Chapter 1. Alleviating the Impact of Social Problems on Public Safety

Introduction of the Issue

GRAPHIC IDEA: can we have a scales of justice graphic with the scales weighed down on one side with the three social problems and the other side is up with specific duties? Maybe the scales can have a crack from all of the weight. ☺

PULL QUOTE: "Being homeless is not a crime. Having mental illness is not a crime. Having substance use disorder is not a crime."[1] – Mike Brown, Chief of Police Salt Lake City, Utah

Law enforcement, courts, and institutional and community corrections have become overly burdened with people who are mentally ill, substance dependent, or homeless, and law enforcement officers are often the first-line responders tasked with addressing these issues. Consequently, criminal justice systems have had to adapt and operate as shadow behavioral health system.

A look at three separate studies that cover 2007-2009 and 2011-2012 found that approximately 44 percent of jail inmates and 37 percent of prisoners have been told in the past that they had a mental health disorder; [2] 63 percent of jail inmates and 58 percent of prisoners qualify as drug dependent; [3] and approximately 15 percent of those incarcerated had been homeless in the past year. [4] At the time of booking, the number of people in San Diego who reported being homeless in the last 30 days increased from 22 percent in 2014 to 39 percent in 2018; the number who reported being homeless at some point in the past increased from 60 percent in 2014 to 66 percent in 2018.[5]

Responding to and transporting those with mental illness accounts for an estimated 21 percent of a law enforcement officer's total time, which is staggering.[6] Sergeant Sarah Shimko, of the Madison, Wisconsin, police department, noted that her department investigated 44,623 distinct cases in 2019. [7] Among those, nearly 10 percent (4,275) had an element that involved mental health, and law enforcement officers spent approximately 33,895 hours addressing those cases. In calendar year 2019, Orange County, California, sheriff's department devoted approximately 11,600 hours to homeless-related calls for service, the equivalent of 6.5 patrol deputies working full time on these kinds of calls.[8]

All these problems are intertwined. According to Sheriff Don Barnes of the Orange County Sheriff's Department, "We cannot make the mistake of looking at social problems impacting our communities in a silo . . . . Those we interact with who are homeless often have drug addiction; those who are drug addicted often

---

[1] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (March 31, 2020) (written statement of Chief Mike Brown, Chief of Police, Salt Lake City PD). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings
[2] https://www.bjs.gov/content/pub/pdf/imhprpji1112.pdf (2011-2012)
[3] https://www.bjs.gov/content/pub/pdf/dudaspji0709.pdf (2007-2009)
[4] https://ps.psychiatryonline.org/doi/pdf/10.1176/ps.2008.59.2.170
[5] https://www.sandag.org/uploads/publicationid/publicationid_4631_26706.pdf
[6] P.9; Sinclair, E., et al. (2019). *Road runners: The role and impact of law enforcement in transporting individuals with severe mental illness, A national survey.* Arlington, VA: Treatment Advocacy Center. Retrieved from https: //www.treatmentadvocacycenter.org/storage/documents/Road-Runners.pdf
[7] *President's Commission on Law Enforcement and the Administration of Justice: Hearings on Social Problems Impacting Public Safety* (March 24, 2020) (written statement of Sgt. Sarah Shimko, Madison (WI) Police Department, Mental Health Unit). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings
[8] Raymond Grangoff, Chief of Staff, Orange County Sheriff's Office, Orange County, CA, email communication with the Social Problems Impacting Public Safety Working Group, May 26, 2020.

have or will develop mental illness; and some of those who are experiencing mental illness are also homeless." [9]

Society must recognize that crime and disorder emerge from a range of issues, including poverty, homelessness, poor educational opportunities and outcomes, and limited job opportunities because of mental health and addiction issues. All of these factors exist outside the influence of law enforcement and instead should fall to the federal, state, and local government and service agencies qualified to assess and treat these underlying problems. It is as much of an injustice to see these issues without acting on them. To respond to these issues while also ensuring public safety, local governments must build capacity and implement multidisciplinary prevention strategies and models. This way, the government and service agencies with the expertise and resources to address the root cause of these problems will become the most appropriate first responders, allowing law enforcement to better serve their whole communities.

The recommendations in this chapter cover four points—the community, law enforcement, courts, and corrections—to address these social problems while easing the burden on law enforcement. The recommendations focus on rebuilding the community safety net of behavioral health treatment services to address such social problems at their roots, while simultaneously acknowledging that individuals in need do still commit crimes and may become involved in the criminal justice system. Given this reality, there exist numerous opportunities for community action to intervene and reduce these social problems, decrease recidivism, and ultimately lessen the burden on law enforcement and the criminal justice system as a whole. The commission's intent is to recommend methods to find the best outcome—in the most holistic and effective way possible—for those living with mental health issues, substance use disorder, and homelessness. This approach will also afford law enforcement a better path to addressing the criminal behaviors that may occur.

1.1 Rebuilding Behavioral Health Treatment Services in the Community

Background

Over the past 60 years, public policies have degraded the community's ability to understand, prioritize, and appropriately address mental illness, substance use disorders, and homelessness. One of the most significant impacts of these policies occurred in the 1960s with the shuttering (i.e., deinstitutionalization) of inpatient psychiatric treatment facilities. According to an article in the *Psychiatric Times*, "In 1955 there were 558,239 state and county psychiatric beds available, or about 340 beds per 100,000 population. Currently, there are about 35,000 state psychiatric beds available, or about 11 beds per 100,000 population."[10] In addition to these closures, psychiatric drugs developed to treat many symptoms of mental illness became available, and patients' civil rights became more important, which both served to reinforce the push toward outpatient care.

Grecco and Chamber explain the bleak picture: "Unfortunately, deinstitutionalization was poorly organized and conducted without adequate build-up of supportive housing, social services, or outpatient community mental health infrastructure."[11] Many of the individuals placed into the community were those who would be least successful there. Because addiction and mental illness are closely intertwined, the decrease in the community treatment options for mental health resulted in an increase in people with untreated mental illness and substance use disorders.

Additionally, in the 1970s, the public began to view drug use as a criminal justice problem instead of a

---

[9] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (March 25, 2020) *(statement of* Don Barnes, Sheriff, Orange County, CA). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

[10] https://www.psychiatrictimes.com/psychiatric-emergencies/dearth-psychiatric-beds

[11] P.2 https://www.nature.com/articles/s41398-019-0661-9

biomedical problem. As a result, drug-related incarceration rates quadrupled from 1972 to 2012.[12] Simultaneously, correctional settings had little to no capability to treat substance use disorders.[13]

The decrease in community behavioral health treatment and the increase in housing costs also factor into an increase in the homeless population.[14] As a 2019 report on homelessness from the Council of Economic Advisors notes, "Due to decades of misguided and faulty policies, homelessness is a serious problem. Over half a million people go homeless on a single night in the United States. Approximately 65 percent are found in homeless shelters, and the other 35 percent—just under 200,000—are found unsheltered on our streets (in places not intended for human habitation, such as sidewalks, parks, cars, or abandoned buildings)."[15]

Homeless populations often suffer from mental illness, addiction, or both. A 2014 *Harvard Health Publishing Newsletter* describes, "About a quarter to a third of the homeless have a serious mental illness—usually schizophrenia, bipolar disorder, or severe depression—and the proportion is growing."[16] Homelessness is often directly related to behavioral health disorders, physical health issues, and trauma, and the unsheltered homeless experience the greatest health conditions and the longest period of homelessness.[17] The longer one stays homeless, the more their health deteriorates.[18] Those who are reentering the community from correctional settings are challenged with a criminal record, making it difficult to acquire housing or a job, so they are at especially high-risk of becoming homeless. [19]

As the homeless population has increased, so has the community's polarized response to an inability to address the homelessness problem. Faced with increased numbers of homeless campers and the quality-of-life offenses (e.g., loitering, panhandling, or littering) and victimization that result—especially in large encampments—some communities have attempted to pass laws to limit these activities, [20] while others have attempted to provide the homeless encampments space (e.g., donated land) and other social programs.[21]

It is challenging to change the community culture to rework or reverse decades of policies and practices that have degraded the community treatment capacity. The intertwined nature of mental health disorder, substance use disorder, and homelessness highlights the need to find the best approach to address these complex social problems.

Current State of the Issue

PULL QUOTE: "It has never been the intention nor the design for law enforcement to be the sole solution to address homelessness, drug addiction, or the mentally ill. . . . Law enforcement should not be the strategy or the first face of government these individuals encounter or rely upon for help; law enforcement should be the last form of government these people encounter, and only when the intervention efforts have failed

---

[12] The Growth of Incarceration in the United States: Exploring Causes and Consequences (2014) National Academies Press; page 2. https://www.nap.edu/read/18613/chapter/1

[13] https://jamanetwork.com/journals/jama/article-abstract/183208

[14] https://www.whitehouse.gov/wp-content/uploads/2019/09/The-State-of-Homelessness-in-America.pdf

[15] The council of economic advisors, September 2019 the white house, page 1: https://www.whitehouse.gov/wp-content/uploads/2019/09/The-State-of-Homelessness-in-America.pdf

[16] https://www.health.harvard.edu/newsletter_article/The_homeless_mentally_ill; March 2014

[17] https://www.capolicylab.org/wp-content/uploads/2019/10/Health-Conditions-Among-Unsheltered-Adults-in-the-U.S.pdf

[18] https://www.capolicylab.org/wp-content/uploads/2019/10/Health-Conditions-Among-Unsheltered-Adults-in-the-U.S.pdf

[19] https://www.health.harvard.edu/newsletter_article/The_homeless_mentally_ill

[20] https://nlchp.org/supreme-court-martin-v-boise/

[21] https://placesjournal.org/article/tent-city-america/?gclid=CjwKCAjwssD0BRBIEiwA-JP5rBQ4BoDNLrDNQmaFmLV_w1PWrpj5QFxs-kpxmeCns-nHVwTRla2gPxoCLaAQAvD_BwE&cn-reloaded=1

resulting in a criminal violation of law." – Sheriff Don Barnes Orange County, CA Sheriff's Department[22]

Public perception about mental illness and drug use is changing, and a change in perception often results in a change in practice. Currently, many insurance policies include mental health treatment options.[23] Increased evidence-based treatment protocols for mental health disorder, substance use disorder, and co-occurring disorder also exist, which incorporate both medication-assisted and therapeutic treatments.[24] Moreover, as more people view addiction as a brain disorder,[25] not a willful act of societal disobedience, the stigma of drug use will hopefully decrease.[26] With changed perception comes improved opportunities for treatment within the community and the criminal justice system.

The current opioid crisis has illustrated bipartisan governmental attempts to address opioid addiction through funding programs at the federal, state, and local levels. This work recognizes the complexity of substance use disorder and its connection to mental illness. These programs are vast and varied, and they seek to improve community and criminal justice-related treatment capacity.[27]

There have also been changes in housing policies. Some communities have tailored homeless solutions to the needs of the individual, recognizing that trauma-informed care, supported housing programs, and affordable housing can be linked to achieve better solutions and outcomes.[28] John Ashman, President of Citygate Network, states in his testimony, "I think we have to look at what we can do to put people in a place where there's a warm bed and regular meals and medication. It's such a better alternative than sleeping on cardboard or on concrete talking to somebody who's not there."[29]

Steps have been made to improve the nation's community treatment capacity, yet there are still roadblocks to achieving a successful community treatment network. As described in a 2016 CDC report, "Despite state and community planning efforts, behavioral healthcare systems lack sufficient capacity for addressing the needs of the population they serve. These systems were developed in the midst of funding shortages, shifting healthcare priorities, and decentralized planning efforts. . . . As a result, community behavioral healthcare systems have gaps in comprehensive care."[30]

---

[22] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (March 25, 2020) (statement *of* Don Barnes, Sheriff, Orange County, CA). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

[23] https://www.mentalhealth.gov/get-help/health-insurance

[24] https://www.samhsa.gov/ebp-resource-center

[25] https://www.nejm.org/doi/full/10.1056/nejmra1511480

[26] McGinty, Emma E., and Colleen L. Barry. "Stigma Reduction to Combat the Addiction Crisis—Developing an Evidence Base." *The New England Journal of Medicine* 382, no. 14 (2020): 1291-1292. https://pttcnetwork.org/sites/default/files/2020-04/McGinty%20and%20Barry%2C%20Stigma%20reduction%20to%20combat%20the%20addiction%20crisis%2C%20developing%20an%20evidence%20base%2C%20NEJM%2C%204.2.20.pdf; Also see, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5854406/

[27] https://www.urban.org/sites/default/files/publication/101990/comprehensive-opioid-abuse-program-assessment.pdf

[28] Heather Menzies Munthe-Kass, Rigmor C. Berg, and Nora Blaasvaer, 2018. Effectiveness of Interventions to Reduce Homelessness: A Systematic Review and Meta-Analysis. Campbell Collaboration. https://campbellcollaboration.org/better-evidence/effectiveness-of-interventions-to-reduce-homelessness.html

[29] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (March 31, 2020) (statement of John Ashman, President, Citygate Network). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

[30] https://www.cdc.gov/pcd/issues/2016/16_0190.htm

Although well intentioned, this system of care rarely prioritizes the needs of those who are involved in the criminal justice system.[31] As a result, law enforcement has become "enthusiastic amateurs" attempting to address these problems and make up for what society fails to provide.[32] In his written testimony, Dr. Bruce Spangler, CEO of Volunteer Ministry Center, an organization that works with individuals experiencing homelessness, says, "Law enforcement and justice sectors have become the secondary and more times than not, the first line of engagement for individuals experiencing homelessness. Far too often, law enforcement officers are asked to possess on their utility belts: social work skills, mental health assessment tools, and the ability to respond to cases involving active addiction."[33]

Through the following recommendations, the commission offers solutions to help address the nation's lack of treatment capacity through improving treatment availability, quality, and ease of access; increasing prevention; removing barriers to treatment; and reducing the stigmas and increasing education. This system should also be able to serve the needs of people involved in the criminal justice system.

1.1.1 Local governments should provide a comprehensive system of care to screen, assess, and treat people with mental illness and substance use disorders that meets the demand of the community being served, including justice-involved individuals.

Through a comprehensive system of care, communities can serve those in need before they interact with law enforcement or come into contact with the criminal justice system. This system can respond to those referred by criminal justice professionals as well as those reentering society from correctional institutions.[34] A comprehensive system of care has positive outcomes for children, their families, and adults. [35]

A local comprehensive system of care includes, but is not limited to, leadership; appropriate treatment capacity; professionals trained in evidence-based practices for appropriate screening, assessment, and treatment; availability of telehealth, particularly to support rural, tribal, and special populations; medications prescribed when appropriate (medication-assisted treatment; MAT); integrated dual diagnosis disorder treatment for people with co-occurring substance use and mental health disorders; and sufficient funding to directly fund or reimburse services.[36]

Funding opportunities in 2020 for Certified Community Behavioral Health Clinics (CCBHC) offer communities the opportunity to move toward this approach.[37] CCBHCs emphasizes a wide range of services, including

---

[31] https://ps.psychiatryonline.org/doi/10.1176/appi.ps.201900453

[32] Hank Stawinski, Chief of Police, Prince George's County, MD, Police Department, Social Problems Impacting Public Safety Working Group Member, in discussion with Social Problems Impacting Public Safety Working Group, Virtual Meeting, April 17, 2020.

[33] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (March 24, 2020) (*written statement of* Bruce Spangler, CEO, Volunteer Ministry Center). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

[34] Recommendations made by the Interdepartmental Serious Mental Illness Coordinating Committee's publication "The Way Forward: Federal Action for a System That Works for All People Living With SMI and SED and Their Families and Caregivers," provides additional background and recommendations that reinforce these ideas, located at https://www.samhsa.gov/sites/default/files/programs_campaigns/ismicc_2017_report_to_congress.pdf

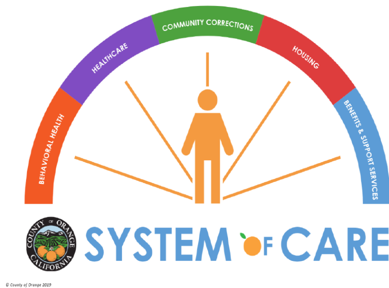
[35] Woltmann, E., Grogan-Kaylor, A., Perron, B., Georges, H., Kilbourne, A. M., & Bauer, M. S. (2012). Comparative effectiveness of collaborative chronic care models for mental health conditions across primary, specialty, and behavioral health care settings: systematic review and meta-analysis. *American Journal of Psychiatry, 169*(8), 790–804. https://www.ncbi.nlm.nih.gov/pubmed/22772364; https://www.samhsa.gov/sites/default/files/programs_campaigns/nitt-ta/2015-report-to-congress.pdf

[36] https://www.thenationalcouncil.org/integrated-health-coe/

[37] https://www.samhsa.gov/grants/grant-announcements/sm-20-012

behavioral health provided in the community and correctional facilities, to treat the whole-person rather than disconnected parts of the person's needs. [38] CCBHCs have expanded access to care and increased the scope of services in the community that includes those referred by the criminal justice system.[39]

The Office of Care Coordination in Orange County, California, developed an integrated service plan for community corrections. [40] As Sheriff Don Barnes says in reference to the Orange County jail, "Sadly, this population of inmates often cycle in and out of custody multiple times throughout a single year. The integrated services plan is the solution to this destructive cycle that has impacted the safety of neighborhoods and put a drain on our existing resources."[41] This plan is a road map that other communities can use as a model, and it lays out a vision for increasing the capacity and quality of care by 2025 for both the community and those who are referred to the criminal justice system.



[42]

1.1.2 Local governments should develop multi-service centers to provide triage and connections to longer-term care for people with mental health disorders, with substance use disorders, and who are homeless.

"Another gap in our community's continuum of crisis care is the lack of a single entry point crisis resource center. Law enforcement officers are tasked with navigating a complex and vast array of possible services and facilities in their attempts to reach the best possible resolution. They are often met with any number of barriers to connecting individuals in crisis with appropriate levels of support in their moment of need," notes Sergeant Sarah Shimko, of the Madison, Wisconsin, police department.[43]

These one-stop centers of centralized care can serve as crisis receiving centers while also providing other treatment and support services to those in the community. [44] Crisis receiving centers improve mental health

---

[38] https://www.samhsa.gov/sites/default/files/ccbh_clinicdemonstrationprogram_071118.pdf; https://aspe.hhs.gov/report/certified-community-behavioral-health-clinics-demonstration-program-report-congress-2018

[39] https://www.thenationalcouncil.org/wp-content/uploads/2019/09/National-CCBHC-Impact-Survey-FINAL-11-28-17.pdf?daf=375ateTbd56; https://www.thenationalcouncil.org/wp-content/uploads/2019/09/CCBHC-Criminal-Justice-Full-Report-4.13.18.pdf?daf=375ateTbd56

[40] https://www.ochealthinfo.com/occ

[41] http://cams.ocgov.com/Web_Publisher_Sam/Agenda10_22_2019_files/images/ATTACHMENT%20A_INTEGRATED%20SERVICES%202025%20VISION%20-LS_9853914.PDF page 6 Sheriff Don Barnes

[42] Graphic located https://www.ochealthinfo.com/occ p. 14

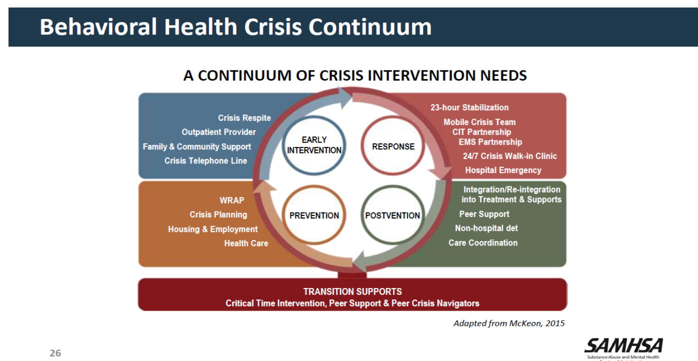
[43] *President's Commission on Law Enforcement and the Administration of Justice: Hearings on Social Problems Impacting Public Safety* (March 24, 2020) (written statement of Sgt. Sarah Shimko, Madison (WI) Police Department, Mental Health Unit). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

[44] https://www.samhsa.gov/sites/default/files/national-guidelines-for-behavioral-health-crisis-care-02242020.pdf

outcomes and alleviate strains on emergency departments.[45] Successful models are run by behavioral health agencies or hospitals who have direct access to providers and medications. Creating a receiving center for those who are experiencing homelessness or a mental health crisis offers both law enforcement and the community an alternative to jails and emergency rooms.[46]

PULL QUOTE: "Law enforcement across the country has come to the realization that we cannot arrest our way out of this issue. . . . But today we also connect people to mental health treatment, medical care, and health advocacy experts. . . . When we can, we point people toward help, not jail." – Mike Brown[47] Chief of Police, Salt Lake City, Utah

The Crisis Response Center (CRC) in Tucson, Arizona, has a comprehensive approach that attempts to address every part of the crisis continuum: prevention, early intervention, response, and postvention. Since its inception, the CRC has had a collection of programs that encompasses a variety of services, from peer-run wrap around services to pet therapy. Its crisis line relieves the burden from 911 and allows those in need to speak with someone who is specially trained to help them. It is also centrally located to collaborate with other local services.



