

RECOMMENDATIONS TO REDUCE FREQUENT JAIL CONTACT

Policy Brief

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MAY 2023

Although most jail admissions represent the only contact a person will have with the criminal legal system, there is a small group of people who experience more frequent jail contact and who represent a disproportionate number of both jail admissions and expenditures.^{1,2} People with frequent jail contact experience complex, interconnected social, economic, and behavioral health needs that may exacerbate (or be exacerbated by) their frequent jail contact. This group also experiences frequent contact with other services in the community, such as emergency rooms, homeless shelters, and treatment facilities. Strategies to implement services that meet complex needs and address structural barriers are critical to meaningfully and sustainably reduce system involvement among the population of people who experience frequent jail contact.

Effective change for people with frequent jail contact must proceed simultaneously on a systemic, policy level and on the individual

services level. The population discussed in this policy brief typically has complicated behavioral and medical health needs, extensive criminal legal encounters, and significant social deficits such as poverty, isolation, and elevated risk of being unhoused. Many of their needs can be addressed with intensive, person-centered treatment in a coordinated continuum of care. The success of community-based solutions is supported by three foundational elements:

1. A systemwide examination of structural barriers and opportunities,
2. A focus on policies to effectively implement and support evidence-based interventions, and
3. A re-envisioning of how the behavioral health and criminal legal systems can coordinate trauma-informed responses for people with frequent jail contact.

1 Elsa Augustine and Evan White, HIGH UTILIZERS OF MULTIPLE SYSTEMS IN SONOMA COUNTY 1-31 (2020), <https://www.capolicylab.org/wp-content/uploads/2020/07/High-Utilizers-of-Multiple-Systems-in-Sonoma-County.pdf>.

2 Ross MacDonald, Fatos Kaba, Zachary Rosner, Allison Vise, David Weiss, Mindy Brittner, Molly Skerker, Nathaniel Dickey, and Homer Venters, *The Rikers Island Hot Spotters: Defining the Needs of the Most Frequently Incarcerated*, 105 AMERICAN JOURNAL OF PUBLIC HEALTH 2262–2268 (2015), <https://doi.org/10.2105/AJPH.2015.302785>.



Supported by the John D. and Catherine T. MacArthur Foundation



In this policy brief, we provide nine policy recommendations to help communities address the needs of people experiencing frequent jail contact toward the goal of reducing future contact. These policy recommendations are based on a review of existing research on people with frequent jail contact,³ consideration of the findings of a 2-year mixed-methods study focused on understanding the population of people with frequent jail contact in three U.S. counties,⁴ and consultation with experts, community partners, and people with lived experience. The nine policy recommendations are:

1. **Create a Data Sharing Ecosystem**
2. **Establish Formal, Jurisdiction-Specific Definitions**
3. **Use Validated Behavioral Health Screening Tools**
4. **Implement Psychiatric Advanced Directives**
5. **Facilitate Jail In-Reach Programs**
6. **Increase Peer Support Programs**
7. **Improve Access to Housing**
8. **Increase Utilization of Community-Based Services**
9. **Center and Evaluate Efforts for Racial Equity**

POLICY RECOMMENDATIONS

1. **Create a Data Sharing Ecosystem**

- To meet the complex needs of people with frequent jail contact—especially those with behavioral health challenges—criminal legal and behavioral health systems need a common data sharing language and platform.

Ideally, the common language and platform would extend to other systems as well, such as community and emergency services.

- The Data Sharing Ecosystem should include a data dashboard that allows real-time data entry and data use to immediately address the acute and long-term needs of people as they enter and exit jails and other community services (e.g., emergency rooms, shelters, behavioral health services).
- Data use agreements among all partners should be executed and reviewed annually. Additional partners should be included as their data becomes integral to comprehensive individualized case planning.
- Access to shared data should be limited to only information that is clearly relevant to each partner by creating firewalls.

2. **Establish Formal, Jurisdiction-Specific Definitions**

- Jurisdictions should develop formal definitions or criteria to support the consistent operationalization and identification of people with frequent jail contact. These definitions should drive the development and implementation of related policies.
- Jurisdictions will differ in their resources, values, and goals in identifying the population of people with frequent jail contact. However, in developing these definitions, jurisdictions should collaborate with system and community partners, as well as with people with lived experience and their families.
- Definitions should specify “frequent” contact in terms of the type of contacts (e.g., arrests or jail bookings), number of contacts, timeframe, and systems involved. For guidance, jurisdictions could consult the

3 Samantha A. Zottola, Brandon Morrissey, Sarah L. Desmarais, Elan C. Hope, Lisa Callahan, Isolynn A. Massey, Anthony J. Fortuna, and Richard A. Van Dorn, *Understanding and Preventing Frequent Jail Contact*, in *HANDBOOK ON PRISONS AND JAILS* (Danielle Rudes, Gaylene Armstrong, Kimberly Kras, and TaLisa Carter eds., in press).

