DECRIMINALIZATION AND DECARCERATION EFFORTS IN THE UNITED STATES

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OVERVIEW

- Introduction
- Prevention of arrest and contact with the criminal justice system
- Pre-Arrest
- Post-Arrest
- Programmatic Responses
- Conclusion
INTRODUCTION

- Purpose of our research and this presentation:
  - Provide a description of decriminalization initiatives in the United States.
  - Research how other cities and states are strategizing to reduce arrest and detention.
  - Support and provide context to the recommendations of the Reimagining ACDC Task Force Policy Workgroup.
  - Explore strategies outside of decriminalization that address issues which frequently result in incarceration, including corresponding programs.
The costs of enforcing low-level offenses

- **Burden** on police, courts, and attorney caseloads
- **Disproportionate impact** on communities of color
- **Decreased legitimacy** of the criminal justice system
- **Personal impact** on defendants
  - Professional or driver’s licenses, employment, education, and public assistance
  - System responses, such as revocation of parole or probation, enhancement of future penalties, and challenges to immigration status
  - Financial burdens
INTRODUCTION

Diversion:

- Designed to address the “revolving door”
  - Traditional strategies limit opportunities for reintegration
  - Leads individuals to social and legal services

We will discuss several diversion strategies, including:

- Relicensing programs for individuals driving on a suspended license
- Problem-solving courts
- Sobering centers, which divert intoxicated individuals, and
- Housing programs that may be used in conjunction with diversion programs for individuals experiencing homelessness.
Our Research Methods

- Interviews
- Observational Research
- Collaboration
- Evaluations of various sources
  - Research articles
  - Law Review articles
  - City and Program Websites
PREVENTION OF ARREST & CONTACT WITH THE CRIMINAL JUSTICE SYSTEM

- Decriminalization
- Limiting Driver’s License Suspensions
- Reducing Failure to Appear Warrants
- Addressing homelessness
**Decriminalization Definitions**

**Decriminalization**

- **Full decriminalization**: Criminal offenses are reclassified as civil offenses.
- **Partial decriminalization**: Jail time is removed as a possible sanction, but the conduct remains a criminal offense.

Decriminalized behaviors **can result in arrest and jail time under certain circumstances**, depending on associated penalties and compliance with directives.

**Legalization**

- **Legalization**: Behavior that was previously criminalized is deemed acceptable.
- Legalization may be associated with regulations, such as the state rules associated with the consumption of alcohol.

Legalized behaviors **do not result in arrest and jail time**, unless regulations are not followed.
Risks of decriminalization:

- **Right to counsel is typically not guaranteed** to defendants accused of non-jailable offenses.
- Even for non-jailable civil offenses, **individuals may still be jailed**.
- May “**widen the net**” by making it easier to punish low-level offenders with fines and supervision.
- Fines-only offenses can **disproportionately negatively impact** indigent defendants.
Decriminalization of traffic offenses

- Discussed in the literature since the 1960s
- Criminal sanctions deemed unfair for traffic offenses
- Significant contribution to court dockets

Decriminalization of “public order” crimes

- Some communities criminalize life-sustaining behaviors for people experiencing homelessness
  - Eating and sleeping in public, urban camping, begging
Decriminalization of marijuana

- Some cities have decriminalized possession of small amounts
- Fifteen states have decriminalized possession of small amounts
- Twenty-eight states allow medicinal use with a prescription.
- Eight states and Washington D.C. allow recreational use through legalization.
LIMITING DRIVER’S LICENSE SUSPENSIONS

Used by some states to incentivize defendants to appear in court or pay fines.

Frequently cited as a large contributor to municipal caseloads.

Individuals who have their licenses suspended face significant burdens, including losing:

- Income and/or employment
- mobility, and
- the ability to seek employment in certain industries.
LIMITING DRIVER’S LICENSE SUSPENSIONS

Four strategies:

• Diversion programs
• Relicensing programs
• Prevention of suspensions
• Remedying legislation
LIMITING DRIVER’S LICENSE SUSPENSIONS

Outcomes

• Successful programs found in jurisdictions across the country.
  • Reduction in criminal filings and contribution to jail population
  • Significant financial benefits

Evaluation

• Disparities based on race and income level
• Statewide and jurisdictional numbers of suspended drivers
• The number of arrests and filings for driving on a suspended license
• Costs and savings associated with program implementation, prevention, diversion
Example

- Diversion program in King County Prosecutor’s Office in Washington State (Boruchowitz, 2010)

  - The County Reported:
    -Filings reduced by 84%.
    -Individuals *more than 2x* as likely to regain their licenses.
    -Savings of “approximately $300,000 in prosecution and public defense costs” (Boruchowitz, 2010, p. 9).
    -Reduced the number of jail days for the charge of driving on a suspended license by 1,330.
    -Each one-dollar investment in the program reaped approximately two dollars in benefits.
Recommendations

Crozier & Garrett (2020) suggest:

- Helping indigent defendants with transportation to court proceedings.
- Allowing defendants to pay their fines and fees online, based on their ability to pay.
- Ensuring that defendants receive their summons to appear in court or notice of driver’s license suspension.
- Utilizing strategies to reduce failure to appear rates.
- Aiding individuals in the restoration of their licenses.
Directly affect the rate of arrests and number of jail stays in two distinct ways.