[48]

The CRC works closely to serve the needs of the Tucson police department by providing 24/7 access and minimal turnaround time and assuring that there are no clinical barriers to care. Most importantly, the CRC serves those in the community who suffer from behavioral health disorders or homelessness. The police department can refer or divert persons in need to the CRC, or patients can enter the CRC in other ways, including voluntarily or involuntarily admissions, walk-ins, or delivery through crisis mobile teams, law enforcement, or specialty courts. As Dr. Margie Belfour from the CRC explains, "We like the agitated people. We want them here."[49]

Integrating this model into the community has demonstrated significant cost savings.[50] The Judge Ed Emmett

---

[45] https://store.samhsa.gov/product/Crisis-Services-Effectiveness-Cost-Effectiveness-and-Funding-Strategies/sma14-4848

[46] https://store.samhsa.gov/product/Crisis-Services-Effectiveness-Cost-Effectiveness-and-Funding-Strategies/sma14-4848

[47] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (March 31, 2020) (statement of Michael Brown, Chief of Police, Salt Lake City). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

[48] Margie Belflour, M.D., Ph.D., Sergeant Jason Winsky, Presentation Tucson's Model's Comprehensive Approach to Crisis and Public Safety, April 22, 2020; SAMHSA.

[49] Margie Belflour, M.D., Ph.D., Sergeant Jason Winsky, Presentation Tucson's Model's Comprehensive Approach to Crisis and Public Safety April 22, 2020; SAMHSA.

[50] https://store.samhsa.gov/product/Crisis-Services-Effectiveness-Cost-Effectiveness-and-Funding-Strategies/sma14-4848

Mental Health Diversion Center, in Houston, Texas, parallels many of the services provided by the CRC. An article in *Behavioral Health Business* states, “In the year and a half since the mental health diversion center first opened, it has yielded impressive results: Namely, nearly $10 million in cost savings to the criminal justice system in its first fiscal year alone.”[51]

Strong multi-service centers are an immeasurable partner to law enforcement and the criminal justice system. Rural areas should consider regional centers or parallel services using telehealth.

[CROSS REFERENCE RURAL AND TRIBAL]

1.1.3 Congress should provide funding to the Substance Abuse and Mental Health Services Administration and the Bureau of Justice Assistance to collaboratively identify model sites, create a tool kit, and provide technical assistance to local jurisdictions on how to develop comprehensive systems of care and multi-service centers, which emphasizes serving justice-involved individuals.

PULL QUOTE: “We have a very broken system where law enforcement responds to mental health crises in our country by bringing the individuals to jail. This problem can be solved if we make mental health treatment a priority rather than jail.” - Sara Roelofs (public comment)[52]

The Substance Abuse and Mental Health Services Administration (SAMHSA) has the National Guidelines for Behavioral Health Crisis Care: Best Practice Toolkit and also has technical assistance and other resources for comprehensive systems of care, including research outcomes. [53] These resources do not focus on serving justice-involved individuals.

Congress should fund SAMHSA to partner with the Bureau of Justice Assistance (BJA) to increase the depth and scope of their current technical assistance work to assist in developing sound comprehensive systems of care and multi-service centers (including crisis intervention services) in local communities. This assistance should include an increased emphasis on collaborating with key justice professionals at each intersection of the criminal justice system.[54] The assistance should also have a special focus on serving rural and tribal areas, including the integration of telehealth. This technical assistance should include the identification of model sites and the development of a tool kit, so local jurisdictions can have as a road map of how to integrate these practices into their community. Technical assistance should provide jurisdiction tailored support to create the framework for a comprehensive system of care or a multi-service center.

[CROSS REFERENCE RURAL AND TRIBAL]

1.1.4 Congress should provide funding to the Substance Abuse and Mental Health Services Administration and the Bureau of Justice Assistance to collaboratively provide criminal justice system leaders and practitioners technical assistance on how to integrate teleservices for behavioral health needs in the community and in correctional settings.

PULL QUOTE: “By employing telehealth during the pandemic, it has allowed us to continue to provide top shelf treatment to inmates through the use of Zoom along with the physician having access to the inmate’s

---

[51] https://bhbusiness.com/2020/02/07/behavioral-health-provider-saves-over-9-2-million-with-jail-diversion-program/

[52] Sara Roelofs, email message to President’s Commission on Law Enforcement and the Administration of Justice, March 31, 2020.

[53] https://www.samhsa.gov/sites/default/files/national-guidelines-for-behavioral-health-crisis-care-02242020.pdf; https://www.thenationalcouncil.org/integrated-health-coe/, since this new website is under construction; the current site is: https://www.integration.samhsa.gov/

[54] The Sequential Intercept Model and Criminal Justice: Promoting Community Alternatives for Individuals with Serious Mental Illness Patricia A. Griffin (Editor), Kirk Heilbrun (Editor), Edward P. Mulvey (Editor), David DeMatteo (Editor), Carol A. Schubert (Editor) (2015).

medical record through our electronic medical record sharing program." - John Samaniego, Sheriff, Shelby County, AL, Commissioner, President's Law Enforcement Commission[55]

Compared to traditional behavioral health treatment and community services, teleservices are a less expensive, [56] more efficient, and more convenient way to provide treatment and services to the community. In addition, they offer aid to justice-involved individuals in the community, the courts, correctional settings, and rural and tribal areas. [57] In response to the Covid-19 pandemic, health and service providers quickly moved to teleservices, with insurance companies adapting to allow members to reimburse the services.[58] Teleservices can be made available through apps or websites with technology that meets the Health Insurance Portability and Accountability Act (HIPAA) standards and protects against hackers or introducers.[59] Telehealth both provides an opportunity to increase the reach of treatment to community members and serves as a tool to the justice system.

[CROSS REFERENCE RURAL AND TRIBAL]

Another advantage of having teleservices in the community: law enforcement can connect directly to a psychiatrist or psychologist either during a moment of crisis for mental health screening or for additional crisis de-escalation assistance.[60] Treatment courts and probation and parole offices have begun to integrate teleservices to coordinate and provide services. Apps now serve as treatment aids and include worksheets, tips, and reminders. Texting enables easy status updates, and current smartphone technology allows of individual movements to be monitored via GPS.[61]

In correctional settings, telehealth provides improved access to treatment services for inmates, faster access to services, and greater continuity of treatment care. At the same time, it allows treatment providers to feel safer and lowers the costs of the services. [62] Correctional facilities that have slow internet connections or strong firewalls, however, may impede this technology.[63]

The Joint Technology Committee, which works to improve the administration of justice through technology, writes: "The wide-open spaces of Montana mean that veterans in need of services are scattered across remote parts of the state. The court, dubbed 'CAMO' (Court Assisting Military Officers), utilizes video conferencing for status hearings, one-on-one counseling, mentoring, and training classes. A smartphone app called CheckBAC monitors the participant's location and facilitates breathalyzer testing to confirm sobriety. The court also uses frequent, individualized text messaging to deliver motivational recovery messages as well as court-related reminders, announcements, and community event notifications."[64]

Teleservices also help providers work with each other and criminal justice practitioners to coordinate care,

---

[55] John Samaniego, Sheriff, Shelby County, AL, email communication with Social Problems Impacting Public Safety Working Group, May 4, 2020.
[56] https://www.globalmed.com/controlling-prison-health care-costs-with-telemedicine/; https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3783076/
[57] https://www.ihs.gov/telebehavioral/telehealth/; https://www.ncsc.org/__data/assets/pdf_file/0026/17639/2019-09-16-teleservices.pdf
[58] https://www.medicaid.gov/medicaid/benefits/downloads/medicaid-chip-telehealth-toolkit.pdf
[59] https://www.hipaajournal.com/hipaa-guidelines-on-telemedicine/
[60] https://www.samhsa.gov/sites/default/files/national-guidelines-for-behavioral-health-crisis-care-02242020.pdf; https://spectrumlocalnews.com/tx/austin/news/2019/08/30/austin-police-using-telehealth-services-for-mental-health-calls-; https://mhealthintelligence.com/news/texas-deputies-turn-to-telemedicine-to-treat-mental-health-crises
[61] https://www.courtinnovation.org/sites/default/files/documents/The%20Future%20Is%20Now.pdf
[62] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3783076/
[63] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3783076/
[64] p8-9 https://www.ncsc.org/__data/assets/pdf_file/0026/17639/2019-09-16-teleservices.pdf

which allows for effective case management that is centered on improving individual outcomes. [65]

Training and technical assistance for criminal justice leaders and practitioners, across the justice system, would increase the application of telehealth services. It would also reduce system costs while adding positive outcomes for those with behavioral health needs, ultimately decreasing the burden on the system.

1.1.5 Congress should eliminate Medicaid's Institutions for Mental Disease exclusion.

Medicaid defines an Institution for Mental Disease (IMD) as "an accredited psychiatric facility with seventeen or more beds that specializes in providing care and treatment in psychiatric and psychological services, including substance use disorder."[66] When Medicaid was created, IMD facilities were not funded to make certain that states were fully responsible for treatment costs and to encourage treatment options that enable individuals to stay within the community, not a facility. In 2018, Congress partially waived these restrictions to allow limited payment to IMD facilities as a comprehensive approach to opioid use disorder.[67]

D.J. Jaffe, Executive Director of mentalillnesspolicy.org and the author of *Insane Consequences: How the Mental Health Industry Fails the Mentally Ill*, says, "The IMD Exclusion precludes states from receiving Medicaid for adults in state hospitals, which forces states to close the beds and creates a backup in emergency rooms. When an officer wants someone admitted, they sometimes sit in the ER for hours only to have the hospital overrule the officer or discharge the person before they are stabilized because of the lack of beds. They become 'round-trippers' and 'frequent-flyers.'"[68]

Congress's exclusion of IMD has backfired and should be repealed; it hinders the integration of treatment services into the healthcare system and limits available treatment beds.

1.1.6 Local governments should develop a systematic process of early intervention for youth. This process should provide screening and assessment tools that identify high-risk youth who would benefit from prevention services, which include wraparound services to reduce prevalence of mental health disorder, substance use disorder, and homelessness.

In 2018, Approximately 1 in 7 (14.4 percent) youth ages 12−17 reported having a major depressive disorder over the past year, and of these 41.1 percent reported receiving treatment. [69] Also In 2018, 1 in 6 youth (16.7 percent) reported using illicit drugs in the past year, 3.8 percent of youth overall reported needing substance use treatment, while only 0.6 percent of all youth surveyed reported receiving any substance use treatment.[70] Of the homeless population who were counted nationwide on a single night in 2019, 19 percent were children younger than age 18 (107,069 children).[71]

The prevalence rate of youth with mental health and substance youth disorders is greater in the juvenile justice system than in the general population.[72] In addition, approximately 62 percent of homeless youth

---

[65] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3783076/
[66] (no page available) https://www.healthaffairs.org/do/10.1377/hblog20190401.155500/full/
[67] https://www.openminds.com/market-intelligence/executive-briefings/imd-waivers-change-the-behavioral-health-treatment-landscape-in-some-states/
[68] DJ Jaffe, Executive Director, mentalillnesspolicy.org, email message to President's Commission on Law Enforcement and the Administration of Justice, March 26, 2020.
[69] https://www.samhsa.gov/data/sites/default/files/cbhsq-reports/NSDUHNationalFindingsReport2018/NSDUHNationalFindingsReport2018.pdf
[70] https://www.samhsa.gov/data/sites/default/files/cbhsq-reports/NSDUHNationalFindingsReport2018/NSDUHNationalFindingsReport2018.pdf
[71] https://files.hudexchange.info/resources/documents/2019-AHAR-Part-1.pdf (p.9)
[72] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4772248/

have been arrested at some point.[73] These challenges are multi-generational, meaning children who have parents who suffer from behavioral health disorders or homelessness, are more likely to experience these challenges.[74]

Using the juvenile justice system to meet the needs of juvenile mental health concerns signals that there is a missed opportunity to properly and appropriately identify at-risk juveniles. This, in turn, increases the probability that they will encounter law enforcement later in life.

The Prison Policy Initiative, a nonprofit organization founded in 2001 to advance criminal justice reform, writes, "An estimated 90 percent of justice-involved youth have experienced serious trauma in their lifetime. Understanding the impact of trauma on cognitive development and behavior, policymakers and practitioners have increasingly called for trauma-informed care—not punishment—for justice-involved youth."[75]

With early childhood screening and assessment of need, treatment protocols including cognitive behavioral therapy and wraparound services for the child and family will help prevent the juvenile from making behavior choices that lead to justice-involved incidents.[76] One example is the Wraparound Milwaukee program, which incorporates a unique plan for each child in need, including the child's family unit, and integrates support services that are available to the child.[77]

[CROSS REFERENCE JUVENILE JUSTICE CHAPTER]

1.1.7. Congress should provide funding to the Substance Abuse and Mental Health Services Administration and the Bureau of Justice Assistance to develop a treatment expectations tool kit for criminal justice practitioners.

Nancy Parr, Commonwealth's Attorney for Chesapeake, Virginia, and a Commissioner, states, "Unfortunately, some people will take advantage of and prey on citizens in need of behavioral health treatment. Families of people who need treatment will pay anything and sometimes sacrifice everything for their loved ones to improve. People who need treatment should receive good treatment from a valid provider. They, and their families, should not be subjected to fly by night pop-up treatment centers that take the money but do not provide the valid treatment."[78]

The Legal Information Institute of Cornell Law School notes, "Each state should review and revise, if necessary, its laws to ensure that mental health patients receive the protection and services they require."[79] Yet, there are few standards related to screening, assessing, or continuing the care of behavioral health patients who have become justice-involved. Instead, each state has established individual standards of assessment and care.[80] Unfortunately, they do not consider that justice-involved individuals require a

---

[73] Administration on Children, Youth and Families, Family and Youth Services Bureau: Street Outreach Program Data Collection Project Final Report (April 2016).
[74] https://jamanetwork.com/journals/jamapsychiatry/article-abstract/2542680; https://scholarworks.waldenu.edu/dissertations/4738/; https://link.springer.com/article/10.1186/s13034-019-0266-3; https://www.tandfonline.com/doi/abs/10.1080/21582041.2018.1433313; https://www.sciencedirect.com/science/article/abs/pii/S1054139X16300386
[75] (no page available) https://www.prisonpolicy.org/reports/youth2019.html
[76] https://link.springer.com/article/10.1007/s10826-016-0639-7; https://www.childpsych.theclinics.com/article/S1056-4993(15)00114-5/abstract
[77] https://nwi.pdx.edu/pdf/Wraparound-model-with-jj.pdf
[78] Nancy Parr, email communication with the Social Problems Impacting Public Safety Working Group, May 6, 2020.
[79] https://www.law.cornell.edu/uscode/text/42/9501
[80] https://www.cambridge.org/core/journals/health-economics-policy-and-law/article/doubleedged-sword-of-federalism-variation-in-essential-health-benefits-for-mental-health-and-substance-use-disorder-coverage-in-

different standard of care.[81]

BJA and SAMHSA should develop a tool kit for criminal justice practitioners that includes the basic minimum expectations of treatment providers who serve the needs of those with behavioral health disorders and service providers that serve the needs of those who are homeless. This tool kit should include current evidence-based practices—including how to address trauma and criminogenic needs—for behavioral health treatment and providers who serve justice-involved individuals. The tool kit should include a check list of expectations for providers and services; templates of policies, procedures, and providers shared between criminal justice institutions (e.g., local courts, probation, and parole); and questionnaire templates to capture provider services and techniques. Their responses can then be collected and analyzed to help determine data-driven practices and to create an inventory of services.

1.1.8 Federal, state, and local governments should increase the funding of short- and long-term supported housing for people who have behavioral health disorders and who are also homeless or at risk of becoming homeless.

As outlined in "The State of Homelessness in America" presented by the Council of Economic Advisors in 2019, homelessness may have many underling factors:

- the lack of affordable housing due to the overregulation of housing markets
- street conditions that are more comfortable for sleeping when not sheltered (e.g., warmer conditions)
- the availability of shelter beds
- individual-level factors of behavioral health disorders, past incarceration, few social ties, and low income[82]

As mentioned, homelessness is often directly related to behavioral health disorders, physical health issues, and trauma. Unsheltered persons who are homeless are more likely to have interaction with police, emergency room stays, and spend time in jail. [83] Further, people who were once in prison are nearly 10 times more likely to be homeless than those of the general public,[84] and approximately 15 percent of those incarcerated had been homeless in the past year.[85]

Permanent housing is a predictor of health, as an individual is unlikely to comply with treatment without a stable home. Supported housing will greatly benefit those who are most at risk of entering or reentering the system: persons who are homeless and who also suffer from severe mental health and substance use disorders.[86]

---

states/CC6404AA3445321E3A24128697109045; https://www.mhanational.org/issues/federal-and-state-role-mental-health

[81] https://ps.psychiatryonline.org/doi/10.1176/appi.ps.201900453; Skeem JL, Manchak S, Peterson JK: Correctional policy for offenders with mental illness: creating a new paradigm for recidivism reduction.; Peterson J, Skeem JL, Hart E, et al.: Analyzing offense patterns as a function of mental illness to test the criminalization hypothesis. **Psychiatr Serv** 2010; 61:1217–1222; https://store.samhsa.gov/product/Principles-of-Community-based-Behavioral-Health-Services-for-Justice-involved-Individuals-A-Research-based-Guide/SMA19-5097

[82] https://www.whitehouse.gov/wp-content/uploads/2019/09/The-State-of-Homelessness-in-America.pdf

[83] https://www.capolicylab.org/wp-content/uploads/2019/10/Health-Conditions-Among-Unsheltered-Adults-in-the-U.S.pdf

[84] https://www.prisonpolicy.org/reports/housing.html

[85] https://ps.psychiatryonline.org/doi/pdf/10.1176/ps.2008.59.2.170

[86] https://pubmed.ncbi.nlm.nih.gov/30777888/; https://bmcpublichealth.biomedcentral.com/articles/10.1186/s12889-019-7492-8

Additional research should be conducted about the various supported housing models. A 43-study meta-analysis from the Campbell Collaboration, which promotes social and economic change through the production of systematic reviews, states, "We found that a range of housing programs and case management interventions appear to reduce homelessness and improve housing stability, compared to usual services."[87]

[BEGIN TEXT BOX]

Trauma Informed Care + Affordable Housing = Housing Stability

Homelessness is often viewed as a single population. However, the best way to address homelessness is not a one size fits all approach, but rather the tailoring of services and support to an individual's needs.[88]

[END TEXT BOX]

Federal, state, and local governments must prioritize funding for these supported housing initiatives. The Department of Housing and Urban Development should provide additional support to local municipalities, and federal and state governments should assist with funding to develop the infrastructure for these programs. In order to have housing with supports for people who need it, the physical housing units must first be identified and secured.[89]

1.1.9 **Local government leaders should develop and implement a formal data-informed collaboration of criminal justice, public health, and social service agencies to reduce the communities' unmet behavioral health treatment and homeless service needs.**

Local government must provide leadership and develop solutions supported by adequate funding to address these social problems. This collaboration should identify ways to optimize accountability and resources targeted on assessing and understanding the problem, planning and implementing collective community-supported strategies, using data-informed decision making, and when possible, working with evidence-based practices. Such collaborations will significantly reduce the burden on law enforcement.