4 For an overview of the study findings, please see: Sarah L. Desmarais, Samantha A. Zottola, Elan C. Hope, Brandon Morrissey, Isolynn Massey, Lisa Callahan, Allison Weber, and Richard A. Van Dorn, *UNDERSTANDING THE POPULATION OF PEOPLE WITH FREQUENT JAIL CONTACT 1-27* (2023).

National Association of Counties in their publication *Data-Drive Justice: A Playbook for Developing a System of Diversion for Frequent Utilizers*, which outlines a process for following a data-driven strategy to identify people with frequent jail contact and to develop strategies to meet their needs and reduce jail contact.

- Jurisdictions should formally document and communicate these definitions to ensure the equitable delivery of appropriate services within and across agencies, to support accountability and evaluation efforts, and to facilitate the sharing of findings.

3. Use Validated Behavioral Health Screening Tools

- Consistent with the standards for health services in jails and prisons, universal screening using validated screening tools should take place during the intake process at each door into and away from the criminal legal system. Universal screening is necessary to ensure accurate and consistent identification of behavioral health needs, improve targeted service delivery, increase access to behavioral health diversion strategies, and afford outcome measurement at both the individual and site levels.
- Examples of validated and free screening tools include the [Brief Jail Mental Health Screen](#) (BJMHS), the [Texas Christian University Drug Screen 5](#) (TCUDS-V) or [Alcohol Use Disorders Identification Test](#) (AUDIT), and the [PTSD Checklist for DSM-5](#) (PCL-5). All people who encounter the criminal legal system should be screened for mental health, substance use, and trauma symptoms at the earliest possible opportunity.
- Web-based screening tools should be hosted on the shared data dashboard, and policies should allow the screening results to be shared with appropriate partners in a timely fashion for case planning. Such policies should speak to potential concerns regarding HIPAA and 42 CFR Part 2 laws, as well as

strategies to support information sharing in compliance with these laws.

- Quality improvement protocols should be implemented to support accurate and appropriate implementation and use of screening results, including but not limited to pre-service and booster training for staff administering screening tools and/or interpreting their results.

4. Implement Psychiatric Advanced Directives

- Psychiatric advance directives (PADs) are intended to enable self-determined treatment, and effective and clear communication from a past and competent self, for those who are at risk of losing decisional capacity at some point in the future. PADs are potential tools that could be used to reduce the need for coercive interventions, such as police transport and arrest, involuntary commitment, seclusion and restraints, and involuntary medication during mental health crises.
- PADs could help people with frequent jail contact receive mental health treatment faster, without the jail having to undertake legal procedures for the authorization of “forced” (i.e., involuntary) treatment. PADs also could provide critical information to multiple actors at points of interaction across the behavioral health and criminal legal systems that could then be used to de-escalate a mental health crisis that would normally lead to a jail booking.
- There are legitimate barriers to the use of PADs in jails, including access to the document. Protections around confidentiality should be a priority when considering the use of PADs in criminal legal settings. Attitudinal and process barriers, both within the jail setting and across jail staff, should also be considered and weighed against differences in patient autonomy while in jail versus when in the community. Cross-system and cross-setting collaboration can support the

identification of strategies to help overcome these barriers, such as jail in-reach by community-based providers or engagement of family members who may be aware of existing PADs.

- People with lived experience of the criminal legal system should be considered as potential peer-support options in helping others complete PADs.

5. Facilitate Jail In-Reach Programs

- Trust and engagement are key to successful reentry for people with frequent jail contact. Jail in-reach programs allow practitioners to meet with people in the jail before release, assess their needs when back in the community, develop a plan to meet those needs, identify what community providers can assist with meeting needs, and provide coordinated support as people transition into the community.
- Jail in-reach programs should be established in policy and implemented following the guidelines set forth in the APIC—Assess, Plan, Identify, and Coordinate—model of reentry, which is a best practice approach to community reentry from jails for people with behavioral health conditions.
- Jurisdictions should develop cross-system policies, in collaboration with criminal legal, behavioral health, housing, and other partners, that address potential barriers to in-reach programs.

6. Increase Peer Support Programs

- Peer support programs should be a key feature of policies designed to reduce frequent jail contact. While the focus is typically on lived experience with behavioral health systems, people with lived experience of the criminal legal system, specifically, share a common understanding of the challenges and resources necessary for successful reentry.

- Many states require a peer support certification, and some states have subspecialties for veterans, forensic clients, substance use, and mental health. Policies should attend to the specific requirements that may exist in their states regarding the development and maintenance, including funding, of peer support programs. Policies should also incorporate the core competencies for peers outlined by the Substance Abuse and Mental Health Services Administration.
- Many behavioral health providers employ peers, and these providers should be considered a resource for identifying peers who could provide peer services in local jails and for providing guidance on how to implement jail-based peer supports in jail.
- Most people with frequent jail contact are detained pretrial for a short period of time and are not serving sentences. It is critical that policies allow peers to be pre-approved for contact with people detained in jail so that the peer does not have to request permission for each contact during the brief window for connection.