- First, a warrant issued following a defendant’s failure to appear in court may result in arrest.
- Second, failing to appear for a court date may also result in a driver’s license suspension, which may lead to arrest through the charge of driving on a suspended license.
REDUCING FAILURE TO APPEAR WARRANTS

Five strategies:

• Sending **reminders** of court dates
• Allowing defendants to resolve charges **by phone or online**
• Establishing a **grace period** prior to warrant issuance
• Allowing defendants to **resolve warrants**
• **Reducing open warrants** for certain offenses
Outcomes

• Evidence suggests a dramatic effect on failure to appear rates.
• Associated benefits disproportionately affect communities of color.

Evaluation

• Disparities based on race and income level
• Changes in failure to appear rates
• Collateral consequences to failure to appear, such as warrant issuance and license suspensions
• Costs associated with program implementation
• Cost savings associated with prevention and diversion
Example

- Multnomah County, Oregon implemented a program where individuals were called to notify them of their court dates (Howat et al., 2016).

- These calls were automated and did not require additional manpower or significant costs to implement.

- During the first 8 months:
  - Resulted in 300 fewer failure to appear warrants, which saved the county approximately $1 million.
  - Their failure to appear rate went down by over 10%.
Reducing Failure to Appear Warrants

- **Recommendations**
  - Benefits public safety in ensuring individuals show up for court proceedings.
  - Additional research is necessary to ensure reforms meet best practices.
  - An analysis of failure to appear in municipal court is recommended, including the reasons behind a person’s failure to appear, so that they can be directly addressed by reforms.
ADDRESSING HOMELESSNESS

Homelessness is often interconnected with crime

Criminal justice system sometimes used to address the homeless population

Individuals experiencing homelessness:

• Can accumulate a high number of tickets for low-level offenses.
  • Loitering
  • Jay-walking
  • Urban Camping

Criminal histories make it difficult to receive help
ADDRESSING HOMELESSNESS

Recommendations

• Partnering with community organizations
• Creation of facilities for those experiencing homelessness to conduct basic quality of life behaviors
• Increase the use of diversion programs and mental health and drug courts

Georgia has adopted a continuum of care plan

• Increase housing options
• Decriminalize life-sustaining behaviors
PRE-ARREST

Citation in Lieu of Arrest
CITATION IN LIEU OF ARREST

- **A citation** is “a written order, in lieu of a warrantless arrest, that is issued by a law enforcement officer or other authorized official, requiring a person to appear in a designated court or government office at a specified time and date” (International Association of Chiefs of Police, 2016a, p. 4).

- Officers are given the **discretion** to issue field citations for certain low-level offenses.

- Typically traffic offenses, but the types of eligible offenses has **widened over time**.

- Field citations allow police officers to **stay in the community**.
CITATION IN LIEU OF ARREST

Outcomes

• Can save law enforcement a significant amount of time
• Little to no effect on failure to appear rates.

Recommendations

• Careful evaluation to:
  • Identify best practices
  • Better understand risks and benefits involved with implementation
• An examination of the possible offenses that may be eligible for citation in lieu of arrest
  • Focusing on offenses which frequently contribute to the ACDC population.
POST-ARREST

Problem-solving Courts
PROBLEM-SOLVING COURTS

- Alternative options to address community needs
- Can be pre- or post-adjudication
- Three most common types of “specialty” courts:
  - Drug Courts
  - Mental Health Courts
  - Community Courts
PROBLEM-SOLVING COURTS

Outcomes

• Drug and Mental health courts show a reduction in recidivism
• Participation in these programs also reduced cost in other areas
• More research needed on community courts

Evaluation

• Measurements of participant recidivism are important
  • Use in-program evaluations as an indicator of participant progress
  • Evaluations generally done two (2) to five (5) years after program exit
• Sharing program evaluations can help increase community support and funding
PROBLEM-SOLVING COURTS

Example

- Fulton County already has a Drug, Community, and Mental Health Court
  - Community Court serves Fulton Industrial Boulevard
  - Drug and Mental health courts are in the Supreme Court for Fulton County

Recommendations

- More research is needed:
  - Why do individuals fail to complete the program?
  - Cost-benefit analysis
  - Impact community courts have on crime and arrest rates
PROGRAMMATIC RESPONSES FOR VULNERABLE POPULATIONS

- Sobering Centers
- Transitional Housing and Housing First
- Supervised Injection Sites
**No standard definition** of a Sobering Center

- A facility where actively alcohol-intoxicated clients can safely recover from acute intoxication.