Maryland's Prince George's County has initiated CountyStat, which takes a layered approach to addressing social problems and crime in the county—sharing and examining data across multiple agencies and guiding and coordinating initiatives to improve the quality of life for county residents. The core of CountyStat is that law enforcement is not solely suited to address the county's social problems. In fact, other government agencies and partners—including community members—possess the critical information, expertise, and resources that are essential to an effective and comprehensive system response. Through data-informed performance measures, CountyStat holds government agencies accountable focusing on key indicators, and providing the agencies the tools to improve their own performance.[90] This model also assumes that these social problems and crime converge at places and among individuals.[91]

---

[87] (no page number) Heather Menzies Munthe-Kass, Rigmor C. Berg, and Nora Blaasvaer, 2018. Effectiveness of Interventions to Reduce Homelessness: A Systematic Review and Meta-Analysis. Campbell Collaboration. https://campbellcollaboration.org/better-evidence/effectiveness-of-interventions-to-reduce-homelessness.html

[88] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (April 1, 2020) (written statement of Dr. Robert Marbut, Jr., Executive Director, US Interagency Council on Homelessness). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

[89] https://www.samhsa.gov/sites/default/files/programs_campaigns/ismicc_2017_report_to_congress.pdfPlease see Interdepartmental Serious Mental Illness Coordinating Committee (ISMICC) recommendation 3.6 for a similar recommendation

[90]https://www.naco.org/resources/building-data-driven-justice-prince-georges-county-md

[91]https://journals.sagepub.com/doi/full/10.1177/1043986219832132 ;Milgram, Anne, Jeffrey Brenner, Dawn Wiest, Virginia Bersch, and Aaron Truchil. *Integrated Health Care and Criminal Justice Data — Viewing the Intersection of*

CountyStat is currently part of an integrated services program focused on the needs of frequent users—those identified as "high-risk, high-utilizing Medicaid beneficiaries who have four or more emergency visits per year or have two or more chronic conditions—including mental illnesses and substance abuse disorders—and are at risk of institutional placement or homelessness following release from a publicly funded institution such as a health care facility, jail or other corrections program."[92] The county is also working to share data among the jail, social services, and other health providers, focusing on identifying those incarcerated who need permanent housing upon reentry. Individuals incarcerated more than 90 days lose their federal benefits because they are no longer considered chronically homeless, so it is critical to identify such individuals early to ensure their housing needs are met prior to release.[93]

The Transforming Neighborhoods Initiative (TNI)[94]drove the evolution of Prince George's CountyStat. This multi-disciplinary problem-solving model engaged and expanded local government leadership, and removed most of the burden from the police.[95] TNI's founding assumption is that every government agency, including the police, has a role to play in implementing intervention strategies aimed at the three elements involved in a crime: a victim, a suspect, and a location. Social and family services professionals attend to basic issues such as food and shelter, especially for the homeless, and higher order needs such as mental health services and addiction counseling.

The TNI model takes a place-based approach identified through the integration of multiple data sources using 14 key performance indicators. These fall into "five key areas—crime, education, blight, health and human services, and economic development—that have a known correlation with crime, property values, or both".[96] Once places are identified, government agencies, including the police department, collaborate with the community to assess a neighborhood's needs street by street and then create an inventory list of services that can be applied to address the problem; identify the problem's complexity; apply the correct government resources and oversight to serve the needs of the place and individuals within the place; and assess the intervention's performance. The county used the 311 exchange for community service requests, which was layered with the other data to identify additional needs and assess improvements of TNI. A transparent community web-based data platform allows community members to understand the needs in their area. Through this initiative, Prince George's County, employing and evolving multidisciplinary collaboration, saw crime drop dramatically from 35,120 crime incidents in 2010 to 13,379 in 2019—a 61.8 percent change.[97]

This innovation has paved the way for the county's current efforts to refine its data collection, data sharing, and analytics. These efforts include the examination of contact history to target service delivery to prevent

---

Public Safety, Public Health, and Public Policy Through a New Lens: Lessons from Camden, New Jersey. Program in Criminal Justice Policy and Management, Harvard Kennedy School, April 2018. https://www.hks.harvard.edu/sites/default/files/centers/wiener/programs/pcj/files/integrated_healthcare_criminaljustice_data.pdf

[92]https://www.naco.org/resources/building-data-driven-justice-prince-georges-county-md

[93]https://www.naco.org/resources/building-data-driven-justice-prince-georges-county-md

[94]https://lnwprogram.org/content/transforming-neighborhoods-initiative-prince-george%E2%80%99s-county

[95]Milgram, Anne, Jeffrey Brenner, Dawn Wiest, Virginia Bersch, and Aaron Truchil. *Integrated Health Care and Criminal Justice Data — Viewing the Intersection of Public Safety, Public Health, and Public Policy Through a New Lens: Lessons from Camden, New Jersey.* Program in Criminal Justice Policy and Management, Harvard Kennedy School, April 2018. https://www.hks.harvard.edu/sites/default/files/centers/wiener/programs/pcj/files/integrated_healthcare_criminaljustice_data.pdf/www.crimesolutions.gov/PracticeDetails.aspx?ID=32; https://cops.usdoj.gov/problemsolving

[96](no page number) https://www.tylertech.com/resources/blog-articles/prince-georges-co-top-performance-tips

[97] Hank Stawinski, Chief of Police, Prince George's County, MD, Police Department, Social Problems Impacting Public Safety Working Group Member, email communication, May 6, 2020.

homelessness and address behavioral health issues; the use of data in real time to divert people from deeper system involvement; and the application of advanced analytics to examine trends and patterns in system use by these individuals over time. Then, those patterns are used to develop predictive analytics that support identification of persons at risk of becoming a high cost (financial and human) system user.[98]

Pull Quote: "We must acknowledge that we will never have limitless resources with which to effect change. Therefore, we must approach our work as a value proposition where we can demonstrate to the community that the investments that we are making with the resources that we do have will yield the greatest return on those investments in terms of producing public safety and enhancing the quality of life for all persons. This can be achieved by investing our resources in the places and in the persons where data identifies pattern and prevalence."[99] – Chief Hank Stawinski, Prince George's County Police Department, Maryland

1.1.10 Congress should provide funding to the Community Oriented Police Services Office to help government agencies identify a data-informed approach to problem solving. This approach should include model sites and a tool kit for local leaders. The tool kit should focus on addressing local social problems, particularly as they relate to crime.

Some, but not all, local governments work with data-driven approaches.[100] Law enforcement has an extensive history of research and practice regarding problem-oriented policing and the analysis that supports it.[101] In fact, the majority of evidence-based practices built from police research require data-driven practices and a crime analysis capability.[102]

The COPS Office has previously developed extensive resources and training for law enforcement agencies, their personnel, and crime analysts. A tool kit should include information to help local leaders identify ways to internalize accountability across government agencies, incorporate community collaboration, and apply data-driven strategies.

1.1.11 Congress should provide funding to the Substance Abuse and Mental Health Services Administration and the Department of Veterans Affairs to conduct an awareness campaign for 988 and ensure appropriate resources to address the increased call volume when 988 is adopted as the National Suicide Prevention Lifeline.

PULL QUOTE: "From 2005 to 2017, there was a 43.6 percent increase in the number of suicide deaths in the general American population." –Matthew Miller, PhD, Director for Suicide Prevention, Department of Veterans Affairs[103]

On December 19, 2019, the Federal Communications Commission started the process of designating 988 as the new number for the National Suicide Prevention Lifeline.[104] Having a three digit number akin to 911 will increase awareness and normalize requests for assistance during a mental health crisis.[105] The more people

---

[98] Renee Ensor Pope, Assistant Director, Community Services, Prince George's County Department of Social Services, email message to President's Commission on Law Enforcement and the Administration of Justice, May 14, 2020.

[99] Hank Stawinski, Chief of Police, Prince George's County, MD, Police Department, Social Problems Impacting Public Safety Working Group Member, email communication, May 21, 2020.

[100] https://datasmart.ash.harvard.edu/news/article/analytics-city-government

[101] https://www.crimesolutions.gov/PracticeDetails.aspx?ID=32; Santos, R. B. (2017). Crime Analysis with crime mapping (4th Edition). Thousand Oaks, CA: Sage Publications.

[102] Santos, R. B. (2017). Crime Analysis with crime mapping (4th Edition). Thousand Oaks, CA: Sage Publications.

[103] *President's Commission on Law Enforcement and the Administration of Justice: Hearing* (April 1, 2020) (written statement of Dr. Matthew Miller, Director of Suicide Prevention, Department of Veterans Affairs). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

[104] https://docs.fcc.gov/public/attachments/DOC-361337A1.pdf

[105] https://docs.fcc.gov/public/attachments/DOC-361337A2.pdf

are aware of this lifeline, the more lives will be saved and the number of suicide-related calls to 911 will decrease. In an August 15, 2019, *New York Times* article, Nail Vigdor explains, "The effort comes at a time when counseling experts say there is a deepening national mental health crisis and there has been a spate of suicides among veterans, police officers, and high-profile figures."[106]

SAMHSA currently funds the lifeline's administration through a grant to a New York based nonprofit, Vibrant Emotional Health, which pays for networking to the local call centers.[107] When an individual calls the hotline, veterans are given the choice to be routed to a line run by the U.S. Department of Veterans Affairs,[108] while all other calls will be routed to a call center close to their location. The veterans' calls are funded through the VA, and the local call centers have different funding streams (e.g., state, local, or donations) and are mostly staffed by specially trained volunteers.[109]

Volunteers are selected based on numerous attributes, including their ability to empathize, show respect, and be self-aware. They undergo extensive training, for which they are required to pay a portion of the cost.[110] Federal funding would help to build a comprehensive awareness campaign for 988. As 988 builds in awareness and use, Congress should monitor its level of need and make certain that SAMHSA and the VA receive additional resources to match the increase in call volume and the lifeline's effectiveness. "Lifeline administrators predict that calls could double to 5 million in the first year and keep growing to 12 to 16 million by the fifth. Meeting that need will require more funding and staff for the local call centers, many of which are already struggling to meet the demand for their services," said John Draper, the Lifeline's director.[111]

[CROSS REFERENCE OFFICER HEALTH AND WELLNESS]

1.1.12 Congress should fund the Department of Health and Human Services to increase the awareness capacity, quality, uniformity, and coverage of 211 services nationwide.

In 2000, the Federal Communications Commission designated 211 as a shortcut for community information and referral services at the local level.[112] This shortcut provides an alternative to those who call 911 and are not in a current emergency but are looking for community service assistance. At the beginning of the COVID-19 pandemic, San Diego authorities noted a 10 percent decrease in calls to 911 compared to the same period the year prior, [113] while 211 experienced an 82 percent increase in calls for this period.[114] The local 211 call takers proactively assist those who are in need of behavioral health services, housing, food, or other local services, with specialized services for veterans.[115]

The San Diego 211 center serves as a model site with an integrated concierge approach. Well-trained call

---

[106] https://www.nytimes.com/2019/08/15/us/suicide-prevention-hotline-988.html
[107] https://www.theatlantic.com/health/archive/2019/09/suicide-prevention-hotline-988/598588/
[108] https://www.veteranscrisisline.net/about/what-to-expect
[109] https://www.theatlantic.com/health/archive/2019/09/suicide-prevention-hotline-988/598588/
[110] https://www.lifeline.org.au/about-lifeline/training/telephone-volunteer-training
[111] (no page number available) https://www.theatlantic.com/health/archive/2019/09/suicide-prevention-hotline-988/598588/
[112] https://ecfsapi.fcc.gov/file/6518190732.pdf
[113] https://www.sandiegouniontribune.com/news/watchdog/story/2020-04-17/911-calls-decrease-amid-coronavirus-outbreak
[114] Meg Storer, Vice President, Community and Government Relations, San Diego 211, San Diego, CA, email communication with the Social Problems Impacting Public Safety Working Group, May 15, 2020.
[115] Greg Cox, Supervisor, San Diego Board of Supervisors, San Diego, CA, in discussion with the Social Problems Impacting Public Safety Working Group, April 23, 2020.

takers ask specific questions with the goal of improving the quality of life one individual at a time.[116] The call takers join the callers with services based on geography and need from a list of 1,500 service providers.[117] In fact, 211 has worked to create a thriving information exchange between community service providers, including 211.[118] With the caller's permission, the center tracks the referral and their use of services in coordination with the local service organizations. The call-takers integrate a person-centered approach and follow up with high-risk clients to continue to assist them through their times of struggle.[119] Local police both refer individuals to 211 for services and use 211 to locate services for citizens, including open shelter beds.[120]

The 211 service is most often run at the county or regional level and "is available to approximately 309 million people, which is 94.6 percent of the total U.S. population. 211 covers all 50 states, the District of Columbia, and Puerto Rico."[121] Funding and operation for 211 centers is locally dependent, and 70 percent of 211 centers are partially funded and managed by the United Way.[122] These centers have a variation in funding strategies, San Diego 211 has a combination of local and state funding linked with financial support from the service agencies who provide services to the callers.[123] Although 211 centers can be seen as costly, they provide a one-stop-shop for services and intervention in an individual's life, and they provide access to services prior to a possible crisis into crisis (e.g., averting homelessness), which ultimately ends up costing the community more.[124] The quality and scope of 211 centers vary greatly. Although 98.3 percent of California's population has access to 211 services, 13 counties received 211 services as recently as November 2019 for disaster-related services only, while 7 counties still do not have access to 211 services.[125]

Increasing 211 services and awareness will lessen the burden of calls to 911, while also lessening the need to involve law enforcement to address people who need community assistance. Increased federal funding would support public advertising campaigns, technical assistance, and the establishment of model 211 sites, and it would also help set standards for local 211 centers. Additional funding would also help 211 centers decrease the burden on criminal justice professionals, encourage partnerships with law enforcement, and identify effective ways to fill service gaps in rural and tribal communities, such as increasing telehealth and video-enabled assistance.

[CROSS REFERENCE RURAL AND TRIBAL CHAPTER]

---

[116] William York, President and CEO, San Diego 211, San Diego, CA, in discussion with the Social Problems Impacting Public Safety Working Group, May 8, 2020.; Karis Grounds, Vice President of Health and Community Impact, San Diego 211, San Diego, CA, in discussion with the Social Problems Impacting Public Safety Working Group, May 8, 2020.
[117] Greg Cox, Supervisor, San Diego Board of Supervisors, San Diego, CA, in discussion with the Social Problems Impacting Public Safety Working Group, April 23, 2020.
[118] https://ciesandiego.org/; https://ciesandiego.org/toolkit/
[119] https://www.naco.org/sites/default/files/documents/211-Toolkit.pdf
[120] Greg Cox, Supervisor, San Diego Board of Supervisors, San Diego, CA, in discussion with the Social Problems Impacting Public Safety Working Group, April 23, 2020.
[121] Federal Communications Commission https://www.fcc.gov/consumers/guides/dial-211-essential-community-services
[122] http://211.org/pages/about
[123] William York, President and CEO, San Diego 211, San Diego, CA, in discussion with the Social Problems Impacting Public Safety Working Group, May 8, 2020.
[124] https://ecfsapi.fcc.gov/file/6518190732.pdf
[125] California Public Utilities Commission website access on 4/26/20 https://www.cpuc.ca.gov/General.aspx?id=7846

211	911
Information	Emergency
Evacuations	Life in Danger
Shelters & Resource Centers	Need Immediate Assistance
Help with Food, Water, Etc.	Crime is Happening Now

[126]

1.1.13 Congress should provide funding to the Substance Abuse and Mental Health Services Administration to support the National Council for Behavioral Health in increasing the scope of the Mental Health First Aid program to comprehensively include substance use disorder and homelessness within the curriculum.

As Chief Brown notes, "Homelessness is often seen as one single agency's failure. Blame is dished out on the police agencies without understanding the limitations of the agency, the social services, or the justice system. Through a robust education campaign, we need to educate our communities about the complex system of homeless outreach."[127]

Mental illness is prolific in the United States. In the 2018 National Survey on Drug Use and Health, the Substance Abuse and Mental Health Services Administration found that nearly 47.6 million American adults (19.1 percent) experienced mental illness in the past year.[128] As the American Institute for Research finds, "Raising awareness and increasing the understanding of mental health can change the way society views and responds to this complex issue."[129] According to the National Council for Behavioral Health,

> One in five Americans has a mental illness or substance use disorder, yet many are reluctant to seek help or simply don't know where to turn for care. Recognizing mental health and substance use challenges can be difficult, which is why it's so important for everyone to understand the warning signs and risk factors. Even when friends and family of someone who may be developing a mental illness recognize that something is amiss, they may not know how to intervene or direct the person to proper treatment. All too often, those in need of mental health services do not get them until it is too late.[130]

In addition, the perception of social stigma keeps people from seeking treatment or causes them to drop out of treatment.[131]

To address the significant number of mental health issues in the population, Mental Health First Aid (MHFA) teaches participants about recovery and resiliency. It covers such topics as depression and mood disorders, anxiety disorders, trauma, psychosis, and substance use disorders.

---

[126] https://www.sonomacity.org/when-to-call-211-and-911/

[127] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (March 31, 2020) (statement *of* Chief Mike Brown, Chief of Police, Salt Lake City PD). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

[128] https://www.samhsa.gov/data/sites/default/files/cbhsq-reports/NSDUHNationalFindingsReport2018/NSDUHNationalFindingsReport2018.pdf

[129] (no page number) https://www.air.org/resource/mental-health-awareness

[130] https://www.thenationalcouncil.org/about/mental-health-first-aid/

[131] https://journals.sagepub.com/stoken/rbtfl/dDpyhM2zRi.Fg/full

MHFA helps train people on how to identify, understand, and respond to signs of mental illnesses and substance use disorders. Participants learn about the risk factors and warning signs of mental health concerns, build understanding of their impact, and gain an overview of common treatments. The training teaches how to assess a mental health crisis, select interventions, provide initial help, and connect people to professional, peer, and social supports in addition to self-help resources.[132]

As a public education program, MHFA has been taught to a variety of audiences, including social workers, veterans and their family members, and people with mental illness or addiction and their family members. There is also a MHFA for public safety that has been used for law enforcement in-service and in law enforcement academy training.[133]

[CROSS REFERENCE OFFICER HEALTH AND WELLNESS]

Studies of MHFA consistently report that participants experience improvements, including advancing their knowledge of mental health and literacy, changing their attitudes and behaviors, and gaining confidence when interacting with individuals who have mental health problems.[134] However, there are still many rural and urban areas not yet reached.[135]

MHFA provides a framework to aid the public in also understanding and knowing how to assist those individuals with handle substance use disorder or are homeless. Although substance use disorder is covered in the MHFA curriculum, this topic should either be integrated more fully or have its own specific module and should integrate co-occurring disorders. Community members should know what to do during a crisis (e.g., an overdose) and how to help refer another community member who has a substance use disorder. In addition, MHFA should add education materials on homelessness topics. Homelessness has become a prominent problem in society, and citizens are unsure how to address people who are homeless, understand their needs, or identify the programs to direct them to for assistance.

These additional materials should include educating community members, so they have a practical view of the roles of law enforcement and other local government and treatment services.