7. Improve Access to Housing

- Affordable housing is scarce in most communities, and providing safe, sustainable, and supportive housing for people involved in the criminal legal system with behavioral health conditions can be a challenge.
- Identify local, state, and federal funding that can be used for housing vouchers, rental and utility assistance, move-in costs, and other needs. If these funds have restrictions based on someone's legal history, use foundation funding and private donations as a supplement.
- Programs serving people with legal histories or behavioral health disorders should actively participate in their local Department of Housing and Urban Development (HUD) Continuum of Care to ensure that people experiencing or at risk of homelessness are

connected to the coordinated entry system and available housing opportunities.

- Work with public housing authorities to ensure that policies are as inclusive as possible, and rejections are not based solely on legal history without examining mitigating circumstances.
- Develop relationships with landlords and apartment management companies to expand housing opportunities by sharing information about HUD-funded landlord incentives and the financial and supportive services that are provided to prospective tenants.
- A shared data platform and dashboard could incorporate available short- and long-term housing for immediate access in real time following an “Airbnb” model.

8. Increase Utilization of Community-Based Services

- When possible, people should be given the necessary supports in navigating the continuum of care. For example, warm handoffs from one service provider or program to another can improve communication and outcomes for people with significant jail contact and behavioral health conditions. Other examples include a shared video chat with a new provider or engaging peer support services during transitions.
- Transportation can be a barrier to service use if a person does not have access to personal means of transport, public transportation does not exist, or transportation is too expensive. When creating an individualized treatment plan, the person’s practical access to transportation should be considered.
- Telehealth options should be developed and implemented to lower barriers to accessing treatment services. Tele-services are suitable for people who lack transportation, are too symptomatic to leave their residence, have co-morbid health challenges, provide care for

a family member, or live in remote locations, among other situations.

- Access to income and healthcare benefits are keys to recovery. Using SOAR to access Supplemental Security Income and Social Security Disability Insurance can provide benefits to people with disabling conditions that impede their functioning and impact their ability to work; Medicaid/Medicare usually accompany these two benefits. Every provider and community should have at least one person who is “SOAR-certified” to assist with applications. All partners should be informed of the impact of sustaining entitlements, even when people are detained. All states should adopt “suspension” policies toward programs versus “termination” policies when someone is detained in jail.
- Because many people with frequent jail contact have co-occurring disorders (COD), integrated treatment programs should be widely available. Integrated treatments for people with COD are an evidence-based practice that provides simultaneous treatment for mental illness and substance use disorder with a specially trained provider. If jail services do not include integrated treatment, communities can provide in-reach services to the jail.
- Treatment programs should use open enrollment and accept people on a rolling basis with no end date. This means people can enter the program at any time, rather than having to wait for the next start date.

9. Center and Evaluate Efforts for Racial Equity

- Evaluations suggest that efforts to reduce frequent jail contact have had limited success in improving racial equity in this population and, in fact, suggest that racial disparities may be increasing among people with frequent jail contact in many jurisdictions. The reasons likely reflect multiple, intersecting factors; for example, biases in policing and charging practices and in the

identification of behavioral health conditions, resulting in reduced rates of referral to behavioral health diversion programs among People of Color.

- Jurisdictions should work to mitigate systemic racism through the operations of their criminal legal and behavioral health services for people with frequent jail contact and examine through formal evaluations the success of these efforts.
- The voices of advocates, families, and people with lived experience should be involved in the development, implementation, and evaluation of these policies.
- Racial inequity at any stage of the criminal legal system contributes to racially disparate outcomes overall. Agencies across the criminal-legal continuum should collaborate and coordinate with one another in the

development of policies to address systemic racism from points of entry through exit.

- In developing policies, jurisdictions should also specify the plan for the evaluation of process and outcomes—both effectiveness and equity—across racial groups. The plan should include a timeline, resources, and, if necessary, partners. Equity evaluations require consistent and uniform collection of demographic and other data across agencies; these data and their measurement should be described in policy.
- Jurisdictions may not have the in-house expertise, resources, and knowledge to design and conduct these evaluations using appropriate and sufficiently rigorous methods. Jurisdictions should be prepared to consult with outside evaluators.

RECOMMENDED READINGS AND RESOURCES

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DISCLAIMER

This research was supported by the John D. and Catherine T. MacArthur Foundation through the Safety and Justice Challenge Research Consortium, which is managed by the CUNY Institute for State and Local Governance. The Safety and Justice Challenge seeks to reduce over-incarceration and racial disparities by changing the way America thinks about and uses jails. The Research Consortium advances criminal justice research grounded in the efforts and data of Safety and Justice Challenge sites. The authors are solely responsible for the content of this policy brief.

More information is available at www.SafetyandJusticeChallenge.org.