



# A National Survey of Criminal Justice Diversion Programs and Initiatives

## Executive Summary

DECEMBER 2013

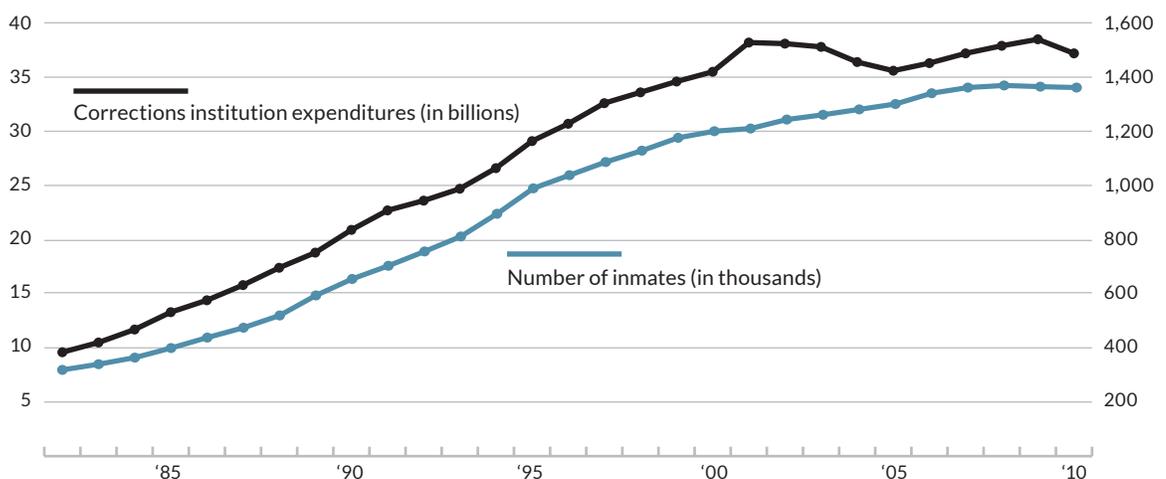
Across the United States, criminal justice systems are managing record numbers of people with rates of substance use and mental health disorders that are exponentially higher than those of the general public.

In recent years, a confluence of factors has created fertile ground for broad-based improvements to criminal justice policy and practice, including overburdened courts, crowded jails and prisons, strained government budgets, advances in the science of drug use intervention and recovery, shifting public sentiment about drug policy, awareness of the negative and residual impacts of justice involvement on families and communities, and a preponderance of research on the effectiveness and cost efficiency of alternatives to incarceration.

Now more than ever, and often with strong public support, legislators, prosecutors, judges, court

administrators, corrections and probation officials, and the jurisdictions they serve are responding with community-based diversion alternatives, often incorporating substance use and mental health service or program components. Policy responses such as “justice reinvestment” have offered approaches that eschew tough-on-crime policies in favor of the deliberate and data-driven application of resources to solutions that will generate the greatest return to communities and taxpayers in terms of cost savings, public safety, long-term health and personal stability for justice-involved populations, and overall community improvement.

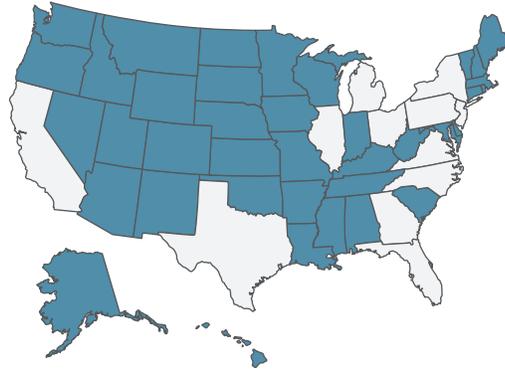
State correctional expenditures and state/private prison populations, FY 1982-2010



Note: Expenditures inflation-adjusted to 2010 dollars.

Source: Data from Bureau of Justice Statistics *State Corrections Expenditures, FY1982-2010*.

The number of people under correctional or justice supervision in the U.S. exceeds the entire general population in each of 38 different states.



Sources: Adapted from Pew Center on the States *One in 31: The Long Reach of American Corrections* (2009). Data from Bureau of Justice Statistics *Correctional Populations in the United States, 2011* and the U.S. Census Bureau (2012).

It is among these efforts and in this environment that this national survey of diversion programs has been developed. This project set out to explore the landscape of diversion from criminal justice involvement, aiming to collect and present information about programs across the country that offer diversion as an alternative to traditional justice case processing. The effort was undertaken with the knowledge that a robust assortment of alternative options exists but may be absent from or underrepresented in national conversations, and therefore not available or obvious for consideration by other jurisdictions.

The collective scope and variety of existing diversion programs across the country reflect a policy and political context that is increasingly receptive to

the benefits of safely diverting individuals – who in many cases are drug-involved or have mental health problems or both – out of costly jail or prison incarceration, and away from conviction and its lifelong collateral consequences, into programs that more effectively and efficiently address the behavioral health conditions underlying their criminal behaviors.