1.2 <u>Law Enforcement's Role and Responsibilities to Address Social Problems</u>

Background

Law enforcement has been forced to adapt to a different role from when they took the job. The academy focuses on how to write reports, understand the laws they will enforce, conduct investigations, and provide first aid and CPR. Academy training rarely focuses on how to handle a homeless schizophrenic or a mother struggling to help her child overcome addiction. The real role of law enforcement is to solve crime, not social issues. If solving crime is their first priority, then social issues cannot simultaneously be the top priority.[136] Police officers must respond to these social problems while still conducting their normal job duties and taking on various other duties, as expected or assigned.[137]

Using law enforcement to address mental health or substance use crisis is the most accessible solution, but not the best way to address the problem. Research by Charette, Crocker, and Billette (2014) explains that "such encounters use at least 90 percent more resources than encounters not involving mental illness, even

[132] https://www.thenationalcouncil.org/about/mental-health-first-aid/
[133] https://www.mentalhealthfirstaid.org/population-focused-modules/public-safety/
[134] https://www.mentalhealthfirstaid.org/about/research/
[135] https://www.mentalhealthfirstaid.org/cs/wp-content/uploads/2013/10/2018-MHFA-Research-Summary.pdf
[136] Adelman, J. (2003). Study in blue and grey, police interventions with people with mental illness: A review of challenges and responses. Vancouver, BC: Canadian Mental Health Association, BC Division.
[137] The Workforce Crisis, and What Police Agencies are Doing About it, PERF, September, 2019 https://www.policeforum.org/assets/WorkforceCrisis.pdf

when statistically controlling for type of response". [138] In speaking of homelessness, Chief Mike Brown parallels this finding: "Law enforcement is the most expensive and least effective method of dealing with the social issues that drive individuals to live on the street and become shelter resistant."[139]

The high frequency of interaction officers have with citizens with mental health or substance use disorders, or homeless with these disorders, put officers at a higher risk of using force,[140] thereby increasing risk of injury to the citizen and themselves.[141] The Los Angeles Police Department reported that as their homeless population has grown, use of force reports on homeless increased by 26 percent in the third quarter of 2019, as compared to the same time the year prior.[142] The Orange County, California, sheriff's department's 2019 use of force report illustrates the extent to which drug and alcohol abuse and mental illness are factors. [143] Out of 456 subjects with whom officers used force, 215 of them (47 percent) were under the influence of drugs or alcohol, had mental health issues, or both. At the national level, approximately a quarter of fatal police shootings are related to individuals with mental health disorders.[144] Further, individuals diagnosed with a mental illness have a 16 times greater chance to be killed by police than those without this disorder.[145]

Michael Stuart, U.S. Attorney for West Virginia, notes that these additional responsibilities have a direct impact on officer morale, in particular "the seemingly tremendous fatigue among law enforcement and a general sense that the enforcement of substance abuse crimes is a way of life that will never really resolve itself."[146] A 2019 report from the Police Executive Research Forum found, "Police agencies need a more diverse set of officers who possess such key skills as interpersonal communications, problem-solving, basic technological expertise, critical thinking, empathy, and 'community-mindedness,' along with the traditional law enforcement skills required of all officers."[147]

[CROSS REFERENCE POLICE OFFICER RECRUITMENT AND TRAINING]

Current State of the Issue

PULL QUOTE: "Sometimes police, sheriffs, and judges are the only ones who will help our ill family members

---

[138] Charette, Y., Crocker, A. G., & Billette, I. (2014). Police encounters involving citizens with mental illness: Use of resources and outcomes. Psychiatric Services, 65(4), 511–516. doi:10.1176/appi.ps.201300053

[139] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (March 31, 2020) (statement *of* Chief Mike Brown, Chief of Police, Salt Lake City PD). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

[140] Compton MT, Demir Neubert BN, Broussard B, McGriff JA, Morgan R, Oliva JR (2011) Use of force preferences and perceived effectiveness of actions among Crisis Intervention Team (CIT) police officers and non-CIT officers in an escalating psychiatric crisis involving a subject with schizophrenia. Schizophrenia Bulletin, 37:737–745.

[141] https://www.ncjrs.gov/pdffiles1/nij/176330-2.pdf

[142] https://www.latimes.com/science/story/2020-01-21/use-of-force-incidents-against-homeless-people-are-up-lapd-reports

[143] Sheriff Don Barnes, Sheriff, Orange County Sheriff's Office, Orange County, CA, email communication with the Social Problems Impacting Public Safety Working Group, April 20, 2020.

[144] Kindy, K. & Elliott, K. (2015). 990 people were shot and killed by police this year: Here's what we learned. *The Washington Post*. Retrieved from http://www.washingtonpost.com.

[145] https://www.treatmentadvocacycenter.org/overlooked-in-the-undercounted

[146] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (April 2, 2020) (written statement of Michael Stuart, United States Attorney of West Virginia). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

[147] The Workforce Crisis, and What Police Agencies are Doing About it, PERF, September, 2019, p. 9 https://www.policeforum.org/assets/WorkforceCrisis.pdf

get into care."[148] - D.J. Jaffe, Executive Director of mentalillnesspolicy.org

Society expects law enforcement to be the first and primary responder to the immediate crisis, regardless of the presence of a crime. Changing the culture, enacting policy changes to match that new culture, and building a community service infrastructure can take decades. At present, this leaves law enforcement as the first responders and problem-solvers to incidents that they do not have the training or expertise to address. Unfortunately for some incidents, the officer is left with no other avenue for resolution and must choose arrest.

Many individuals who are battling behavioral health issues or without a home still commit crimes, either because of their illness or current need for simple everyday necessities (e.g., food or shelter). Regardless of illness or need, some people simply have a greater propensity to commit crime, and those individuals should be held accountable. In fact, research has found that persons who have a mental health disorder score higher on criminogenic needs—such as criminal history, low self-control, and attitudes supportive of crime, and friends who are antisocial—than those who do not.[149] These criminogenic needs should be addressed while providing behavioral and physical health treatment, employment training, education, and housing assistance.[150]

Law enforcement and the criminal justice system must still enforce laws and exact justice while attending to the needs of the individual in transport, at booking, in court, in custody, and through release. If the community treatment capacity is built up and community intervention is used to address and reduce society's problems, then law enforcement's role in responding to these societal problems would be reduced. However, certain individuals with these high-level needs will still commit crimes and should still be pulled into the system.

As U.S. Attorney Michael Stuart of West Virginia notes in his verbal testimony, "[T]here are elements of this crisis that will find their solutions in the health care system, but there are other elements of this crisis that will find their solutions through enforcement, punishment, and imprisonment. That's a good thing, not a bad thing."[151]

While the community safety net needs repair, law enforcement continues to bear a significant amount of the burden to respond to and determine the next steps for those who are mentally ill, substance involved, or homeless. Often lacking external community support, law enforcement has had to create innovative strategies used to respond to individuals with those issues, most notably by forming partnerships with trained professionals.

PULL QUOTE: "[W]e must end the valley of the substance abuse crisis as merely the responsibility of law enforcement. It is not. In fact, law enforcement and the justice system are not in a position to end the substance abuse crisis by themselves, individually, or collectively." - Michael Stuart, U.S. Attorney of West

---

[148]DJ Jaffe, Executive Director, mentalillnesspolicy.org, email message to President's Commission on Law Enforcement and the Administration of Justice, March 26, 2020

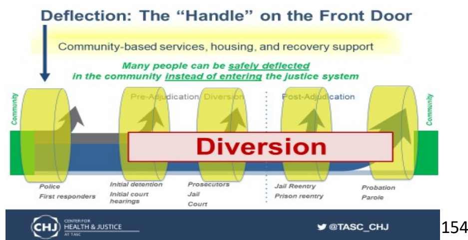
[149] *"Offenders with Mental Illness Have Criminogenic Needs, Too: Toward Recdivism Reduction."* http://risk-resilience.berkeley.edu/sites/default/files/journal-articles/files/2014.offenders_with_mental_illness_have_criminogenic_needs_too_toward_recidivism_reduction.pdf

[150] *"Correctional Policy for Offenders with Mental Illness: Creating a New Paradigm for Recidivism Reduction."* http://risk-resilience.berkeley.edu/sites/default/files/attachments/projects/2011.correctional-policy-for-offenders-with-mental-illness.pdf

[151] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (April 2, 2020) (statement of Michael Stuart, United States Attorney of West Virginia). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

Virginia[152]

When law enforcement must take a person in need into custody, forward-thinking police agencies have developed processes that depend on strong partnerships with treatment service providers to provide help, such as referral, delivery to crisis care, or pre-arrest diversion strategies.[153] These behavioral health and services partnerships allow a way to provide care without arrest when a crime is not committed. They also allow a way to provide care through diversion at other stages within the criminal justice process, considering the treatment need and the charge of the crime, if a crime has occurred.



[154]

These recommendations recognize that law enforcement will continue to respond to incidents that involve individuals who suffer from mental health disorders, substance use disorders, or homelessness. They call upon law enforcement strengths, such as ensuring strong policies and procedures, while relying on community experts and services to invest in strong partnerships with law enforcement. As Chief Mike Brown expresses, the community has a role, "The community, in solidarity and shared vision, has a stake in the outcome, provides bottom-up contributions, and shares responsibility for making this city both safer and more enjoyable."[155] The recommendations also seek to diffuse these policies, procedures, and partnerships more fully throughout the nation.

1.2.1 States should develop model policies and base-line training for local call takers for all N11 codes (e.g., 911, 211, 411, or 311). These policies should include procedures to optimally handle and assign calls for individuals experiencing mental illness, substance use disorders, and homelessness during a crisis or a non-crisis situation.

Recognizing that the numbers and services connected to them vary by locality, governments and call centers should tailor the policies and training to best fit the N11 exchange codes (e.g., 911, 211, 411, or 311 exchanges) and needs of their geographic coverage. A state model for policy and training should provide a base level of consistency across the state; ensure high standards for all call taking centers and specialized numbers; provide basic knowledge for all call takers on how to best assist callers in a professional, compassionate manner with regard to behavioral health disorders and homelessness; and ensure collaboration and coordination cross the exchanges.

---

[152] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (April 2, 2020) (statement of Michael Stuart, United States Attorney of West Virginia). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

[153] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6007921/; https://campbellcollaboration.org/better-evidence/police-initiated-diversion-to-prevent-future-delinquent-behaviour.html; http://jaapl.org/content/early/2019/09/24/JAAPL.003863-19

[154] Jac Charlier, Executive Director, TASC Center for Health and Justice, "Deflection and Pre-Arrest Diversion: Public Safety and Public Health Together" (PowerPoint Presentation, Social Problems Impacting Public Safety Working Group, Teleconference, March 30, 2020).

[155] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (March 31, 2020) (written statement *of* Chief Mike Brown, Chief of Police, Salt Lake City PD). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

The first priority when individuals call any local exchange is to ensure they are directed to the correct service and their level of needed response. The standard emergency number, 911, not only receives emergency calls, but also responds to calls that would be better handled by non-emergency exchanges. Alternatively, an individual who calls 211 for a service referral may be in immediate crisis. With proper training, the 211 call taker should understand how to best assist this person by handing a crime-call off to 911 or a non-crime call to a specialized crisis line.[156]

PULL QUOTE: "911 call takers can be trained to triage crisis calls and identify whether the person in crisis is a danger to themselves or an immediate threat to someone else. If not, then the call can be transferred to appropriate care in the mental health crisis system through a warm hand-off to a crisis line."- Ron Bruno, Executive Director, CIT International[157]

Model state policy and training for 911 call takers should include, but not be limited to, education on the unique needs and optimal responses—including hand-offs to other exchanges—for those who have behavioral health disorders or are experiencing homelessness. This way the call taker can triage the call and send the most appropriate service to respond, ensuring all needed information is provided to those who are responding to the call while also preparing the caller for the arrival of the responding agency or service.

A highly trained, professional 911 specialist can obtain critical information such as determining if weapons are present, determining if a person has taken medication or other drugs (and if so what kind and how much), identifying objects that may be perceived as dangerous to first responders, and determining if there are other underlying medical issues requiring the responders' attention. The 911 specialist should also be able to provide instructions or requests from the first responders who are headed to the scene to the person experiencing the emergency situation. [158]

The model state policy should provide guidance on proper data collection, including how to appropriately record and code calls that involve individuals who have behavioral health challenges or are experiencing homelessness. [159] In Prince George's County, Maryland, all new 911 and dispatch employees receive eight weeks of academic training that includes the completion of six certifications. This is followed by four months of hands-on, practical training in the performance of their duties.[160] A standardized state or local mandate for minimum requirements would help ensure that all 911 personnel possess the same critical life safety skills.

1.2.2 Law enforcement agencies should have a policy that specifies officer response protocols for calls for service that involve individuals with mental health disorders or substance use disorders or those who are experiencing homelessness.

In 2019, the Council on State Governments Justice Center (CSGJC) issued "Police-Mental Health Collaborations," a framework to help law enforcement implement effective responses to people with mental health needs. The report notes, "Written policies and procedures that are communicated clearly to staff are critical to the overall success of a Police Mental Health Collaboration and empower officers to take actions that can enhance their safety and the safety of others. . . . The PMHC will only realize success, and policies

[156] SAMHSA's National Guidelines for Behavioral Health Crisis Care – Best Practice Toolkit (2020) https://www.samhsa.gov/find-help/implementing-behavioral-health-crisis-care
[157] Ron Bruno, Executive Director, CIT International, email message to President's Commission on Law Enforcement and the Administration of Justice, March 30, 2020.
[158] Charlynn Flaherty, Deputy Director, Office of Homeland Security Public Safety Communications, Prince George's County Public Safety Communications, email message to President's Commission on Law Enforcement and the Administration of Justice, April 28, 2020.
[159] https://csgjusticecenter.org/wp-content/uploads/2020/02/Police-Mental-Health-Collaborations-Framework.pdf
[160] Charlynn Flaherty, Deputy Director, Office of Homeland Security Public Safety Communications, Prince George's County Public Safety Communications, email message to President's Commission on Law Enforcement and the Administration of Justice, April 28, 2020.

and procedures will only be effective, when these policies and procedures are disseminated, followed, and enforced by leaders in both the law enforcement and behavioral health agencies."[161]

Although the CSGJC framework[162] is for developing a policy for response to those with mental health needs, this framework can also be applied to substance-use dependent and persons who are homeless. The framework recommends a comprehensive review of policies, including a study of the current process flow in the agency; a selection of responses based on the needs, partners (e.g., behavioral health providers), and resources available in the community (such as a crisis intervention team); clear, complete, and thorough policies and procedures; agreements of what information can be shared with the partners; transparency, active diffusion, and accountability for awareness of the policies and procedures; and assessment, improvement, and updating on a systematic basis.[163]

To support this policy development and the success of the response that comes from it, experts in behavioral health treatment must help collaborate and respond to and assist with homelessness, which are dependent on community resources and government resources.[164] These partnerships stress the importance that local leaders, local government institutions (e.g., the housing department), and community treatment and services should take a more active role with law enforcement for these policies to be successful. Without the partnerships, the policy will be empty and lose legitimacy among the rank and file.

1.2.3 Law enforcement agencies should have policies and procedures that institutionalize the role of behavioral health professionals and community service providers in the response and disposition of service calls that involve individuals with a mental health or substance use disorder or those who are homeless.

Law enforcement partnerships with behavioral health professionals and community services are an integral part of effective policies and procedures used to respond to calls for service involving individuals with a mental health or substance use disorder or those who are homeless. The interrelated nature of the problems law enforcement face responding to calls involving these individuals results in the treatment and service partners often being the same people. As such, the policy and procedures for institutionalizing the collaboration of these partners should be integrated across these issues.

Collaborative or co-response models offer alternatives to jail and treat the underlying issues in frequent users of the criminal justice system.[165] These partnerships connect individuals to services for immediate help and allow officers to be more responsive to other calls.[166] As Jessica Waters, Director of Social Work Program at Salt Lake City Police Department, says, "This allows us to reach the most vulnerable individuals, living on the fringe, who are often service and shelter resistant."[167]

The Salt Lake City, Utah, police department (SLCPD) serves as a Police Mental Health Collaboration learning

[161] https://csgjusticecenter.org/wp-content/uploads/2020/02/Police-Mental-Health-Collaborations-Framework.pdf (p.8)

[162] https://csgjusticecenter.org/wp-content/uploads/2020/02/Police-Mental-Health-Collaborations-Framework.pdf

[163] https://csgjusticecenter.org/wp-content/uploads/2020/02/Police-Mental-Health-Collaborations-Framework.pdf (p.7-8)

[164] https://www.theiacp.org/sites/default/files/2018-08/ImprovingPoliceResponsetoPersonswithMentalIllnessSymposiumReport.pdf

[165] Waters, J. (2019) The Salt Lake City Community Connection Center: three teams, one center. COPS Dispatch, 12; 10. https://cops.usdoj.gov/html/dispatch/11-2019/community_connection.html

[166] Puntis S, Perfect D, Kirubarajan A, Bolton S, Davies F, Hayes A, Harriss E, Molodynski A (2018) A systematic review of co-responder models of police mental health 'street' triage. BMC Psychiatry, 18:256. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6094921/

[167] Jessica Waters, Director of Social Work Program at Salt Lake City Police Department, email communication with Social Problems Impacting Public Safety Working Group, April 29, 2020.

cite for BJA.[168] SLCPD has a team of social workers who work in a co-responder model, responding to 911 calls that are social issue-related (e.g., mental health, suicide, substance use, homelessness). The team consists of case workers with bachelor degrees and licensed mental health professionals with master's degrees.

A number of response models across law enforcement agencies have been developed dependent on the resources and needs of the jurisdiction.[169] The crisis intervention teams have specific training of how to de-escalate those in crisis and divert individuals to treatment;[170] the co-responder team, such as the one used by SLCPD, include responses conducted by an officer in conjunction with a treatment professional. A mobile crisis team includes treatment professionals who assist with stabilizing the crisis. Case management teams are behavioral health professionals or service providers who often focus on high service users or specific places (e.g., tent cities), working with officers to solve the problem. Case managers take a person-centered approach, assisting with services such as lining up stable housing, obtaining essential documents, and following through on treatment plans.[171]

The work conducted by the Tucson, Arizona, police department and the Crisis Response Center uses a mix of these approaches and serves as a model for other jurisdictions nationwide. It also serves as one of BJA's Law Enforcement−Mental Health Learning Site. The department "[u]ses a multilayered approach employing a co-responder program that pairs Mental Health Support Team officers with mental health clinicians; Crisis Mobile Teams that work in tandem with the crisis line; and a Crisis Response Center. Multitier training is open to all levels of law enforcement, mental health workers, call takers and dispatchers, emergency medical technicians, paramedics, and firefighters."[172]

The CSGJC's framework states, "Communities are learning that small-scale or standalone approaches—such as just providing mental health training or having a specialized team that is only available on certain shifts or in certain geographical areas—are not adequate to achieve community-wide and long-lasting impacts. They have also learned that even the most effective law enforcement responses cannot succeed without mental health services that provide immediate crisis stabilization, follow up, and longer-term support."[173]

Support for this policy development and the success of the responses that result requires collaborative partnerships from experts in behavioral health treatment and in supporting the needs of the homeless. Those partnerships, in turn, are dependent on community and government resources.[174] Yet, treatment providers tell stories of the slow cultural change needed from law enforcement agencies to gain acceptance of a collaboration and a referral or deferral process.[175] In contrast, law enforcement professionals, frustrated with

---

[168] https://bja.ojp.gov/sites/g/files/xyckuh186/files/Publications/JMHCP-Learning-Sites_2018.pdf; https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/jmhcp-program.pdf

[169] https://csgjusticecenter.org/wp-content/uploads/2020/02/Police-Mental-Health-Collaborations-Framework.pdf (p.8)

[170] For a recent literature review http://jaapl.org/content/early/2019/09/24/JAAPL.003863-19

[171] Jessica Waters, Director of Social Work Program at Salt Lake City Police Department, email communication with Social Problems Impacting Public Safety Working Group, May 22, 2020.

[172] https://bja.ojp.gov/sites/g/files/xyckuh186/files/Publications/JMHCP-Learning-Sites_2018.pdf; https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/jmhcp-program.pdf

[173] https://csgjusticecenter.org/wp-content/uploads/2020/02/Police-Mental-Health-Collaborations-Framework.pdf (p.7-8)

[174] https://www.theiacp.org/sites/default/files/2018-08/ImprovingPoliceResponsetoPersonswithMentalIllnessSymposiumReport.pdf

[175] Candace Allen, M.S., Captain Don Jones, "Behavioral Health Urgent Care Center: Law Enforcement and Behavioral Health Working Together." Webinar, SAMHSA GAINS Center, April 22, 2020.

the lack of treatment providers and services available to them, ask: "Defer to what?"[176]

This recommendation requires a significant culture change and expects that federal and local governments will invest in and build up the capacity of treatment and community services that are actively available to partner with law enforcement. The focus should be on enhancing the treatment and service infrastructure in the community. Most importantly, responses should move away from specialized programs and toward partnerships in which behavioral health and service providers take on the weight of the response. Examples of this include crisis call lines and crisis mobile teams that are staffed and run by behavioral health professionals and call in law enforcement to assist, if needed.[177]

1.2.4 Law enforcement agencies should develop a robust training program for contact with individuals who have mental health disorders, substance use disorders, or are homeless.

