrest and incarceration as a first response. Such co-responder models have been implemented in Colorado, where data shows that co-responder teams were more successful than traditional law enforcement at diverting community members away from arrest.<sup>15</sup>

Prosecutors and courts can also implement diversionary practices by declining to charge people who complete or are in diversion programs, as is the case in Deschutes County, Oregon and Kings County, New York.<sup>16</sup> Municipalities across the country have also created specialized treatment courts to address the substance abuse and mental health needs of individuals charged with certain offenses. These courts rely on collaboration between prosecutors,

defense attorneys, treatment specialists, and judges to devise treatment plans tailored to the individual.<sup>17</sup> Although drug courts have proven to be effective and cost-efficient, many are inadequately funded.<sup>18</sup>

To better address the needs of individuals in crisis, states and localities should invest in programs that divert people away from the justice system rather than reflexively rely on punitive measures.

## RECOMMENDATION 3: PROMOTE TREATMENT PROGRAMS IN JAILS AND PRISONS

While diversion and community treatment are preferable to unnecessary incarceration, quality treatment in jails and prisons remains vital to successful reentry for incarcerated people struggling with substance use disorders and mental illness. Despite the high rates of substance use disorders and mental illness within prisons and jails, only one-third of those suffering from a mental illness and an estimated 11 percent of those with substance use disorders receive adequate treatment while incarcerated.<sup>19</sup>

Expanded access to treatment in correctional facilities can reduce recidivism.<sup>20</sup> Local and state initiatives like the Medication Assisted Treatment and Directed Opioid Recovery (MATADOR) program in Middlesex County, Massachusetts demonstrate how carceral treatment programs can improve public health and safety outcomes.<sup>21</sup> In 2017, Middlesex Sheriff's Office reported that 40 percent of individuals entering custody that year had a drug or alcohol addiction so severe that they required a medical detox.<sup>22</sup> Individuals who engaged in or completed the MATADOR program were significantly less likely to recidivate than other high-risk individuals that did not receive such treatment.<sup>23</sup> Notably, the Sheriff's Office now offers all three forms of Medication for Opioid Use Disorder (MOUD) for individuals in their care.

***To create safer and healthier communities, states and localities must address the underlying substance abuse and mental health challenges of justice-involved people. This brief's strategies, if adequately funded, would reduce incarceration without sacrificing public safety.***

<sup>12</sup> Terry-Ann Craigie, Ames Grawert, and Cameron Kimble, *Conviction, Imprisonment, and Lost Earnings: How Involvement with the Criminal Justice System Deepens Inequality*, Brennan Center for Justice, 2020.

<sup>13</sup> Amanda Y. Agan, Jennifer L. Doleac, and Anna Harvey, *Misdemeanor Prosecution*, 2021, National Bureau of Economic Research; Michael Mueller-Smith and Kevin T. Schnepel, *Diversion in the Criminal Justice System*, *The Review of Economic Studies*, 2020.

<sup>14</sup> Susan E. Collins, Heather S. Lonczak, and Seema L. Clifasefi, "Seattle's Law Enforcement Assisted Diversion (LEAD): Program effects on recidivism outcomes," *Evaluation and Program Planning Journal* 64 (2017): 49.

<sup>15</sup> *Responding to Behavioral Health Need: An Evaluation of the Colorado Office of Behavioral Health's Co-Responder Program*, Colorado Health Institute, 2020, 2.

<sup>16</sup> Jesse Jannetta, Evelyn F. McCoy, and David Leitson, *Lessons on Front-End Diversion from Deschutes County, Oregon, and Summit County, Ohio: An Innovation Fund Case Study*, Urban Institute, 2018; *Brooklyn District Attorney Announces Project Brooklyn CLEAR to Offer Treatment for Individuals Arrested*

*with Small Amount of Narcotics*, District Attorney of Kings County Eric Gonzalez, 2018.

<sup>17</sup> "Treatment Courts," Center for Court Innovation, accessed March 16, 2021.

<sup>18</sup> Christine Mehta, "How Drug Courts are Falling Short," *Open Society Foundations*, June 7, 2017.

<sup>19</sup> *Behind Bars II: Substance Abuse and America's Prison Population*, National Center on Addiction and Substance Abuse at Columbia University, 2010; Doris J. James and Lauren E. Glaze, *Mental Health Problems of Prison and Jail Inmates*, Bureau of Justice Statistics, 2006, 20.

<sup>20</sup> Don Weatherburn et al., "Does mental health treatment reduce recidivism among offenders with a psychotic illness?," *Journal of Criminology* (2021).

<sup>21</sup> *The MATADOR Program: Utilizing Incarceration to Tackle Addiction and Save Lives*, Middlesex Sheriff's Office, 2018; *Sheriffs announce launch of landmark medication assisted treatment (MAT) pilot program*, Essex County Sheriff Kevin F. Coppinger, 2019.

<sup>22</sup> Middlesex Sheriff's Office, *supra* note 21, at 2.

<sup>23</sup> Middlesex Sheriff's Office, *supra* note 21, at 8.