Areas with no sobering centers generally send these people to the emergency room or jail

**Sobering centers are community specific**, and generally have three goals:

- Jail diversion
- Emergency room diversion
- Homeless/social welfare practices

Wide range of care and amenity availability depending on community needs
SOBERING CENTERS

- **Outcomes**
  - Sobering centers are a **safe alternative** to jail or emergency rooms.
  - Addresses multiple concerns associated with **alcoholism** and **public intoxication**.
  - Houston found a **95% decrease** in jail bookings for public intoxication.
  - Houston police department found an estimated net positive fiscal impact of **$2.9 million**.
  - Smith-Bernardin et al. (2017) found sobering centers to be significantly less than the emergency department at **$284.00 v. $517.85**.
# SOBERING CENTERS

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<th>Evaluation</th>
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<td>- Success depends on sobering center goals</td>
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<th>Emergency Room Diversion</th>
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<td>- Decreasing emergency visits</td>
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<td>- Compare long-term costs</td>
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<th>Jail Diversion</th>
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<td>- Decreasing crime and arrest rates related to public intoxication</td>
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<td>- Impact on jail population</td>
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Example

- Study on San Francisco’s Sobering Center (Smith-Bernardin and Schneidermann, 2012)
  - Goal was to decrease visits to the emergency room for alcohol related incidents and decrease alcohol only related ambulance transports
  - Accessibility monitored through citywide system
  - Receives clients from walk-ins, police, ambulance, street outreach
  - Patients provided with food, a shower, clean clothes, and monitoring
  - Nearly 90% sober up safely and were discharged
  - 29,000 people safely diverted to the sobering center
SOBERING CENTERS

Recommendations

Challenges

• Difficult to compare sobering centers

More research is needed:

• Cost-benefit analysis
• Understanding the drinking culture
• Are sobering centers effective on decreasing DUI’s or other alcohol-related crimes?
• What happens to patients who are under the legal drinking age?
TRANSITIONAL HOUSING & HOUSING FIRST

DEFINITIONS

- **Transitional Housing**
  - Temporary Housing
  - Must meet certain criteria to stay in the housing program.
  - Intended to promote economic self-sufficiency.

- **Housing First**
  - Permanent Housing
  - No additional requirements
  - Addressing troublesome behaviors
  - Concentrates on helping individuals with mental illness or disabilities
TRANSITIONAL HOUSING & HOUSING FIRST

OUTCOMES

- **Transitional Housing**
  - Not much long-term research
  - Difficult to track down families after completion

- **Housing First**
  - Significant reductions in emergency services
  - 88% of Housing First families were in stable homes after 5 years
Atlanta already has **Transitional Housing** and a **Housing First program**

- HOPE Atlanta and Housing First

Atlanta also has an **inclusionary zoning plan**

More research is needed:

- Data on housing situation and needs for those booked into ACDC.
- What offenses are the homeless population being booked for?
- Are there mental disabilities or drug dependencies among the homeless population in the ACDC?
**SUPERVISED INJECTION SITES**

Facilities that provide sterile equipment, support, and resources for people to safely consume drugs.

Operate under a harm-reduction model

- Reduce negative consequences of drug consumption

120 facilities operating globally

- Facilities in Canada, Europe, and Australia have operated for decades.
- Proposed sites in the U.S. include Philadelphia and Seattle.

Goals

- Increase access to treatment and social services
- Reduce public disorder and encourage safe disposal of used needles
- Reduce risk caused by sharing needles, including disease transmission
## Supervised Injection Sites

### Opposition
- Fears that SIS would encourage more drug use and drug-related crimes
- Arguably violates laws that prohibit maintaining property where drugs are used

### What these centers don’t do
- Provide drugs
- Allow staff to touch drugs
- Allow for sale of drugs on the premises
- Encourage drug use

### Outcomes
- Lower overdose fatalities
- Reduce publicly discarded paraphernalia
- Reduce hospitalizations related to drug use
- Fewer HIV and Hepatitis-C cases
- Health cost savings
- Do not lead to increase in drug use or crime
SUPERVISED INJECTION SITES

Examples
- Philadelphia
- Seattle

Recommendations
- Applicability to Atlanta
- Harm reduction intervention
The Policy Workgroup recommendations:

- May substantially benefit individuals experiencing homelessness and other vulnerable individuals.
- Following the lead of many other states, suggest traffic violations that do not present immediate public safety concerns be converted to civil violations.
- The City of Atlanta Public Defender’s Office represent individuals accused of civil violations.
Jurisdictions throughout the United States are seeking innovative ways to address issues of public order and safety.

Aggressive enforcement of low-level offenses has many negative consequences that can be alleviated by working to reduce the number of offenses, arrests, and prosecutions.

Research and evaluation of the ACDC population would benefit design and implementation of any initiatives.
Please see the final report on *Decriminalization and Decarceration Initiatives in the United States* for references used throughout this presentation.
We will now answer any questions!