The American Civil Liberties Union, in its submitted written testimony, comments, "When police know—or should know—that they are interacting with a person with a disability, police have a legal obligation to proceed in ways that take into account the person's disability. Most such changes are simple: recognize that it may take time for the person to understand what is happening, create a calm environment, have one person communicate simply and clearly, allow time for the person to respond to questions or instructions, and exercise patience."[178]

Law enforcement agencies should have a training program for responding to people with behavioral health needs or are homeless that incorporates a base training in the academy, booster training as an in-service option, and training for officers and specialized units according to the law enforcement agency policy. An important part of the base training should include a basic understanding of the root causes of behavioral health disorders and homelessness, how to recognize a need or crisis, how to de-escalate a crisis, and how to stay safe in a response. Officers trained in crisis intervention improve call resolution and reduce use of force.[179] Training should also include where officers can seek assistance for themselves or colleagues who may have a behavioral health disorder.

[CROSS REFERENCE OFFICER SAFETY AND WELLNESS]

The Tucson, Arizona, police department has a stratified training program that is easily replicable; other agencies can adopt it for their officers and call takers to learn how to respond to incidents regarding mental illness. Although this training model is specific to mental health training, substance use disorder and mental health disorder are closely interrelated; therefore, any training on those issues should also include appropriate content and response education in addition to education on homelessness.

Agencies should include training in the academy. The Tucson police department has an 8-hour academy training using MHFA, [180] which is recommended by the International Association of Chiefs of Police as part of

---

[176] Chief Mike Brown, Chief of Police, Salt Lake City, Utah, Police Department, Social Problems Impacting Public Safety Working Co-Chair, in discussion with Social Problems Impacting Public Safety Working Group, Virtual Meeting, March 6, 2020.

[177] https://www.samhsa.gov/sites/default/files/national-guidelines-for-behavioral-health-crisis-care-02242020.pdf

[178] ACLU, email communication with President's Commission on Law Enforcement and the Administration of Justice, March 31, 2020.

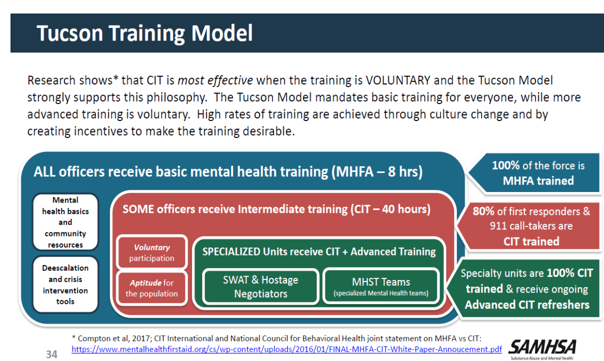
[179] Compton MT, Demir Neubert BN, Broussard B, McGriff JA, Morgan R, Oliva JR (2011) Use of force preferences and perceived effectiveness of actions among Crisis Intervention Team (CIT) police officers and non-CIT officers in an escalating psychiatric crisis involving a subject with schizophrenia. Schizophrenia Bulletin, 37:737–745.

[180] Margie Belflour, M.D., Ph.D., Sergeant Jason Winsky, "Tucson's Model's Comprehensive Approach to Crisis and Public Safety." Webinar, SAMHSA GAINS Center, April 22, 2020.; https://www.mentalhealthfirstaid.org/

basic training. [181] MHFA for Public Safety Officers teaches law enforcement agencies how to identify, respond to signs, and more fully understand mental health disorders.[182] MHFA provides short, yet comprehensive base training, which is complimentary to more advanced training, such as Crisis Intervention Training (CIT).[183]

In Tucson, a more in-depth 40-hour CIT training is voluntary for all officers and call takers,[184] based on the program components set for by CIT international.[185] A 2012 article by Watson and Fulambarker explains, "The rationale is that not all officers are cut out to be CIT officers. Those that volunteer and are accepted into the program may have a particular disposition and interest in handling mental health calls."[186] Limited research supports this assertion, showing better outcomes regarding key attitudes, skills, and behaviors.[187] Currently, agency policy decides. In the Tucson police department, 80 percent of officers and call takers have attended the 40-hour session.[188] The training covers policies and procedures, community partnerships and programs, de-escalation techniques, and how to handle a call for service involving an individual with a mental health or substance use disorder from the point of the call to the disposition.

The Tucson police department has all specialized units complete CIT training and they must also take part in the advanced booster sessions.



[189]

1.2.5 Congress should provide funding to the Substance Abuse and Mental Health Services Administration and the Bureau of Justice Assistance so that they may offer technical assistance to help local agencies improve their policies, procedures, and training for responding to incidents that involve individuals who are experiencing a mental health or substance use disorder or who are homeless.

---

[181] https://www.theiacp.org/sites/default/files/2018-08/ImprovingPoliceResponsetoPersonswithMentalIllnessSymposiumReport.pdf; https://www.theiacp.org/sites/default/files/2018-08/IACP_Responding_to_MI.pdf

[182] https://www.mentalhealthfirstaid.org/2018/02/police-need-mental-health-training/

[183] https://www.mentalhealthfirstaid.org/cs/wp-content/uploads/2016/01/FINAL-MHFA-CIT-White-Paper-Annoucement.pdf

[184] Margie Belflour, M.D., Ph.D., Sergeant Jason Winsky, Presentation Tucson's Model's Comprehensive Approach to Crisis and Public Safety , April 22, 2020; SAMHSA

[185] https://www.mentalhealthfirstaid.org/cs/wp-content/uploads/2016/01/FINAL-MHFA-CIT-White-Paper-Annoucement.pdf

[186] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3769782/

[187] https://onlinelibrary.wiley.com/doi/abs/10.1002/bsl.2301

[188] Margie Belflour, M.D., Ph.D., Sergeant Jason Winsky, Presentation Tucson's Model's Comprehensive Approach to Crisis and Public Safety , April 22, 2020; SAMHSA

[189] Margie Belflour, M.D., Ph.D., Sergeant Jason Winsky, Presentation Tucson's Model's Comprehensive Approach to Crisis and Public Safety , April 22, 2020; SAMHSA

BJA should collaborate with SAMHSA to assist law enforcement agencies in implementing policies, procedures, and training that prioritize the role of treatment and service providers in helping those in need. This effort can build upon work already being conducted by BJA as part of the Police−Mental Health Collaboration.[190] Most importantly, SAMHSA can work with BJA to increase the participation of treatment and service providers. The technical assistance should be centered on model policies and training, but flexible enough to tailor these models focused on providers taking a central role in the work. There should also be technical assistance provided for cross-agency and service data sharing, analysis, and collaborative response.

1.2.6 Local law enforcement agencies, in collaboration with behavioral health and homeless service providers, should use data and analysis to proactively identify, tailor treatment, and address high-frequency users of emergency services, high call locations, and problem places.

Progressive police agencies have become adept at using crime analysis to proactively identify and target problem people and places. To do so, they focus on repeat calls for service locations, hot spots, and repeat offenders.[191] Crime reduction interventions that target crime by person or place may help reduce the calls and incidents for mental health, substance use, and homelessness. For instance, repeat calls for service and arrests independently or linked with other data sources can identify high frequency users for individuals who have behavioral health disorders or are homeless. [192] Mental health-related police calls also cluster at specific places (e.g., certain street segments),[193] on a smaller proportion of places in rural areas,[194] and may be even more clustered than criminal events.[195]

Weisburd and White (2019) found “that both physical and mental health problems are much more likely to be found on hot spot streets than streets with little crime. This suggests that crime hot spots are not simply places with high levels of crime, but also places that evidence more general disadvantage.”[196]

As data analysis becomes more valued and takes center stage, agencies begin to innovate how they can use data collection to better understand the problem and allocate resources. In Orange County, California, the sheriff’s department has adopted a smart-phone application that enables Homeless Outreach Team Deputies to collect field information during their contacts with homeless individuals. Such information includes date, time, and GPS location; veteran and disability status; homeless status, including number of times homeless and length of homelessness; sources of incomes; their desire for service assistance; and the deputy’s

---

[190] https://pmhctoolkit.bja.gov/

[191] Santos, R. B. (2017). Crime Analysis with crime mapping (4th Edition). Thousand Oaks, CA: Sage Publications.

[192] Milgram, Anne, Jeffrey Brenner, Dawn Wiest, Virginia Bersch, and Aaron Truchil. *Integrated Health Care and Criminal Justice Data — Viewing the Intersection of Public Safety, Public Health, and Public Policy Through a New Lens: Lessons from Camden, New Jersey.* Program in Criminal Justice Policy and Management, Harvard Kennedy School, April 2018. https://www.hks.harvard.edu/sites/default/files/centers/wiener/programs/pcj/files/integrated_healthcarehealth care_criminaljustice_data.pdf

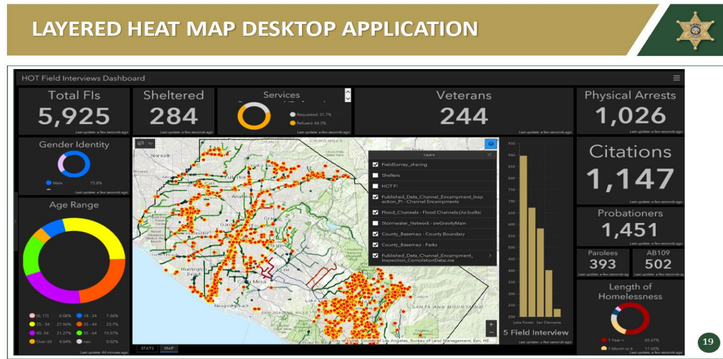
[193] https://www.researchgate.net/publication/324954366_Hot_spots_of_mental_health_crises_A_look_at_the_concentration_of_mental_health_calls_and_future_directions_for_policing

[194] Yang, Sue-Ming, Charlotte Gill, L. Caitlin Kanewske, Yi-Fang Lu, Muneeba Azam, Paige Thompson, Howard Hall, and James Chapman. (2020). “Improving Police Response to Mental Health Crisis in a Rural Area.” Final Report. Bureau of Justice Assistance.

[195] Adam D. Vaughan, Monica Ly, Martin A. Andresen, Kathryn Wuschke, Tarah Hodgkinson & Allison Campbell (2018) Concentrations and Specialization of Mental Health–Related Calls for Police Service, Victims & Offenders, 13:8, 1153-1170, DOI: 10.1080/15564886.2018.1512539

[196] Weisburd and White, 2019 https://journals.sagepub.com/doi/full/10.1177/1043986219832132

assessment of their mental and medical health, physical disabilities, and substance use.[197] The data collection was planned considering allowances under HIPAA. This information can be used both to provide needed assistance to the individual and to share with treatment and service partners. Further, the deputies will better understand the homeless population they come in contact with over time. This is a data repository that can both be a rich standalone source and also used in conjunction with other available data to understand the county's homeless needs as they relate to crime problems and social and treatment service resources.



198

Joining data from law enforcement agencies (e.g., the field information from contacts with homeless individuals) and other service delivery agencies (e.g., emergency rooms, emergency psychiatric services, jails, and homeless shelters) would allow law enforcement and their treatment and service partners to understand these relationships more fully and to target resources more effectively.[199] A Harvard Kennedy School report from the Program in Criminal Justice Policy and Management notes,

> By analyzing these cross-sector data, Coalition researchers found that a small number of Camden residents have an enormous and disproportionate impact on the healthcare and criminal justice sectors, neither of which is designed to address the underlying problems they face: housing instability, inconsistent or insufficient income, trauma, inadequate nutrition, lack of supportive social networks, mental illness, and substance abuse disorders. These unaddressed social determinants of behavior appear to drive a cycle of repeated arrests and hospitalizations. [200]

---

[197] Captain Pat Rich, Orange County Sherriff's Office, Orange County, California "Orange County Sheriff's Department Homeless Outreach" (PowerPoint Presentation, Social Problems Impacting Public Safety Working Group, Teleconference, May 19, 2020).

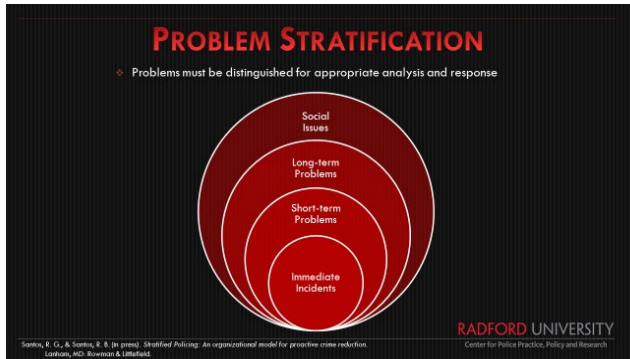
[198] Captain Pat Rich, Orange County Sherriff's Office, Orange County, California "Orange County Sheriff's Department Homeless Outreach" (PowerPoint Presentation, Social Problems Impacting Public Safety Working Group, Teleconference, May 19, 2020).

[199] Milgram, Anne, Jeffrey Brenner, Dawn Wiest, Virginia Bersch, and Aaron Truchil. *Integrated Health Care and Criminal Justice Data — Viewing the Intersection of Public Safety, Public Health, and Public Policy Through a New Lens: Lessons from Camden, New Jersey.* Program in Criminal Justice Policy and Management, Harvard Kennedy School, April 2018. https://www.hks.harvard.edu/sites/default/files/centers/wiener/programs/pcj/files/integrated_healthcare_criminaljustice_data.pdf

[200] Milgram, Anne, Jeffrey Brenner, Dawn Wiest, Virginia Bersch, and Aaron Truchil. *Integrated Health Care and Criminal Justice Data — Viewing the Intersection of Public Safety, Public Health, and Public Policy Through a New Lens: Lessons from Camden, New Jersey.* Program in Criminal Justice Policy and Management, Harvard Kennedy School, April 2018. https://www.hks.harvard.edu/sites/default/files/centers/wiener/programs/pcj/files/integrated_healthcare_criminaljustice_data.pdf p. 1

Joining medical service call data and crime incident data has also provided a wider scope of "hot places" than using crime data alone.[201] The layering of different data sources allows analysts to reach conclusions that are more informed and complete, which in turn enable a more targeted intervention.

The stratified policing framework translates well to the analysis, identification, and accountability of response to social problems. Stratified policing provides a way to identify and place problems by length, complexity, and rank into immediate (i.e., critical-incidents), short-term (i.e., repeat incidents or patterns), and long-term problems (i.e., hot spots).[202] Each of these problems include analytical techniques to identify and strategies to triage and address them. Most importantly, the framework provides a systematic accountability process that matches those with greater rank to take responsibility for more complex and longer-term problems, with those above them providing support as needed.



[203]

Law enforcement can use traditional analysis techniques and shared data to proactively identify clusters of social problems as well as crime. However, responses to crime are not suited to addressing social problems. The most promising means to proactively target, assist, and prevent future calls and criminal justice interaction with those who are mentally ill, substance dependent, or homeless rely on other government services, behavioral health treatment providers, and additional service providers to use their resources to intervene. Although this work can take place within the police agency, to ensure fuller accountability and resources, local leadership can take a primary role, such as the example of CountyStat in Prince George's County, Maryland.[204]

1.3 Improving State Court Responses to Social Problems

Background

PULL QUOTE: "The criminal justice system has become our nation's new mental institutions."[205] - Dianne C. Harris (public comment)

While the impact of local law enforcement's high rate of arrests of individuals with mental health disorders, substance use disorders, and homelessness falls predominantly on the state and local courts, prosecutors, and judges do not traditionally or typically address behavioral health, housing, or treatment services for

---

[201] Hibdon, J and Groff, E. G., (2014). https://journals.sagepub.com/doi/full/10.1177/1043986214525077

[202] Forthcoming Oct. 2020 https://rowman.com/ISBN/9781538126561/Stratified-Policing-An-Organizational-Model-for-Proactive-Crime-Reduction; https://cops.usdoj.gov/RIC/ric.php?page=detail&id=COPS-P208

[203] Dr. Rachel Santo and Dr. Roberto Santos, Radford University, Radford, Virginia "Stratified Policing: An Organizational Model for Proactive Crime Reduction" (PowerPoint Presentation, Social Problems Impacting Public Safety Working Group, Teleconference, April 17, 2020).

[204] https://www.tylertech.com/resources/blog-articles/prince-georges-co-top-performance-tips

[205] Dianne C. Harris, Steering Committee Member, National Shattering Silence Coalition, email communication with President's Commission on Law Enforcement and the Administration of Justice, March 31, 2020.

these defendants. As a result, sentencing options for individuals in need are limited;[206] treatment needs are unmet; and those who work in the courts see these individuals repeatedly. This revolving door not only creates a financial burden on the system and community, but these repeat encounters reinforce the reality that without an increase in community services, crimes associated with these illnesses or circumstance will continue.[207]

Carson Fox, Chief Executive Officer of the National Association of Drug Court Professionals, expressed his frustration with revolving-door justice: "I began my career as a prosecutor in rural South Carolina, where I saw firsthand the devastation, crime, and exorbitant cost associated with addiction. Time and again, the same individuals would appear before the courts for crimes committed in service of their addiction, with the courts, law enforcement, and taxpayers bearing the greatest burden. It was clear that this cycle needed to change, but there was no remedy."[208]

Current State of the Issue

Recognizing that the criminal justice system may not appropriately serve those with behavioral health disorders or those experiencing homelessness, state courts can divert individuals who commit minor crimes from entering the system into community treatment;[209] those who complete diversion programs either do not have the charges filed or have the charges dismissed.[210] In a March 2019 national survey, prosecutors indicated their most important goals for diversion are "hold participants accountable for their criminal behavior; reduce participant recidivism; rehabilitate participants by treating underlying problems; and use resources more efficiently."[211]

State court diversion programs have been shown to be effective in reducing recidivism and time in jail, and improving the quality of life of defendants,[212] while not increasing risk to the public.[213] The success of diversion programs lies in early (preferably at booking) assessments to ascertain need. For those defendants who have not committed minor crimes and would qualify, treatment—or problem-solving—courts provide an alternative, with drug courts being the most prominent. [214]

[CROSS REFERENCE INTERSECTION OF CRIMINAL JUSTICE PERSONNEL]

---

[206] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (April 2, 2020) (written statement of Carson Fox, CEO, National Association of Drug Court Professionals). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

[207] https://www.urban.org/research/publication/processing-and-treatment-mentally-ill-persons-criminal-justice-system/view/full_report; https://ps.psychiatryonline.org/doi/full/10.1176/appi.ps.201300305; https://journals.sagepub.com/doi/abs/10.1177/0093854808326743; https://www.tandfonline.com/doi/abs/10.1080/07347324.2016.1148486

[208] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (April 2, 2020) (written statement of Carson Fox, CEO, National Association of Drug Court Professionals). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

[209] SAMHSA's GAINS Center. (2007). Practical advice on jail diversion: Ten years of learnings on jail diversion from the CMHS National GAINS Center. Delmar, NY: Author.