In many ways, modern justice policy is beginning to adopt public health strategies, focusing on broad-based, systemic intervention, and the application of the minimum but appropriate amount of supervision, sanctions, accountability, services, and resources to achieve the intended result. The advent of federal health care reform under the Affordable Care Act, which includes requirements and resources for the

### Published Numbers of CIT, Pretrial Diversion, and Diversionary Adult Drug Court Programs

Crisis Intervention Team (CIT) Programs	2,719
Pretrial Diversion Programs	298
Pre-plea or Diversionary Adult Drug Court Programs	157

Sources: University of Memphis CIT Center *National Directory* (n.d.), National Association of Pretrial Services Agencies *Promising Practices in Pretrial Diversion* (2010), and National Association of Drug Court Professionals *Painting the Current Picture: A National Report on Drug Courts and Other Problem-Solving Court Programs in the United States* (2011).

Notes: This table excludes diversionary practices outside of formal programs, as well as an unknown number of uncounted or undocumented programs meeting this report’s definition of diversion. The number of pre-plea or diversionary adult drug court programs herein represents only a portion of those facilitating diversion. Hence, in the context of estimating the overall use of diversion across the country, the figures in this table should be considered very conservative.

provision of addiction treatment and mental health services at parity with medical services, offers the prospect of applying a public health approach at scale to the longstanding challenges that occur at the intersection of crime, substance use disorders, and mental illness.

To develop this report, project staff surveyed diversion programs and interventions with the intention of spotlighting program design, participating stakeholders, affected communities, implementation challenges and successes, and where available, cost savings and overall effectiveness, aiming also to express the scale of their existence across the country. Rather than providing an exhaustive tally of each of the thousands of programs across the country, the report presents summary descriptions of various diversion programs at several specific phases of involvement in the justice system, and offers observations and themes that emerged from the survey to lay a foundation upon which to advance national and local diversion conversations.

Central to the development of the project is the understanding that a criminal conviction – misdemeanor or felony – triggers a cascade of collateral consequences that often severely hamper an individual’s ability to become a productive member of the community. In this context, the project was designed to survey only programs that afford individuals an opportunity to address their behavior without resulting in a criminal conviction. These diversion programs may occur as early as street-level law enforcement intervention, or as late as court involvement, but the distinguishing characteristic for the purposes of this survey is that the program not result in a conviction on an individual’s record.

**A number of key observations emerged from the survey analysis.** They provide opportunity and direction that can guide policymakers, system stakeholders, community service providers, advocates, and others in efforts to expand the use of programs and practices that are effective and that promote fiscal, public safety, social, and health benefits for their participants, communities, justice and health systems, and taxpayers.

## OBSERVATIONS

- 1. While programs vary in their approach to achieve diversion from traditional criminal justice case processing, a common critical component among many is a focus on individuals with substance use and mental health issues.**
- 2. Many diversion programs are limited to individuals with first-time or low-level offenses.**
- 3. With many diversion programs in existence across the country, there are no apparent overarching standards for collecting or publishing data for the purposes of evaluating different types of programs against common sets of performance measures such as cost savings or reduced recidivism.**
- 4. Standard definitions and language with regard to programs and interventions that engage in diversionary practices have not been adopted.**
- 5. As the numbers of people entering courts and correctional institutions have swelled and public resources have tightened, many jurisdictions are exploring diversion alternatives out of necessity.**

**These observations highlight the following themes and ideas that may serve as a framework for future diversion discussions.** Looking ahead, it is clear that the notion of diversion, and how it is practiced at the local and state level, will continue to evolve as new information, expertise, and collaborations emerge.

1. *Substance use and mental health care involvement.*

The most effective response to individuals with substance use and mental health issues is often an appropriate balance of supervision, accountability, and community treatment and support. What is deemed appropriate should be driven by the ever-expanding base of research and data regarding which intervention model best serves a given population at a given point of justice involvement. A risk-needs-responsivity (RNR) approach offers particular promise in this context. Considered a best practice for criminal justice populations, this approach assesses both the risk of recidivism as well as needs related to substance use, mental health, and other social and environmental conditions, and determines the appropriate type and dose of treatments and other services necessary to maximize justice and health outcomes. As the body of knowledge around what works continues to grow, the awareness and implementation of research-based, proven models and practices will become paramount.

2. *Data-driven resource allocation.*

Justice, health, and community resources should be allocated to those programs that demonstrate the greatest capacity to reduce recidivism, protect public order and safety, and promote public health, while also mitigating the need for costly justice supervision. These determinations will be most successful if programs take formal steps to develop standardized outcome measures (cost-, public safety-, and public health-based), and measure, analyze, monitor, and share results.

3. *Continued expansion of diversion beyond individuals with first-time and low-level offenses.*

Jurisdictions can develop or adopt strategies and interventions that focus on those individuals most likely to recidivate, and that consider factors other than just current charge and criminal history in determining an intervention plan (for example, through the use of individualized risk and needs assessments). The next generation of diversion programs should be able to determine and provide the appropriate level of services and justice supervision for each individual.

4. *Development of a shared language.*

The need for clarity and specificity around the description of programs and models will be of increasing importance in the growing exchange of ideas, innovations, and best practices.



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