[210] https://www.courtinnovation.org/sites/default/files/media/document/2019/prosecutor-led_diversion.pdf

[211] https://www.courtinnovation.org/sites/default/files/media/document/2019/prosecutor-led_diversion.pdf (page iv)

[212] https://www.tandfonline.com/doi/abs/10.1300/J374v02n02_02

[213] https://onlinelibrary.wiley.com/doi/abs/10.1002/Bsl.640

[214] https://store.samhsa.gov/product/Municipal-Courts-An-Effective-Tool-for-Diverting-People-with-Mental-and-Substance-Use-Disorders-from-the-Criminal-Justice-System/SMA15-4929

According to a 2015 survey, there are 4,368 problem-solving courts; 70 percent (3,057) reported as drug courts, 10 percent (429) reported as mental health courts, and 0.5 percent (22) reported as homelessness courts.[215] More recent national data is not available for the number of problem-solving courts; however, in 2014, California had 384 problem-solving courts[216] as compared to 450 such courts in July 2019,[217] a 17 percent increase in problem-solving courts in under five years.[218]

Systematic reviews of drug court research find that in addition to reducing recidivism, these courts are cost effective.[219] In one overview of multiple studies, Mitchell and colleagues find, "There is a large, significant mean average effect from both adult and DWI drug courts. Overall, recidivism rates were just over one third (38 percent) for program participants, compared to half (50 percent) for comparable nonparticipants. This effect endures for at least three years. Courts that address drug use disorders are most effective focusing on offenders who have committed serious crimes and have a long history of offending, especially if their crimes are linked, for instance, to their drug use."[220] Those who are high-risk and high-need are more likely to be on a fixed trajectory, which is appropriate for the resources of the treatment courts specific intervention, as compared to those who are lower in need or risk and may more easily be served and inclined to trajectory change by traditional court processes and programs.[221]

The drug court model has been adapted to a number of different specialty area courts—homelessness, mental health, domestic violence, and veterans. In their research, Kaiser and Rhodes find that these specialty courts, such as mental health and homelessness courts, mirror the drug courts model, with comparable attributes "such as specialization and services, staff training, and procedures."[222]

Mental health courts have many similarities to drug courts; however, participants normally suffer from severe mental health disorders and are less likely to have felony offenses.[223] Diversion to mental health treatment is a primary goal of these courts, including a case-management treatment approach with wrap-around services from an inter-disciplinary team of treatment and service providers. Participants are provided incentives for success and sanctions when warranted.[224] Research has illustrated that mental health courts has a positive impact on reducing recidivism, although additional research examining impact on mental health outcomes is warranted.[225]

Homeless courts, which apply alternative sanctions to misdemeanor crimes, vary in practice and have limited

---

[215] https://www.ndci.org/wp-content/uploads/2016/05/Painting-the-Current-Picture-2016.pdf
[216] https://www.ndci.org/wp-content/uploads/2016/05/Painting-the-Current-Picture-2016.pdf
[217] https://www.courts.ca.gov/documents/CollaborativeCourts_factsheet.pdf
[218] Please note data from different sources and separate data collections were used for this comparison and calculation; however, the definitions of these courts were comparable, providing confidence in the comparison.
[219] http://biblioteca.cejamericas.org/bitstream/handle/2015/1822/drugcourts_areviewoftheevidence.pdf?sequence=1&isAllowed=y; http://biblioteca.cejamericas.org/handle/2015/3316
[220] https://campbellcollaboration.org/better-evidence/drug-courts-effects-on-criminal-offending.html
[221] https://campbellcollaboration.org/better-evidence/drug-courts-effects-on-criminal-offending.html
[222] Kaiser, K. A. and K. Rhodes (2019). "A Drug Court by Any Other Name? An Analysis of Problem-Solving Court Programs." Law and Human Behavior **43**(3): 278-289.
[223] Kaiser, K. A. and K. Rhodes (2019). "A Drug Court by Any Other Name? An Analysis of Problem-Solving Court Programs." Law and Human Behavior **43**(3): 278-289.
[224] https://www.ndci.org/wp-content/uploads/2016/05/Painting-the-Current-Picture-2016.pdf
[225] Cross, Brittany. 2011. *Mental Health Courts Effectiveness in Reducing Recidivism and Improving Clinical Outcomes: A Meta-Analysis*. Graduate school Theses and Dissertations. http://scholarcommons.usf.edu/cgi/viewcontent.cgi?article=4247&context=etd; Sarteschi, Christine M., Michael G. Vaughn, and Kevin Kim. 2011. "Assessing the Effectiveness of Mental Health Courts: A Quantitative Review." *Journal of Criminal Justice* 39:12–20.

empirical research.[226] The limited research shows a positive impact on the use of transitional and permanent housing for participants,[227] recidivism for participants, and cost reduction for the courts.[228] A popular model is to have the homeless court held in a shelter focusing on individuals referred to the court by shelter case-workers.[229] Participants sign-up voluntarily and normally go through a screening and assessment process to be accepted into the specialized court. Generally these courts center on collaboration between the courts, law enforcement, treatment providers, and services such as shelters.[230] The partners have the goal to collaborate to move participants into stable housing while treating any underlying needs, often behavioral health related. If the individual has demonstrated positive success in treatment, the misdemeanor cases and warrants, which are viewed as an impediment to success, are dropped.[231] Cases are often resolved in one hearing with 90 percent of offenses dismissed.[232] A variation of this model focused on homeless veterans is a three-day "stand-down" event in which veterans stay in military type tents; receive food; are connected with an array of services, including housing, health, treatment, behavioral health treatment, family counseling; and work with the courts to address misdemeanor charges.[233]

Although diversion programs and treatment address these social problems, the need is greater than the supply. A March 2019 survey of state prosecutors' offices found that 45 percent of prosecutors' offices did not have diversion programs. [234] Focusing on treatment courts, the National Drug Court Institute (2009) estimated that only 10 percent of potential drug court candidates were being served in the drug courts.[235] As such, traditional state courts, many of which lack diversion programs, remain the primary receptor of those in need.

The following recommendations build off the necessity of educating state and local court personnel on these special populations; the opportunities provided by diversion programs and expanding these programs; and the importance of improving the application of state treatment court practices to best serve the needs of these special populations—all while taking into account both the barriers and the challenges in providing services to these individuals.

1.3.1 Congress should provide funding to the Substance Abuse and Mental Health Services Administration and the Bureau of Justice Assistance to develop basic training and provide technical assistance for local judges and prosecutors on the root causes and evidence-based treatment for mental health disorder, substance use disorder, and homelessness; the local treatment and support services available in their community; and the best practices of diversion models that may help reduce recidivism.

---

[226] Buenaventura, Maya. "Treatment Not Custody: Process and Impact Evaluation of the Santa Monica Homeless Community Court." Product Page, 2018. https://www.rand.org/pubs/rgs_dissertations/RGSD418.html.

[227]https://www.rand.org/content/dam/rand/pubs/rgs_dissertations/RGSD400/RGSD418/RAND_RGSD418.pdf

[228] https://www.courts.ca.gov/documents/2001SANDAGHomelessCourtEvaluation.pdf

[229] https://www.americanbar.org/content/dam/aba/administrative/homelessness_poverty/one-pagers/homeless-court-one-pager.pdf#

[230] https://www.samhsa.gov/homelessness-programs-resources/hpr-resources/homeless-court-helps-overcome-barriers

[231] https://www.americanbar.org/content/dam/aba/administrative/homelessness_poverty/homeless-courts/hlc-best-practices.pdf#

[232] https://www.americanbar.org/content/dam/aba/administrative/homelessness_poverty/one-pagers/homeless-court-one-pager.pdf#

[233] http://www.nchv.org/images/uploads/Stand_Down_Promising_Practices_Guide_Final_-_Sept_2014.pdf

[234] https://www.courtinnovation.org/sites/default/files/media/document/2019/prosecutor-led_diversion.pdf (page iv)

[235] Franco, Celinda. *Drug courts: Background, effectiveness, and policy issues for Congress*. Congressional Research Service, 2010. https://fas.org/sgp/crs/misc/R41448.pdf

Diversion to treatment within the courts vary widely across states and within states.[236] Barriers to diversion to community treatment and services include large case volume providing prosecutors little time to consider alternative sanctions; defendants whose minor crimes may not enable prosecutors to leverage treatment and services as an alternative sanction; lack of services available in the community; and a resistance from the courts, including a lack of cultural acceptance for diversion.[237]

To increase the use of diversion practices SAMHSA and BJA should provide training and technical assistance to judges and prosecutors. Judges and prosecutors should be provided basic training tailored to their jurisdiction that introduces the diversion models and their evidence-based practices, including model policies and protocols. The training should also include presentations on the causes of many behavioral health disorders and homelessness and how to recognize these needs in the court room, the neuroscience of addiction, an overview of mental health disorders, the efficacy of treatment, MAT, criminogenic theory and risk-need responsivity, race and equity consideration, and the efficacy of supported housing services. Most importantly, the training should be tailored to include local service and treatment providers, incorporating an overview of the work that they conduct and how they will take on a primary role in the diversion protocols, removing the burden from the system to serve high-need, low-risk individuals.

[CROSS REFERENCE INTERSECTION OF CRIMINAL JUSTICE PERSONNEL]

1.3.2 States should expand the use of treatment courts, including oversight to ensure program fidelity and funding for treatment and service specialists.

Properly functioning treatment courts rely on evidence-based practices and established frameworks—reducing recidivism and increasing positive treatment outcomes—while also decreasing the burden on law enforcement and the criminal justice system.[238] Treatment courts expand the available options to handle defendants that come through the criminal justice system.

There is a lack of shared knowledge on the percentage of eligible defendants that treatment courts are serving. Bhati et al. note that they “estimate that there are about twice as many arrestees eligible for drug court (109,922) than there are available drug court treatment slots (55,365).”[239] The large number of defendants who have behavioral health disorders or are homeless entering the correctional system and who are recidivating suggest that these courts could be serving a much greater population. As such, local jurisdictions should expand the use of treatment courts.

It is critical that while expanding the number of treatment courts, officials must maintain program fidelity based on evidence-based practices, including establishing standards and documented procedures, an unbiased selection process; commitment to identifying and adding treatment and service specialists as part of the court’s team, systematic assessments to assure these standards are maintained; and a priority on quality evaluation of processes and impact.[240]

Although treatment courts are built upon a framework, it is noted, some do stray from evidence-based practices, including variations of the model based on local resources and well-intentioned innovation.[241] This

---

[236] https://www.abajournal.com/web/article/examining-the-equity-of-diversion-sentencing

[237] https://store.samhsa.gov/product/Municipal-Courts-An-Effective-Tool-for-Diverting-People-with-Mental-and-Substance-Use-Disorders-from-the-Criminal-Justice-System/SMA15-4929

[238] https://campbellcollaboration.org/better-evidence/drug-courts-effects-on-criminal-offending.html

[239] Bhati, Avinash Singh, John Roman, and Aaron Chalfin. *To treat or not to treat: Evidence on the prospects of expanding treatment to drug-involved offenders*. Washington, DC: Urban Institute, Justice Policy Center, 2008. https://www.urban.org/research/publication/treat-or-not-treat

[240] https://www.ncjrs.gov/pdffiles1/bja/205621.pdf

[241] Portillo, S., et al. (2016). "The transportability of contingency management in problem-solving courts." Justice Quarterly **33**(2): 267-290.

variation may explain the parallel differences in the effect size of recidivism found in research.[242] Different types of treatment courts vary in their focus, target population, and evidence base, which reinforces the need to have practices and policies that are built upon evidence-based and best practices.

The treatment court teams generally comprise the judge, prosecutor, probation, defense attorney, treatment providers, mental health counselors, local government, and members of law enforcement. Mei and colleagues found that collaboration and judicial decision making are the most important factors in assuring drug courts maintain program fidelity, as these two factors likely overcome internal and external challenges (such as a lack of political support).[243]

Of paramount priority, local jurisdictions should ensure funding for quality treatment and service specialists that serve the needs of the treatment court's population. These specialists should be an equal member and voice within the court team. The court should assure these specialists can provide or connect defendants to an array of treatment based on their specialized needs.

An important policy set by the treatment courts, is an agreed-upon criteria for those entering the courts. Drug, mental health, and homeless courts each target a specific population. There is little research, however, on the selection process for problem-solving courts.[244] Wolf et al. states, "[T]o the extent that eligibility criteria of mental health courts are more suggestive than deterministic, selection bias can be expected."[245] This lack of systematic process and variation of selection also makes it difficult to understand the true impact of these problem-solving courts.[246] As such, the selection criteria for treatment courts should be transparent and inclusive based on specific criteria of the court (e.g., drug court, high-risk and high-need), setting standards for when flexibility is used within this process.

Another expectation is that treatment courts should incorporate a quality assurance and improvement process. Team members should ensure they remain up to date on innovative and best practices by reading the research and attending training. Treatment courts must systematically examine their own practices through regular assessments using data-informed practices and by partnering with trained researchers to evaluate the fidelity of their processes (e.g., selection procedures and efficiency) and the impact of their work, examining recidivism outcomes; treatment outcomes; and cost savings.[247] To advance evidence-based practices for these different models, additional research of the processes (e.g., selection criteria) or "black box," cost-effectiveness, and net-widening of the different types of treatment courts are also warranted.

[CROSS REFERENCE INTERSECTION OF CRIMINAL JUSTICE PERSONNEL CHAPTER]

1.3.3 States should adopt programs to reduce the bottleneck of the process for restoration of competency to stand trial.

An individual who has an active mental or intellectual disability and who is arrested for committing a crime may be deemed not competent to stand trial. The clause to the Sixth Amendment for a speedy trial is superseded by an individual's Fifth Amendment right to due process. Competency is a legal term with a legal definition focused on the need of the criminal justice system; it is not necessarily focused on the need to provide treatment to assist the individual.

---

[242] https://www.tandfonline.com/doi/full/10.1080/07418825.2010.525222
[243] Mei, X. H., et al. (2019). "Collaboration: A Mechanism of Drug Court Model Adherence." Journal of Drug Issues **49**(2): 253-278.
[244] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3874803/; https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2230663/
[245] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3874803/
[246] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2230663/
[247] https://bja.ojp.gov/program/crppe/overview

This process can be lengthy. An analysis of 68 studies found that competency restoration, which took 90−120 days, was eventually successful for 81 percent of the individuals.[248] The length of stay varies by state, with the majority (25) of the 30 states holding individuals for competency restoration for 60 or more days, 13 holding individuals for more than 120 days, and two holding individuals more than 360 days.[249] These state variations are mostly based on different processes, with an estimate that "between 4,500 and 9,400 people are waiting for restoration at any one time" nationwide.[250]

Hallie Fader-Towe and Ethan Kelley of the Council for State Governments Justice Center noted the lack of an effective national conversation around how to address and relieve the restorations to competency process across state and local jurisdictions.[251] This "elephant" has many parts, such as treatment considerations, availability of treatment space, and local standards for commitment. These and other elements combine to make the barriers to restoration to competency difficult to study, understand, and address.

[252]

The individual court ordered to a restoration to competency requires treatment to regain competency, but there is a critical shortage of state treatment beds, especially ones for justice-involved persons. A study by Danzer et al. states, "It appears that hospital beds used for competency restoration might be best reserved for defendants facing serious and violent charges, with psychotic disorders, cognitive impairment, medication non-adherence, and lesser concern about malingering. . . . [I]f defendants are suspected of malingering, refuse to participate in hospital-based services, or show that volitional, antisocial, or aggressive behavior is clearly the major impediment to restoration, jail may be more appropriate and, in some cases, incentivizing."[253]

This burden to restore individuals to competency with the accompanying system backlog is costly to the community, frustrating for criminal justice practitioners, and devastating to the individual and their family. Individuals who are part of this process often spend longer at each stage of the criminal justice system process, which ultimately decreases their chances for a positive outcome.[254] This frustration has been

---

[248] Pirelli G, Gottdiener WH, Zapf PA*: A meta-analytic review of competency to stand trial research. Psychol Pub Pol'y & L 17:1–53, 2011*

[249] https://nasmhpd.org/sites/default/files/Assessment%203%20-%20Updated%20Forensic%20Mental%20Health%20Services.pdf

[250] https://thecrimereport.org/2018/08/08/restoring-mental-competency-who-really-benefits/

[251] Hallie Fader-Towe and Ethan Kelly, The Council of State Governments Justice Center, San Diego, California "Restoration to Competency and Data-Driven Practices" (PowerPoint Presentation, Social Problems Impacting Public Safety Working Group, Teleconference, May 15, 2020).

[252] Hallie Fader-Towe and Ethan Kelly, The Council of State Governments Justice Center, San Diego, California "Restoration to Competency and Data-Driven Practices" (PowerPoint Presentation, Social Problems Impacting Public Safety Working Group, Teleconference, May 15, 2020).

[253] http://jaapl.org/content/early/2019/02/08/JAAPL.003819-19

[254] https://ps.psychiatryonline.org/doi/10.1176/appi.ps.201900483

challenged. The settlement in Trueblood et al vs. Washington State Department of Social and Human Services[255] resulted in Washington State Department of Social and Health Services producing a phased implementation plan including an increase in treatment services, training for court and correctional staff, and a more timely restoration process.[256]

One way to prevent this bottleneck is to increase the community behavioral health treatment capacity so people either will not enter the system or, when possible, will be diverted to the community. When diverting is not possible, courts may consider different factors and alternatives to ordering restoration of competency, which may include the severity of the charges and the severity of the disability.

State and local jurisdictions should collaborate to understand the nature of their restoration of competency process and where there may be impediments and barriers. To have a healthy improvement strategy, jurisdictions must conduct a data-informed improvement process, incorporate goals, move resources to meet those goals, and hold institutions and people accountable.

TEXT BOX

An example of such a program is described by Sheriff John McMahon from the San Bernardino, California, sheriff's department:

> The California Department of State Hospitals is responsible for providing treatment to individuals deemed incompetent to stand trial, but they have a shortage of treatment beds. This shortage has created a tremendous backlog and as a result many wait 3 to 6 months to begin treatment. To help alleviate the backlog and provide timely treatment, the San Bernardino Sheriff's Department partnered with the California Department of State Hospitals and created the first jail-based Restoration of Competence (ROC) Program in the State of California in 2011.The ROC Program allows inmates who the court has determined are not competent to stand trial to receive restoration of competency treatment directly in the jail. In 2015 the California Department of State Hospitals decided to create a second ROC-like program in San Bernardino, the Jail-Based Competency Treatment (JBCT) Program, which was four times the size and serves inmates from other counties as well. In January 2018, the ROC and JBCT programs combined to create one program, with a maximum capacity for 96 patients. In June 2018, a new contract was implemented, raising the capacity to 126. Most recently, at the beginning of August 2019, the capacity of the JBCT program increased to 146. The California Department of State Hospitals currently can pay in excess of $20 million a year to cover the costs of the mental health services offered in the JBCT program.
>
> In 2019, 621 inmates were admitted into the JBCT Program, and 601 were discharged. The JBCT Program results in shorter wait times to begin receiving services, expedited processing of cases through the court system, and is cost effective. This continued expansion is a testament to the JBCT program's ongoing success at providing competency restoration services. This program has become a model for the nation.[257]

END TEXT BOX

1.3.4 Congress should provide funding to the National Institute of Justice to examine how laws and local

[255] https://www.disabilityrightswa.org/cases/trueblood/

[256] https://www.dshs.wa.gov/sites/default/files/BHSIA/FMHS/Trueblood/2019Trueblood/19-0274BHATruebloodFAQ.pdf; https://www.dshs.wa.gov/sites/default/files/BHSIA/FMHS/Trueblood/2018Trueblood/599_1_AmendedAgreement.pdf

[257] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (March 24, 2020) (written statement of Sheriff John McMahon, Sheriff, San Bernardino County). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

policies that decriminalize or reduce sanctions for drug use or activities related to homelessness have affected recidivism and the outcomes of court-mandated treatment or services.

Public compassion and a public health perspective drive policies and laws that decriminalize and reduce sanctions for drug use and activities related to homelessness (such as panhandling or camping in public places). As Tamera Kohler, CEO, San Diego's Regional Task Force on the Homeless explains, "Municipalities can support law enforcement by reviewing current laws that may impede individuals' progress toward exiting homelessness and consider amending as necessary. Laws that limit activities such as sitting, sleeping outside or in vehicles, or eating in public spaces have a disproportionate impact on people living on the streets, who may not have any other option, and do not end homelessness."[258]

In contrast, Deputy Sheriff Tyrone S. Enriquez from Orange County says, "While I agree that homelessness should not be criminalized or punished simply for their homeless status, Martin v. City of Boise has inherently made enforcing laws such as trespassing more difficult. While mandating shelters for the homeless in a 1-1 ratio is a noble idea, the applicability of the mandate must be questioned considering Los Angeles County alone has around 50,000 homeless people."[259]

Similar arguments are made for and against the reduction in sanctions of drug use. West Virginia U.S. Attorney Mike Stuart, in his verbal testimony to the commission, states, "My personal view is that we need to be careful about legalization of marijuana. . . . I do believe it's a gateway drug and I know I get in trouble from the pro-pot folks when I say it. But the evidence I see, the cases that I see, the moms and dads I talk to say that marijuana is a gateway to the next drug. And I think we need to be careful about the legalization.[260]

Decriminalization and reduction in sanctions merely raise the bar for law enforcement arrests, but they do not address the reality that law enforcement officers must address the complaints about these individuals from unsympathetic community members; respond to the non-criminal results of untreated substance use problems (e.g., overdoses); or interact with large homeless populations. This often results in an increase in the number of people in need who intersect with law enforcement, while the mechanisms to sanction these behaviors and shepherd people into court-mandated treatment programs are removed. This may have a greater cost to the community, including escalation and long-term drug use.

Vermont U.S. Attorney Christina E. Nolan explains, "when something is decriminalized, it takes a tool away from law enforcement, signals that the behavior is OK and will not have consequences, and logically will lead to more of the undesirable behavior. . . . Decriminalization of drugs will lead to more use, more related crime, and more drain on law enforcement resources and morale."[261]

Compounding this problem is the belief by many criminal justice professionals that only the "stick" of increasing sanctions of the courts help push individuals into treatment and to take the "carrot" of a life in recovery and greater stability. In fact, treatment programs, such as drug courts, can provide a turning point in

---

[258] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (March 24, 2020) (written statement of Tamera Kohler, CEO, San Diego's Regional Task Force on Homeless). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

[259] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (March 24, 2020) (written statement of Tyrone S. Enriquez, Deputy, Orange County Sheriff's Department). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

[260] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (April 2, 2020) (statement of Michael Stuart, United States Attorney of West Virginia). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

[261] Christina E. Nolan, United States Attorney, Vermont, Social Problems Impacting Public Safety Working Group Member, email communication, May 22, 2020.

an offender's life, putting them on a new life path.[262] Setel and Lilinfeld (2013) reinforce these beliefs, explaining that recognizing drug use disorder through one lens, as a brain disease: "obscures the dimension of choice in addiction, the capacity to respond to incentives, and also the essential fact people use drugs for reasons (as consistent with a self-medication hypothesis). The latter becomes obvious when patients become abstinent yet still struggle to assume rewarding lives in the realm of work and relationships. Thankfully, addicts can choose to recover and are not helpless victims of their own 'hijacked brains.'"[263]

[BEGIN TEXT BOX]

> "In 2018, my department led an effort to address a large homeless encampment on the Santa Ana Riverbed. The encampment approached 1,000 people, many of whom were mentally ill and drug addicted. We worked with a federal court to close and clean up the riverbed within a span of a few months. In remediating the riverbed we collected 13,950 used hypodermic syringes. This staggering number is a direct result of the decriminalization of drugs. In California, possession of drugs results in nothing more than a misdemeanor citation." -Sheriff Don Barnes, Orange County, CA

[END TEXT BOX]

Sheriff Barnes emphasized he was not advocating incarcerating drug-addicted individuals. He notes, "Crimes committed without consequence invite more crime, negatively impacting the community and systems that lack individual accountability exacerbate the problem by encouraging bad behavior."[264]

The impetuous behind decriminalization and sanction reduction for homelessness are different than those for substance use. Clearly there is a population impacted by the change in substance abuse laws that are not homeless, but for the homeless population, as expressed by Sheriff Barnes, substance use and homelessness are closely intertwined. In both contexts, substance use as well as homelessness, the consideration of the reductions in sanctions results in a number of questions that should be addressed:

- How has decriminalization and the reduction in sanctions had an impact on the community in general?
- How has decriminalization and the reduction in sanctions changed the communities' ability to move individuals to recovery and stable housing?
- If people who need to be compelled into treatment are no longer compelled, what happens to them?
- How have these policies had an impact on the demographics—including the history of behavioral health disorders, homelessness, and crime—of those who enter the system, go to treatment courts, receive treatment, or receive services?
- How have these policy changes had an impact on treatment outcomes and recidivism for those in treatment courts compared to those in traditional courts?
- Does the treatment court model need to change or adapt in communities where the drug sanctions have changed?

Congress should provide funding to NIJ to study these and associated questions so local and state

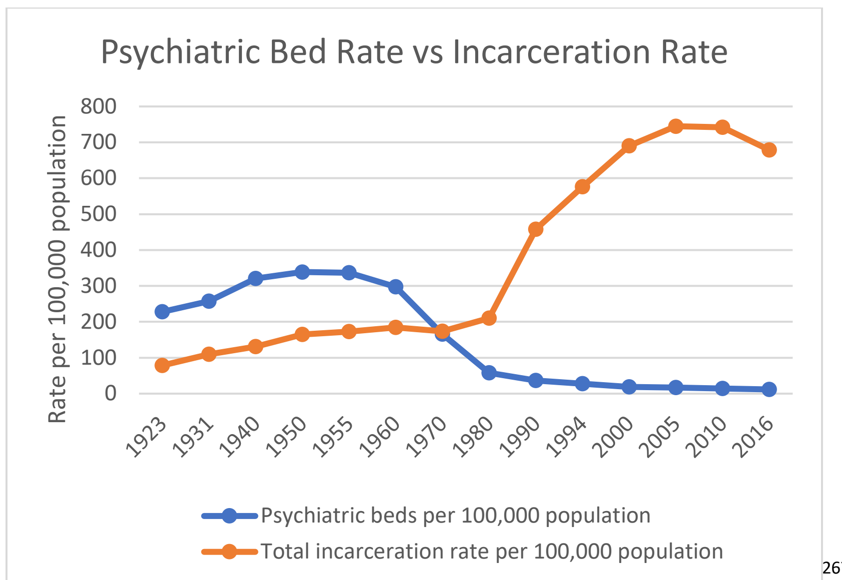
[262] Messer, S., et al. (2016). "Drug courts and the facilitation of turning points: an expansion of life course theory." Contemporary Drug Problems **43**(1): 6-24. https://journals.sagepub.com/doi/full/10.1177/0091450916632545
[263] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3939769/
[264] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (March 25, 2020) (written statement of Sheriff Don Barnes, Orange County Sheriff's Department). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

jurisdictions have a better understanding of the impact and side effects—both positive and negative—of these policies on their communities and the criminal justice systems. This research would better inform writing of laws, planning for community services, and directing criminal justice system resources.

1.4 Prioritizing Treatment in Corrections

Background

From 1960 to as recently as the 2007 economic recession, the nation's safety net altered dramatically. Resources for community treatment capacity for mental health disorder, substance use disorder, and homelessness dwindled; psychiatric treatment institutions released their residents; substance use disorder became a justice issue; and the nation's population grew, while housing availability did not.[265] The number of treatments beds fell from 1960 to 2016, with a percentage change decrease of 92 percent in the number of psychiatric beds per 100,000 population. For the same time period, the incarceration rate per 100,000 increased 290 percent.[266]



[267]

With changes like these, leaders of correctional institutions have to attend to those with mental illness and substance use disorders.

In his written testimony, Orange County Sheriff Don Barnes says, "I operate the county's largest mental health hospital—the Orange County jail. On any given day, of the approximately 5,000 inmates entrusted to

---

[265] https://www.nature.com/articles/s41398-019-0661-9; https://placesjournal.org/article/tent-city-america/?gclid=CjwKCAjw2a32BRBXEiwAUcugiHiRqMJ45DWRUgyYdvWry9wMH84vUuq1MAcpCDm6DCztsq9qKU6XQxoCzvkQAvD_BwE

[266] Elizabeth Sinclair Hancq, Director of Research, Treatment Advocacy Center, Arlington, Virginia, email communication with the Social Problems Impacting Public Safety Working Group, April 30, 2020.; https://www.treatmentadvocacycenter.org/storage/documents/going-going-gone.pdf; https://www.treatmentadvocacycenter.org/storage/documents/no_room_at_the_inn-2012.pdf; https://www.bjs.gov/index.cfm?ty=tp&tid=131

[267] Elizabeth Sinclair Hancq, Director of Research, Treatment Advocacy Center, Arlington, Virginia, email communication with the Social Problems Impacting Public Safety Working Group, April 30, 2020.; https://www.treatmentadvocacycenter.org/storage/documents/going-going-gone.pdf; https://www.treatmentadvocacycenter.org/storage/documents/no_room_at_the_inn-2012.pdf; https://www.bjs.gov/index.cfm?ty=tp&tid=131

our care within the [jail], up to 2,000 have a daily nexus to mental health treatment. A number of those inmates experiencing mental illness may also have a co-occurring substance abuse issue."[268]

It is difficult to be precise about the prevalence of mental health, substance use, and co-occurring disorders in jails and prisons, especially compared to the prevalence in the community. The table provides estimates from a 2016 SAMHSA publication, indicating that the prevalence rates for all three disorders are greater in correctional settings than in the community.[269]

	Community	Jail	Prison
Serious Mental Illness	5 percent	17 percent	16 percent
Substance Use Disorder	8.5 percent	68 percent	53 percent
Co-Occurring Disorder	14 – 25 percent	33 – 60 percent	33 - 60 percent

[270]

Individuals with behavioral health disorders stay in jail for a longer period of time, have more trouble coping with the correctional settings, and have more behavioral problems. [271] While it is important to address the need for behavioral health treatment in the facility, it is also important to assess for housing instability. Approximately 15% of those incarcerated had been homeless in the past year[272] and upon release they are 10 times as likely to be homeless then the general public.[273] Providing services beginning in the facility and followed into the community to assure stable housing and treatment is important to break this cycle.

Treatment in jails and prisons not only increases positive outcomes but also reduces recidivism, especially if this treatment coincides with reentering the community. [274] Although studies estimate that more than 60 percent of inmates have a substance use disorder, only about 22−28 percent are treated for it.[275]

Current State of the Issue

To reduce recidivism and decrease the burden on the criminal justice system, communities need to build treatment and service capacity and also provide treatment and services for the incarcerated population who need it.

While cost is a major barrier to implementing treatment capacity and even increasing it to meet the need,

---

[268]*President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (March 25, 2020) (written statement of Sheriff Don Barnes, Orange County Sheriff's Department). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

[269] https://store.samhsa.gov/product/Guidelines-for-Successful-Transition-of-People-with-Mental-or-Substance-Use-Disorders-from-Jail-and-Prison-Implementation-Guide/SMA16-4998

[270] Estimates compiled by SAMHSA after a review of literature. See original source for more information. https://store.samhsa.gov/product/Guidelines-for-Successful-Transition-of-People-with-Mental-or-Substance-Use-Disorders-from-Jail-and-Prison-Implementation-Guide/SMA16-4998

[271] Council of State Governments Justice Center. (2012). Improving outcomes for people with mental illnesses involved with New York City's criminal court and correction systems. New York: Author. Retrieved from: http://csgjusticecenter.org/wp-content/uploads/2013/05/CTBNYC-Court-Jail_7-cc.pdf; Houser, K. A., Belenko, S., & Brennan, P. K. (2012). The effects of mental health and substance abuse disorders on institutional conduct among female inmates. Justice Quarterly, 29, 799-828.

[272] https://ps.psychiatryonline.org/doi/pdf/10.1176/ps.2008.59.2.170

[273] https://www.prisonpolicy.org/reports/housing.html

[274] https://store.samhsa.gov/sites/default/files/d7/priv/sma19-5097.pdf; https://www.ncjrs.gov/pdffiles1/nij/250476.pdf

[275] Bronson, J et al. *Drug use, dependence, and abuse among state prisoners and jail inmates, 2007-2009.* Bureau of Justice Statistics 2017.

other challenges also exist, including the lack of standards of care in correctional settings and the shortage of treatment specialists who are willing to work in such settings.[276] In addition, it can be problematic to find programs that fit within the short time frames of jail sentences.[277] As individuals leave the institution and reenter the community, they may have trouble connecting with needed services.[278]

Court cases have established precedent for individuals to receive this care; without it, the individual's underlying needs and associated problems will remain, regardless of if they are incarcerated or living in the community. Without this care, they will likely reoffend. From both a financial and a humane perspective, communities would see positive results from expanding care options to these individuals.[279]

"In Maricopa County [Arizona], our fees for incarceration are broken into two costs. The first fee is at booking as the initial services are most comprehensive and costly. The booking fee for a newly accepted detainee is approximately $340. The daily rate once booked into the jail is $125 per day," says Sheriff Paul Penzone. He added, "The reason these fees are so high is due to all the complex medical and mental health services and supplies needed to provide care for inmates. Because of liability, case law and institutional history, inmate services directly contributing to these fees is mandated and outside of the control of the sheriff to adjust. To provide some perspective on the investment into the inmate population, according to ARS 15-941,[280] Arizona's base amount is $23 per day to educate our children and provide for their care in public institutions."[281]

Some leaders in the field have begun to integrate treatment into facilities and provide the necessary assistance both to ensure that this treatment continues upon an individual's reentry and that housing will be made available. These facilities are implementing screening and assessment tools to identify behavioral health disorders and whether inmates are at risk for homelessness.[282] Using this information provides direct paths to treatment plans: medical-assisted treatment (MAT); talk therapies that incorporate cognitive behavioral therapy and motivational interviewing; and peer-group support models such as alcoholics anonymous and narcotics anonymous.[283]

---

[276] https://www.ncmedicaljournal.com/content/80/6/345.short; https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2018.304852;
[277] https://www.ncbi.nlm.nih.gov/books/NBK64145/
[278] https://pubmed.ncbi.nlm.nih.gov/21802731/
[279] https://www.npr.org/sections/health-shots/2019/05/04/719805278/setting-precedent-a-federal-court-rules-jail-must-give-inmate-addiction-treatmen
[280] https://www.azleg.gov/viewDocument/?docName=http://www.azleg.gov/ars/15/00941.htm
[281] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (March 25, 2020) (written statement of Sheriff Paul Penzone, Maricopa County, AZ). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings
[282] Commander Joe Balicki, Orange County Sherriff's Department; Erin Winger, Deputy Agency Director, Correctional Health Services, Orange County Health Care Agency; Orange County, California "Orange County Jail-Based Programming to Address Addiction and Mental Illness" (PowerPoint Presentation, Social Problems Impacting Public Safety Working Group, Teleconference, May 19, 2020).
[283] https://books.google.com/books?hl=en&lr=&id=Tk9UDwAAQBAJ&oi=fnd&pg=PP1&dq=justice+involved+and+cbt+and+review&ots=HBIwsSAmlC&sig=EHRZeXRwz83m88AVqUiomntVsA8#v=onepage&q=justice%20involved%20and%20cbt%20and%20review&f=false; https://psycnet.apa.org/record/2019-60860-001; *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (March 26, 2020) (statement of Dr. Keith Humphreys, Professor and Section Director for Mental Health Policy in the Department of Psychiatry and Behavioral Services, Stanford University, Stanford, California). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings; Commander Joe Balicki, Orange County Sherriff's Department; Erin Winger, Deputy Agency Director, Correctional Health Services, Orange County Health Care Agency; Orange County, California "Orange County Jail-Based

Innovative leaders are integrating training for their staff to understand the root causes of these disorders so they can better assist those in their custody. In Orange County, Sheriff's Deputy training for the application of Naloxone for overdoses was responsible for saving 70 lives in 2019.[284]

PULL QUOTE: "I don't care if you save the person 100 times. If we save a life, we save a life." - Chair Phil Keith, President's Commission on Law Enforcement and the Administration of Justice[285]

Shannon Robinson, MD, an expert in addiction issues who is currently with Health Management Associates provides additional explanation, "[T]rauma, mental illness, substance use disorders and homelessness have bidirectional influences upon each other. To stop the multi-generational effects of these issues and ever-increasing resource utilization, we can treat MH and SUDs with evidence-based treatments including motivational interviewing, cognitive behavioral therapy, contingency management, and MAT."[286]

Although these types of practices have progressed, it is rare for institutionalized settings to use treatment programs. These recommendations are designed to promote both higher expectations and the actual implementation of these programs in correctional institutions. They focus on the importance of structurally organizing treatment as part of everyday practice, assisting jurisdictions with the cost of treatment, managing data to improve outcomes, and helping those in custody and returning to the community using a case management approach. The most effective method of ensuring positive outcomes and reducing recidivism requires a seamless system of treatment and plentiful wraparound services for individuals reentering the community.

[CROSS REFERENCE REENTRY]

1.4.1 Correctional facilities should programmatically and structurally organize their facilities to provide optimal behavioral health in addition to other health services.

PULL QUOTE: "By default, the Orange County jail has become the largest mental health hospital in our county. As I have made clear many times, if our jail system is going to function as a mental health hospital, then it is going to be a good one." – Sheriff Don Barnes[287]

The challenges faced by Orange County, California, highlight what correctional facilities face across the nation. It also provides an insight into potential solutions. Of the 5,000 inmates housed in the Orange County jail, up to 2,000 require mental health treatment. To meet these challenges, they are making significant reforms, including, implementing a new jail classification system that enhances out-of-cell time with increased access to necessary and critical programming; eliminating late-night releases; constructing new

---

Programming to Address Addiction and Mental Illness" (PowerPoint Presentation, Social Problems Impacting Public Safety Working Group, Teleconference, May 19, 2020).

[284] Commander Joe Balicki, Orange County Sherriff's Department; Erin Winger, Deputy Agency Director, Correctional Health Services, Orange County Health Care Agency; Orange County, California "Orange County Jail-Based Programming to Address Addiction and Mental Illness" (PowerPoint Presentation, Social Problems Impacting Public Safety Working Group, Teleconference, May 19, 2020).

[285] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (April 2, 2020) (statement of Commission Chair Phil Keith, Director, COPS Office, Washington, DC). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

[286] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (March 25, 2020) (statement of Dr. Shannon Robinson, Principal, Health Management Associates, Cosa Mesa, CA). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

[287] http://agendasearch.ocgov.com/awsearch/downloadDoc.aspx/ATTACHMENT%20A_INTEGRATED%20SERVICES%202025%20VISION%20-LS_9853914.PDF page 6

mental health housing modules; increasing and enhancing staffing ratios for mental health housing units, which includes specific staff being trained in CIT; expanding the use of MAT programs to treat 500−600 people per day, and implementing medically supervised substance use disorder (SUD) step down units to treat the 100−120 people per day who are detoxing off alcohol or drugs; creating a housing unit for military veterans, connecting them to services and care.[288]

PULL QUOTE: "Fund the expansion and specialization of facilities that can specialize in care and custody of inmates with moderate to severe mental illness. Facilitate the creation of independent detention facilities for the major jail systems whereas the ratio of clinical care providers is adequate to meet the needs of the population. The detention staff would then return to their area of expertise, providing safety and security to the population. – Paul Penzone[289] Sheriff, Maricopa County, Arizona

1.4.2 Congress should provide funding to National Institute of Correction to identify model sites, create a tool kit, and provide technical assistance to local jurisdictions on ways to programmatically and structurally organize their facilities to provide optimal behavioral health in addition to other health services.

As Sheriff Peter Koutoujian of Middlesex County, Massachusetts, states in verbal testimony to the Commission: "Jails have become the de facto treatment center for those with mental health issues and substance use disorder. It is unconscionable to think that incarceration is arguably the easiest and sometimes only access point to dependable care, but that is sadly the case."[290]

Congress should support further improving and implementing models of innovative correctional institutions by funding the National Institute of Corrections (NIC) to identify models. Model sites should be identified through a systematic process, which includes a review of positive outcomes. NIC should collaborate with NIJ to perform this identification and data collection. The information from this work should be used to produce a tool kit to guide jurisdictions for positive change on how these institutions are structurally organized to best integrate evidence-based practices. The technical assistance should be a collaborative approach to help jurisdictions implement change, including how to integrate these practices effectively while overcoming the challenges of implementation.

1.4.3 Jails should screen every individual booked into the facility for substance use disorder, mental health disorder, housing instability, and homelessness. Jails should follow up with a full assessment for anyone who screens positive.

Jails that systematically screen every inmate can help identify and properly diagnose mental health or substance use disorders and also identify the risk for housing instability or homelessness while in the

---

[288] Sheriff Don Barnes, Sheriff, Orange County Sheriff's Office, Orange County, CA, email communication with the Social Problems Impacting Public Safety Working Group, May 23, 2020.;
Commander Joe Balicki, Orange County Sherriff's Department; Erin Winger, Deputy Agency Director, Correctional Health Services, Orange County Health Care Agency; Orange County, California "Orange County Jail-Based Programming to Address Addiction and Mental Illness" (PowerPoint Presentation, Social Problems Impacting Public Safety Working Group, Teleconference, May 19, 2020).

[289] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (March 25, 2020) (written statement of Sheriff Paul Penzone, Maricopa County, AZ). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

[290] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (April 2, 2020) (statement of Sheriff Peter Koutoujian, Middlesex County, MA). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

community.[291] Screening and assessment tools should be valid, reliable, and developed from evidence-based research.[292] This information can inform programming and improve efforts to reduce recidivism.

[CROSS REFERENCE REENTRY]

Arlington, Virginia, Circuit Court Judge Louise M. DiMatteo describes the value and necessity of assessments: “Proper and appropriate evaluations are critical to assessing the needs of an addict who is criminally involved, risk and need assessments must be robust; these assessments must be completed prior to sentencing and provided to the judge; recommendations about the appropriate evidence based programming should flow from that assessment; and treatment must coincide directly with the individual’s needs and risks.”[293]

Screening should assess risk factors that may lead to homelessness, such as social supports, trauma, and depression related to behavioral health disorders.[294] Assessments should also consider criminogenic risks, such as attitudes toward committing crime, associates who commit crime, and low self-control.[295] Those needs should be addressed in conjunction with other behavioral health and services to encourage recovery, mental health stability, and housing stability.

Regarding Maricopa County, Sheriff Paul Penzone says, “Every detainee goes through a comprehensive evaluation upon entering our custody. On average, between 3,000−3,500 detainees will have a comprehensive mental health evaluation. Approximately 28 percent of those evaluated will be classified as having some level of mental illness. Additionally, 8−10 percent will be designated as seriously mentally ill (SMI). Of the SMI population, 28 percent will report some level of homelessness or home instability. An estimated 34 percent of SMI self-report some degree of substance abuse as an additional factor complicating the behaviors and threat to safety.”[296]

The Sheriff’s Department in Orange County, screens to be able to guide reentry programs. The department analyzed its jail population to determine the composition of its “high utilizers” (i.e., those who returned to custody at least four times or more during a one-year time frame). During that year, the department identified 1,976 of those individuals, of which 46 percent were reported or diagnosed with mental illness, 85 percent were reported or diagnosed with substance use disorder, and 42 percent were reported or

[291] https://www.samhsa.gov/sites/default/files/programs_campaigns/recovery_to_practice/slides-homelessness1_20171004.pdf; https://store.samhsa.gov/sites/default/files/d7/priv/sma19-5097.pdf; https://www.samhsa.gov/sites/default/files/programs_campaigns/ismicc_2017_report_to_congress.pdf

[292] https://store.samhsa.gov/product/Screening-and-Assessment-of-Co-Occurring-Disorders-in-the-Justice-System/PEP19-SCREEN-CODJS

[293] *President’s Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (March 24, 2020) (written statement of Judge Louise M. DiMatteo, Arlington, VA Circuit Court). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

[294] https://www.ncjrs.gov/pdffiles1/nij/250476.pdf; http://ciesandiego.org/wp-content/uploads/2019/09/Housing-Instability-in-San-Diego-Policy-Brief-090819.pdf; https://store.samhsa.gov/sites/default/files/d7/priv/sma19-5097.pdf

[295] https://ps.psychiatryonline.org/doi/10.1176/appi.ps.201900453; Skeem JL, Manchak S, Peterson JK: Correctional policy for offenders with mental illness: creating a new paradigm for recidivism reduction.; Peterson J, Skeem JL, Hart E, et al.: Analyzing offense patterns as a function of mental illness to test the criminalization hypothesis. **Psychiatr Serv** 2010; 61:1217–1222; https://store.samhsa.gov/product/Principles-of-Community-based-Behavioral-Health-Services-for-Justice-involved-Individuals-A-Research-based-Guide/SMA19-5097; https://www.researchgate.net/publication/259498284_Offenders_With_Mental_Illness_Have_Criminogenic_Needs_Too_Toward_Recidivism_Reduction

[296] *President’s Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (March 25, 2020) (written statement of Sheriff Paul Penzone, Maricopa County, AZ). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

diagnosed with co-occurring disorder. Additionally, 58 percent of those individuals either self-identified as homeless or reported a shelter or probation office address as their last place of residence.[297] This data is critical to designing comprehensive programing and will inform Orange County as it helps inmates achieve mental health stability, maintain sobriety, and avoid returning to custody upon release. The overall jail population and subsequent crime rates will decline when these high utilizers are successfully addressed.

1.4.4 Jails should provide evidence-based treatment for inmates with behavioral health disorders while also addressing criminogenic needs. Treatment, tailored to the inmates' needs, should include medication-assisted treatment (MAT) for people with opioid addiction and treatment solutions for other drug or alcohol disorders.

The use of evidence-based treatment and services have had a positive impact on curtailing substance use disorders, increasing stability for those who have mental health disorders, and assisting those who are homeless to gain more stable housing.[298] Although these needs should be treated, treatment and services should also incorporate the risk-need responsivity (RNR) model.[299] The basis of the RNR model is that the treatment level should match the risk level: those at high-risk level of recidivism being more likely to benefit from high levels of treatment and those low-risk of recidivating may be more likely to recidivate if provided high levels of treatment. Importantly, treatment should target such criminogenic needs as criminal history, attitudes supportive of crime, friends who are antisocial, and low self-control.[300] Finally, treatment should also be responsive to an individual's learning style, abilities, and other individual characteristics, such as gender or language.[301] Relying on this model in total has been shown to have the most recidivism benefit outcome as compared to relying on elements of the model. [302]

[CROSS REFERENCE REENTRY]

Shannon Robinson, MD, an expert in addiction issues who is currently with Health Management Associates, expresses, "An opportune time to [treat mental health and substance abuse issues] is while persons are involved in the criminal justice system." She outlined taking a number of steps to provide the optimal response to treatment, including supporting shared decision-making of clinical providers and patients about medication and level of care treatment, as well as "eliminate unnecessary barriers to MAT; stop federal, state and local funding of care which is not evidence based; and incentivize in outreach to prepare for smooth transitions to the community. These steps will improve outcomes, including decreases in recidivism, and improve morale of providers, patients, family and law enforcement, and ultimately decrease costs to our federal, state and local governments."[303]

---

[297] Sheriff Don Barnes, Sheriff, Orange County Sheriff's Office, Orange County, CA, email communication with the Social Problems Impacting Public Safety Working Group, May 23, 2020.; http://cams.ocgov.com/Web_Publisher_Sam/Agenda10_22_2019_files/images/ATTACHMENT%20A_INTEGRATED%20SERVICES%202025%20VISION%20-LS_9853914.PDF

[298] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3859122/; Heather Menzies Munthe-Kass, Rigmor C. Berg, and Nora Blaasvaer, 2018. Effectiveness of Interventions to Reduce Homelessness: A Systematic Review and Meta-Analysis. Campbell Collaboration. https://campbellcollaboration.org/better-evidence/effectiveness-of-interventions-to-reduce-homelessness.html

[299] https://www.tandfonline.com/doi/full/10.1080/24751979.2018.1502622

[300] http://risk-resilience.berkeley.edu/sites/default/files/journal-articles/files/2014.offenders_with_mental_illness_have_criminogenic_needs_too_toward_recidivism_reduction.pdf

[301] https://books.google.com/books?hl=en&lr=&id=jX1aDwAAQBAJ&oi=fnd&pg=PT119&dq=risk+needs+responsivity&ots=wDfghcbCdD&sig=2LM_0mDNmrLEY9HFFT8-z5H-IRE#v=onepage&q=risk%20needs%20responsivity&f=false

[302] Andrews and Bonta 2010 https://psycnet.apa.org/record/2010-01480-002

[303] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (March 25, 2020) (statement of Dr. Shannon Robinson, Principal, Health Management

Sheriff Penzone describes the services provided in the Maricopa County Jail: "When possible, we create a plan for care and stabilization for those willing to participate in their own recovery. The plan includes clinical services and counseling, and when appropriate and under the direction of clinicians, chemical prescriptions to support the needs of the detainee/patient. Our process is complex and consistent, focusing on stabilizing the mental health of the detainee. When releasing from detention, we attempt to connect them with similar service by providers in the public domain. The societal benefit would be a productive and constructive member of society with less likelihood of recidivism."[304]

Evidence-based services, like MAT, are effective and necessary tools to achieve sobriety and mental health stability and to reduce recidivism. The sheriff's office in Middlesex County, Massachusetts, has used some form of MAT in its custody operations since 2012 to treat opioid addiction. A one-year post-release study showed a recidivism rate of nearly 11 percent for MAT participants, compared to a rate of 25 percent for the study's control group.[305]

Dr. Robinson adds, "Whether we're looking at Rhode Island, England, New South Wales, Australia—all have seen significant decreases in death rates both during incarceration and post-incarceration when medications are continued or initiated during incarceration. We can't rehabilitate deceased people. The current risk of death upon release from incarceration is 129 times that of general population."[306]

The Housing Units for Military Veterans (HUMV) is another example of a successful tailored program that is used by several sheriff's departments across the nation. The HUMV program is designed exclusively for incarcerated military veterans, and its tailored programming includes peer mentoring, post-release employment resources and workshops, financial planning classes, and substance use services. The sheriff's department in Pima County, Arizona, created its HUMV unit in 2017. In the first two years of implementation only five of the program's 80 participants committed a new offense upon release.[307] Other departments that have implemented HUMV include Middlesex, Massachusetts; Cuyahoga County, Ohio; and San Diego and Orange County, California.

As law enforcement agencies work to adopt these types of programs and implement best practices, costs, and resources can detour progress. While the commission does not take a position on any specific legislation, the bipartisan Community Re-Entry through Addiction Treatment to Enhance (CREATE) Opportunities Act is an example of legislation that helps address this recommendation. The bill would create a new grant program for state and local governments to provide MAT in correctional facilities and would deliver a funding framework that has been endorsed by nearly two dozen law enforcement and treatment organizations.

1.4.5 Congress should eliminate Medicaid's prisoner exclusion policy.

As noted, behavioral health programs in a correctional setting have proven to help inmates conquer addiction and reduce recidivism; however, some gaps must be addressed to help facilitate treatment options

---

Associates, Cosa Mesa, CA). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

[304] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (March 25, 2020) (written statement of Sheriff Paul Penzone, Maricopa County, AZ). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

[305] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (April 2, 2020) (statement of Sheriff Peter Koutoujian, Middlesex County, MA). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

[306] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (March 25, 2020) (statement of Dr. Shannon Robinson, Principal, Health Management Associates, Cosa Mesa, CA). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

[307] https://www.psychcongress.com/article/compassionate-approach-makes-sense-tough-minded-sheriff

across the correctional settings. Persons who are in pretrial custody and who have a substance use or mental illness disorder (or both) have costly medical expenses that burden limited county resources. The department in Orange County, California, uses MAT for drug-addicted inmates. While this program is successful, it is also expensive. In March 2020, the cost of having 535 inmates participate in the program was approximately of $174,000 per month, or more than $2 million per year.[308]

The Social Security Act prohibits the use of federal funds and services (e.g., Medicaid) from being provided to inmates of a public institution. While this language was intended to prevent state governments from shifting the health care costs of convicted prison inmates to federal health and disability programs, it has had an unintended impact on local jail inmates who are in a pretrial status. For inmates with serious behavioral and public health conditions, terminating or suspending the federal health care coverage for these individuals results in poorer health outcomes and hinders efforts to prevent these individuals from committing new crimes upon release. To help reduce recidivism, Congress should enact legislation that addresses this exclusion policy. Dianne C. Harris, a steering committee member of the National Shattering Silence Coalition, which comprises families whose loved ones have serious mental illnesses, writes in a public comment, "Eliminate Medicaid's Prison Exclusion and make those mentally ill being discharged from incarceration eligible for Medicaid prior to final release. Using Medicaid funds to care for seriously mentally ill adults who are incarcerated would provide adequate treatment and thereby reduce danger to corrections officers. Preapproval for Medicaid prior to release allows those mentally ill to maintain uninterrupted treatment and less likely to recidivate."[309]

1.4.6 Local criminal justice systems should build a case management system that is capable of sharing information across all government, treatment, and service partners.

An intensive case management approach, within the facility and linked to the community, has been shown to result in positive treatment and recidivism outcomes.[310] While this approach demands an integrated plan of treatment based on validated assessment practices, its most critical component is the ability to share pertinent information about individuals and their treatment needs across government agencies (including criminal justice), involving the individual's treatment and service partners. Shelby County, Alabama, administers a model of a case management approach focused on helping the individual while improving system outcomes.

Alabama's county jails serve more people with mental illnesses than any single mental health facility in the state.[311] In 2019, an Alabama Association of County Commissions report expressed that the large number of people with mental illnesses in the Alabama local jails is nothing short of a public health crisis, and doing something about it is the association's top priority. In addition, the costs of operating Alabama's county jails increased by 14.2 percent between 2014 and 2018, a number that is more than twice the rate of inflation during that time period. County expenditures on jail and law enforcement increased by more than $63 million per year between 2014 and 2018."[312]

---

[308] *President's Commission on Law Enforcement and the Administration of Justice: Hearing on Social Problems Impacting Public Safety* (March 25, 2020) (statement of Sheriff Don Barnes, Orange County Sheriff's Department). https://www.justice.gov/ag/presidential-commission-law-enforcement-and-administration-justice/hearings

[309] Dianne C. Harris, Steering Committee Member, National Shattering Silence Coalition, email communication with President's Commission on Law Enforcement and the Administration of Justice, March 31, 2020.

[310] https://www.researchgate.net/publication/271753720_Recidivism_of_Offenders_with_Mental_Illness_Released_from_Prison_to_an_Intensive_Community_Treatment_Program

[311] Torrey, E.F., Zdanowicz, M.T., Kennard, A.D., Lamb, H.R., Eslinger, D.F., Biasotti, M.I., Fuller, D.A. (2014). The treatment of persons with mental illness in prisons and jails: A state survey. Arlington, VA: Treatment Advocacy Center.

[312] Brasfield, S., Association of County Commissions of Alabama (2019), Alabama's unresolved inmate CRISIS; A

The criminal justice system in Shelby County, Alabama, shares case-management data across partners to broaden the continuum of care for individuals that have a mental health disorder. The project, which began in 2019, uses an initial mental health assessment that offers first responders a comprehensive range of tools and response tactics to serve individuals with mental health care needs. The county links many of the disparate systems, including sheriff records management systems (RMS), municipal RMS, 911 computer-aided dispatch systems, jail electronic medical records (EMR), mental health provider EMR, correctional facilities, and county and private medical transport.

The county initially shares minimal data to provide first responders with a color-coded assessment, which offers a glimpse into the individual's overall mental health condition without disclosing any protected mental health history. The first responder receives this notification prior to arriving on the scene or making contact with the individuals. This process is possible because of the mental health screening and evaluations in jail, followed by evaluations that a psychiatrist performs. Based on the evaluation, the psychiatrist classifies the mental health needs of the individuals screened.

The medical and mental health services provided at the Shelby County jail tailor treatment using a case management approach, and they ensure that individuals with medical or mental illness or substance use issues have access to necessary treatment while they are incarcerated. The county also provides these individuals with the information needed to connect to medical and mental health or substance use treatment upon release from jail. Officials take care, however, to ensure HIPAA regulations are honored while simultaneously sharing information that will provide the best treatment and services for the individual.

1.4.7 Congress should pass legislation to amend regulations in the Health Insurance Portability and Accountability Act that prohibit sharing records relating to treatment and health information for individuals in correctional settings.

While HIPAA allows for protected health information to be shared between correctional institutions and health providers for the purposes of treatment,[313] records created as part of substance use treatment typically require consent authorization.[314] As a result, inflexible privacy laws can deter patient-centered care if relevant information cannot be shared between providers. Other state and federal medical record confidentiality laws may also further constrain this type of information sharing. HIPAA regulations preempt state laws that are less stringent than HIPAA, but HIPAA is then preempted by state laws that are more stringent. In the context of information disclosure, these state laws are more protective of privacy (45 C.F.R. § 160.203(b)).

It is difficult for treatment and service providers to make a comprehensive recommendation without sufficient information regarding a defendant's substance abuse history. This information helps providers in coordination with correctional staff address an individuals' specific needs, inform the probability that the individual is willing or able to comply with court orders, and evaluate an individual's likelihood for success while on supervision, in a correctional setting, or in the community.

With regard to individuals in correctional facilities, Congress should update HIPAA laws to provide clearer statutes that consider basic information sharing among first responders, criminal justice practitioners, and

---

Report on the Unintended Impact of the 2015 Prison Reform Act https://www.alabamacounties.org/wp-content/uploads/2020/01/Updated-ACCA-Inmate-Crisis-Report-FY2019-County-Data.pdfhttps://www.alabamacounties.org/wp-content/uploads/2020/01/Updated-ACCA-Inmate-Crisis-Report-FY2019-County-Data.pdf

[313] Abernathy, C. (2014). Corrections and reentry: Protected health information privacy framework for information sharing. Lexington, KY: Council of State Governments, American Probation and Parole Association. Retrieved March 10, 2020 from http://www.appa-net.org/eweb/docs/APPA/pubs/CRPHIPFIS.pdf.

[314] Federal Register (2017). Vol. 82, No. 11. Retrieved March 11, 2020 from https://www.govinfo.gov/content/pkg/FR-2017-01-18/pdf/2017-00719.pdf.

service partners to support successful outcomes.

1.4.8 Criminal justice system leaders, treatment providers, and service providers should use case-management data to improve treatment and service practices, perform strategic planning, assess progress, and evaluate their own efforts.

Criminal justice system leaders and treatment providers should work together to use case management data to improve treatment and service practices as well as system processes. Sharing such data provides opportunity for more than just improved treatment for the individual. This data provides the ability to improve system processes, proactively identify problems, and target interventions. Case management provides a tool to improve treatment and service practices generally (across the population); create key performance measures, set short-term and long-term goals, and assess progress and success; and examine efforts through formal evaluation. This data should not only be used to improve identification and targeted services, it should also be used for strategic planning to assess goals and forecast future services and costs. Including a research partner as part of the collaboration team provides a means to evaluate process and outcomes of treatment, new practices, and larger scale interventions.[315]

Although this collaboration must comprise leaders from corrections, including community corrections; criminal justice system leaders from each point in the system and local government leadership would benefit from being part of this collaboration. For instance, improved data collection and analysis will help identify and forecast the number of incarcerated individuals and those returning to the community who need different types of behavioral health and housing services, so resources can be allocated. Including local law enforcement, prosecutions, and courts in the collaboration, provides a means to identify cross system barriers and facilitators for increasing positive treatments outcomes and reducing recidivism.

Since May 2015, nearly 500 counties in 43 different states have teamed up with local community-based resources as part of the Stepping-Up Initiative, a program to reduce the number of jailed individuals who have mental health disorders. The program's success is a result of committed local leadership, identifying individuals in jail who have a mental health disorder, accurate data collection, examinations on the capacity of local justice and mental health systems to provide services, and the development and implementation of a comprehensive plan to reduce the number of individuals in jails who have a mental health disorder.[316]

Individuals who have a mental health disorder may also have a substance use disorder or experience housing instability; the initiative also addresses these needs. These communities have increased education efforts and produced screening tools for first responders and jails, which has significantly increased the behavioral health and other assistance services that they offer for justice-involved individuals. Some jails in these communities have seen about a 20 percent increase in the number of individuals who were offered mental health services from the prior year and a 50 percent increase in the total number of services offered.[317]

1.4.9 Congress should provide funding to the Substance Abuse and Mental Health Services Administration and the Bureau of Justice Assistance to collaboratively identify model sites, create a tool kit, and provide technical assistance to local jurisdictions on ways to increase the capacity for data sharing, analysis, and evaluation that consider regulations in the Health Insurance Providers Accountability Act. These model sites should include an integrated case management approach.

Congress should fund BJA and SAMHSA to collaboratively identify model sites, create a tool kit, and provide

---

[315] https://bja.ojp.gov/program/crppe/innovations-suite
[316] The Stepping-Up Initiative. 2020. https://www.stepuptogether.org
[317] John Samaniego, Sheriff, Shelby County, AL, email communication with Social Problems Impacting Public Safety Working Group, April 28, 2020, Statistics provided by Central Alabama Wellness as a part of the Shelby County, AL Stepping Up Initiative.

technical assistance to local jurisdiction on developing both a data-sharing capacity and guidance on how to take HIPAA regulations into account before sharing data. These model sites will also demonstrate an integrated case management approach and use data to evaluate and improve their collaborations and treatment capacity. The model sites and a tool kit should be used to guide jurisdictions, while technical assistance should help jurisdictions overcome unique challenges. This approach integrates and builds upon tools and technical assistance already provided by SAMHSA and BJA separately.[318]

[318] https://ncsacw.samhsa.gov/collaborative/information-sharing.aspx; https://www.samhsa.gov/homelessness-programs-resources/hpr-resources/data-sharing-improves-service-delivery